

CRIMINAL DEFENCE SERVICE ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 3: Rights to representation: Contribution orders

31. *Section 3* provides for contribution orders to be made against an individual who has been granted public funding.
32. *Subsection (2)* qualifies the general prohibition in section 17(1) of the 1999 Act on requirements to contribute to the cost of representation, but also provides an exception to the existing power in section 17(2) for a court (other than a magistrates' court) to order a contribution to defence costs, in so far as a contribution order is made under the provisions introduced by this Act.
33. *Subsection (3)* inserts new section 17A into the 1999 Act. This provides for regulations to provide for a prescribed body to order the individual to pay the full costs of representation or a contribution towards them. Regulations may also deal with the type of information that should be provided, how the costs of representation will be determined, how the contribution orders should be paid, interest on payments made after the time when representation is provided or on any outstanding contributions, how an outstanding debt may be recovered – including the power to withdraw representation, the variation or revocation of contribution orders and appeals against the making of a contribution order. Regulations must make provision for the repayment of any overpayment from a contribution order; they must further ensure that no defendant is subject to both a contribution order and Recovery of Defence Costs Order where the total value of both exceeds the total costs of his defence. Regulations may also allow for pilot schemes for contribution orders to be set up in prescribed areas and for a specified period.
34. *Subsection (4)* provides that the first regulations under new section 17A will be subject to the affirmative resolution procedure.