

21 March 2014

GE Free New Zealand
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WELLINGTON

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Dunbar Sloane Building
32 Waring Taylor Street
WELLINGTON 6011

**barristers
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tel: 04 495 9999
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www.kahuilegal.co.nz

Attention: Claire Bleakley

Tēnā koe

GE FREE - FOOD STANDARD AMENDMENT NO. 53 – LETTER OF ENGAGEMENT

1. Thank you for making contact with Kahui Legal regarding the Regulatory Review Committee's (the **Committee**) decision on GE Free New Zealand's complaint regarding the New Zealand (Australia New Zealand Food Standards Code) Food Standards 2002, Amendment No 53 (**Amendment 53**) (the **Decision**).
2. We refer to your email to us on 5 March 2014 and subsequent telephone conversations with us on 11 and 13 March 2014.
3. The purpose of this letter is to set out the terms and scope of our engagement in providing legal advice in this matter.

Background

4. By way of brief background, we understand that:
 - (a) Food Standards Australia New Zealand (**FSANZ**) gained approval for variations A1046, A1073, A1081 to Standard 2.5.2 under the Foods Standards Australia New Zealand Act 1981 (the FSANZ Act). A notice was issued under the FSANZ Act in both New Zealand and Australia Gazettes on 18 April 2013;
 - (b) the Minister for Food Safety issued in the Gazette an amendment to the Food Standards 2002 on 15 May 2013, and that came into effect on 20 June 2013;
 - (c) the Committee heard a complaint from GE Free New Zealand on 26 September 2013; and
 - (d) on 5 March 2014 GE Free New Zealand contacted Kahui Legal to provide a legal opinion on the merits of seeking judicial review of the Decision.

Instructions and scope of work

5. You have instructed us to:
 - (a) provide a legal opinion that will:
 - (i) assess the merits of an application for judicial review of the Decision;
 - (ii) assess the procedural issues as to whether a New Zealand citizen resident

in New Zealand can challenge a decision by FSANZ; and

- (iii) assess whether there are any relevant public law remedies available to GE Free New Zealand to pursue in reference to the Decision or a decision by FSANZ.

6. As discussed, we estimate the following work would be required to complete your instructions to us:

- (a) reviewing the Decision;
- (b) legal research;
- (c) drafting an opinion on the merits of seeking judicial review of the Decision; and
- (d) liaising with you, where necessary, throughout.

Costs

7. We estimate our fee for the professional services outlined at paragraph six (6) as being up to **\$10,000** plus GST and disbursements based on the following rates:

Jamie Ferguson	\$400 plus GST
Kiritapu Allan	\$250 plus GST

8. Should our estimate need to be revised from our stated estimate, we will discuss this with you before proceeding.

9. Fees for our professional services will be rendered every month and a final account forwarded promptly on completion of the instructions. Our fees are payable within 14 days from the date of each account.

Timeline

10. We have discussed the following timeline with you:

31 March 2014	Provide draft legal opinion to you for review
11 April 2014	Provide final legal opinion to GE Free New Zealand

11. We will advise you through the course of our engagement as to whether there are likely to be any significant amendments to this proposed timeline.

Partner Responsible

12. Jamie Ferguson will be the partner responsible for this matter. Assisting him is Ms Kiritapu Allan, a solicitor with our firm.

Keeping you Informed

13. We will keep you informed of all relevant information throughout the term on this matter and ask that you do the same. Mr Ferguson's and Ms Allan's contact details are as follows:



Contact: Jamie Ferguson
Phone: 04 495 9999
Cell: 021 489 478
Email: Jamie@kahuilegal.co.nz

Contact: Kiritapu Allan
Phone: 04 495 9995 (from 2 August)
Cell: 021 665 070
Email: Kiritapu@kahuilegal.co.nz

14. We understand that Ms Claire Beakley is the preferred contact for this instruction. We have the following details for Ms Beakley on our file:

Contact: Claire Beakley
Phone: 06 308 9842
Email: p.bleakley@orcon.net.nz

Terms of Engagement

15. The **enclosed** Terms of Engagement form part of this legal services contract (except to the extent this letter varies those terms).

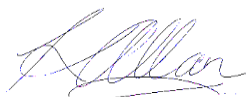
Limited Liability

16. It is a term of the legal services contract that this letter constitutes, that our firm's liability is limited to the amount of fees charged for our services.

Final Report

17. When this matter has been completed, we will provide you with a report setting out the steps taken on your behalf and our final account.
18. If you accept the terms of this letter and the enclosed Terms of Engagement, please reply to us by email to that effect.

