

*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**

**D.**

#### **MAGISTRATES AND MAGISTRATES' COURTS (PART V - SECTIONS 74-97)**

##### ***Background***

##### ***Organisation and management of the magistrates' courts service***

##### ***Justices' clerks and justices' chief executives***

254. Most cases in magistrates' courts are heard by magistrates who are not qualified lawyers. They rely heavily on the legal advice of justices' clerks and their deputies, acting as court clerks. All justices' clerks are legally qualified and can exercise certain powers of magistrates. Some of these powers are conferred on them by particular statutes and some are delegated to them by rules. (Section 45 of the Justices of the Peace Act 1997 provides for rules to delegate functions exercisable by a magistrate acting alone to justices' clerks or staff appointed to assist them.)
255. The post of justices' chief executive (JCE) was introduced in 1994, since when every MCC has appointed a JCE. The JCE supports the MCC in planning and managing the efficient and effective administration of the courts within the area of the MCC. At present, however, justices' clerks continue to be responsible in statute for many administrative matters. In practice many of these tasks are delegated to other staff. Last year, the Government published a consultation paper about the functions of justices' clerks (*The Future Role of the Justices' Clerk*, Lord Chancellor's Department, September 1998).
256. The provisions in the Act about the qualifications and functions of justices' chief executives are intended to clarify their role and the lines of responsibility and accountability between the JCE, the MCC and the other staff of the MCC. In particular they facilitate a greater separation of the legal and administrative functions carried out by justices' clerks and JCEs. The primary function of justices' clerks will continue to be the giving of legal advice to lay magistrates. Under the new management structure, the JCE will be able to delegate any administrative function to any member of staff, including the justices' clerks, depending on local needs.