
STATUTORY INSTRUMENTS

1995 No. 1674

LEGAL SERVICES

The Conditional Fee Agreements Order 1995

Made - - - - *4th July 1995*

Coming into force - - *5th July 1995*

Whereas a draft of the above Order has been laid before and approved by resolution of each House of Parliament:

Now, therefore, the Lord Chancellor, in exercise of the powers conferred on him by sections 58(4) and (5) and 120 of the Courts and Legal Services Act 1990(1), having consulted in accordance with section 58(7) of that Act, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Conditional Fee Agreements Order 1995 and shall come into force on the day after the day on which it was made.

Specified proceedings

2.—(1) The proceedings specified for the purpose of section 58(4) of the Courts and Legal Services Act 1990 (conditional fee agreements in respect of specified proceedings not to be unenforceable) are the following:—

- (a) proceedings in which there is a claim for damages in respect of personal injuries or in respect of a person's death, and "personal injuries" includes any disease and any impairment of a person's physical or mental condition;
- (b) proceedings in England and Wales by a company which is being wound up in England and Wales or Scotland;
- (c) proceedings by a company in respect of which an administration order made under Part II of the Insolvency Act 1986(2) is in force;
- (d) proceedings in England and Wales by a person acting in the capacity of—
 - (i) liquidator of a company which is being wound up in England and Wales or Scotland;
or
 - (ii) trustee of a bankrupt's estate;

(1) 1990 c. 41.
(2) 1986 c. 45.

- (e) proceedings by a person acting in the capacity of an administrator appointed pursuant to the provisions of Part II of the Insolvency Act 1986;
- (f) proceedings before the European Commission of Human Rights and the European Court of Human Rights established under article 19 of the Convention for the Protection of Human Rights and Fundamental Freedoms opened for signature at Rome on 4th November 1950, ratified by the United Kingdom on 8th March 1951, which came into force on 3rd August 1953,

provided that the client does not have legal aid in respect of the proceedings.

(2) Proceedings specified in paragraph (1) shall be specified proceedings notwithstanding that they are concluded without the commencement of court proceedings.

(3) In paragraphs (1)(b) and (1)(d) “company” means a company within the meaning of section 735(1) of the Companies Act 1985⁽³⁾ or a company which may be wound up under Part V of the Insolvency Act 1986.

(4) Where legal aid in respect of the proceedings to which a conditional fee agreement relates is granted after that agreement is entered into the proceedings shall cease to be specified from the date of the grant.

(5) In this article, “legal aid” means representation under Part IV of the Legal Aid Act 1988⁽⁴⁾.

Maximum permitted percentage increase on fees

3. For the purpose of section 58(5) of the Courts and Legal Services Act 1990 the maximum permitted percentage by which fees may be increased in respect of each description of proceedings specified in article 2 is 100%.

Dated 4th July 1995

Mackay of Clashfern, C.

⁽³⁾ 1985 c. 6.

⁽⁴⁾ 1988 c. 34.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 58 of the Courts and Legal Services Act 1990 provides that a conditional fee agreement which relates to specified proceedings shall not be unenforceable by reason only of its being a conditional fee agreement. This Order specifies the following proceedings:—

- (1) proceedings for personal injuries;
- (2) proceedings by companies in administration or winding up or by their administrators or liquidators and by trustees in bankruptcy; and
- (3) proceedings before the European Commission of Human Rights and the European Court of Human Rights.

Proceedings are not specified for the purposes of section 58 where the client has legal aid.

The Order also provides that the maximum percentage by which fees may be increased in respect of the specified proceedings is 100%.