

CRIMINAL JUSTICE AND COURT SERVICES ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I: The New Services

Chapter II : Children and Family Court Advisory and Support Service (CAFCASS)

Section 11: Establishment of CAFCASS

65. *Section 11* makes a general provision for the creation of the new Children and Family Court Advisory and Support Service (CAFCASS), as a body corporate.

Section 12: The principal functions of CAFCASS

66. *Section 12* sets out the functions of CAFCASS, which are described in paragraph 25 of these notes. Subsection (3) provides for regulations for grants to be paid for the furthering of the performance of any functions of CAFCASS.

Section 13: Other powers of CAFCASS

67. *Section 13* sets out the other powers that CAFCASS may use to perform its functions, such as to commission or assist the conduct of research. Subsection (1) will allow CAFCASS to enter into arrangements with voluntary and other organisations to contract out some of its work, provided that it is satisfied that the work will be done efficiently, to the required standard and cost-effectively. Subsection (4) also provides that CAFCASS may enter into arrangements with individuals including self-employed people.

Section 14: Provision of staff or services to other organisations

68. *Section 14* gives CAFCASS the power to provide services to other organisations.

Section 15: Right to conduct litigation and right of audience

69. *Section 15* enables CAFCASS to authorise prescribed officers of the Service to undertake litigation and have rights of audience. It replicates the current arrangements in the Official Solicitor's office, with lawyers and caseworkers having the ability to conduct litigation and have rights of audience in all courts. Control over CAFCASS's power under Section 15 will be exercised through regulations, made by the Lord Chancellor, which will set out the criteria that officers of the service will have to meet before they can be authorised under this Section.

Section 16: Cross-examination of officers of the Service

70. *Section 16* sets out that all CAFCASS officers may be subject to cross-examination, except when exercising the rights given in Section 15.

*These notes refer to the Criminal Justice and Court Services Act 2000 (c.43)
which received Royal Assent on 30 November 2000*

Section17: Inspection

71. *Section 17* amends Section 62 of the Justices of the Peace Act 1997 by inserting a new Section 3A in order to extend the remit of the Magistrates' Court Inspectorate to include inspecting CAF/CASS to monitor and report on its activities. A new Subsection (2A) of Section 63 of the 1997 Act sets out a general right of inspection. It consists of a right of entry to any premises occupied by the Service and also a right to inspect and take copies of any records kept by the Service relating to the performance of its function.