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Solicitors Act

R.S.O. 1990, CHAPTER S.15

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Unauthorized Practice

Penalty on persons practising without being admitted as solicitors

**1** (1)  Subject to subsection (2), if a person commences, prosecutes or defends in his or her own name, or that of any other person, any action or proceeding without having been admitted and enrolled as a solicitor, he or she is incapable of recovering any fee, reward or disbursements on account thereof, and is guilty of a contempt of the court in which such proceeding was commenced, carried on or defended, and is punishable accordingly. R.S.O. 1990, c. S.15, s. 1; 2013, c. 17, s. 27 (1).

Exceptions

(2)  Subsection (1) does not apply to a person who is,

(a) a party to the proceeding; or

(b) a person licensed under the Law Society Act to provide legal services in Ontario. 2013, c. 17, s. 27 (2).

**Section Amendments with date in force (d/m/y)**

[2013, c. 17, s. 27 (1, 2)](http://www.ontario.ca/laws/statute/S13017" \l "s27s1) - 12/13/2013

Solicitor’s Costs

Solicitors to deliver their bill one month before bringing action for costs

**2** (1)  No action shall be brought for the recovery of fees, charges or disbursements for business done by a solicitor as such until one month after a bill thereof, subscribed with the proper hand of the solicitor, his or her executor, administrator or assignee or, in the case of a partnership, by one of the partners, either with his or her own name, or with the name of the partnership, has been delivered to the person to be charged therewith, or sent by post to, or left for the person at the person’s office or place of abode, or has been enclosed in or accompanied by a letter subscribed in like manner, referring to such bill. R.S.O. 1990, c. S.15, s. 2 (1).

Not necessary in first instance to prove contents of bill delivered

(2)  In proving compliance with this Act it is not necessary in the first instance to prove the contents of the bill delivered, sent or left, but it is sufficient to prove that a bill of fees, charges or disbursements subscribed as required by subsection (1), or enclosed in or accompanied by such letter, was so delivered, sent or left, but the other party may show that the bill so delivered, sent or left, was not such a bill as constituted a compliance with this Act. R.S.O. 1990, c. S.15, s. 2 (2).

Charges in lump sum

(3)  A solicitor’s bill of fees, charges or disbursements is sufficient in form if it contains a reasonable statement or description of the services rendered with a lump sum charge therefor together with a detailed statement of disbursements, and in any action upon or assessment of such a bill if it is deemed proper further details of the services rendered may be ordered. R.S.O. 1990, c. S.15, s. 2 (3).

Order for assessment on requisition

**3** Where the retainer of the solicitor is not disputed and there are no special circumstances, an order may be obtained on requisition from a local registrar of the Superior Court of Justice,

(a) by the client, for the delivery and assessment of the solicitor’s bill;

(b) by the client, for the assessment of a bill already delivered, within one month from its delivery;

(c) by the solicitor, for the assessment of a bill already delivered, at any time after the expiration of one month from its delivery, if no order for its assessment has been previously made. R.S.O. 1990, c. S.15, s. 3; 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

No reference on application of party chargeable after verdict or after 12 months from delivery

**4** (1)  No such reference shall be directed upon an application made by the party chargeable with such bill after a verdict or judgment has been obtained, or after twelve months from the time such bill was delivered, sent or left as aforesaid, except under special circumstances to be proved to the satisfaction of the court or judge to whom the application for the reference is made. R.S.O. 1990, c. S.15, s. 4 (1).

Directions as to costs

(2)  Where the reference is made under subsection (1), the court or judge, in making it, may give any special directions relative to its costs. R.S.O. 1990, c. S.15, s. 4 (2).

When officer may assess bill without notice

**5** In case either party to a reference, having due notice, refuses or neglects to attend the assessment, the officer to whom the reference is made may assess the bill without further notice. R.S.O. 1990, c. S.15, s. 5.

Delivery of bill and reference to assessment

**6** (1)  When a client or other person obtains an order for the delivery and assessment of a solicitor’s bill of fees, charges and disbursements, or a copy thereof, the bill shall be delivered within fourteen days from the service of the order. R.S.O. 1990, c. S.15, s. 6 (1).

