



Courts and Legal Services Act 1990

1990 CHAPTER 41

PART II

LEGAL SERVICES

Miscellaneous

[^{F2}58AA ^{F1}Damages-based agreements ...

- (1) A damages-based agreement which ^{F3}... and satisfies the conditions in subsection (4) is not unenforceable by reason only of its being a damages-based agreement.
- (2) But [^{F4}(subject to subsection (9))] a damages-based agreement which ^{F5}... does not satisfy those conditions is unenforceable.
- (3) For the purposes of this section—
 - (a) a damages-based agreement is an agreement between a person providing advocacy services, litigation services or claims management services and the recipient of those services which provides that—
 - (i) the recipient is to make a payment to the person providing the services if the recipient obtains a specified financial benefit in connection with the matter in relation to which the services are provided, and
 - (ii) the amount of that payment is to be determined by reference to the amount of the financial benefit obtained;
 - ^{F6}(b)
- (4) The agreement—
 - (a) must be in writing;
 - [^{F7}(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;]

Changes to legislation: There are currently no known outstanding effects for the Courts and Legal Services Act 1990, Section 58AA. (See end of Document for details)

- (b) [^{F8}if regulations so provide,] must not provide for a payment above a prescribed amount or for a payment above an amount calculated in a prescribed manner;
 - (c) must comply with such other requirements as to its terms and conditions as are prescribed; and
 - (d) must be made only after the person providing services under the agreement [^{F9}has complied with such requirements (if any) as may be prescribed as to the provision of information].
- (5) Regulations under subsection (4) are to be made by the Lord Chancellor and may make different provision in relation to different descriptions of agreements.
- (6) Before making regulations under subsection (4) the Lord Chancellor must consult—
- (a) the designated judges,
 - (b) the General Council of the Bar,
 - (c) the Law Society, and
 - (d) such other bodies as the Lord Chancellor considers appropriate.
- [Rules of court may make provision with respect to the assessment of costs in ^{F10}(6A) proceedings where a party in whose favour a costs order is made has entered into a damages-based agreement in connection with the proceedings.]
- (7) In this section—
- “payment” includes a transfer of assets and any other transfer of money’s worth (and the reference in subsection (4)(b) to a payment above a prescribed amount, or above an amount calculated in a prescribed manner, is to be construed accordingly);
 - “claims management services” has the same meaning as in [^{F11}the Financial Services and Markets Act 2000 (see section 419A of that Act)].
- [In this section (and in the definitions of “advocacy services” and “litigation services” ^{F12}(7A) 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.]
- (8) Nothing in this section applies to an agreement entered into before the coming into force of the first regulations made under subsection (4).]
- [^{F13}(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.]
- [^{F14}(11) Subsection (1) is subject to section 47C(8) of the Competition Act 1998.]

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Textual Amendments

- F1** Words in s. 58AA heading omitted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(11\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F2** S. 58AA inserted (12.11.2009) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 154\(2\)](#), [182\(1\)\(e\)](#) (with s. 180, Sch. 22)
- F3** Words in s. 58AA(1) omitted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(2\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F4** Words in s. 58AA(2) inserted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(3\)\(a\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F5** Words in s. 58AA(2) omitted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(3\)\(b\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F6** S. 58AA(3)(b) omitted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(4\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F7** S. 58AA(4)(aa) inserted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(5\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F8** Words in s. 58AA(4)(b) inserted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(6\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F9** Words in s. 58AA(4)(d) substituted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(7\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F10** S. 58AA(6A) inserted (1.10.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(8\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2012/2412, art. 2(a)
- F11** Words in s. 58AA(7) substituted (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Claims Management Activity\) Order 2018 \(S.I. 2018/1253\)](#), arts. 1(2)(3), [90](#) (with arts. 106, 107)
- F12** S. 58AA(7A) inserted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(9\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F13** S. 58AA(9)(10) inserted (19.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 45\(10\)](#), [151\(1\)](#) (with s. 45(13)); S.I. 2013/77, arts. 2(1)(b), 3(b)
- F14** S. 58AA(11) inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), [Sch. 8 para. 37](#); S.I. 2015/1630, art. 3(j)

Changes to legislation:

There are currently no known outstanding effects for the Courts and Legal Services Act 1990, Section 58AA.