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STATUTORY INSTRUMENTS

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**2001 No. 618**

**MAGISTRATES' COURTS,  
ENGLAND AND WALES**

**Access to Justice Act 1999 (Transfer of  
Justices' Clerks' Functions) Order 2001**

*Made* - - - - - *25th February 2001*  
*Laid before Parliament* *2nd March 2001*  
*Coming into force* - - - *1st April 2001*

The Lord Chancellor, in exercise of the powers conferred on him by section 90(2) and (3) of the Access to Justice Act 1999<sup>(1)</sup>, hereby makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Access to Justice Act 1999 (Transfer of Justices' Clerks' Functions) Order 2001 and shall come into force on 1st April 2001.

**Licensing Act 1964**

2.—(1) The Licensing Act 1964<sup>(2)</sup> is amended as follows.

(2) In section 29 (fees chargeable in licensing matters)—

- (a) in subsection (1), for “clerks” substitute “chief executives”,
- (b) in subsection (2), for “clerk” (in each place) substitute “chief executive”, and
- (c) in subsection (3), for “clerk” substitute “chief executive”.

(3) In paragraph 11 of Schedule 1 (notice of holding of licensing sessions)—

- (a) for “the clerk shall” substitute “the chief executive to the licensing justices shall”, and
- (b) for “given the clerk” substitute “given the chief executive”.

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<sup>(1)</sup> 1999 c. 22; see section 90(5) for the meaning of “administrative” functions.

<sup>(2)</sup> 1964 c. 26; section 29(3) is amended by section 154 of, and paragraph 5 of Schedule 8 to, the Magistrates' Court Act 1980 (c. 43).

### **Magistrates' Courts Act 1980**

3. In section 77 of the Magistrates' Courts Act 1980(3) (postponement of issue of warrant), for subsection (6) substitute—

- “(6) Where such an application is referred to the court—
- (a) the clerk of the court shall fix a time and place for the application to be heard; and
  - (b) the justices' chief executive for the court shall give the applicant notice of that time and place.”.

### **Police and Criminal Evidence Act 1984**

4. In section 46 of the Police and Criminal Evidence Act 1984(4) (detention after charge)—

- (a) in subsections (3) and (5), for “clerk to the justices” substitute “justices' chief executive”,
- (b) in subsection (6)—
  - (i) for “a clerk to the justices” substitute “the justices' chief executive”, and
  - (ii) for “the clerk” substitute “the justices' chief executive”, and
- (c) in subsection (8), for “clerk” substitute “justices' chief executive”.

### **Powers of the Criminal Courts (Sentencing) Act 2000**

5.—(1) The Powers of the Criminal Courts (Sentencing) Act 2000(5) is amended as follows.

(2) In section 41(10) (duty of court to send copy of community rehabilitation orders to clerk), for “clerk to the justices” substitute “justices' chief executive”.

(3) In section 46(12) (duty of court to send copy of community punishment orders to clerk), for “clerk to the justices” substitute “justices' chief executive”.

(4) In section 60(11) (duty of clerk of court to send copy of attendance centre orders), for “clerk of” substitute “justices' chief executive for”.

(5) In section 163 (general definitions), in the definition of “the register”, for “clerk of” substitute “justices' chief executive for”.

28th February 2001

*Irvine of Lairg, C.*

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(3) 1980 c. 43; section 77(6) is added by section 61(1) and (2) of the Criminal Justice Act 1988 (c. 33).  
(4) 1984 c. 60.  
(5) 2000 c. 6.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order provides for the transfer of certain administrative functions from justices' clerks to justices' chief executives under section 90 (transfer of clerks' functions to chief executives) of the Access to Justice Act 1999 (c. 22) by amending the following provisions:

The Licensing Act 1964, section 29(1), (2) and (3) and paragraph 11 of Schedule 1; the Magistrates' Courts Act 1980, section 77(6); the Police and Criminal Evidence Act 1984, section 46(3), (5), (6) and (8); and the Powers of the Criminal Courts (Sentencing) Act 2000, sections 41(10), 46(12), 60(11) and 163.