

Contingency Fee Arrangements: What are they and what do they mean to you? 2005

As of October 2002, clients are able to enter into contingency fee arrangements with their lawyers. What does this mean? It means that some clients who in the past could not afford to pursue certain claims may now be able to do so.

What are contingency fees?

Contingency fee arrangements tie a lawyer's fee to the outcome of a case. If the client wins the case, the client pays his or her lawyer a percentage or other agreed-upon portion of the settlement. If a client loses, the client doesn't pay—the lawyer accepts the risk of not being paid when taking a case on a contingent basis. Such arrangements need to be discussed between you and your lawyer.

Contingency fees can prevent prohibitive upfront costs and allow for greater access to justice, particularly for middle class individuals who cannot afford a lawyer and do not qualify for legal aid.

Use of contingency fee arrangements

Following a Court of Appeal; decision the Law Society of Upper Canada approved a rule that permits lawyers to enter into contingency agreements with their clients.

In determining the percentage or amount of the contingency fees, the rule states that the lawyer and the client in each case should consider a number of factors, including the likelihood of success, the nature and complexity of a clients claim, the expense and risk of pursuing it, and whether the lawyer or client is to receive an award of costs.

Any agreement should be in writing and contain a simple example of how the fee is to be calculated.

Clients also have the right to apply to the Superior Court of Justice to determine whether a particular contingent fee is fair and reasonable.

Under the rule, contingency fees are not permitted in criminal and family law matters.

Source: *Ministry of the Attorney General website*
[Http://www.attorneygeneral.jus.gov.on.ca/english/about/vw/cicb.sp](http://www.attorneygeneral.jus.gov.on.ca/english/about/vw/cicb.sp)
See also Law society of Upper canada - www.lsuc.on.ca