Credits, debits, etc., on reference

(2)  The bill delivered shall stand referred to an assessment officer for assessment, and on the reference the solicitor shall give credit for, and an account shall be taken of, all sums of money by him or her received from or on account of the client, and the solicitor shall refund what, if anything, he or she may on such assessment appear to have been overpaid. R.S.O. 1990, c. S.15, s. 6 (2).

Costs on reference

(3)  The costs of the reference are, unless otherwise directed, in the discretion of the officer, subject to appeal, and shall be assessed by him or her when and as allowed. R.S.O. 1990, c. S.15, s. 6 (3).

No action

(4)  The solicitor shall not commence or prosecute any action in respect of the matters referred pending the reference without leave of the court or a judge. R.S.O. 1990, c. S.15, s. 6 (4).

When payment due

(5)  The amount certified to be due shall be paid by the party liable to pay the amount, forthwith after confirmation of the certificate in the same manner as confirmation of a referee’s report under the Rules of Civil Procedure. R.S.O. 1990, c. S.15, s. 6 (5).

Client’s papers

(6)  Upon payment by the client or other person of what, if anything, appears to be due to the solicitor, or if nothing is found to be due to the solicitor, the solicitor, if required, shall deliver to the client or other person, or as the client or other person directs, all deeds, books, papers and writings in the solicitor’s possession, custody or power belonging to the client. R.S.O. 1990, c. S.15, s. 6 (6).

Contents of order

(7)  The order shall be read as if it contained the above particulars, and shall not set forth the same, but may contain any variation therefrom and any other directions that the court or judge sees fit to make. R.S.O. 1990, c. S.15, s. 6 (7).

What order presumed to contain

(8)  An order for reference of a solicitor’s bill for assessment shall be presumed to contain subsections (2) to (6) whether obtained on requisition or otherwise, and by the solicitor, client or other person liable to pay the bill. R.S.O. 1990, c. S.15, s. 6 (8).

Motion to oppose confirmation

(9)  A motion to oppose confirmation of the certificate shall be made to a judge of the Superior Court of Justice. R.S.O. 1990, c. S.15, s. 6 (9); 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Costs of unnecessary steps in proceedings

**7** (1)  Upon assessment between a solicitor and his or her client, the assessment officer may allow the costs of steps taken in proceedings that were in fact unnecessary where he or she is of the opinion that the steps were taken by the solicitor because, in his or her judgment, reasonably exercised, they were conducive to the interests of his or her client, and may allow the costs of steps that were not calculated to advance the interests of the client where the steps were taken by the desire of the client after being informed by the solicitor that they were unnecessary and not calculated to advance the client’s interests. R.S.O. 1990, c. S.15, s. 7 (1).

Application

(2)  Subsection (1) does not apply to solicitor and client costs payable out of a fund not wholly belonging to the client, or by a third party. R.S.O. 1990, c. S.15, s. 7 (2).

When actions for costs within the month may be allowed

**8** A judge of the Superior Court of Justice, on proof to his or her satisfaction that there is probable cause for believing that the party chargeable is about to depart from Ontario, may authorize a solicitor to commence an action for the recovery of his or her fees, charges or disbursements against the party chargeable therewith, although one month has not expired since the delivery of the bill. R.S.O. 1990, c. S.15, s. 8; 1993, c. 27, Sched.; 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Assessment where a party not being the principal, pays a bill of costs

**9** (1)  Where a person, not being chargeable as the principal party, is liable to pay or has paid a bill either to the solicitor, his or her assignee, or personal representative, or to the principal party entitled thereto, the person so liable to pay or paying, the person’s assignee or personal representative, may apply to the court for an order referring to assessment as the party chargeable therewith might have done, and the same proceedings shall be had thereupon as if the application had been made by the party so chargeable. R.S.O. 1990, c. S.15, s. 9 (1).

