

# 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*

#### *Execution of warrants*

309. **Section 92: Civilian enforcement officers.** This section extends the range of warrants issued by a magistrates' court which may be executed by civilian enforcement officers (CEOs) employed by MCCs, local authorities or police authorities. At present, CEOs may only execute warrants relating to the enforcement of money adjudged to be paid under a court order. Section 92 also removes the present geographical restrictions which limit the areas in which CEOs may execute warrants.
310. In future, the types of warrant that CEOs may execute will be listed in an order made jointly by the Lord Chancellor and the Home Secretary. It is intended that the list should include warrants of distress, commitment, arrest or detention in connection with the payment of any sum, and also warrants of arrest issued in connection with breaches of a range of non-financial penalties. A list of the warrants that the Government intends CEOs to be able to execute is at Annex B to these Notes.
311. **Section 93: Approved enforcement agencies.** This section allows MCCs to approve and appoint private enforcement agencies to execute certain kinds of warrant (to be defined by order made under section 92).
312. Some MCCs already use private enforcement agencies or bailiffs to execute distress warrants. However, it is unclear at present whether warrants can be executed by employees of enforcement agencies who are not personally named on the warrant. Section 93 is designed to clarify the law, so that warrants can be addressed to approved agencies for the area concerned, rather than just to a named bailiff. In future, the authorised employees of approved enforcement agencies will be able to execute the same range of warrants as CEOs anywhere in England and Wales.
313. **Section 93** also provides for the Lord Chancellor to make regulations governing the conditions which must be satisfied by a person or body in order to qualify as an approved enforcement agency, and the procedure by which a MCC may grant approval. Each MCC will be required to keep a register of all the enforcement agencies it authorises, and make this available for public inspection at every magistrates' court within the MCC's area. An enforcement agency listed in an MCC's register will be able to issue its employees with written authority to execute warrants issued by any magistrates' court in the area for which the authorising MCC is responsible. If necessary, the MCC will be able to remove an enforcement agency from the register without giving reasons for the decision.

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

314. **Sections 92 and 93** require a CEO or authorised employee seeking to execute a warrant to have with them, and show on demand, a written statement saying (in essence) who they are and by whom they are authorised.
315. **Section 94: Disclosure of information for enforcing warrants.** This section allows the courts to check whether other Government agencies hold a more recent address in their records for fine defaulters and those in breach of community sentences.
316. **Section 94** empowers the Lord Chancellor to designate by order relevant public authorities from whom the courts may request this information. These are likely to include the police, the Department of Social Security, Inland Revenue, local authorities, the Passport Agency, the Home Office Immigration and Nationality Directorate and HM Customs and Excise.
317. The information that may be obtained in this way is limited to those details that will allow the offender's whereabouts to be traced. That is: name, address, date of birth and National Insurance number. The information may only be disclosed to court employees and employees of an approved enforcement agency, and it may only be used for the purpose of enforcing the warrant. It will be an offence to disclose the information, whether intentionally or recklessly, to any other person or for any other purpose. Punishment will be by fine, subject to the statutory maximum (currently £5,000) if the fine is imposed by a magistrates' court.
318. **Sections 95 & 97: Warrants of detention; cessation of warrants.** These sections will enable changes to be made to the Magistrates' Courts Rules 1981 to clarify the circumstances in which a warrant for the enforcement of a sum adjudged to be paid shall cease to have effect. The intention is to ensure that these warrants will cease to have effect when payment or tender of payment of the sum due is made, or when a receipt for the sum due given by the court issuing the warrant is produced to any person authorised to execute the warrant.
319. **Section 96: Execution by person not in possession of warrant.** This section will empower CEOs and the authorised employees of approved enforcement agencies to execute the full range of warrants to be defined by order under section 92, without necessarily having to have the warrant in their possession at the time. The section also extends the powers of the police to execute warrants in this way.
320. At present, civilian enforcement officers and bailiffs may only execute a warrant if they have it in their possession at the time. Police constables may execute certain types of warrants without having them in their possession, provided the warrant is shown to the person concerned as soon practicable.
321. The Government also intends to change the Magistrates' Courts Rules 1981 to oblige anyone seeking to execute an arrest warrant without having it in his possession to inform the person being arrested promptly, in a language which he understands, of the reasons for his arrest and the charges against him.