

SCHEDULES

SCHEDULE 4

Section 24.

AMENDMENTS CONSEQUENTIAL ON PART I

The Public Records Act 1958 (c. 51)

- 1 In the First Schedule to the Public Records Act 1958 (definition of public records), in Part I of the Table at the end of paragraph 3, in the second column, after “Legal Aid Board.” insert—

“Legal Services Commission.”

The Parliamentary Commissioner Act 1967 (c. 13)

- 2 In Schedule 2 to the Parliamentary Commissioner Act 1967 (which lists the bodies subject to the jurisdiction of the Parliamentary Commissioner), insert (at the appropriate place in alphabetical order)—
“Legal Services Commission.”

The Criminal Appeal Act 1968 (c. 19)

- 3 In section 50 of the Criminal Appeal Act 1968 (meaning of “sentence”), at the end insert—
“(3) An order under section 17 of the Access to Justice Act 1999 is not a sentence for the purposes of this Act.”

The Children and Young Persons Act 1969 (c. 54)

- 4 The Children and Young Persons Act 1969 has effect subject to the following amendments.
- 5 In section 12AA(9) (restrictions on power to require young offender who is not legally represented to live in local authority accommodation)—
(a) for paragraph (a) substitute—
“(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service for the purposes of those proceedings but the right was withdrawn because of his conduct; or”, and
(b) in paragraph (b), for “legal aid” substitute “such representation”.
- 6 In section 23 (remands and committals to local authority accommodation), in subsection (5A) (restrictions on imposing a security requirement on person who is not legally represented)—
(a) for paragraph (a) substitute—

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- “(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and
- (b) in paragraph (b), for “legal aid” substitute “such representation”.
- 7 In that section as it has effect pursuant to section 98 of the Crime and Disorder Act 1998 (alternative provision for 15 and 16 year old boys), in subsection (4A) (restrictions on remand of boy who is not legally represented)—
- (a) for paragraph (a) substitute—
- “(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and
- (b) in paragraph (b), for “legal aid” substitute “such representation”.

The Attachment of Earnings Act 1971 (c. 32)

- 8 In section 1(3)(c) of the Attachment of Earnings Act 1971 (magistrates' court may make order to secure payment of any sum required to be paid by legal aid contribution order), for “legal aid contribution order” substitute “order under section 17(2) of the Access to Justice Act 1999”.

The Powers of Criminal Courts Act 1973 (c. 62)

- 9 In section 21(1) of the Powers of Criminal Courts Act 1973 (restrictions on imposing sentence on person who is not legally represented)—
- (a) for paragraph (a) substitute—
- “(a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and
- (b) in paragraph (b), for “legal aid” substitute “such representation”.

The Solicitors Act 1974 (c. 47)

- 10 (1) Section 47 of the Solicitors Act 1974 (jurisdiction of Solicitors Disciplinary Tribunal) is amended as follows.
- (2) In subsection (2)(d) (exclusion of solicitor from legal aid work), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.
- (3) In subsection (2A) (exclusion of solicitor from providing legal aid work because of conduct in connection with services under the Legal Aid Act 1988)—
- (a) for “legal aid work” substitute “providing representation”, and
- (b) in paragraph (a), for “under the Legal Aid Act 1988” substitute “funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service”.
- (4) In subsection (2B) (exclusion of member of solicitor’s firm from legal aid work), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.

- (5) In subsection (2D) (person excluded from legal aid work may apply for termination of exclusion), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.

The House of Commons Disqualification Act 1975 (c. 24)

- 11 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—
“The Legal Services Commission.”

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 12 In Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—
“The Legal Services Commission.”

The Sex Discrimination Act 1975 (c. 65)

- 13 In section 75(4) of the Sex Discrimination Act 1975 (charges to recover costs of assistance in legal proceedings subject to charges under the Legal Aid Act 1988 or any provision in that Act for sum payable to Legal Aid Board)—
(a) for “under the Legal Aid Act 1988” substitute “imposed by section 10(7) of the Access to Justice Act 1999”,
(b) after “any provision in” insert “, or made under,”, and
(c) for “Legal Aid Board” substitute “Legal Services Commission”.

The Race Relations Act 1976 (c. 74)

- 14 In section 66(6) of the Race Relations Act 1976 (charges to recover costs of assistance in legal proceedings subject to charges under the Legal Aid Act 1988 or any provision in that Act for sum payable to Legal Aid Board)—
(a) for “under the Legal Aid Act 1988” substitute “imposed by section 10(7) of the Access to Justice Act 1999”,
(b) after “any provision in” insert “, or made under,”, and
(c) for “Legal Aid Board” substitute “Legal Services Commission”.

The Magistrates' Courts Act 1980 (c. 43)

- 15 The Magistrates' Courts Act 1980 has effect subject to the following amendments.
- 16 In section 8(4) (matters which may be contained in a report of committal proceedings without an order), for paragraph (i) substitute—
“(i) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”
- 17 In section 92(1)(b) (no restriction on power to impose imprisonment for default in paying contribution ordered under section 23 of the Legal Aid Act 1988), for the words from “section 23” to “to” substitute “section 17(2) of the Access to Justice Act 1999 (payment by individual in respect of”.

