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फेस-1, नईदिल्ली-110077
Pocket- 14, Sector- 8,Dwarka,
Phase – 1, New Delhi-110077

राष्ट्रीयआयुर्विज्ञानआयोग
National Medical Commission
(Administration Section)

F. No. L-11011/01/2023/NMC/Legal/014627 Dated the 23rd March, 2023

To

All Standing Counsels of NMC as per list enclosed.

Subject: Guidelines for engagement & determination of Professional fees of the Counsels of the National Medical Commission (NMC).

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Sir/Madam,

1. Subsequent to the dissolution of erstwhile MCI and constitution of NMC Act 2019, this Commission issued email on 30/09/2020 to all the Counsels of the then MCI mentioning, inter alia, that

"All the Counsels are requested to defend the cases on behalf of NMC till further orders and all are further requested to inform the Hon'ble Courts accordingly and seek sufficient time for obtaining instructions from the Commission."

Accordingly, almost all the Standing Counsels engaged by the erstwhile MCI have been continuing with NMC on the fees decided by the erstwhile MCI.

2. It has, however been observed that there was no uniform policy with regard to engagement/fee structure for the Standing Counsels in the erstwhile MCI. It has also been seen that some of the Counsels were engaged on consolidated fees per case and some on fee per hearing basis. Perusal of their fee structure further reveals that there were no mention of effective/non-effective hearings, separate fees for connected matters etc. as per instructions issued by the Department of Legal Affairs, Govt. of India. It has, therefore, been felt to streamline the process with regard to engagement of Counsels as well as uniform policy for fee structure etc. in the National Medical Commission.

3. Accordingly, the Scheme containing Terms & Conditions for the engagement of Counsels and determinations of Fees to the Counsels engaged in the National Medical Commission (NMC) has been finalized with the approval of competent authority as per ANNEXURE. This scheme shall be effective from the date of issue of this letter.

4. In view of the above, the aforementioned Scheme of NMC is being circulated to all the existing Counsels of the Commission for submitting their option to either switchover to this new policy or to continue with their current rates of per hearing or consolidated fees subject to all other terms & conditions mentioned in this policy. The said option should reach to the undersigned within 14 days of issue of this communication failing which it will be presumed that the Counsels are willing to continue as per their existing fees but subject to all other conditions mentioned in this policy.

Contd. /-

23/03/2023

अजय कुमार गौड़ / Ajay Kumar Gaur
उप सचिव / Deputy Secretary
राष्ट्रीय आयुर्विज्ञान आयोग / National Medical Commission
पॉकेट-14, सेक्टर-8, द्वारका, नई दिल्ली-
Pocket-14, Sector-8, Dwarka, New Delhi-

5. This has the approval of Competent Authority.

Encl: As Above

23/03/2023

(Ajay Kumar Gaur)
Deputy Secretary (Estt)

अजय कुमार गौड / Ajay Kumar Gaur
उप सचिव / Deputy Secretary
राष्ट्रीय आयुर्विज्ञान आयोग / National Medical Commission
पॉकेट–14, सेक्टर–8, द्वारका, नई दिल्ली–110077
Pocket-14, Sector-8, Dwarka, New Delhi-110077

Copy to:

1. PPS to Chairman, NMC
2. Sr.PPS/PPS/PS to all Presidents/Members of Boards in NMC
3. PPS to JS(ME), MoH&FW, Nirman Bhawan, New Delhi
4. PPS to Secretary, NMC
5. All DSs/Directors in NMC
6. All USs in NMC
7. All Sections in NMC
8. Legal Consultant, NMC
9. DMMP for uploading in the NMC's website
10. Guard File.

ANNEXURE

SCHEME CONTAINING TERMS & CONDITIONS FOR THE ENGAGEMENT & DETERMINATION OF PROFESSIONAL FEE OF THE COUNSELS OF THE NATIONAL MEDICAL COMMISSION

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1. **Competent Authority**: Chairman, National Medical Commission (NMC) shall be the competent authority to engage Counsels to defend the legal cases of the Commission and its Autonomous Boards in various Courts/Tribunals and other Fora in the country and to decide their professional fees and other charges.

2. **Scope of the Scheme:** The scheme shall be applicable in respect of all Counsels and the litigation/cases/matters pending, pan India, pertaining to the Commission including its Autonomous Boards.

3. **Definitions:**

(i) **Counsel**: means and includes the Standing Counsels/ Advocates / Sr. Advocates / DSG / Addl.SG / SG engaged by the Commission.

(ii) **Effective Hearing**: A hearing in which either one or both of the parties involved in a case are heard / part heard by the court.

