
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

Conditional fee agreements

38.—(1) A conditional fee agreement which satisfies all of the conditions applicable to it by virtue of this Article shall not be unenforceable by reason only of its being a conditional fee agreement; but (subject to paragraph (4)) any other conditional fee agreement shall be unenforceable.

(2) The following conditions are applicable to every conditional fee agreement—

- (a) it must be in writing;
- (b) it must not relate to proceedings which cannot be the subject of an enforceable conditional fee agreement; and
- (c) it must comply with such requirements (if any) as may be prescribed.

(3) The following further conditions are applicable to a conditional fee agreement which provides for a success fee—

- (a) it must relate to proceedings of a description specified by order made by the Lord Chancellor;
- (b) it must state the percentage by which the amount of fees which would be payable if it were not a conditional fee agreement is to be increased; and
- (c) that percentage must not exceed the percentage specified in relation to the description of proceedings to which the agreement relates by order made by the Lord Chancellor.

(4) If a conditional fee agreement is an agreement to which Article 71A of the Solicitors (Northern Ireland) Order 1976⁽¹⁾ (non-contentious business agreements between solicitor and client) applies, paragraph (1) shall not make it unenforceable.

⁽¹⁾ 1976 N.I. 12.