

*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**

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## **EXPLANATORY NOTES**

**A.**

### **FUNDING OF LEGAL SERVICES (PARTS I & II, SECTIONS 1-34)**

#### ***Summary***

#### ***Conditional fees etc.***

32. The Act reforms the law relating to conditional fees and “after the event” legal expenses insurance (see paragraphs 46 & 48 below). It will enable the court to order a losing party to pay any uplift on the successful party’s lawyers’ normal fees and any premium paid by the successful party for insurance against being ordered to pay the other side’s costs. The intention is to:
- ensure that the compensation awarded to a successful party is not eroded by any uplift or premium - the party in the wrong will bear the full burden of costs;
  - make conditional fees more attractive, in particular to defendants and to plaintiffs seeking non-monetary redress - these litigants can rarely use conditional fees now, because they cannot rely on the prospect of recovering damages to meet the cost of the uplift and premium;
  - discourage weak cases and encourage settlements; and.
  - provide a mechanism for regulating the uplifts that solicitors charge - in future, unsuccessful litigants will be able to challenge unreasonably high uplifts when the court comes to assess costs.