(iii) **Non-Effective Hearing**: Following hearing shall be inclusive in non-effective hearing:-

- If the case is mentioned and adjourned or when the matter is adjourned by moving an adjournment slip.
- When the matter is adjourned on the request of any/either party.
- When the Court is not assembled.
- When the Court is on leave
- When the matter is adjourned by the Joint Registrar for completion of pleading.
- When the matter is merely re-notified without any hearing.
- When merely time is sought to file counter affidavit, reply etc.

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- When only judgment is delivered by the Court.
- When the matter is adjourned for awaiting the judgment of the Apex Court or the Appellate Court.
- When the matter gets adjourned as no time left for hearing.
- When the matter does not reach for hearing.
- When the matter is dismissed as withdrawn.

(iv) **Identical Cases/Connected Cases:** Two or more cases in which substantially identical questions of law or facts are involved etc. and where the main difference is in the names, addresses of the parties concerned, amount of money involved etc. where the common or identical judgments are delivered irrespective of the fact whether all the cases are heard together or not. Where more than ten identical cases are involved, group of ten cases each may be made treating one case in each group as the main case and the other nine cases in each group as connected cases.

4. Term of Engagement:

I) Initial Engagement: The term of engagement/empanelment of the Counsels will be for a period of three years or until further orders whichever is earlier. The term of engagement may be extended further on the basis of performance of the Counsel at the discretion of the Competent Authority. The Counsels will be engaged preferably having knowledge & experience in Medical Laws.

II) Termination of Engagement: The engagement/empanelment of the Counsel would be terminable at any time without assigning any reason by the Competent Authority. In case, the Counsel want to discontinue or resign from the engagement, he/she shall give an advance notice of 2 months to the Commission addressing to the Competent Authority.

5. Fee Schedule: The fee schedule for the Counsels engaged by the NMC shall be as per ANNEXURE-I.

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6. Proforma Party:

(i) Where NMC/Boards added as respondent in a Court Case, however, no relief has been sought against the NMC/Boards and NMC/Boards has no role to play in the matter, especially where the Counsel has been informed by the Commission/ Boards that the NMC/Boards has no role to play in the matter.

However, in matter where the NMC/Boards is Proforma party but the Court has issued direction to the NMC/Boards to assist the Court or for filing reply / statement / report or comply with the directions, then the matter will deemed to be a regular case against the NMC/Boards from the date of aforesaid direction / order

(ii) In that case, where NMC is only a Proforma Party and the Counsel continues to appear in the matter, the Counsel is entitled to 1/3rd fee. Even if such a case is disposed of at admission stage, the Counsel is entitled to 1/3rd fee.

7. Terms & Conditions

a) The fee to the Counsel will be paid on presentation of a signed/stamped receipt in the prescribed Proforma attached as ANNEXURE-II along with the relevant supporting order / judgment / documents justifying their appearance / drafting / conference / expenses, etc.

b) The counsel shall submit the fee bills within three months from the date of its accrual i.e. within three months from the date of appearance in a hearing. Any delay beyond 3 months shall be subject to condonation of delay by the Competent Authority. But no fee bill shall be entertained beyond 2 years.

c) In case of Non-effective hearings, the Counsel, except Senior Advocate / Special Counsel, shall be entitled for Rs. 1500/- per non-effective hearing.

d) In connected matters, the fee for appearance/drafting shall be paid at the rate of 1/3rd fee of the main case for each connected case, subject to a maximum fee of 50 identical cases i.e. 5 Groups of 10 identical cases as defined in Para 3(iv) above.

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e) Fee for each hearing / stage (where consolidated fee fixed per case) shall be paid after conclusion of that hearing / stage and on furnishing copy of the proceedings or certified copy of the final order / internet copy / inspected copy and other relevant documents justifying the appearance.

f) If Counsel's appearance is not marked in copy of order, it should be got verified by the concerned Counsel through the prescribed Court procedure, if any / else verified by the concerned officer not below the rank of Under Secretary of the Commission/Board.

g) The Counsel has to give a certificate regarding with whom the conference was attended before claiming the conference charges duly signed by officer concerned in the office not below the rank of Under Secretary of the Commission/Board.

h) The fee for legal opinion, other than opinion regarding advisability of filing the Appeal of the cases decided against the Commission or its Boards, is payable equivalent to fee for one effective hearing.

i) Expenses for TA/DA for attending the cases outside Delhi, payable to Counsel shall be same as applicable for Class 1 Gazetted Officer (upto the rank of Under Secretary) and the same shall be subject to contingency fund payable by the concerned department as per FR & SR Rules.

j) No fee will be payable to the Counsel if an advance notice about the adjournment has been issued or the adjournments of the case has been made at his request due to reasons personal to him.

k) The Counsel shall raise their professional fee bills strictly as per the terms and conditions of this scheme. In case, any excess payment has been made to the Counsel, the excess amount shall be adjusted in subsequent payment(s) or shall be recovered from the Counsel.

l) The Counsel shall be paid 10% Clerkage of effective hearing/stage excluding miscellaneous and out of pocket expenses as per actual subject to proof of expenditure.

