

*These notes refer to the Access to Justice Act 1999
(c.22) which received Royal Assent on 27th July 1999*

ACCESS TO JUSTICE ACT 1999

EXPLANATORY NOTES

OVERVIEW

Funding of legal services (Parts I & II – sections 1-34)

7. Part I of the Act provides for two new schemes, replacing the existing legal aid scheme, to secure the provision of publicly-funded legal services for people who need them.
8. It establishes a Legal Services Commission to run the two schemes; and enables the Lord Chancellor to give the Commission orders, directions and guidance about how it should exercise its functions.
9. It requires the Commission to establish, maintain and develop a Community Legal Service. The Community Legal Service fund will replace the legal aid fund in civil and family cases. The Commission will use the resources of the fund in a way that reflects priorities set by the Lord Chancellor and its duty to secure the best possible value for money, to procure or provide a range of legal services. The Commission will also have a duty to plan what can be done towards meeting need for legal services, and to liaise with other funders of legal services to facilitate the development of co-ordinated plans for making the best use of all available resources. The intention is to develop comprehensive referral networks of legal service providers of assured quality, offering the widest possible access to information and advice about the law and help with legal problems.
10. The Commission will also be responsible for a Criminal Defence Service, which will replace the current legal aid scheme in criminal cases. The new scheme is intended to ensure that people suspected or accused of a crime are properly represented, while securing better value for money than is possible under the legal aid scheme.
11. Part II makes changes to facilitate the private funding of litigation. It amends the law on conditional fee agreements between lawyers and their clients, in particular to allow the uplift payable in successful cases to be recovered in costs from the other side. It also changes the law on the recovery of costs between the parties to litigation, and allows for third parties to establish funds to support litigation on a conditional basis.
12. Part II also makes three changes to the legal aid scheme in Scotland.