

*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

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## EXPLANATORY NOTES

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### IMMUNITY AND INDEMNITY (PART VI - SECTIONS 98-104)

#### *Commencement*

#### *Funding of legal services*

346. The provisions of Part I of the Act (The Legal Services Commission) will come into force on a day or days appointed by the Lord Chancellor by order. It is the Government's current intention to bring all or as many as is possible of the provisions into force by April 2000.
347. In Part II, sections 27 to 31 (Conditional fee agreements etc.) will come into force on a day appointed by the Lord Chancellor by order. The Government intends to bring these provisions into force in January 2000 or as soon as possible after that.
348. [Sections 32-34](#) (Legal aid in Scotland) will come into force two months after Royal Assent.

#### *Provision of legal services*

349. [Sections 35-44](#) and [46-53](#) will come into force on a day or days appointed by the Lord Chancellor by order.
- The Government currently intends to bring the following sections into force two months after Royal Assent: sections 36 (Barristers and solicitors), 40 (Rights to conduct litigation), 42 (Overriding duties of advocates and litigators), 46 (Bar practising certificates), 48 (Law Society's powers), 49 (Powers of Ombudsman) and 53 (abolition of scriveners' monopoly).
  - Section 35 (Replacement of ACLEC by Consultative Panel) will probably be brought into force at the beginning of January 2000.
  - Section 41 and Schedule 5 (Authorised bodies: designation and regulations and rules) will also be brought into force in January 2000. The Government intends to work with the professional bodies on the implementation of those sections which require changes to their rules (under the revised procedures in Schedule 5). These sections – 37 (Rights of audience: employed advocates); 38 (Employees of Legal Services Commission); 39 (Rights of audience: change of authorised body) and 44 (Barristers employed by solicitors) – will be brought into force in April 2000 or as soon as possible thereafter. This will provide an opportunity for the Legal Services Consultative Panel to advise on the rule changes.
  - Sections 47 (Fees for solicitors' practising certificates) and 50-52 (Funding of Ombudsman; Legal Services Complaints Commissioner) will not be brought into force until at least 18 months after Royal Assent.

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350. **Section 45** (Fees on application for appointment as Queen's Counsel) came into force on Royal Assent, allowing fees to be charged for this year's round of appointments.

***Appeals, courts, judges and court proceedings***

351. With three exceptions, Part IV of the Act (sections 54-73) will come into force two months after Royal Assent. The exceptions are section 66 and Schedule 9 (Enforcement of community orders), section 67(2) (Time limits where accused sent for trial) and section 71 (Adjournment of inquests). These provisions will come into force on a day or days appointed by the Lord Chancellor by order.

- Section 66 and Schedule 9 will be brought into force as soon as possible after Royal Assent.
- Section 67(2) will be brought into force as soon as possible for those areas where the new procedures introduced by the Crime and Disorder Act 1998 are being piloted; it will be extended to other areas when the 1998 Act is implemented nation wide.
- Section 71 will be brought into force as soon as the necessary changes to the Coroners Rules 1984 can be made.

***Magistrates and magistrates' courts***

352. The following provisions of Part V will be brought into force on a day or days appointed by the Lord Chancellor by order.

- Section 77 (Youth courts) and section 78 (Unification and renaming of stipendiary bench). The Government's current intention is to bring these provisions into force during Spring 2000, following consultation on youth court rules (see paragraph 272 above) and consideration of various practical issues relating to the unified bench (e.g. the procedures for deploying District Judges (Magistrates' Courts) to different areas in response to fluctuations in workload).
- Section 79 (Justices not to sit on committals for sentence) and section 80 (Jurisdiction over offences outside area). It is intended to bring these changes into force as soon as the necessary secondary legislation can be made.
- Section 83 (Greater London Magistrates' Courts Authority). It is intended that the Authority will commence with a period of preparatory running, prior to taking up its full role as the MCC for London in April 2001.
- Section 85 (Power to direct implementation of inspectors' reports). It is intended to bring this provision into force before the end of 1999, following consultation with the Inspectorate and the magistrates' courts service.
- Sections 88-89 (Role of justices' chief executives and independence of justices' clerks). It is intended that these changes will be brought into effect in Autumn 1999.
- Sections 90-91 (Transfer of functions from justices' clerks to justices' chief executive). It is intended that these changes will be brought into effect on 1 April 2000.
- Sections 92-97 (Execution of warrants). It is intended that magistrates' courts should assume full responsibility for the enforcement of financial warrants on 1 October 2000. The transfer of responsibility for the enforcement of arrest warrants in connection with non-financial penalties could be brought into effect at the same time, or a later date.

353. The other provisions of Part V (Territorial organisation; areas and constitution of magistrates' courts committees outside Greater London; standard goods and services; code of conduct for MCC members etc., qualification of justices' chief executives) will come into force two months after Royal Assent.

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***Immunity and indemnity***

354. [Sections 98-103](#) (Justices of the peace, justices' clerks and their assistants; General Commissioners of income tax and their clerks) will be brought into force on a day or days appointed by the Lord Chancellor by order. It is the Government's intention to bring these provisions into force in early 2000 .
355. [Section 104](#) (Coroners) will come into force two months after Royal Assent.