

**2007 No. 3550**

**LEGAL SERVICES COMMISSION, ENGLAND AND  
WALES**

**The Criminal Defence Service (General) (No.2) (Amendment  
No. 3) Regulations 2007**

<i>Made</i>	- - - -	<i>18th December 2007</i>
<i>Laid before Parliament</i>		<i>19th December 2007</i>
<i>Coming into force</i>	- -	<i>14th January 2008</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by section 15(2)(d) of the Access to Justice Act 1999(a).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Criminal Defence Service (General) (No. 2) (Amendment No. 3) Regulations 2007 and come into force on 14th January 2008.

(2) In these Regulations, a reference to a regulation by number alone is to the regulation so numbered in the Criminal Defence Service (General) (No. 2) Regulations 2001(b).

**Application**

2. These Regulations apply to proceedings in which a representation order (as defined in the Criminal Defence Service (General) (No. 2) Regulations 2001) is granted on or after 14th January 2008.

**Amendments to the Criminal Defence Service (General) (No. 2) Regulations 2001**

3. In regulation 2—

(a) for the definition of “Very High Cost Case” substitute—

““Very High Cost Case” means a case in which a representation order has been granted and which the Commission classifies as a Very High Cost Case on the grounds that—

(a) if the case were to proceed to trial, the trial would in the opinion of the Commission be likely to last for more than 40 days, and the Commission considers that there are no exceptional circumstances which make it unsuitable to be dealt with under its contractual arrangements for Very High Cost Cases; or

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(a) 1999 c.22. “Regulations” is defined in section 26 of the Act as regulations made by the Lord Chancellor. The reference to the Lord Chancellor was changed to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887) and was changed back to the Lord Chancellor by the Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429).

(b) S.I. 2001/1437. Relevant amending instruments are S.I. 2002/712, 2003/644, 2004/2046, 2006/2490 and 2007/2936.

- (b) if the case were to proceed to trial, the trial would in the opinion of the Commission be likely to last no fewer than 25 and no more than 40 days, and the Commission considers that there are circumstances which make it suitable to be dealt with under its contractual arrangements for Very High Cost Cases;”;
- (b) after the definition of “Very High Cost Case” insert—

““Very High Cost Case (Crime) Panel” means a panel set up by the Commission from which representatives may be chosen to provide representation in Very High Cost Cases;”.

4. In regulation 13—

- (a) for paragraph (2) substitute—

“(2) In a case which is, or is likely to be classified as, a Very High Cost Case, the right conferred by section 15(1) of the Act is to select only a member of a Very High Cost Case (Crime) Panel.”;
- (b) omit paragraph (3).

5. In regulation 23—

- (a) for paragraph (1) substitute—

“(1) Any litigator who has conduct of a case which is, or is likely to be classified as, a Very High Cost Case must notify the Commission accordingly, in writing, as soon as is practicable.”;
- (b) omit paragraph (2).

Signed by authority of the Lord Chancellor

18th December 2007

*Hunt*  
Parliamentary Under Secretary of State  
Ministry of Justice

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Criminal Defence Service (General) (No. 2) Regulations 2001 (S.I. 2001/1437), which deal with publicly funded advice and assistance and representation in criminal cases. They provide that the right to choose a representative in publicly funded cases is a right, in a Very High Cost Case, to choose only a representative who is a member of a Very High Cost Case (Crime) Panel set up by the Commission. They also make other, minor amendments consequent on changes to the arrangements for very high cost cases. A regulatory impact assessment of the effects of the reform of the very high cost case regime is available from the Legal Services Commission, 85 Gray’s Inn Road, London WC1X 8TX ([www.legalservices.gov.uk](http://www.legalservices.gov.uk)).

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E1756 12/2007 171756T 19585