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- 18 In section 130(3) (power of alternate court in remand hearings to grant legal aid), for “the grant of legal aid” substitute “the grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service”.
- 19 In section 145A(4) (rules about costs may include provision for the reimbursement of sums paid by the Legal Aid Board), for “Legal Aid Board” substitute “Legal Services Commission”.
- 20 In Part I of Schedule 6 (fees), in paragraph 1(a) of the Note at the end (persons from whom fees not required), for the words from “a legally assisted person” to “1988” substitute “receiving services funded by the Legal Services Commission as part of the Community Legal Service”.

The Supreme Court Act 1981 (c. 54)

- 21 The Supreme Court Act 1981 has effect subject to the following amendments.
- 22 In section 28 (appeal by way of case stated from decisions of Crown Court, other than those relating to trial on indictment), at the end insert—
- “(4) In subsection (2)(a) the reference to a decision of the Crown Court relating to trial on indictment does not include a decision relating to an order under section 17 of the Access to Justice Act 1999.”
- 23 In section 29 (judicial review of decisions of Crown Court, other than matters relating to trial on indictment), at the end insert—
- “(6) In subsection (3) the reference to the Crown Court’s jurisdiction in matters relating to trial on indictment does not include its jurisdiction relating to orders under section 17 of the Access to Justice Act 1999.”
- 24 In section 47(7) (references to orders not to include contribution orders), for “a contribution order made under section 23 of the Legal Aid Act 1988” substitute “an order under section 17(2) of the Access to Justice Act 1999”.

The Criminal Justice Act 1982 (c. 48)

- 25 In section 3(1) of the Criminal Justice Act 1982 (restriction on imposing sentence on person under 21 who is not legally represented)—
- (a) for paragraph (i) substitute—
- “(i) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service but the right was withdrawn because of his conduct; or”, and
- (b) in paragraph (ii), for “legal aid” substitute “such representation”.

The Telecommunications Act 1984 (c. 12)

- 26 In section 52(5) of the Telecommunications Act 1984 (charges to recover costs of assistance in legal proceedings subject to legal aid charges), for paragraph (a) substitute—
- “(a) any charge imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission;”.

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The Prosecution of Offences Act 1985 (c. 23)

- 27 The Prosecution of Offences Act 1985 has effect subject to the following amendments.
- 28 In section 19(2)(b) (in making an order for costs account to be taken of grant of representation under Legal Aid Act 1988), for the words from “or any grant” to the end substitute “or any grant of a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service;”.
- 29 In section 20(2) (recovery of sums paid by Legal Aid Board where legally assisted person is awarded costs), for “Legal Aid Board” substitute “Legal Services Commission”.
- 30 (1) Section 21 (interpretation) is amended as follows.
- (2) In subsection (1), in the definition of “legally assisted person”, for “representation under the Legal Aid Act 1988” substitute “a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service”.
- (3) In subsection (4A)—
- (a) in paragraph (a), for the words from “include” to “of contribution;” substitute “the cost of representation funded for him by the Legal Services Commission as part of the Criminal Defence Service;”, and
- (b) in paragraph (b), for the words from “and 19” to the end substitute “, 19 and 19A of this Act, his costs shall be taken to include the cost of representation funded for him by the Legal Services Commission as part of the Criminal Defence Service;”.

The Child Abduction and Custody Act 1985 (c. 60)

- 31 In section 11 of the Child Abduction and Custody Act 1985 (costs of application for child custody or access), for the words from “by virtue of” to “1988,” substitute “by virtue of—
- (a) the provision of any service funded by the Legal Services Commission as part of the Community Legal Service, or
- (b) the grant of legal aid or legal advice and assistance under.”

The Administration of Justice Act 1985 (c. 61)

- 32 The Administration of Justice Act 1985 has effect subject to the following amendments.
- 33 In section 40(1) (legal aid complaints), for “under the Legal Aid Act 1988” substitute “funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service”.
- 34 In section 41(2) (reduction of fees payable in connection with services provided by barristers under Legal Aid Act 1988), for paragraphs (a) and (b) substitute “otherwise payable by the Legal Services Commission in connection with services provided by him as part of the Community Legal Service or Criminal Defence Service”.
- 35 In section 42 (exclusion of barristers from legal aid work), in subsections (1) and (3), for “legal aid work” substitute “providing representation funded by the Legal Services Commission as part of the Criminal Defence Service”.

- 36 In section 43(3) (reduction of costs payable in connection with services provided by solicitors under Legal Aid Act 1988), for the words from “any costs” to “solicitor” substitute “any costs otherwise payable by the Legal Services Commission in connection with services provided by the solicitor as part of the Community Legal Service or Criminal Defence Service”.

The Housing Act 1985 (c. 68)

- 37 In section 170(5) of the Housing Act 1985 (charges to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission.”

