Draft Order laid before Parliament under section 120(4) of the Courts and Legal Services Act 1990, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No. 000

LEGAL SERVICES, ENGLAND AND WALES

The Conditional Fee Agreements Order 2013

Made - - - -	***
Coming into force - -	*1st April 2013*

The Lord Chancellor in exercise of the powers conferred on him by sections 58(4)(a) and (c), 58(4A)(b), (4B)(c) and (d) and 120(3) of the Courts and Legal Services Act 1990(**1**), having consulted in accordance with section 58A(5) of that Act, makes the following Order, a draft of which has been laid and approved by each House of Parliament in accordance with section 120(4)(**2**) of that Act.

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Conditional Fee Agreements Order 2013 and will come into force on 1st April 2013.

(2) In this Order—

"the 1986 Act" means the Insolvency Act 1986(**3**);

"the 1990 Act" means the Courts and Legal Services Act 1990;

"claim for personal injuries" has the same meaning as in Rule 2.3 of the Civil Procedure Rules 1998(**4**);

"company" means a company within the meaning of section 1 of the Companies Act 2006(**5**) or a company which may be wound up under Part V of the 1986 Act;

"diffuse mesothelioma" has the same meaning as in section 48(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**6**);

"news publisher" means a person who publishes a newspaper, magazine or website containing news or information about or comment on current affairs;

(**1**) 1990 c.41. Section 58 was substituted by section 27(1) of the Access to Justice Act 1999 (c.22) and amended by section 44 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c.10).
(**2**) Section 120(4) was amended by section 154(3) of the Coroners and Justice Act 2009 (c.25) and sections 44(5) and 45(12) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
(**3**) 1986 c.45, to which there have been amendments not relevant to this Order.
(**4**) S.I. 1998/3132, to which there have been amendments not relevant to this Order.
(**5**) 2006 c.46, to which there have been amendments not relevant to this Order.
(**6**) 2012 c.10.

"publication and privacy proceedings" means proceedings for—

(a) defamation;

(b) malicious falsehood;

(c) breach of confidence involving publication to the general public;

(d) misuse of private information; or

(e) harassment, where the defendant is a news publisher.

"representative" means the person or persons providing the advocacy services or litigation services to which the conditional fee agreement relates.

Agreements providing for a success fee

2. All proceedings which, under section 58 of the Act, can be the subject of an enforceable conditional fee agreement, except proceedings under section 82 of the Environmental Protection Act 1990(**7**), are proceedings specified for the purpose of section 58(4)(a) of the Act.

Amount of success fee

3. In relation to all proceedings specified in article 2, the percentage specified for the purposes of section 58(4)(c) of the Act is 100%.

Specified proceedings

4. A claim for personal injuries shall be proceedings specified for the purpose of section 58(4A)(b) of the Act.

Amount of success fee in specified proceedings

5.—(1) In relation to the proceedings specified in article 4, the percentage prescribed for the purposes of section 58(4B)(c) of the Act is—

(a) in proceedings at first instance, 25%; and

(b) in all other proceedings, 100%.

(2) The descriptions of damages specified for the purposes of section 58(4B)(d) of the Act are—

(a) general damages for pain, suffering, and loss of amenity; and

(b) damages for pecuniary loss, other than future pecuniary loss,

net of any sums recoverable by the Compensation Recovery Unit of the Department for Work and Pensions.

Transitional and saving provisions

6.—(1) Articles 4 and 5 do not apply to a conditional fee agreement which is entered into before the date upon which this Order comes into force if—

(a) the agreement was entered into specifically for the purposes of the provision to a person ("P") of advocacy or litigation services in connection with the matter which is the subject of the proceedings; or

(b) advocacy or litigation services were provided to P under the agreement in connection with those proceedings before that date.

(2) Articles 4 and 5 do not apply to any conditional fee agreement entered into in relation to—

(**7**) 1990 c.43.