

*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

EXPLANATORY NOTES

B.

PROVISION OF LEGAL SERVICES (SECTIONS 35-53)

Background

Rights of audience etc.

150. The background to these proposals is set out in a consultation paper issued by the Lord Chancellor's Department in June 1998 - *Rights of Audience and Rights to Conduct Litigation in England and Wales: The Way Ahead*.
151. Rights to appear as an advocate in court (rights of audience) and rights to do the work involved in preparing cases for court (rights to conduct litigation) are governed by the Courts and Legal Services Act 1990. The 1990 Act leaves it to 'authorised bodies' (currently the Bar Council, the Law Society and the Institute of Legal Executives) to set the rules which govern the rights of their members, subject to a statutory approval process under which new or altered rules must be submitted for the approval of the Lord Chancellor and the four 'designated judges' (the Lord Chief Justice, Master of the Rolls, President of the Family Division and Vice-Chancellor). Before making their decisions the Lord Chancellor and designated judges receive and consider the advice of the Lord Chancellor's Advisory Committee on Legal Education and Conduct (ACLEC) and of the Director General of Fair Trading. The Lord Chancellor and each of the designated judges must approve the application before it can succeed. Applications for designation as a new authorised body follow a similar procedure, with the additional requirement that the designation of the new body is made by Order in Council subject to Parliamentary approval.
152. The Government believes that the existing approval procedures are convoluted and slow, and that rights of audience are currently too restrictive. Some applications for approval have taken several years to be processed, in part due to the need for applications to meet the approval of several parties. Rights of audience in the higher courts (the House of Lords, Court of Appeal, High Court and Crown Court) remain restricted to barristers in private practice and a small number of solicitor advocates.
153. The Act will make the Bar Council and the Institute of Legal Executives authorised bodies for the purpose of granting rights to conduct litigation to their members. At present the Law Society is the only body able to grant these rights; so currently only solicitors are able to conduct litigation