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THE LEGAL PROFESSION ACT

THE LEGAL PROFESSION (CONTINGENCY FEES)
REGULATIONS, 2018

In exercise of the power conferred upon the General Legal Council by section 21(7) of the Legal Profession Act, and of every other power hereunto enabling, the following Regulations are hereby made and come into effect on the 1st day of February 2019:—

Part I—*Preliminary*

- Citation 1. These Regulations may be cited as the Legal Profession (Contingency Fees) Regulations, 2018 and shall be read and construed as one with the Legal Profession Act.
- Interpretation 2. In these Regulations, unless the context otherwise requires—
“Act” means the Legal Profession Act.

“contingency fees” has the meaning assigned to it in section 21(8) of the Legal Profession Act.

“contingency fees” agreement” means an agreement between an Attorney and his or her client which provides for the Attorney to be paid contingency fees.

3. Pursuant to section 21(8) of the Act, an Attorney may enter into an agreement with his or her client in which it is agreed that the Attorney shall be entitled to contingency fees as provided for in these Regulations.

Part II—*Contingency Fees Agreement, Generally*

Form of contingency fees agreement. 4.—(1) Every contingency fees agreement shall be in writing and shall be signed by the client concerned and the attorney who is party to the contingency fees agreement.

(2) Where the client is a juristic person the contingency fees agreement shall be signed by the duly authorized representative of the juristic person.

(3) The attorney shall provide a copy of the signed contingency fees agreement to the client on the date of signing.

Matters to be contained in contingency fees agreement. 5.—(1) Every contingency fees agreement between an attorney and his or her client shall—

- (a) name the matter to which the agreement relates;
- (b) specify the contingency fees and in particular the amounts payable or the method to be used to calculate the amounts payable;
- (c) state that general consumption tax (GCT) is payable on the contingency fees;
- (d) contain a statement that, before the agreement was entered into, the client was advised or informed of—
 - (i) alternative ways of financing the litigation and the respective implications of those alternative ways;
 - (ii) the normal rule that in the event of the unsuccessful prosecution of the proceedings the client may be liable to pay the taxed party and party costs of the opponents in the proceedings;
 - (iii) his or her obligation to pay the contingency fees specified in the contingency fees agreement in the event that there is a successful prosecution or settlement of the matter or proceedings;
- (e) state the circumstances in which the attorney’s contingency fees in relation to the proceedings are payable;

- (f) provide that the client will have a period of fourteen (14) days, calculated from the date of the agreement, during which the client will have the right to withdraw from the agreement by giving notice to the attorney in writing;

Provided that in the event of withdrawal or termination of the retainer, the attorney shall:

- (i) be entitled to fees (calculated on an attorney and client basis) in respect of any necessary or essential work done to protect the interests of the client during such period; and
- (ii) state the manner in which any amendment or other agreements ancillary to the contingency fees agreement will be dealt with.

Part III—*Actions, Suits etc., subject to Contingency Fees Agreements*

6.—(1) An attorney who enters into a contingency fees agreement with a client desirous of instituting legal proceedings, suits and actions shall (subject to regulations 7 and 8) be entitled to contingency fees as specified in paragraphs (2) and (3).

(2) Subject to paragraph (3) an attorney who executes an agreement pursuant to paragraph 6 (1) may specify a contingency fee of up to 33 $\frac{1}{3}$ %.

(3) An attorney who executes an agreement pursuant to paragraph 6 (1) may specify a contingency fee of:

- i. up to 25% where there is a settlement up to a trial or an assessment of damages;
- ii. up to 30% where the proceedings continue after the commencement of a trial or an assessment of damages;
- iii. up to 33 $\frac{1}{3}$ % where the proceedings continue on appeal after the entry of a final judgment.

Personal
injury action
and interim
payments.

7.—(1) This regulation applies to contingency fees agreements executed by an attorney and his or her client in relation to personal injury matters.

(2) No contingency fee shall be payable to an attorney at any stage of the proceedings on interim payments obtained on behalf of the client for the purpose of medical procedures required by the client.

(3) Interim payments obtained during the proceedings on behalf of the client in all other cases shall be included in the pool of funds recovered in the proceedings from which contingency fees are to be paid to the attorney in accordance with the provisions of regulation 6.

(4) Notwithstanding the provisions of this regulation, no contingency fee shall be payable to an attorney on any sums awarded in any final judgement for future medical care required by the client.

Family
matters

8.—(1) This regulation applies to a contingency fee's agreement executed by an attorney and a client desirous of instituting proceedings in relation to a family matter.

(2) Where the proceedings concern a dispute over the family home, an attorney shall not be entitled to a contingency fee of more than 20% from the institution of proceedings to the conclusion of any appeal.

(3) Notwithstanding the provisions of these regulations, an attorney shall not be entitled to execute a contingency fees agreement with a client who is desirous of instituting proceedings in respect of matters involving the maintenance of persons under the age of 23 years.

Part IV—*Miscellaneous*

Cost and
interim
payments

9. Any sums recovered by an attorney as costs on behalf of his or her client shall be included in the pool of funds from which contingency fees shall be paid to the attorney.

Disbursements

10.—(1) Where an attorney makes disbursements to a client the Attorney shall itemize all such disbursements with supporting receipts and documentation in a bill of costs and dispatch the bill of costs to the client.

(2) An attorney shall be entitled to recover all such disbursements and shall not be entitled to charge interest on same at a rate higher than the rate applicable to judgement debts.

PART V—*Sanctions*

11. Any contingency fees agreement made after the coming into force of these Regulations and which does not comply with the provisions contained in PART II of these Regulations shall not be enforceable against the client who is party to same.

12. Where any contingency fees agreement made after the coming into force of these Regulations specifies the payment of a fee that exceeds the sums specified in PART III of the Regulations, the sum recoverable by the attorney shall not exceed the sum specified in PART III of the Regulations.

13. Any attorney who enters into a contingency fees agreement which does not comply with these Regulations shall be guilty of professional misconduct.

14. These Regulations do not apply to Contingency Fee Agreements made prior to the coming into effect of these Regulations.

Dated this 5th day of December, 2018.

ALLAN S. WOOD, Q.C.
Chairman, General Legal Council

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