Contd./-

23/3/2023

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m) For any other work not covered under the proposal, the Counsel will be paid fees as determined by the Competent Authority.

8. Right to Private Practice and Restrictions:

i) A Counsel will have the right to private practice which should not, however, interfere with the efficient discharge of his duties as a Counsel for the Commission.

ii) A Counsel shall not advise any party in or accept any case against the Commission in which he has appeared or is likely to be called upon to appear for or advise or which is likely to affect or lead to litigation against the Commission.

iii) If the Counsel happens to be a partner of a firm of lawyers or solicitors, it will be incumbent on the firm not to take up any case against the Commission.

9. In the event of any doubt or difference regarding the fee, the fees determined by the Competent Authority shall be final and binding. The Competent Authority may by an order in writing relax any of the provisions contained in the scheme.

10. Any dispute regarding engagement, fee, etc. shall be subject to the jurisdiction of Delhi only

Concluded.

23/3/2023

ANNEXURE-I

[I] Fee structure applicable to Standing Counsel in Supreme Court

1	All Regular Appeals and defended Writ Petitions (for final hearing)	Rs. 13,500/- per case per day
2	All defended Admission matters (SLP/TP and writ petitions & other misc. matters for admission)	Rs. 9,000/- per case per day
3	Drafting SLP / Counter Affidavit / Rejoinder, Written Submissions , etc. and Settling of pleadings	Rs. 8,250/- per case
4	Appearance in Miscellaneous Applications	Rs. 4,500/- per case
5	Conference	Rs. 900/- per conference
6	Drafting or Appearance in Miscellaneous Applications [including mentioning of the case / caveat / clearance / obtaining the number and taking date of hearing]	Rs. 3,000/- per case
7	Miscellaneous and out of pocket expenses	As per actual subject to submission of proof etc. to the satisfaction of NMC

[II] Fee structure applicable to Standing Counsel in High Courts/District Courts//Tribunals and other Fora

1	Civil or Criminal Petitions under Article 226 & 227 of the Constitution, Contempt Petitions, Criminal/Civil Revision Petitions	Rs. 6,000/- per case per day of effective hearing
2	Original Suits, Civil Appeal from Decree in Suits and proceedings including second appeal and land acquisition appeal except LPA from Petitions under Article 226 & 227 of the Constitution (including drafting fees)	Ad Valoram / regulation fee (subject to maximum of Rs. 45,000/- in a case)
3	Drafting Counter Affidavit / Rejoinder, Written Submissions, etc. and Settling of pleadings	Rs. 6,000/- per case
4	Miscellaneous Application	Rs. 3,000/- per case
5	Conference	Rs. 900/- per conference
6	Conference with Sr. Advocate	Rs. 11,000/-
7	Miscellaneous and out of pocket expenses	As per actual subject to submission of proof etc. to the satisfaction of NMC

Contd./-

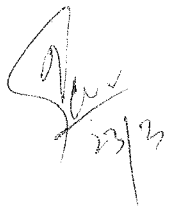
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[III] Fee structure applicable to Sr. Advocates

1	Hearing per day	To be decided on case to case basis
2	Miscellaneous and out of pocket expenses	As per actual subject to submission of proof etc. to the satisfaction of NMC

[IV] Fee structure for Law Officers of Government of India [Attorney General, Solicitor General and Addl. Solicitor General, etc.) would be as per the instructions issued on the subject by Department of Legal Affairs, Ministry of Law & Justice, Govt. of India OR fee determined by the Competent Authority in NMC.

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ANNEXURE-II

BILL OF LEGAL EXPENSES

Name of the Court	
Case Type & No	
Title of the case	
Status of NMC (Appellant or Respondent)	
Connected or not (If connected mention main case)	
Number of Total Connected matters, if any	

Details of fees/charges claimed

Number of Effective Hearings	**Dates of Effective Hearings**	**Amount Claimed**
Number of Non-Effective Hearings	**Dates of Non- Effective Hearings**	**Amount Claimed**
Fee for setting pleading i.e. drafting and filing of pleadings, etc.		
Misc. and out of pocket expenses		
Conference charges		
Clerkage		
Total Amount Claimed		(In figure) ..... (In words) .....

Certified that the above amount is in accordance with the terms of engagement/Fee Bill Policy of NMC.

Pre Receipt

Signature of Counsel