STATUTORY INSTRUMENTS

2007 No. 2937

LEGAL SERVICES COMMISSION, ENGLAND AND WALES

The Criminal Defence Service (Financial Eligibility) (Amendment No. 2) Regulations 2007

Made - - - -	*9th October 2007*
Laid before Parliament	*10th October 2007*
Coming into force - -	*1st November 2007*

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by paragraph 3B of Schedule 3 to the Access to Justice Act 1999(**a**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Criminal Defence Service (Financial Eligibility) (Amendment No. 2) Regulations 2007 and come into force on 1st November 2007.

(2) In these Regulations a reference to a regulation by number is a reference to the regulation so numbered in the Criminal Defence Service (Financial Eligibility) Regulations 2006(**b**).

Amendments to the Criminal Defence Service (Financial Eligibility) Regulations 2006

2. In regulation 2(1)—

(a) in the definition of "the Independent Living Funds", for "and the Independent Living (1983) Fund" substitute ", the Independent Living (1993) Fund and the Independent Living Fund (2006)";

(b) after the definition of "the Independent Living (1993) Fund" insert the following definition—

""the Independent Living Fund (2006)" means the Trust of that name established by a deed dated 10th April 2006 and made between the Secretary of State for Work and Pensions of the one part and Margaret Rosemary Cooper, Michael Beresford Boyall and Marie Theresa Martin of the other part;".

3. In regulation 5(2), for "16 or who is under the age of 18 and in full-time education" substitute "18".

4. In regulation 13, for the words from "if, but only if," to the end substitute—

(**a**) 1999 c.22. "Regulations" is defined in section 26. The reference to the Lord Chancellor in that section 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). Paragraph 3B of Schedule 3 was inserted by section 2(2) of the Criminal Defence Service Act 2006 (c.9).

(**b**) S.I. 2006/2492, to which there are amendments not relevant to these Regulations.

"if, but only if—

(a) there is a change in his financial circumstances which might affect his eligibility for a representation order; or

(b) a decision refusing him a representation order has been quashed under regulation 14(5)(c).".

5. In regulation 14(5), for "must uphold the decision or grant the individual a representation order" substitute—

"may—

(a) uphold the decision;

(b) grant the individual a representation order; or

(c) quash the decision.".

Signed by authority of the Lord Chancellor

Hunt
Parliamentary Under Secretary of State
Ministry of Justice

9th October 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Criminal Defence Service (Financial Eligibility) Regulations 2006 (S.I. 2006/2492), which relate to financial eligibility for publicly funded representation in criminal proceedings in magistrates' courts.

Regulation 3 provides that all individuals who are under 18 are to be treated as financially eligible for a representation order. Regulations 4 and 5 confer on the authority which reviews decisions on financial eligibility an additional power, to quash the decision, and enable the individual, where the authority exercises this power, to re-apply for a representation order. Regulation 2 adds a reference, relevant to the definition of gross annual income, to the Independent Living Fund (2006), to which the Secretary of State may make grants under section 1 of the Disability Grants Act 1993 (c. 14) (as amended by section 61 of the Welfare Reform Act 2007 (c.5)).

An impact assessment has not been produced for this instrument as no impact on businesses, charities or voluntary bodies is foreseen.

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