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Legal Services Regulation Act 2015

Legal practitioner to provide notice of conduct of matter, costs, etc.

- 150.** (1) A legal practitioner shall, whenever required to do so under this section, provide to his or her client a notice (in this section referred to as a “notice”) written in clear language that is likely to be easily understood by the client and that otherwise complies with this section.
- (2) On receiving instructions from a client, a legal practitioner shall provide the client with a notice which shall—
- (a) disclose the legal costs that will be incurred in relation to the matter concerned, or
 - (b) if it is not reasonably practicable for the notice to disclose the legal costs at that time, set out the basis on which the legal costs are to be calculated.
- (3) Where *subsection (2)(b)* applies, the legal practitioner concerned shall, as soon as may be after it becomes practicable to do so, provide to the client a notice containing the information specified in *subsection (2)(a)*.
- (4) A notice shall:
- (a) subject to *subsection (2)(b)*, specify the amount of legal costs—
 - (i) certified by the legal practitioner as having been incurred as at the date on which the notice is provided,
 - (ii) certified by the legal practitioner to be of a fixed nature or otherwise certain to be incurred (or if it would be impracticable for the legal practitioner to so certify, the basis on which they are to be charged), and
 - (iii) insofar as is practicable, certified by the legal practitioner to be likely to be incurred;
 - (b) specify the amount of value-added tax to be charged in respect of the amounts referred to in *paragraph (a)*;
 - (c) set out the basis on which the amounts were or are to be calculated, explained by reference to the matters set out in *paragraph 2 of Schedule 1*;
 - (d) contain a statement of the legal practitioner’s obligation under *subsection (5)*;

- (e) if the matter which is the subject of the notice involves or is likely to involve litigation, provide—
- (i) an outline of the work to be done in respect of each stage of the litigation process and the costs or likely costs or basis of costs involved in respect of each such stage, including the likelihood of engaging a practising barrister, expert witnesses, or providers of other services,
 - (ii) a statement of the legal practitioner's obligation under *subsection (6)*,
 - (iii) information as to the likely legal and financial consequences of the client's withdrawal from the litigation and its discontinuance, and
 - (iv) information as to the circumstances in which the client would be likely to be required to pay the costs of one or more other parties to the litigation, and information as to the circumstances in which it would be likely that the costs of the legal practitioner would not be fully recovered from other parties to the litigation;
- (f) specify a period, which shall be not longer than 10 working days, for the purposes of *subsection (7)*.
- (5) Where the legal practitioner becomes aware of any factor that would make the legal costs likely to be incurred in a matter significantly greater than those disclosed or indicated in a notice relating to that matter provided under this section, he or she shall, as soon as may be after he or she becomes aware of that factor, provide the client concerned with a new notice.
- (6) Where a matter which is the subject of a notice under this section involves or is likely to involve litigation, the legal practitioner shall not, in relation to that matter, engage a practising barrister, expert witness or provider of any other service without first, to the extent practicable—
- (a) ascertaining the likely cost or basis of cost of engaging the person,
 - (b) providing the client with the information referred to in *paragraph (a)*, and
 - (c) having complied with *paragraph (b)*, satisfying himself or herself of the client's approval (whether express or implied) of the engaging of the person.
- (7) A legal practitioner shall not, during the period referred to in *subsection (4)(f)* that is specified in a notice, provide any legal services in relation to the matter concerned, unless—
- (a) the client concerned confirms that he or she wishes to instruct the legal practitioner to continue to provide legal services in connection with the matter concerned, or
 - (b) *subsection (8)* applies.

- (8) A legal practitioner to whom *subsection (7)* applies shall, notwithstanding that subsection, provide legal services in relation to the matter concerned where—
- (a) in the professional opinion of the legal practitioner, not to provide those legal services would constitute a contravention of a statutory requirement or the rules of court or would prejudice the rights of the client in a manner that could not later be remedied,
 - (b) a court orders the legal practitioner to provide legal services to the client, or
 - (c) where the matter involves litigation, a notice of trial has been served in relation to the matter or a date has been fixed for the hearing of the matter concerned.
- (9) The legal practitioner shall provide his or her client with clarification in relation to a notice, as soon as is reasonably practicable after having been requested to do so by the client.
- (10) Where a practising solicitor, having received instructions from a client in relation to a matter, proceeds to instruct a practising barrister in relation to that matter—
- (a) an obligation on the barrister under this section to provide a notice shall be fulfilled where the barrister provides the notice concerned to the solicitor,
 - (b) a duty owed by the barrister under *subsection (6), (7) or (9)* to his or her client shall be construed as a duty owed by the barrister to the solicitor, and
 - (c) the solicitor concerned shall—
 - (i) where he or she considers it appropriate, or where requested to do so by the client, request the barrister to provide clarification in relation to a notice provided by the barrister, and
 - (ii) immediately on receipt of a notice referred to in *paragraph (a)* or the clarification referred to in sub *paragraph (i)*, provide that notice or clarification to the client.

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Agreement regarding legal costs, etc.

