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## EXPLANATORY NOTE

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

This Order is the fifth commencement order made under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10) (“the 2012 Act”).

Article 2(1) brings into force on 19<sup>th</sup> January 2013, for the purpose only of exercising any power to make orders, regulations and rules of court, the following provisions of the 2012 Act—

- section 44 (conditional fee agreements: success fees), which amends sections 58 and 58A of the Courts and Legal Services Act 1990 (c.41) (“the 1990 Act”);
- section 45 (damages-based agreements), in so far as it is not already in force for that purpose, which amends section 58AA of the 1990 Act; and
- section 46 (recovery of insurance premiums by way of costs), which repeals section 29 of the Access to Justice Act 1999 (c.22) and inserts new section 58C in the 1990 Act.

Article 2(2) brings into force on 19<sup>th</sup> January 2013 section 48 (sections 44 and 46 and diffuse mesothelioma proceedings) of the 2012 Act. Section 48 provides that sections 44 and 46 may not be commenced in respect of proceedings relating to claims for damages for diffuse mesothelioma until the Lord Chancellor has reviewed the likely impact of those sections on such claims and has published a report on the review’s conclusions.

Article 3 brings into force on 1<sup>st</sup> April 2013, in so far as not already in force, the following provisions of the 2012 Act—

- sections 44, 46, and 45 (partly in force by virtue of article 2); and
- section 47 (recovery where a body undertakes to meet costs liabilities), which repeals section 30 of the 1999 Act.

Commencement under articles 2 and 3 of sections 44 and 46 is subject to the saving provision in article 4, the effect of which is to exclude from the commencement of those sections—

- proceedings relating to a claim for damages in respect of diffuse mesothelioma;
- publication and privacy proceedings; and
- proceedings in respect of, and relating to, insolvency.