What special circumstances may be considered in such case

(2)  If such application is made where, under the provisions hereinbefore contained, a reference is not authorized to be made except under special circumstances, the court may take into consideration any additional special circumstances applicable to the person making it, although such circumstances might not be applicable to the party chargeable with the bill if he, she or it was the party making the application. R.S.O. 1990, c. S.15, s. 9 (2).

Order for delivery of a copy of the bill

(3)  For the purpose of such reference, the court may order the solicitor, his or her assignee or representative, to deliver to the party making the application a copy of the bill upon payment of the costs of the copy. R.S.O. 1990, c. S.15, s. 9 (3).

Assessment at instance of third person

(4)  When a person, other than the client, applies for assessment of a bill delivered or for the delivery of a copy thereof for the purpose of assessment and it appears that by reason of the conduct of the client the applicant is precluded from assessing the bill, but is nevertheless entitled to an account from the client, it is not necessary for the applicant to bring an action for an account, but the court may, in a summary manner, refer a bill already delivered or order delivery of a copy of the bill, and refer it for assessment, as between the applicant and the client, and may add such parties not already notified as may be necessary. R.S.O. 1990, c. S.15, s. 9 (4).

Application of s. 6

(5)  The provisions of section 6, so far as they are applicable, apply to such assessment. R.S.O. 1990, c. S.15, s. 9 (5).

When a bill may be reassessed

**10** No bill previously assessed shall be again referred unless under the special circumstances of the case the court thinks fit to direct a reassessment thereof. R.S.O. 1990, c. S.15, s. 10.

Payment not to preclude assessment

**11** The payment of a bill does not preclude the court from referring it for assessment if the special circumstances of the case, in the opinion of the court, appear to require the assessment. R.S.O. 1990, c. S.15, s. 11; 2002, c. 24, Sched. B, s. 46 (1).

**Section Amendments with date in force (d/m/y)**

[2002, c. 24, Sched. B, s. 46 (1)](http://www.ontario.ca/laws/statute/S02024" \l "schedbs46s1) - 01/01/2004

Assessment officer may request assistance of another assessment officer

**12** Where a bill is referred for assessment, the officer to whom the reference is made may request another assessment officer to assist him or her in assessing any part of the bill, and the officer so requested shall thereupon assess it, and has the same powers and may receive the same fees in respect thereof as upon a reference to him or her by a court, and he or she shall return the bill, with his or her opinion thereon, to the officer who so requests him or her to assess it. R.S.O. 1990, c. S.15, s. 12.

How applications against solicitors to be entitled

**13** Every application to refer a bill for assessment, or for the delivery of a bill, or for the delivering up of deeds, documents and papers, shall be made In the matter of (the solicitor), and upon the assessment of the bill the report of the officer by whom the bill is assessed, unless set aside or varied, is final and conclusive as to the amount thereof, and payment of the amount found to be due and directed to be paid may be enforced according to the practice of the court in which the reference was made. R.S.O. 1990, c. S.15, s. 13.

What to be considered in assessment of costs

**14** In assessing a bill for preparing and executing any instrument, an assessment officer shall consider not the length of the instrument but the skill, labour and responsibility involved therein. R.S.O. 1990, c. S.15, s. 14.

Compensation Agreements

Definitions

**15** In this section and in sections 16 to 33,

“client” includes a person who, as a principal or on behalf of another person, retains or employs or is about to retain or employ a solicitor, and a person who is or may be liable to pay the bill of a solicitor for any services; (“client”)

“contingency fee agreement” means an agreement referred to in section 28.1; (“entente sur des honoraires conditionnels”)

“services” includes fees, costs, charges and disbursements. (“service”) R.S.O. 1990, c. S.15, s. 15; 2002, c. 24, Sched. A, s. 1.

**Section Amendments with date in force (d/m/y)**

[2002, c. 24, Sched. A, s. 1](http://www.ontario.ca/laws/statute/S02024" \l "schedas1) - 01/10/2004

Agreements between solicitors and clients as to compensation

**16** (1)  Subject to sections 17 to 33, a solicitor may make an agreement in writing with his or her client respecting the amount and manner of payment for the whole or a part of any past or future services in respect of business done or to be done by the solicitor, either by a gross sum or by commission or percentage, or by salary or otherwise, and either at the same rate or at a greater or less rate than that at which he or she would otherwise be entitled to be remunerated. R.S.O. 1990, c. S.15, s. 16 (1).

