



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

45 Damages-based agreements

- (1) Section 58AA of the Courts and Legal Services Act 1990 (damages-based agreements) is amended as follows.
- (2) In subsection (1) omit “relates to an employment matter and”.
- (3) In subsection (2)—
 - (a) after “But” insert “(subject to subsection (9))”, and
 - (b) omit “relates to an employment matter and”.
- (4) Omit subsection (3)(b).
- (5) After subsection (4)(a) insert—
 - “(aa) must not relate to proceedings which by virtue of section 58A(1) and (2) cannot be the subject of an enforceable conditional fee agreement or to proceedings of a description prescribed by the Lord Chancellor;”.
- (6) In subsection (4)(b), at the beginning insert “if regulations so provide,”.
- (7) In subsection (4)(d) for “has provided prescribed information” substitute “has complied with such requirements (if any) as may be prescribed as to the provision of information”.
- (8) After subsection (6) insert—

“(6A) Rules of court may make provision with respect to the assessment of costs in proceedings where a party in whose favour a costs order is made has entered into a damages-based agreement in connection with the proceedings.”

(9) After subsection (7) insert—

“(7A) In this section (and in the definitions of “advocacy services” and “litigation services” as they apply for the purposes of this section) “proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.”

(10) After subsection (8) insert—

“(9) Where section 57 of the Solicitors Act 1974 (non-contentious business agreements between solicitor and client) applies to a damages-based agreement other than one relating to an employment matter, subsections (1) and (2) of this section do not make it unenforceable.

(10) For the purposes of subsection (9) a damages-based agreement relates to an employment matter if the matter in relation to which the services are provided is a matter that is, or could become, the subject of proceedings before an employment tribunal.”

(11) In the heading of that section omit “relating to employment matters”.

(12) In section 120(4) of that Act (regulations and orders subject to parliamentary approval) for “58AA” substitute “58AA(4)”.

(13) The amendments made by subsections (1) to (11) do not apply in relation to an agreement entered into before this section comes into force.