



# Legal Aid, Sentencing and Punishment of Offenders Act 2012

## 2012 CHAPTER 10

### PART 2

#### LITIGATION FUNDING AND COSTS

##### *Payments for legal services in civil cases*

#### 46 Recovery of insurance premiums by way of costs

(1) In the Courts and Legal Services Act 1990, after section 58B insert—

##### **“58C Recovery of insurance premiums by way of costs**

- (1) A costs order made in favour of a party to proceedings who has taken out a costs insurance policy may not include provision requiring the payment of an amount in respect of all or part of the premium of the policy, unless such provision is permitted by regulations under subsection (2).
- (2) The Lord Chancellor may by regulations provide that a costs order may include provision requiring the payment of such an amount where—
  - (a) the order is made in favour of a party to clinical negligence proceedings of a prescribed description,
  - (b) the party has taken out a costs insurance policy insuring against the risk of incurring a liability to pay for one or more expert reports in respect of clinical negligence in connection with the proceedings (or against that risk and other risks),
  - (c) the policy is of a prescribed description,
  - (d) the policy states how much of the premium relates to the liability to pay for an expert report or reports in respect of clinical negligence (“the relevant part of the premium”), and

---

*Status: This is the original version (as it was originally enacted).*

---

- (e) the amount is to be paid in respect of the relevant part of the premium.
- (3) Regulations under subsection (2) may include provision about the amount that may be required to be paid by the costs order, including provision that the amount must not exceed a prescribed maximum amount.
- (4) The regulations may prescribe a maximum amount, in particular, by specifying—
  - (a) a percentage of the relevant part of the premium;
  - (b) an amount calculated in a prescribed manner.
- (5) In this section—
  - “clinical negligence” means breach of a duty of care or trespass to the person committed in the course of the provision of clinical or medical services (including dental or nursing services);
  - “clinical negligence proceedings” means proceedings which include a claim for damages in respect of clinical negligence;
  - “costs insurance policy”, in relation to a party to proceedings, means a policy insuring against the risk of the party incurring a liability in those proceedings;
  - “expert report” means a report by a person qualified to give expert advice on all or most of the matters that are the subject of the report;
  - “proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in court), whether commenced or contemplated.”
- (2) In the Access to Justice Act 1999, omit section 29 (recovery of insurance premiums by way of costs).
- (3) The amendments made by this section do not apply in relation to a costs order made in favour of a party to proceedings who took out a costs insurance policy in relation to the proceedings before the day on which this section comes into force.