Definition

(2)  For purposes of this section and sections 20 to 32,

“agreement” includes a contingency fee agreement. 2002, c. 24, Sched. A, s. 2.

**Section Amendments with date in force (d/m/y)**

[2002, c. 24, Sched. A, s. 2](http://www.ontario.ca/laws/statute/S02024" \l "schedas2) - 01/10/2004

Approval of agreement by assessment officer

**17** Where the agreement is made in respect of business done or to be done in any court, except the Small Claims Court, the amount payable under the agreement shall not be received by the solicitor until the agreement has been examined and allowed by an assessment officer. R.S.O. 1990, c. S.15, s. 17.

Opinion of court on agreement

**18** Where it appears to the assessment officer that the agreement is not fair and reasonable, he or she may require the opinion of a court to be taken thereon. R.S.O. 1990, c. S.15, s. 18.

Rejection of agreement by court

**19** The court may either reduce the amount payable under the agreement or order it to be cancelled and the costs, fees, charges and disbursements in respect of the business done to be assessed in the same manner as if the agreement had not been made. R.S.O. 1990, c. S.15, s. 19.

Agreement not to affect costs as between party and party

**20** (1)  Such an agreement does not affect the amount, or any right or remedy for the recovery, of any costs recoverable from the client by any other person, or payable to the client by any other person, and any such other person may require any costs payable or recoverable by the person to or from the client to be assessed in the ordinary manner, unless such person has otherwise agreed. R.S.O. 1990, c. S.15, s. 20 (1).

Idem

(2)  However, the client who has entered into the agreement is not entitled to recover from any other person under any order for the payment of any costs that are the subject of the agreement more than the amount payable by the client to the client’s own solicitor under the agreement. R.S.O. 1990, c. S.15, s. 20 (2).

Awards of costs in contingency fee agreements

**20.1**(1)  In calculating the amount of costs for the purposes of making an award of costs, a court shall not reduce the amount of costs only because the client’s solicitor is being compensated in accordance with a contingency fee agreement. 2002, c. 24, Sched. A, s. 3.

Same

(2)  Despite subsection 20 (2), even if an order for the payment of costs is more than the amount payable by the client to the client’s own solicitor under a contingency fee agreement, a client may recover the full amount under an order for the payment of costs if the client is to use the payment of costs to pay his, her or its solicitor. 2002, c. 24, Sched. A, s. 3.

(3)  Repealed: 2018, c. 8, Sched. 31, s. 2.

**Section Amendments with date in force (d/m/y)**

[2002, c. 24, Sched. A, s. 3](http://www.ontario.ca/laws/statute/S02024" \l "schedas3) - 01/10/2004

[2018, c. 8, Sched. 31, s. 2](http://www.ontario.ca/laws/statute/S18008" \l "sched31s2) - 01/07/2021

Claims for additional remuneration excluded

**21** Such an agreement excludes any further claim of the solicitor beyond the terms of the agreement in respect of services in relation to the conduct and completion of the business in respect of which it is made, except such as are expressly excepted by the agreement. R.S.O. 1990, c. S.15, s. 21.

Agreements relieving solicitor from liability for negligence void

**22** (1)  A provision in any such agreement that the solicitor is not to be liable for negligence or that he or she is to be relieved from any responsibility to which he or she would otherwise be subject as such solicitor is wholly void. R.S.O. 1990, c. S.15, s. 22.

Exception, indemnification by solicitor’s employer

(2)  Subsection (1) does not prohibit a solicitor who is employed in a master-servant relationship from being indemnified by the employer for liabilities incurred by professional negligence in the course of the employment. 1999, c. 12, Sched. B, s. 14.

