

LEGAL PROFESSION UNIFORM LAW 2014

DISCLOSURE DOCUMENT

1. INTRODUCTION

This is a disclosure document as required by Division 3 of Part 4.3 of the Legal Profession Uniform Law 2014 (NSW) (“the Act”). Somerville Legal Solicitors (“Somerville Legal”) makes an offer to enter into a costs agreement in the form provided with this disclosure document (“the costs agreement”). This offer may be accepted by the client signing the costs agreement or by the client giving instructions to Somerville Legal after the costs agreement is received by the client, to carry out any part of the assignment. In this disclosure document “the client” means the person or entity set out above the words “the client” in the costs agreement and “the assignment” means the assignment set out above the words “the assignment” in the costs agreement.

2. CALCULATION OF LEGAL COSTS (SECTION 174(1)(a) OF THE ACT)

2.1 The costs payable to Somerville Legal shall be calculated as follows:-

- 2.2.1 For work performed by a paralegal, \$150.00 per hour.
- 2.2.2 For work performed by a law clerk, \$190.00 per hour.
- 2.2.3 For work performed by other solicitors, \$280.00 per hour.
- 2.2.4 For work performed in the local court by an associate \$280.00 per hour.
- 2.2.5 For work performed by an associate, \$320.00 per hour.
- 2.2.6 For work performed by a consultant or senior associate, \$420.00 per hour.
- 2.2.7 For work performed by a director, \$400.00 per hour.
- 2.2.8 For work performed by a director – Accredited Specialist, \$450.00 per hour.
- 2.2.9 For work performed by the founding partner, \$550.00 per hour.
- 2.2.10 The client shall also be liable to pay any actual out-of-pocket expenses incurred by Somerville Legal and photocopying at 50c per page.
- 1.2.11 Any costs which attract a GST shall be increased by 10%.

2.2 Professional time shall be calculated on the basis of one unit per six minutes (or part thereof). A unit is charged at one tenth of the rates set out above.

2.3 A fixed cost legislative provision does not apply to any of the legal work involved in the assignment. The Act contains the following definition:-

“fixed costs legislative provision” means a determination, scale, arrangement or other provision fixing the costs or maximum costs of any legal services that is made by or under the Uniform Rules or any other legislation.

3. CLIENT’S RIGHTS

3.1 Pursuant to Section 174 of the Act, Somerville Legal discloses to the client the client’s right to:-

- (i) Negotiate a costs agreement with Somerville Legal.
- (ii) Negotiate the method of billing (for example, by reference to timing or task).
- (iii) Receive a bill from Somerville Legal.
- (iv) Request an itemised bill, after receiving a bill that is not itemised or is only partially itemised, within 30 days after the date on which that bill is payable.
- (v) Seek the assistance of the designated local regulatory authority (the NSW Commissioner) in the event of a dispute about legal costs.

4. ESTIMATE OF LEGAL COSTS

It is not possible to predict with certainty the total legal costs involved in the assignment. The major variables which will affect the calculation of those costs are that the costs depend primarily upon the amount of time spent in carrying out the assignment. This, in turn, depends on many factors beyond the control of Somerville Legal, and which cannot yet be calculated. These may include communications from and to other parties and/or their respective solicitors, and communications with Courts and/or other Government authorities.

To the extent that an estimate of the total legal costs is reasonably practicable, it is set out in the costs agreement above the words “the projected cost”.

To the extent that an estimate of the total legal costs is not reasonably practicable, the Act requires that a range of the total legal costs be provided. Where a range of such estimates is reasonably able to be determined, it is set out in the costs agreement above the words “the projected cost”. Where a range of such estimates is not reasonably able to be determined, then the range is estimated at between \$750.00 and \$50,000.00.

5. BILLING

The intervals at which the client will be billed will be approximately monthly.

6. RATE OF INTEREST

Somerville Legal may charge the client simple interest on legal costs which are unpaid as from 30 days after the due date for payment, at the rate of 8% per annum, or at the rate or rates in Rule 75 of the Legal Profession Uniform General Rules 2015 (NSW), or the Reserve Bank of Australia cash target rate plus 2%, whichever is lowest.

7. LITIGIOUS MATTERS

7.1 If the assignment relates to litigation, and the client is successful in that litigation, then the range of costs which may be recovered cannot be accurately estimated at this stage. An order by the Court for the payment of costs in favour of the client will not necessarily cover the whole of the client’s legal costs. In fact, it is likely to cover substantially less than the whole of the client’s actual legal costs. The main reason why such range cannot be accurately estimated is that such range will depend on many factors, which are not yet known, including what claims the other party to the litigation may make, the evidence that such party may adduce, what work may be necessary in order to meet such claims and to counter such evidence, and how vigorously such other party contests such litigation. It may also be necessary to have such costs submitted for assessment, which involves an assessor making a judgment as to the costs which are or are not recoverable. If it becomes possible to make a reasonable calculation of such range, this will be disclosed to the client. In the interim, the range of \$500.00 to \$37,500.00 is provided.

7.2 If the assignment relates to litigation, and the client is unsuccessful in that litigation, then the range of costs which the client may be ordered to pay to the successful party cannot be accurately estimated at this stage. The main reason why such range cannot be accurately estimated is that such range will depend on many factors, which are not yet known, including what claims the other party to the litigation may make, the evidence that such party may adduce, what work the other party’s lawyers may carry out, and how vigorously such other party contests such litigation. It may also be necessary to have such costs submitted for assessment, which involves an assessor making a judgment as to the costs which are or are not recoverable. If it becomes possible to make a reasonable calculation of such range, this will be disclosed to the client. In the interim, the range of \$500.00 to \$37,500.00 is provided.

8. PROGRESS REPORTS

The client has a right to progress reports under Section 190 of the Act. That Section provides as follows:-

“(1) A law practice must give a client, on reasonable request, without charge and within a reasonable period, a written report of the legal costs incurred by the client to date, or since the last bill (if any), in the matter.

(2) A law practice retained on behalf of a client by another law practice is not required to give a report to the client under subsection (1), but must disclose to the other law practice any information necessary for the other law practice to comply with that subsection.

(3) Subsection (2) does not apply if the other law practice ceases to act for the client in the matter when the law practice is retained.”

9. CONTACT

The person whom the client may contact to discuss legal costs is Ben Hemsworth.

10. DISPUTE RESOLUTION

The Act gives the client the right to apply to the Supreme Court to have the bill of costs assessed for its fairness and reasonableness by a Costs Assessor; or to have the dispute mediated; or a costs agreement set aside by the Costs Assessor on the basis that it is not fair, just or reasonable. Applications for costs assessment should be made before the expiry of 12 months after receipt of the bill of costs, or request for payment of costs made by Somerville Legal, or full payment made to Somerville Legal, whichever is the earliest.

11. APPLICABLE LAW

The law of NSW applies to legal costs regarding this matter. The client is, however, able to enter into a costs agreement with Somerville Legal on the basis that the corresponding law of another State or Territory is applicable if this matter has a substantial connection with that State or Territory. In that event, Somerville Legal will disclose costs as they are applicable in that State or Territory. The client has the right to contract with Somerville Legal that the costs assessment scheme in NSW is applicable, in the event of any dispute as to costs arising with Somerville Legal