

---

DRAFT STATUTORY INSTRUMENTS

---

**2003 No.**

**Access to Justice (Northern Ireland) Order 2003**

**PART III**

**OTHER FUNDING OF LEGAL SERVICES**

*Conditional fee and litigation funding agreements*

**Interpretation of Part III**

**37.**—(1) In this Part—

“advocacy services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right of audience in relation to any proceedings, or contemplated proceedings, to provide;

“a conditional fee agreement” is an agreement with a person providing advocacy or litigation services which provides for his fees and expenses, or any part of them, to be payable only in specified circumstances;

“a litigation funding agreement” is an agreement under which—

- (a) a person (“the funder”) agrees to fund (in whole or in part) the provision of advocacy or litigation services (by someone other than the funder) to another person (“the litigant”); and
- (b) the litigant agrees to pay, in addition to any fee payable on the making of the agreement, a sum to the funder in specified circumstances;

“litigation services” means any services which it would be reasonable to expect a person who is exercising, or contemplating exercising, a right to conduct litigation in relation to any proceedings, or contemplated proceedings, to provide;

“proceedings” includes any sort of proceedings for resolving disputes (and not just proceedings in a court), whether commenced or contemplated;

“a right of audience” means the right to appear before and address a court including the right to call and examine witnesses;

“a right to conduct litigation” means the right—

- (c) to issue proceedings before any court, and
- (d) to perform any ancillary functions in relation to proceedings (such as entering appearances to actions).

(2) For the purposes of this Part, a conditional fee agreement provides for a success fee if it provides for the amount of any fees to which it applies to be increased, in specified circumstances, above the amount which would be payable if it were not payable only in specified circumstances.