**Section Amendments with date in force (d/m/y)**

1999, c. 12, Sched. B, s. 14 - 22/12/1999

Determination of disputes under the agreement

**23** No action shall be brought upon any such agreement, but every question respecting the validity or effect of it may be examined and determined, and it may be enforced or set aside without action on the application of any person who is a party to the agreement or who is or is alleged to be liable to pay or who is or claims to be entitled to be paid the costs, fees, charges or disbursements, in respect of which the agreement is made, by the court, not being the Small Claims Court, in which the business or any part of it was done or a judge thereof, or, if the business was not done in any court, by the Superior Court of Justice. R.S.O. 1990, c. S.15, s. 23; 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Enforcement of agreement

**24** Upon any such application, if it appears to the court that the agreement is in all respects fair and reasonable between the parties, it may be enforced by the court by order in such manner and subject to such conditions as to the costs of the application as the court thinks fit, but, if the terms of the agreement are deemed by the court not to be fair and reasonable, the agreement may be declared void, and the court may order it to be cancelled and may direct the costs, fees, charges and disbursements incurred or chargeable in respect of the matters included therein to be assessed in the ordinary manner. R.S.O. 1990, c. S.15, s. 24.

Reopening of agreement

**25** Where the amount agreed under any such agreement has been paid by or on behalf of the client or by any person chargeable with or entitled to pay it, the Superior Court of Justice may, upon the application of the person who has paid it if it appears to the court that the special circumstances of the case require the agreement to be reopened, reopen it and order the costs, fees, charges and disbursements to be assessed, and may also order the whole or any part of the amount received by the solicitor to be repaid by him or her on such terms and conditions as to the court seems just. R.S.O. 1990, c. S.15, s. 25; 2002, c. 24, Sched. B, s. 46 (2); 2006, c. 19, Sched. C, s. 1 (1).

**Section Amendments with date in force (d/m/y)**

[2002, c. 24, Sched. B, s. 46 (2)](http://www.ontario.ca/laws/statute/S02024" \l "schedbs46s2) - 01/01/2004

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Agreements made by client in fiduciary capacity

**26** Where any such agreement is made by the client in the capacity of guardian or of trustee under a deed or will, or in the capacity of guardian of property that will be chargeable with the amount or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before an assessment officer who shall examine it and may disallow any part of it or may require the direction of the court to be made thereon. R.S.O. 1990, c. S.15, s. 26; 1992, c. 32, s. 26.

**Section Amendments with date in force (d/m/y)**

1992, c. 32, s. 26 - 03/04/1995

Client paying without approval to be liable to estate

**27** If the client pays the whole or any part of such amount without the previous allowance of an assessment officer or the direction of the court, the client is liable to account to the person whose estate or property is charged with the amount paid or any part of it for the amount so charged, and the solicitor who accepts such payment may be ordered by the court to refund the amount received by him or her. R.S.O. 1990, c. S.15, s. 27.

Purchase of interest prohibited

**28** A solicitor shall not enter into an agreement by which the solicitor purchases all or part of a client’s interest in the action or other contentious proceeding that the solicitor is to bring or maintain on the client’s behalf. 2002, c. 24, Sched. A, s. 4.

**Section Amendments with date in force (d/m/y)**

[2002, c. 24, Sched. A, s. 4](http://www.ontario.ca/laws/statute/S02024" \l "schedas4) - 01/10/2004

Contingency fee agreements

**28.1**(1)  A solicitor may enter into a contingency fee agreement with a client in accordance with this section. 2002, c. 24, Sched. A, s. 4.

Remuneration dependent on success

(2)  A solicitor may enter into a contingency fee agreement that provides that the remuneration paid to the solicitor for the legal services provided to or on behalf of the client is contingent, in whole or in part, on the successful disposition or completion of the matter in respect of which services are provided. 2002, c. 24, Sched. A, s. 4.

No contingency fees in certain matters

(3)  A solicitor shall not enter into a contingency fee agreement if the solicitor is retained in respect of,

(a) a proceeding under the Criminal Code (Canada) or any other criminal or quasi-criminal proceeding; or

(b) a family law matter. 2002, c. 24, Sched. A, s. 4.

Written agreement

(4)  A contingency fee agreement shall be in writing. 2002, c. 24, Sched. A, s. 4.

