

# Notice of Rights

## Cost disputes

This Notice has been prepared under Order 38 Rule 36(2) of the Family Law Rules. It has been approved by the Principal Registrar of the Family Court of Australia.

Your lawyer must give you this Notice of Rights before legally seeking payment from you for work done under the *Family Law Act 1975*.

You have the right to dispute your lawyer's account or any part of it, subject to the time limits and other matters mentioned below.

### Notice of Rights

Under Order 38, Division 7 of the Family Law Rules you may:

- (i) if an account payable by you is not in the form of a bill – request a bill; and
- (ii) in any case – dispute the bill, or part of it.

### What your lawyer's account should look like

Many lawyers present clients with lump sum accounts that are not in a **Form 56 Bill of Costs**. It is your right to receive it in the form of a Form 56 Bill of Costs, which:

- lists each individual item for which costs are payable, by date, description and amount;
- details any amount received or credited for the costs; and
- contains a notice of how to dispute the bill.

If your lawyer's account is not provided on the Form 56 Bill of Costs, or if you have not received any account from your lawyer, you have the right to request a Bill of Costs. You must request a Bill of Costs within 28 days of receiving both the account (if any) and a copy of this Notice of Rights.

When you request a Bill of Costs your lawyer must serve the Bill on you within 28 days.

### Disputing a Bill of Costs

You have a right to dispute the Form 56 Bill of Costs received from your lawyer. You do this on a **Form 57 Notice Disputing Bill of Costs** (you get a copy of the Form 57 from any Registry of the Family Court). If you intend disputing the Form 56 Bill of Costs or part of it you must do so within 28 days of the later of the following dates: when either the Bill was served on you or when this Notice of Rights, if applicable, was served on you.

This requires you to:

- file a copy of the Form 57 at any Registry of the Family Court of Australia (or if in Western Australia, the Family Court of Western Australia); and
- serve the Form 57 on the lawyer.

When the Form 57 is filed an appointment will be made with an officer of the court ("taxing officer") for a pretaxation conference. Both parties to the Bill must attend the conference, at which an attempt may be made to reach an agreement on the matters in dispute. The taxing officer will then consider any preliminary matters, make any necessary directions about procedure and set a date for a taxation hearing.

## REGISTRY CONTACT DETAILS

Adelaide

 (08) 8205 2666

Albury **M**

 (02) 6021 8944

ALICE SPRINGS

 (08) 8952 8222

BRISBANE

 (07) 3248 2200

CAIRNS **M**

 (07) 4041 2377

CANBERRA

 (02) 6267 0511

DANDENONG

 (03) 9767 6200

DARWIN

 (08) 8981 1488


DUBBO **M**

 (02) 6885 8460


HOBART

 (03) 6232 1725

LAUNCESTON **M**

 (03) 6334 2111

LISMORE **M**

 (02) 6621 8977

MELBOURNE

 (03) 8600 3777

NEWCASTLE

 (02) 4926 1255

PARRAMATTA

 (02) 9893 5555

PERTH

 (08) 9224 8222

(FAMILY COURT OF WESTERN AUSTRALIA)

ROCKHAMPTON **M**

 (07) 4921 2939

SYDNEY

 (02) 9217 7111

TOWNSVILLE

 (07) 4722 9333

WOLLONGONG **M**

 (02) 4226 0200

## *Disputing a Bill of Costs* CONTINUED

At the taxation hearing, the taxing officer will:

- examine the Bill;
- determine how much is properly payable; and
- issue a Certificate of Taxation specifying the amount to be paid.

Your lawyer may change the Bill of Costs at any time before the taxation hearing starts.

The taxing officer will also decide who will pay the costs of the dispute procedure and the amount. This amount will be included in the Certificate of Taxation. If you are unsuccessful in disputing the Bill you may be required to pay the lawyer's costs of the dispute procedure.

## Recovery of costs by a lawyer - points to remember

- 1 While an account or a Bill of Costs is subject to the dispute procedures the lawyer may not sue for those costs.
- 2 The amount specified in a Certificate of Taxation is immediately due and payable, can be sued for in a court and incurs interest.
- 3 If you have received a Bill of Costs and a copy of this Notice of Rights and you do not dispute the Bill, your lawyer may apply to the Court for a Certificate of Taxation to be issued.

## Time limits

In special circumstances time limits may be extended by making an application to the Court.

## Costs agreements

Your rights may be different if there is a written costs agreement between you and your lawyer.

## Further information

If you want more information about the procedure for disputing lawyer's costs you may phone any registry of the Family Court of Australia or, if in Western Australia, the Family Court of Western Australia. If you want more information on your legal rights or obligations you should consult a lawyer or legal aid organisation of your choice.

**M** Mediation services only