Noho ora mai
KAHUI Legal



Jamie Ferguson / Kiritapu Allan
Partner / Solicitor
100346/1

Claire Beakley
GE Free New





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INFORMATION FOR CLIENTS AND TERMS OF ENGAGEMENT

INTRODUCTION

This document contains:

- (a) information that the Rules of Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society requires Kahui Legal to provide to our clients;
- (b) the standard terms of engagement that, unless we agree otherwise in writing with you, will govern the relationship between you and Kahui Legal.

In this document “we” or “us” means Kahui Legal and “you” means the client or prospective client of Kahui Legal.

INFORMATION FOR CLIENTS

A Fees

The basis on which fees will be charged, and when fees are to be paid, are set out in paragraph 3 of our Terms of Engagement.

B Professional Indemnity Insurance

We hold professional indemnity insurance that meets or exceeds the requirements outlined by the New Zealand Law Society. We will provide you with particulars of the minimum standards upon request.

C The Lawyers Fidelity Fund

The New Zealand Law Society maintains the Lawyers Fidelity Fund to provide compensation (currently to a specified maximum of \$100,000) for clients of lawyers who suffer a pecuniary loss by theft. Except in certain circumstances specified in the Lawyers and Conveyancers Act 2006, the Fidelity Fund does not cover a client for any loss relating to money that a lawyer is instructed to invest on behalf of the client.

D Persons Responsible for the Work

The names and status of the person or persons who have responsibility for the services that we provide to you are set out in our letter of engagement.

E Complaints

If you have any complaint about us or our services, please:

- (a) raise it with the person or partner in our firm who has overall responsibility for your work; or
- (b) if you prefer, call our Office Manager and ask to be referred to a partner in our firm who has not been involved in your matter.

If your complaint cannot be resolved to your satisfaction, you also have the right to take the matter up with the Complaints Service of the New Zealand Law Society who may be contacted at PO Box 5041, Lambton Quay, Wellington 6145 or telephone 04 472 7837.

F Client Care and Service

Whatever legal services your lawyer is providing to you, he or she must:

- Act competently, in a timely way, and in accordance with any instructions received and arrangements made.
- Protect and promote your interests and act for you free from compromising influences or loyalties.
- Discuss with you your objectives and how they should best be achieved.
- Provide you with information about the work to be done, who will do it and the way the services will be provided.
- Charge you a fee that is fair and reasonable and let you know when you will be billed.
- Give you clear information and advice.
- Protect your privacy and ensure appropriate confidentiality.
- Treat you fairly, respectfully and without discrimination.
- Keep you informed about the work being done and advise you when it is completed.
- Let you know how to make a complaint and deal with any complaint promptly and fairly.

The obligations lawyers owe to clients are described in the Rules of Conduct and Client Care for Lawyers. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.

If you have any questions, visit www.lawsociety.org.nz or call 0800 261 801.

TERMS OF ENGAGEMENT

1. APPLICATION

1.1 Standard Terms

This document contains our standard terms of engagement which, subject to any other agreement we make with you in writing, apply to any current and all future engagements between you and Kahui Legal.

1.2 Queries

If you have any queries about these terms please contact the partner with overall responsibility for dealing with your instruction or our Office Manager.

2. FEES

2.1 Fees

Kahui Legal will charge a fee which is fair and reasonable for the services provided having regard to your interests and our interests.

Our fees are calculated principally on the basis of the time and labour involved (chargeable at an hourly rate for partners and other legal staff). However, to ensure that our fees are reasonable having regard to your interests and ours, we may also take into account the other factors when determining the fee, including:

- (a) the skill, specialised knowledge, and responsibility required to perform the services properly;
- (b) the importance of the matter to you and the results achieved;
- (c) the urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by you;
- (d) the complexity of the matter and the difficulty or novelty of the questions involved;
- (e) the experience, reputation and ability of the members of our firm working on your matter;
- (f) any fixed or contingent fee that we may have agreed or any estimate that we may have provided to you.

2.2 GST

Unless otherwise stated all fees are exclusive of GST.

2.3 Disbursements and Expenses

In providing services we may incur out of pocket expenses and disbursements (such as photocopying, telephone and facsimile charges, travel costs and/or Court fees) and may be required to make payments to third parties on your behalf. These will be included in our invoice to you once the expense is incurred.

2.4 Estimate

Where we have provided you with an estimate of costs for professional services and disbursements and it comes to our attention that the cost is likely to exceed the stated figure, we will advise you promptly and, if required, provide you with a revised estimate.