- 151.** (1) A legal practitioner and his or her client may make an agreement in writing concerning the amount, and the manner of payment, of all or part of the legal costs that are or may be payable by the client to the legal practitioner for legal services provided in relation to a matter.
- (2) An agreement under *subsection (1)* may include all the particulars required by *section 150 (4)* and if it does—
- (a) the legal practitioner need not also provide a notice referred to in *subsection (2)* of that section, and
 - (b) references to the notice under that section shall be taken to include references to the agreement.
- (3) An agreement under *subsection (1)* shall constitute the entire agreement between the legal practitioner and the client as respects the provision of legal services in relation to the matter concerned, and no other amount shall be chargeable in relation to those legal services, except to the extent otherwise indicated in the agreement.
- (4) An agreement under *subsection (1)* shall, in an adjudication under this Part, be amenable to adjudication by the Chief Legal Costs Adjudicator or a Legal Costs Adjudicator.

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Legal practitioner to provide bill of costs

152. (1) A legal practitioner shall, as soon as is practicable after concluding the provision of legal services in relation to a legal matter for a client, prepare and sign a bill of costs, which shall contain the particulars specified in this section and shall be in such form (if any) as may be specified in rules of court.

(2) Subject to *subsections (5) to (7)*, a bill of costs shall contain the following particulars:

- (a) a summary of legal services provided to the client in connection with the matter concerned;
 - (b) an itemised statement of the amounts in respect of the legal costs in connection with the legal services;
 - (c) the registration number of the legal practitioner for the purposes of value-added tax, and the amount of value-added tax chargeable in respect of the amounts referred to in *paragraph (b)*;
 - (d) where time is a factor in the calculation of the legal costs concerned, the time spent in dealing with the matter;
 - (e) the amount, where known to the legal practitioner, of any damages or other moneys that are recovered by, or payable to, the client and that arose from the matter in respect of which the legal services were provided;
 - (f) the amount of any legal costs recovered by or payable to the legal practitioner concerned on behalf of the client, including costs recovered from another party, or an insurer on behalf of another party, to the matter concerned.
- (3) The legal practitioner shall provide to the client, along with the bill of costs, an explanation in writing of the procedure available to the client should the client wish to dispute any aspect of the bill of costs, which shall contain the following information:
- (a) that the client may discuss the matter with the legal practitioner;
 - (b) that the client is obliged under *section 153 (1)* to communicate to the legal practitioner the existence of a dispute on any aspect of the bill of costs, and the date and means by which this is to be communicated;

- (c) that, where a dispute is communicated under section 153 (1), the legal practitioner is obliged under section 153 to attempt to resolve the dispute by informal means, including mediation;
- (d) that the client may have the dispute referred to mediation, including a reference to the procedures available for such mediation;
- (e) that the client may apply for adjudication of legal costs, including the contact information for the Office and the potential cost to the client of seeking an adjudication of a bill of costs; and
- (f) the date on which the legal practitioner may, subject to section 153, make an application under section 154 (5) for an adjudication in the event that the bill of costs or any part thereof remains unpaid.
- (4) This section shall not be construed as limiting a right that any other person has to require a legal practitioner to submit a bill of costs for adjudication.
- (5) Where an agreement has been made under section 151 by a legal practitioner and his or her client, that agreement shall be set out in, or annexed to, the bill of costs relating to the matter to which the agreement relates.
- (6) Where an agreement referred to in *subsection (5)* concerns all of the legal costs that are payable by the client to the legal practitioner for legal services provided in relation to the matter concerned, an invoice prepared by the legal practitioner containing a summary of the costs and outlays pursuant to the agreement, together with a copy of the agreement, shall constitute a bill of costs of the purposes of this section.
- (7) Where an agreement referred to in *subsection (5)* concerns a part of the legal costs that are payable by the client to the legal practitioner for legal services provided in relation to the matter concerned, a summary prepared by the legal practitioner of the costs and outlays pursuant to the agreement shall, as respects that part of the legal costs, satisfy the requirements of *paragraphs (a), (b) and (d) of subsection (2)*.
- (8) Where a practising solicitor, having received instructions from a client in relation to a matter, proceeds to instruct a practising barrister in relation to that matter, and the barrister has concluded providing legal services in relation to that matter—
- (a) an obligation on the barrister under this section to provide a bill of costs shall be fulfilled where the barrister provides the bill of costs concerned to the solicitor,
- (b) the solicitor concerned shall immediately on receipt of a bill of costs referred to in *paragraph (a)*, provide that bill of costs to the client.

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Legal practitioner to attempt to resolve dispute

- 153.** (1) Where a client disputes any aspect of a bill of costs, he or she shall, within 21 days of the bill of costs being provided to him or her under section 152, send the legal practitioner concerned a statement in writing setting out the nature of the dispute.
- (2) Where a legal practitioner receives a statement in accordance with *subsection (1)*, he or she shall, before making an application under section 154 (5), take all appropriate and reasonable steps to attempt to resolve the dispute by informal means, which may include, where appropriate and with the consent of the client, mediation.
- (3) Where the legal practitioner or the client, as the case may be, having made reasonable attempts to resolve the dispute in accordance with *subsection (2)*, is of the opinion that the attempt has failed, he or she shall inform the other party in writing of that opinion.
- (4) In reckoning the period of time for the purposes of *subsection (5) or (7) of section 154*, the period beginning on the date on which the client sends the legal practitioner a statement under *subsection (1)* and ending on the date on which the legal practitioner or the client, as the case may be, informs the other party of his or her opinion referred to in *subsection (3)*, shall be disregarded.
- (5) Failure by a client to pay a bill of costs to a legal practitioner within the time period referred to in section 154 (5) shall not be construed as a formal communication of the existence of a dispute by the client to the legal practitioner.