

Draft Regulations laid before Parliament under section 25(9) of the Access to Justice Act 1999, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2004 No.

**LEGAL SERVICES COMMISSION,
ENGLAND AND WALES**

**The Criminal Defence Service (Choice in Very High
Cost Cases) (Amendment No.2) Regulations 2004**

Made - - - - 2004
Coming into force - - 1st January 2005

The Secretary of State, in exercise of the powers conferred by sections 15(5) and (6) of the Access to Justice Act 1999(1) and now vested in him(2), makes the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament:

1. These Regulations may be cited as the Criminal Defence Service (Choice in Very High Cost Cases) (Amendment No.2) Regulations 2004 and shall come into force on 1st January 2005.

2. In regulation 2 of the Criminal Defence Service (Choice in Very High Cost Cases) Regulations 2001(3), for the definition of “a Very High Cost Case” substitute—

““a Very High Cost Case” is a case where if the case proceeds to trial, that trial would be likely to last for 41 days or longer, and any question as to whether the case fulfils this criterion shall be determined by the Commission; and”.

Signed

Parliamentary Under Secretary of State,
Department for Constitutional Affairs

Dated

(1) 1999 c. 22. “Prescribed” and “regulations” are defined in section 26 of the Access to Justice Act 1999.
(2) By virtue of the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), articles 4(1) and 9, Schedule 1 and Schedule 2 paragraph 11(1)(a).
(3) S.I.2001/1169; amended by S.I.2004/598.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Criminal Defence Service (Choice in Very High Cost Cases) Regulations 2001 ([S.I 2001/1169](#)) (“the 2001 Regulations”). The 2001 Regulations provide for the selection of new representatives where a right to representation has been granted in a Very High Cost Case and the Legal Services Commission or the current representatives do not propose to contract with one another.

These Regulations amend the definition of a Very High Cost Case in the 2001 Regulations to:

- (a) increase the qualifying period during which the trial of a Very High Cost Case is likely to last to 41 days or longer; and
- (b) remove the alternative of a financial threshold above which a case would qualify as a Very High Cost Case.

The amendment made by these Regulations brings the definition of a Very High Cost Case in the 2001 Regulations into line with the amended definition in the Criminal Defence Service (Funding) Order 2001 ([S.I.2001/855](#)) and the Criminal Defence Service (General) (No.2) Regulations 2001 ([S.I.2001/1437](#)).