Maximum amount of contingency fee

(5)  If a contingency fee agreement involves a percentage of the amount or of the value of the property recovered in an action or proceeding, the amount to be paid to the solicitor shall not be more than the maximum percentage, if any, prescribed by regulation of the amount or of the value of the property recovered in the action or proceeding, how ever the amount or property is recovered. 2002, c. 24, Sched. A, s. 4.

Greater maximum amount where approved

(6)  Despite subsection (5), a solicitor may enter into a contingency fee agreement where the amount paid to the solicitor is more than the maximum percentage prescribed by regulation of the amount or of the value of the property recovered in the action or proceeding, if, upon joint application of the solicitor and his or her client whose application is to be brought within 90 days after the agreement is executed, the agreement is approved by the Superior Court of Justice. 2002, c. 24, Sched. A, s. 4.

Factors to be considered in application

(7)  In determining whether to grant an application under subsection (6), the court shall consider the nature and complexity of the action or proceeding and the expense or risk involved in it and may consider such other factors as the court considers relevant. 2002, c. 24, Sched. A, s. 4.

(8)  Repealed: 2018, c. 8, Sched. 31, s. 3 (1).

Enforceability of greater maximum amount of contingency fee

(9)  A contingency fee agreement that is subject to approval under subsection (6) is not enforceable unless it is so approved. 2002, c. 24, Sched. A, s. 4; 2018, c. 8, Sched. 31, s. 3 (2).

Non-application

(10)  Sections 17, 18 and 19 do not apply to contingency fee agreements. 2002, c. 24, Sched. A, s. 4.

Assessment of contingency fee

(11)  For purposes of assessment, if a contingency fee agreement,

(a) is not one to which subsection (6) applies, the client may apply to the Superior Court of Justice for an assessment of the solicitor’s bill within 30 days after its delivery or within one year after its payment; or

(b) is one to which subsection (6) applies, the client or the solicitor may apply to the Superior Court of Justice for an assessment within the time prescribed by regulation made under this section. 2002, c. 24, Sched. A, s. 4; 2018, c. 8, Sched. 31, s. 3 (3).

Regulations

(12)  The Lieutenant Governor in Council may make regulations governing contingency fee agreements, including regulations,

(a) governing the maximum percentage of the amount or of the value of the property recovered that may be a contingency fee, including but not limited to,

(i) setting a scale for the maximum percentage that may be charged for a contingency fee based on factors such as the value of the recovery and the amount of time spent by the solicitor, and

(ii) differentiating the maximum percentage that may be charged for a contingency fee based on factors such as the type of cause of action and the court in which the action is to be heard and distinguishing between causes of actions of the same type;

(b) governing the maximum amount of remuneration that may be paid to a solicitor pursuant to a contingency fee agreement;

(c) in respect of treatment of costs awarded or obtained where there is a contingency fee agreement;

(d) prescribing standards and requirements for contingency fee agreements, including the form of the agreements and terms that must be included in contingency fee agreements and prohibiting terms from being included in contingency fee agreements;

(e) imposing duties on solicitors who enter into contingency fee agreements;

(f) prescribing the time in which a solicitor or client may apply for an assessment under clause (11) (b);

(g) exempting persons, actions or proceedings or classes of persons, actions or proceedings from this section or any other provision in sections 16 and 20 to 32 in relation to contingency fee agreements, or from a regulation made under this section or any provision of such a regulation. 2002, c. 24, Sched. A, s. 4; 2018, c. 8, Sched. 31, s. 3 (4).

**Section Amendments with date in force (d/m/y)**

[2002, c. 24, Sched. A, s. 4](http://www.ontario.ca/laws/statute/S02024" \l "schedas4) - 01/10/2004

[2018, c. 8, Sched. 31, s. 3 (1-4)](http://www.ontario.ca/laws/statute/S18008" \l "sched31s3s1) - 01/07/2021

Where solicitor dies or becomes incapable of acting after agreement

**29** Where a solicitor who has made such an agreement and who has done anything under it dies or becomes incapable of acting before the agreement has been completely performed by him or her, an application may be made to any court that would have jurisdiction to examine and enforce the agreement by any person who is a party thereto, and the court may thereupon enforce or set aside the agreement so far as it may have been acted upon as if the death or incapacity had not happened, and, if it deems the agreement to be in all respects fair and reasonable, may order the amount in respect of the past performance of it to be ascertained by assessment, and the assessment officer, in ascertaining such amount, shall have regard, so far as may be, to the terms of the agreement, and payment of the amount found to be due may be ordered in the same manner as if the agreement had been completely performed by the solicitor. R.S.O. 1990, c. S.15, s. 29.

