



Criminal Defence Service Act 2006

2006 CHAPTER 9

1 Grant of rights to representation

- (1) Schedule 3 to the Access to Justice Act 1999 (c. 22) (grant of right to representation in respect of criminal proceedings) is amended as mentioned in subsections (2) to (7).
- (2) In paragraph 2 (grant of right by court), in sub-paragraph (1) (power of court to grant right in respect of proceedings before it), for “except in such circumstances as may be prescribed” there is substituted “subject to sub-paragraph (1A)”.
- (3) In that paragraph, after sub-paragraph (1) there is inserted—
 - “(1A) The power under sub-paragraph (1) shall not be exercisable—
 - (a) in relation to proceedings in respect of which the Commission has power to grant a right to representation under paragraph 2A, unless regulations otherwise provide, or
 - (b) in such other circumstances as may be prescribed.”
- (4) In that paragraph, in sub-paragraph (5) (power of court to withdraw right in respect of proceedings before it), at the beginning there is inserted “Subject to sub-paragraph (5A),”.
- (5) In that paragraph, after sub-paragraph (5) there is inserted—
 - “(5A) Sub-paragraph (5) does not apply where the Commission has power to withdraw the right to representation in respect of the proceedings.”
- (6) After the heading “Grant of right by commission” there is inserted—
 - “2A (1) Regulations may—
 - (a) provide that the Commission shall have power to grant rights to representation in respect of criminal proceedings of a prescribed description;
 - (b) provide that the Commission shall, except in such circumstances as may be prescribed, have power to withdraw any rights to representation granted in respect of proceedings of a description prescribed under paragraph (a).

Status: This is the original version (as it was originally enacted).

- (2) In sub-paragraph (1)(a), the reference to criminal proceedings does not include proceedings prescribed under section 12(2)(g).
 - (3) Regulations under sub-paragraph (1) may make such consequential amendment or repeal of any enactment, including an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978), as the Lord Chancellor may consider appropriate.”
- (7) For paragraph 3(2) and (3) (which relate to the grant of rights by the Commission under paragraph 3) there is substituted—
- “3A (1) The form of the grant of a right to representation under paragraph 2A or 3 shall be such as may be prescribed.
 - (2) Regulations under paragraph 2A or 3 may make such transitional provision as the Lord Chancellor may consider appropriate.”
- (8) In section 25(9) of that Act (regulations subject to affirmative resolution procedure), for “paragraph 4 of Schedule 3” there is substituted “paragraph 2A or 4 of Schedule 3”.
- (9) In paragraph 11 of Schedule 1 to that Act (funding of Legal Services Commission’s costs relating to administration etc.), in sub-paragraph (1) (duty of Lord Chancellor to make payments in respect of certain costs) for “and” at the end of paragraph (a) there is substituted—
- “(aa) the exercise by the Commission of functions in relation to the Criminal Defence Service other than the funding of services, and”.