The Criminal Justice Act 1987 (c. 38)

- 38 The Criminal Justice Act 1987 has effect subject to the following amendments.
- 39 In section 4(1) (functions of magistrates' court to cease when case transferred to Crown Court, except for purposes of grant of legal aid), for “section 20(4) of the Legal Aid Act 1988” substitute “paragraph 2 of Schedule 3 to the Access to Justice Act 1999”.
- 40 In section 11(12) (matters to which restrictions on reporting do not apply), for paragraph (h) substitute—
- “(h) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

The Consumer Arbitration Agreements Act 1988 (c. 21)

- 41 In section 4(3) of the Consumer Arbitration Agreements Act 1988 (availability of legal aid to be considered in determining whether to make reference to arbitration), for “legal aid” substitute “services funded by the Legal Services Commission as part of the Community Legal Service”.

The Housing Act 1988 (c. 50)

- 42 The Housing Act 1988 has effect subject to the following amendments.
- 43 In section 82(4) (charge to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission.”
- 44 In section 107(4) (charge to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under the Legal Aid Act 1988” to the end substitute “imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission.”

The Children Act 1989 (c. 41)

- 45 In section 25(6) of the Children Act 1989 (child without legal representation not to be placed in secure accommodation without having been informed of right to apply for legal aid), for “legal aid” substitute “representation funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service”.

The Courts and Legal Services Act 1990 (c. 41)

- 46 In section 17(3)(c)(iii) of the Courts and Legal Services Act 1990 (effect of rules of a professional body relating to the withholding of services from persons receiving support under the Legal Aid Act 1988), for “under the Legal Aid Act 1988” substitute “as part of the Community Legal Service or Criminal Defence Service”.

The Criminal Justice Act 1991 (c. 53)

- 47 In section 53(3) of the Criminal Justice Act 1991 (functions of magistrates' court to cease when case transferred to Crown Court, except for purposes of grant of legal aid), for “section 20(4) of the Legal Aid Act 1988” substitute “paragraph 2 of Schedule 3 to the Access to Justice Act 1999”.

The Social Security Administration Act 1992 (c. 5)

- 48 (1) Section 108(7) of the Social Security Administration Act 1992 (Secretary of State to inform Legal Aid Board if he recovers maintenance arrears for a person who owes money to the Board) is amended as follows.
- (2) For “the Legal Aid Board” substitute “the Legal Services Commission”.
- (3) In paragraph (a), for “; and” substitute “; or
(iii) received services funded by the Legal Services Commission as part of the Community Legal Service; and”.
- (4) In paragraph (b), after paragraph (ii) insert “or
(iii) by virtue of section 10 of the Access to Justice Act 1999 in respect of services funded by the Legal Services Commission as part of the Community Legal Service.”.

The Criminal Procedure and Investigations Act 1996 (c. 25)

- 49 In section 37(9) of the Criminal Procedure and Investigations Act 1996 (matters to which restrictions on reporting do not apply), for paragraph (g) substitute—
“(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

The Family Law Act 1996 (c. 27)

- 50 The Family Law Act 1996 has effect subject to the following amendments.
- 51 (1) Section 8 (information meetings) is amended as follows.
- (2) In subsection (9) (matters about which regulations must be made for the purposes of information given at information meetings), for paragraph (h) substitute—

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- “(h) the availability of services funded by the Legal Services Commission as part of the Community Legal Service, and where parties can get advice about obtaining such services;”.
- (3) In subsection (12) (contributions), for “provided for him under Part IIIA of the Legal Aid Act 1988” substitute “funded for him by the Legal Services Commission as part of the Community Legal Service”.
- 52 (1) Section 23 (provision of marriage counselling) is amended as follows.
- (2) In subsection (3) (contributions), for “provided for them under Part IIIA of the Legal Aid Act 1988” substitute “funded for them by the Legal Services Commission as part of the Community Legal Service”.
- (3) In subsection (8) (powers of the Legal Aid Board)—
- (a) for “the Legal Aid Board” substitute “the Legal Services Commission”,
 - (b) for “the Board” substitute “the Commission”,
 - (c) for “the Legal Aid Act 1988” substitute “Part I of the Access to Justice Act 1999”, and
 - (d) after “purposes of”, in the second place, insert “that Part of”.

The Crime and Disorder Act 1998 (c. 37)

- 53 The Crime and Disorder Act 1998 has effect subject to the following amendments.
- 54 In section 50(2) (procedure at early administrative hearing), for paragraphs (a) to (c) substitute “the accused shall be asked whether he wishes to be granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service and, if he does, the justice shall decide whether or not to grant him such a right.”
- 55 In paragraph 3(8) of Schedule 3 (matters which may be contained in a report of an application for dismissal of charges), for paragraph (g) substitute—
- “(g) whether a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service was granted to the accused or any of the accused.”

The Disability Rights Commission Act 1999 (c. 17)

- 56 In section 8(4)(a) of the Disability Rights Commission Act 1999 (charges to recover costs of assistance in legal proceedings subject to any charge for benefit of Legal Aid Board), for the words from “under” to “Board” substitute “imposed by section 10(7) of the Access to Justice Act 1999 and any provision in, or made under, Part I of that Act for the payment of any sum to the Legal Services Commission”.