

Form 3

Initial Disclosure to Law Practice

(see s261(2) of the Legal Profession Act)

Dear [insert]

Thank you for your instructions to [insert instructions].

I disclose to you the following information which I consider to be necessary for you to comply with s261(1) of the Legal Profession Act. If you consider further information is required then please let me know.

The information is provided because you have advised me that the Legal Profession Act applies to the matter the subject of the instructions and there is no exception to the requirements for disclosure under s263 of the Act.

Basis on which my legal costs will be calculated (s260(1)(a))

My legal costs will be calculated on the following basis:

[For example

\$[insert] per hour plus GST for advice and preparation and \$[insert] per day plus GST for court hearings and otherwise on the terms set out in my letter of retainer dated [insert].

OR

A fixed fee of \$[insert]

OR

Under the [insert] Scale as varied from time to time].

Please note the obligation under s260(1)(a) for your law practice to also disclose whether a costs determination applies to the legal costs to be charged to the client.

Estimate of my legal costs (s260(1)(c))

Based on the information currently available to me, I estimate that my total legal fees in carrying out the instructions will be [insert estimate: Note if the estimate is complex it is recommended that each item used to make the estimate be set out in the disclosure, for example

Initial opinion and advice: \$[insert]

Telephone attendances and short conferences: \$[insert]

Written submissions: \$[insert]

Settle witness statements: \$[insert]

Settle expert witness statements and confer with experts: \$[insert]

Conferences with client and disclosure: \$[insert]

Other preparation for hearing: \$[insert], being [insert] days

Hearing: \$[insert], being [insert] days

Consider reasons and take judgment: \$[insert]

[It is also recommended that the assumptions on which the estimate has been based are stated]

OR

Based on the information currently available to me, it is not reasonably practicable for me to estimate my total legal fees in carrying out the instructions. The range of my estimates for carrying out the instructions are:

[insert items as above and a range, for example

Other preparation for trial - \$[insert] to \$[insert]

The major variables that will affect those costs are:

[insert variables such as

- (a) the extent of the documentary material that I am asked to review and consider – as presently instructed;
- (b) the complexity of the legal issues to be considered once I have reviewed the material;
- (c) whether other counsel are engaged to undertake part of the work;
- (d) the number of occasions I am required to appear in court to deal with contested interlocutory applications;
- (e) the extent to which materials provided to me include draft papers, analysis and observations].

The intervals at which I will bill (s260(1)(d))

I will send monthly bills and may also send a bill at the conclusion of any hearing (including an interlocutory hearing).

OR

I will render send a bill upon the conclusion of the matter by settlement or judgment or if the client refuses to accept a reasonable settlement offer recommended by me.

Application of the Act (Part 10 Div 2)

I confirm that your instructions relate to a matter in which your firm was first instructed in Western Australia and therefore the *Legal Profession Act* applies.

OR

I confirm that your instructions relate to a matter in respect of which your firm has entered into a written agreement with your client that the *Legal Profession Act* applies and also, to the extent necessary, an agreement that the cost assessment provisions of Division 8 Part 10 of the *Legal Profession Act* do not apply.

Yours....

Note: If the *Legal Profession Act* does not apply because the client first instructed a law practice outside Western Australia or the client has agreed that the corresponding law of another jurisdiction will apply in circumstances where the legal services are to be provided primarily outside Western Australia and the matter has a substantial connection with another jurisdiction then you will have to consider whether disclosure must be given in accordance with the requirements of the corresponding law.