2.5 Invoices

We will generally provide monthly invoices throughout the term of engagement and a final invoice upon the termination of our engagement.

However, other methods of charging may suit on certain types of work or certain clients and we should be pleased to discuss the options with you where they are appropriate.

2.6 Legal Aid

You may, in certain circumstances, be eligible for legal aid. If legal aid is sought and granted, the standard Ministry of Justice hourly rate will apply. In the event that legal aid is not granted, you will be liable for our account charged at our normal rates. In the event that you are granted legal aid, we will notify all parties involved in your proceeding of that fact.

3. PAYMENT OF FEES

3.1 Payment

Invoices are payable within 14 days of the date of invoice, unless alternative arrangements have been made with us.

If the payment of our invoice is more than 7 days overdue, we may:

- (a) not perform any further work for you until all unpaid invoices are paid in full;
- (b) charge interest on any amount from the due date until payment calculated at the rate of 4% per annum above the 90-day bank bill buy rate of our firm's bank as at the close of business on the date payment became due.
- (c) take other action to recover unpaid fees and the cost of such action may be added to the amount due by you.

3.2 Methods of Payment

The methods of payment will be set out in our invoices.

3.3 Third Parties

If you expect to be reimbursed by a third party for our fees and expenses, or if our invoices are directed to a third party at your request or with your approval, you will nevertheless remain responsible for payment to us if the third party fails to pay.

4. TRUST ACCOUNT

We do not maintain a trust account. We are therefore unable to and will not hold any funds on your behalf. Any payments of fees or disbursements shall be made as set out in our invoices or as agreed otherwise.

5. FILES AND DOCUMENTS

You may leave documents in our possession after the conclusion of your matter. However, we usually destroy our files 7 years after a matter is completed. If you do not retrieve your file within that period, which you may do on reasonable notice provided that all fees and expenses have been paid, we have your authority to destroy it. We reserve the right to retain a copy of your file or various documents from your file after the 7 year period.

6. SUSPENSION OF SERVICES

We reserve the right to suspend work for you if accounts are not paid on time or if a request to you for information or action remains unsatisfied.

7. TERMINATION

You are entitled to terminate your instructions to us upon reasonable notice. Our fees for services reasonably and properly provided to you prior to the termination of your instructions must be paid by you prior to uplifting your records. We may retain copies of documents or records which we return to you or provide to another lawyer in the event that this agreement is terminated.

We may terminate our agreement and stop acting if:

- (a) you are not providing us with instructions in a sufficient timely way; or
- (b) you are unable or fail to pay our fee on the agreed basis; or
- (c) except in litigation matters, you adopt a highly imprudent course of action against our advice.

We will give you reasonable notice in the event that we determine to stop acting for you.

8. ADVICE AND SERVICES

8.1 Limitation of Liability

We do not accept liability for any loss arising from the non receipt of any communication including email communications.

We do not provide accounting advice and are not responsible for advising you as to accounting issues.

8.2 Reliance

Any advice given by us is:

- (a) solely for your benefit and may not be relied on by any other person without our written agreement;
- (b) is an opinion only, limited to the matters stated in it and based on the facts known to our firm and our professional judgment; and
- (c) subject to law changes after the date it is given.

9. CONFLICTS

If a conflict of interest arises we will inform you immediately and take appropriate steps to deal with the matter. However, this may result in our firm ceasing to act in respect of your matter.

10. COMPLIANCE

We will at all times comply with Chapter 6 of the New Zealand Law Society's Rules of Conduct and Client Care for Lawyers which deals with client interests.

11. PRIVACY AND CONFIDENTIALITY

Information concerning you will be held at our office. We will hold in confidence all information concerning you and your business and affairs that we have acquired in the course of acting for you and will not disclose such information to any person except:

- (a) to the extent necessary to carry out your instructions;
- (b) in accordance with this agreement;
- (c) to the extent required by law or by the Law Society's Rules of Conduct and Client Care for Lawyers.

We may use information concerning you to provide legal services, to obtain credit or other references, to undertake credit management and to inform you of issues and developments that may be of interest to you.

You have, upon reasonable notice, the right of access to, and correction of, your personal information held by our firm.

12. VARIATION

We may vary these terms from time to time and if we do so those varied terms will be notified to you. If you continue to instruct us following notice of a change, you will have accepted and be bound by those varied terms.

13. GOVERNING LAW

Our relationship is governed by New Zealand law and the New Zealand Courts have exclusive jurisdiction.