

LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

EXPLANATORY NOTES

COMMENTARY

Part 2: Litigation funding and costs

Payments for legal services in civil cases

Section 47: Recovery where body undertakes to meet costs liabilities

298. Certain bodies, such as trade unions and other membership organisations, often provide legal services to their members as a benefit of membership. Section 30 of the Access to Justice Act 1999 allows bodies that are approved by the Lord Chancellor to recover from a losing party the cost of insuring themselves against the risk of paying costs to another party in the event of losing a claim. The effect of section 46 is to prevent the recovery of these insurance premiums from a losing party.
299. *Subsection (1)* repeals section 30 of the Access to Justice Act 1999. Although similar in effect to section 48, section 49 does not provide for any exceptions to non-recoverability, since the circumstances which require specific provisions relating to expert reports in clinical negligence cases do not arise.
300. *Subsection (2)* contains a saving. It provides that a costs order made in favour of a member of a body in proceedings about a matter may provide for the recovery of a body's costs where the body gave a specific undertaking to the member to meet the costs of other parties to proceedings about that matter before the day on which section 47 comes into force.