

# ACCESS TO JUSTICE ACT 1999

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## EXPLANATORY NOTES

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

#### *Commentary*

#### *Territorial organisation*

265. **Section 74: Commission areas.** This section enables the boundaries of *all* commission areas to be changed by secondary legislation. It empowers the Lord Chancellor of his own volition, or following a proposal from a relevant magistrates' courts committee, to combine commission areas or parts of commission areas or otherwise adjust commission area boundaries, after consulting the parties concerned. It also establishes the procedural framework for changing commission areas by secondary legislation. The new power replaces Her Majesty's power under section 2(3) of the Justices of the Peace Act 1997 ("JPA 1997") to alter, by an Order in Council, the boundaries of commission areas in Greater London (apart from the City of London).
266. **Section 74** is concerned exclusively with changes to commission areas instigated for magistrates' courts purposes, not as a consequence of local government re-organisation. Changes to commission areas to reflect local government boundary changes will continue to be made under sections 19 and 26 of the Local Government Act 1992 or sections 55 and 63 of the Local Government (Wales) Act 1994 as necessary.
267. **Section 75: Petty sessions areas.** This section redefines petty sessions areas in terms of commission areas, and removes the unnecessary distinction between petty sessions areas and petty sessional divisions (see paragraphs 149-150 above). It also makes consequential amendments to the procedural framework for changing petty sessions areas by secondary legislation and incorporates a power to amend the names of petty sessions areas within the general order-making power, but does not change the way in which these procedures operate.
268. The principal purpose of section 75 is to provide MCCs with greater flexibility to change their petty sessions areas. This flexibility is currently restricted by the use of local government boundaries as the basis for defining petty sessions areas.
269. **Section 76/Schedule 10: Areas: consequential provision.** **Section 76** and Schedule 10 make further changes consequential on the changes relating to commission areas and petty sessions areas.
270. **Section 76(1)** removes the automatic right of the Lord Mayor and the aldermen of the City of London to be magistrates by virtue of their office. The Lord Mayor and the aldermen currently have special rights originally granted to them in a charter of 1741 by King George II. They are the only people in the country who have the right to be magistrates through election as aldermen.

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

271. In future, the Lord Mayor and the aldermen will only become justices of the peace after passing through the selection procedure that applies to all other magistrates in England and Wales.
272. **Section 77: Youth courts.** This section provides a common statutory framework, applicable throughout the country, for the establishment of panels of magistrates to sit in youth courts. Detailed provisions for the appointment of youth panels and the constitution of youth courts will be contained in rules.
273. At present, the second Schedule to the Children and Young Persons Act 1933 provides different arrangements for the “metropolitan area” (the City of London and the Inner London boroughs) and the rest of the country. In the metropolitan area, members of youth panels and youth court chairmen are nominated by the Lord Chancellor. Elsewhere, they are appointed by the local bench. The Government believes there should be a uniform approach, and intends to consult on the arrangements to be preferred. The new provisions allow for different arrangements to continue for different areas for the interim period.
274. **Part V of Schedule 14** contains transitional provisions about territorial organisation. Paragraphs 19 and 20 require the first orders specifying commission areas and petty sessions areas to list all such areas in England and Wales. This ensures that, for the first time, these will all be listed in the same place. Paragraph 21 allows the current Lord Mayor and aldermen to remain justices as if they had been appointed under the existing arrangements. Paragraph 28 preserves for the time being the existing combined youth court panel for the metropolitan area.