

Massive Litigation Shake-Up Proposed

Lord Justice Jackson's eagerly awaited final report outlining proposed changes to the British system of civil litigation has been published and promises a massive shake-up of the current system, which is considered to impose excessive costs on losers in litigation.

Among the changes proposed are:

- The end of the 'loser pays' principle in British law. A winning defendant's costs will normally no longer be payable by the claimant in those instances in which the claimant is normally an individual and the defendant an organisation;
- The end of the current system of 'no win, no fee' agreements by making lawyers' success fees and the costs of 'after the event' insurance premiums paid irrecoverable from the losing party. No win, no fee was widely regarded as a panacea when introduced, but in reality has proved problematic; and
- Allowing lawyers to charge contingency fees, by which they receive a percentage of the judgment sum and take the risk of not being paid if the case is not won. In effect, this will replace no win, no fee and should act as a brake on pursuing weak cases.

The current pre-action protocols are to be retained and judges are to be encouraged to become more involved with cases to assist in controlling costs.

The 584-page report can be found at

http://www.judiciary.gov.uk/about_judiciary/cost-review/jan2010/final-report-140110.pdf.

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