



# Courts and Legal Services Act 1990

## 1990 CHAPTER 41

### PART II

#### LEGAL SERVICES

##### *Miscellaneous*

#### **<sup>F1</sup>58A Conditional fee agreements: supplementary.**

- (1) The proceedings which cannot be the subject of an enforceable conditional fee agreement are—
- (a) criminal proceedings, a part from proceedings under section 82 of the <sup>M1</sup>Environmental Protection Act 1990; and
  - (b) family proceedings.
- (2) In subsection (1) “family proceedings” means proceedings under any one or more of the following—
- (a) the <sup>M2</sup>Matrimonial Causes Act 1973;
  - [<sup>F2</sup>(b) the Adoption and Children Act 2002;]
  - (c) the <sup>M3</sup>Domestic Proceedings and Magistrates’ Courts Act 1978;
  - (d) Part III of the <sup>M4</sup>Matrimonial and Family Proceedings Act 1984;
  - (e) Parts I, II and IV of the <sup>M5</sup>Children Act 1989;
  - (f) [<sup>F3</sup>Parts 4 and 4A] of the <sup>M6</sup>Family Law Act 1996; <sup>F4</sup> . . .
  - [<sup>F5</sup>(fza) Part 1 of Schedule 2 to the Female Genital Mutilation Act 2003;]
  - [<sup>F6</sup>(fa) Chapter 2 of Part 2 of the Civil Partnership Act 2004 (proceedings for dissolution etc. of civil partnership);
  - (fb) Schedule 5 to the 2004 Act (financial relief in the High Court or a county court etc.);
  - (fc) Schedule 6 to the 2004 Act (financial relief in magistrates' courts etc.);
  - (fd) Schedule 7 to the 2004 Act (financial relief in England and Wales after overseas dissolution etc. of a civil partnership); and]
  - (g) the inherent jurisdiction of the High Court in relation to children.

*Changes to legislation: Courts and Legal Services Act 1990, Section 58A is up to date with all changes known to be in force on or before 20 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (3) The requirements which the [<sup>F7</sup>Lord Chancellor] may prescribe under section 58(3)(c)—
- (a) include requirements for the person providing advocacy or litigation services to have provided prescribed information before the agreement is made; and
  - (b) may be different for different descriptions of conditional fee agreements (and, in particular, may be different for those which provide for a success fee and those which do not).
- (4) In section 58 and this section (and in the definitions of “advocacy services” and “litigation services” as they apply for their purposes) “proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated.
- (5) Before making an order under section 58(4) [<sup>F8</sup>, (4A) or (4B)], the [<sup>F7</sup>Lord Chancellor] shall consult—
- (a) the designated judges;
  - (b) the General Council of the Bar;
  - (c) the Law Society; and
  - (d) such other bodies as he considers appropriate.
- [<sup>F9</sup>(6) A costs order made in proceedings may not include provision requiring the payment by one party of all or part of a success fee payable by another party under a conditional fee agreement.]
- (7) Rules of court may make provision with respect to the assessment of any costs which include fees payable under a conditional fee agreement (including one which provides for a success fee).

#### Textual Amendments

- F1** Ss. 58, 58A substituted (1.4.2000) for s. 58 by 1999 c.22, s. 27(1) (with Sch. 14 para. 7(2)); S.I. 2000/774, art. 2(b) (with arts. 3-5)
- F2** S. 58A(2)(b) substituted (30.12.2005) by 2002 c. 38, ss. 139, 148(1), Sch. 3 para. 80 (with savings in Sch. 4 paras. 6-8, 22); S.I. 2005/2213, art. 2
- F3** Words in s. 58A(2)(f) substituted (25.11.2008) by Forced Marriage (Civil Protection) Act 2007 (c. 20), ss. 3(1), 4(2), Sch. 2 para. 2; S.I. 2008/2779, art. 2(b)(c)
- F4** Word in s. 58A(2)(f) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1)(4), 263, Sch. 27 para. 138, Sch. 30; S.I. 2005/3175, art. 2, Sch. 1
- F5** S. 58A(2)(fza) inserted (17.7.2015) by Serious Crime Act 2015 (c. 9), s. 88(1), Sch. 4 para. 13; S.I. 2015/1428, reg. 2(c)(ii)
- F6** S. 58A(2)(fa)-(fd) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, Sch. 27 para. 138; S.I. 2005/3175, art. 2, Sch. 1
- F7** Words in s. 58A substituted (12.1.2006) by The Transfer of Functions (Lord Chancellor and Secretary of State) Order 2005 (S.I. 2005/3429), art. 8, Sch. para. 2
- F8** Words in s. 58A(5) inserted (19.1.2013 for specified purposes, 1.4.2013 except in relation to specified proceedings, 6.4.2016 in so far as not already in force except in relation to proceedings relating to a claim for damages in respect of diffuse mesothelioma and publication and privacy proceedings, 6.4.2019 in relation to publication and privacy proceedings) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 44(3), 151(1) (with s. 48); S.I. 2013/77, arts. 2(1)(a), 3(a) (with art. 4); S.I. 2016/345, art. 2; S.I. 2018/1287, art. 2
- F9** S. 58A(6) substituted (19.1.2013 for specified purposes, 1.4.2013 except in relation to specified proceedings, 6.4.2016 in so far as not already in force except in relation to proceedings relating to

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a claim for damages in respect of diffuse mesothelioma and publication and privacy proceedings, 6.4.2019 in relation to publication and privacy proceedings) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 44\(4\)](#), [151\(1\)](#) (with [ss. 44\(6\)](#), [48](#)); [S.I. 2013/77](#), [arts. 2\(1\)\(a\)](#), [3\(a\)](#) (with [art. 4](#)); [S.I. 2016/345](#), [art. 2](#); [S.I. 2018/1287](#), [art. 2](#)

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**Modifications etc. (not altering text)**

- C1** S. 58A: transfer of functions (12.1.2006) by [The Transfer of Functions \(Lord Chancellor and Secretary of State\) Order 2005 \(S.I. 2005/3429\)](#), [art. 3](#) (with [arts. 4](#), [5](#))
- C2** S. 58A(6)(7) excluded (1.4.2000) by [S.I. 2000/900](#), [art. 2\(1\)\(a\)\(b\)](#)
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**Marginal Citations**

- M1** 1990 c.43.
- M2** 1973 c.18.
- M3** 1978 c.22.
- M4** 1984 c.42.
- M5** 1989 c.41.
- M6** 1996 c.27.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58A(2)(fe) inserted by [2021 c. 17 s. 53](#)