



Courts and Legal Services Act 1990

1990 CHAPTER 41

PART II

LEGAL SERVICES

Miscellaneous

58 Conditional fee agreements

- (1) In this section “a conditional fee agreement” means an agreement in writing between a person providing advocacy or litigation services and his client which—
 - (a) does not relate to proceedings of a kind mentioned in subsection (10);
 - (b) provides for that person’s fees and expenses, or any part of them, to be payable only in specified circumstances;
 - (c) complies with such requirements (if any) as may be prescribed by the Lord Chancellor; and
 - (d) is not a contentious business agreement (as defined by section 59 of the Solicitors Act 1974).
- (2) Where a conditional fee agreement 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 a conditional fee agreement, it shall specify the percentage by which that amount is to be increased.
- (3) Subject to subsection (6), a conditional fee agreement which relates to specified proceedings shall not be unenforceable by reason only of its being a conditional fee agreement.
- (4) In this section “specified proceedings” means proceedings of a description specified by order made by the Lord Chancellor for the purposes of subsection (3).
- (5) Any such order shall prescribe the maximum permitted percentage for each description of specified proceedings.

Status: This is the original version (as it was originally enacted).

- (6) An agreement which falls within subsection (2) shall be unenforceable if, at the time when it is entered into, the percentage specified in the agreement exceeds the prescribed maximum permitted percentage for the description of proceedings to which it relates.
- (7) Before making any order under this section the Lord Chancellor shall consult the designated judges, the General Council of the Bar, the Law Society and such other authorised bodies (if any) as he considers appropriate.
- (8) Where a party to any proceedings has entered into a conditional fee agreement and a costs order is made in those proceedings in his favour, the costs payable to him shall not include any element which takes account of any percentage increase payable under the agreement.
- (9) Rules of court may make provision with respect to the taxing of any costs which include fees payable under a conditional fee agreement.
- (10) The proceedings mentioned in subsection (1)(a) are any criminal proceedings and any proceedings under—
 - (a) the Matrimonial Causes Act 1973;
 - (b) the Domestic Violence and Matrimonial Proceedings Act 1976;
 - (c) the Adoption Act 1976;
 - (d) the Domestic Proceedings and Magistrates' Courts Act 1978;
 - (e) sections 1 and 9 of the Matrimonial Homes Act 1983;
 - (f) Part III of the Matrimonial and Family Proceedings Act 1984;
 - (g) Parts I, II or IV of the Children Act 1989; or
 - (h) the inherent jurisdiction of the High Court in relation to children.