Changing solicitor after making agreement

**30** If, after any such agreement has been made, the client changes solicitor before the conclusion of the business to which the agreement relates, which the client is at liberty to do despite the agreement, the solicitor, party to the agreement, shall be deemed to have become incapable to act under it within the meaning of section 29, and upon any order being made for assessment of the amount due him or her in respect of the past performance of the agreement the court shall direct the assessment officer to have regard to the circumstances under which the change of solicitor took place, and upon the assessment the solicitor shall be deemed not to be entitled to the full amount of the remuneration agreed to be paid to him or her, unless it appears that there has been no default, negligence, improper delay or other conduct on his or her part affording reasonable ground to the client for the change of solicitor. R.S.O. 1990, c. S.15, s. 30.

Bills under agreement not to be liable to assessment

**31** Except as otherwise provided in sections 16 to 30 and sections 32 and 33, a bill of a solicitor for the amount due under any such agreement is not subject to any assessment or to any provision of law respecting the signing and delivery of a bill of a solicitor. R.S.O. 1990, c. S.15, s. 31.

Security may be given to solicitor for costs

**32** A solicitor may accept from his or her client, and a client may give to the client’s solicitor, security for the amount to become due to the solicitor for business to be transacted by him or her and for interest thereon, but so that the interest is not to commence until the amount due is ascertained by agreement or by assessment. R.S.O. 1990, c. S.15, s. 32.

Contingency fee agreements and other licensees

**32.1**(1)  The provisions of this Act and the regulations that apply in relation to contingency fee agreements apply with necessary modifications to persons licensed under the Law Society Act to provide legal services in Ontario in the same manner as to solicitors, subject to any exceptions or modifications that may be prescribed under subsection (2). 2018, c. 8, Sched. 31, s. 4.

Regulations

(2)  The Lieutenant Governor in Council may make regulations for the purposes of subsection (1) providing that any provision of this Act or a regulation made under this Act that applies in relation to contingency fee agreements does not apply to persons licensed under the Law Society Act to provide legal services in Ontario, or applies with specified modifications, including that it applies only with respect to specified actions or proceedings or classes of actions or proceedings. 2018, c. 8, Sched. 31, s. 4.

**Section Amendments with date in force (d/m/y)**

[2018, c. 8, Sched. 31, s. 4](http://www.ontario.ca/laws/statute/S18008" \l "sched31s4) - 01/07/2021

Interest on unpaid accounts

**33** (1)  A solicitor may charge interest on unpaid fees, charges or disbursements, calculated from a date that is one month after the bill is delivered under section 2. R.S.O. 1990, c. S.15, s. 33 (1).

Interest on overpayment of accounts

(2)  Where, on an assessment of a solicitor’s bill of fees, charges and disbursements, it appears that the client has overpaid the solicitor, the client is entitled to interest on the overpayment calculated from the date when the overpayment was made. R.S.O. 1990, c. S.15, s. 33 (2).

Rate to be shown

(3)  The rate of interest applicable to a bill shall be shown on the bill delivered. 2009, c. 33, Sched. 2, s. 70.

Disallowance, variation on assessment

(4)  On the assessment of a solicitor’s bill, if the assessment officer considers it just in the circumstances, the assessment officer may, in respect of the whole or any part of the amount allowed on the assessment,

(a) disallow interest; or

(b) vary the applicable rate of interest. 2009, c. 33, Sched. 2, s. 70.

Regulations

(5)  The Lieutenant Governor in Council may make regulations establishing a maximum rate of interest that may be charged under subsection (1) or (2) or that may be fixed under clause (4) (b). 2009, c. 33, Sched. 2, s. 70.

**Section Amendments with date in force (d/m/y)**

1993, c. 27, Sched. - 31/12/1991

[2009, c. 33, Sched. 2, s. 70](http://www.ontario.ca/laws/statute/S09033" \l "sched2s70) - 15/12/2009

Solicitors’ Charging Orders

Charge on property for costs

**34** (1)  Where a solicitor has been employed to prosecute or defend a proceeding in the Superior Court of Justice, the court may, on motion, declare the solicitor to be entitled to a charge on the property recovered or preserved through the instrumentality of the solicitor for the solicitor’s fees, costs, charges and disbursements in the proceeding. R.S.O. 1990, c. S.15, s. 34 (1); 2006, c. 19, Sched. C, s. 1 (1).

Conveyance to defeat is void

(2)  A conveyance made to defeat or which may operate to defeat a charge under subsection (1) is, unless made to a person who purchased the property for value in good faith and without notice of the charge, void as against the charge. R.S.O. 1990, c. S.15, s. 34 (2).

Assessment and recovery

(3)  The court may order that the solicitor’s bill for services be assessed in accordance with this Act and that payment shall be made out of the charged property. R.S.O. 1990, c. S.15, s. 34 (3).

**Section Amendments with date in force (d/m/y)**

[2006, c. 19, Sched. C, s. 1 (1)](http://www.ontario.ca/laws/statute/S06019" \l "schedcs1s1) - 22/06/2006

Solicitors as Mortgagees, etc.

Interpretation

**35** (1)  In this section,

“mortgage” includes any charge on any property for securing money or money’s worth. R.S.O. 1990, c. S.15, s. 35 (1).

Charges, etc., where mortgage is made with solicitor

(2)  A solicitor to whom, either alone or jointly with any other person, a mortgage is made, or the firm of which the solicitor is a member, is entitled to receive for all business transacted and acts done by the solicitor or firm in negotiating the loan, deducing and investigating the title to the property and preparing and completing the mortgage, all the usual professional charges and remuneration that he or she or they would have been entitled to receive if the mortgage had been made to a person not a solicitor and the person had retained and employed the solicitor or firm to transact such business and do such acts, and such charges and remuneration are accordingly recoverable from the mortgagor. R.S.O. 1990, c. S.15, s. 35 (2).

Right of solicitor with whom mortgage is made to recover costs, etc.

(3)  A solicitor to or in whom, either alone or jointly with any other person, a mortgage is made or is vested by transfer or transmission, or the firm of which the solicitor is a member, is entitled to receive and recover from the person on whose behalf the same is done or to charge against the security for all business transacted and acts done by the solicitor or firm subsequent and in relation to the mortgage or to the security thereby created or the property therein comprised all such usual professional charges and remuneration as he or she or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person not a solicitor and the person had retained and employed the solicitor or firm to transact such business and do such acts, and accordingly the mortgage shall not be redeemed except upon payment of such charges and remuneration. R.S.O. 1990, c. S.15, s. 35 (3).

Solicitor-director, right to charge for services to trust estate

(4)  A solicitor who is a director of a trust corporation or of any other company, or the firm of which the solicitor is a member is entitled to receive for all business transacted or acts done by the solicitor or firm for the corporation or company in relation to or in connection with any matter in which the corporation or company acts as trustee, guardian, personal representative or agent, all the usual professional fees and remuneration that he or she or they would be entitled to receive if the solicitor had not been a director of the corporation or company, and the corporation or company had retained and employed the solicitor or firm to transact such business and do such acts, and such charges and remuneration are accordingly recoverable from the corporation or company and may be charged by them as a disbursement in the matter of such trusteeship, guardianship, administration or agency. R.S.O. 1990, c. S.15, s. 35 (4).

Salaried Solicitors

Costs, salaried counsel

**36** Costs awarded to a party in a proceeding shall not be disallowed or reduced on assessment merely because they relate to a solicitor or counsel who is a salaried employee of the party. R.S.O. 1990, c. S.15, s. 36.

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