

# **L**egal update

## Advertising Guidelines- new booklet

## Health and Other Services (Compensation) Amendment Act 1996

Federal Minister for Small Business and Consumer Affairs, Geoff Prosser announced the release of *Guidelines for the Advertising of Legal Services*, a booklet which promotes advertising that is helpful, accurate and easily understood by consumers.

The guidelines have been developed by a working group of representatives from the profession, including the Law Council of Australia, consumer groups and state and federal government agencies.

"A big part of the reform of the Australian legal services sector has been the removal or relaxation of restriction of the ability of lawyers and other legal service providers to advertise."

"Over the last decade they have moved from being unable to advertise to a situation where more and more are promoted in the Yellow Pages, in newspapers and on buses, and in some cases, on milk cartons. In America they are increasingly using the Internet," said Mr Prosser.

"These guidelines should help legal services make this transition from a historically highly-regulated environment to a freer, more competitive one, without compromising the interests of consumers."

The booklet provides lawyers with guidance in the areas of risk in advertisement, such as use of the terms 'expert' and 'specialist' and will help consumers understand terms such as 'no win - no fee' and 'no win - no pay'.

Territory practitioners will note that notwithstanding the guidelines in this booklet, only those who have completed an accredited course, approved by Council may advertise themselves as a "specialist" in any area.

*A copy of the booklet has been sent to all NT firms and it is to be hoped that this clarification of the guidelines will reduce the number of complaints received in relation to advertising.*

In February this year the *Health and Other Services (Compensation) Act 1995* was introduced to ensure that the Commonwealth is reimbursed where people receive Medicare or nursing home benefits for an injury and then subsequently receive a compensation judgment or settlement that includes the cost of treatment for the injury.

The process of retrieving Medicare benefits has suffered some unforeseen and unfortunate consequences which saw claimants suffering hardships through delays in producing the notice of the amount refundable to the Commonwealth.

In order to address this problem an amendment has been made to the legislation in the *Health and Other Services (Compensation) Amendment Act 1996*. This enables an advance payment of 90% to be made to the claimant out of the judgment or settlement amount with the remainder paid to the Health Insurance Commission (HIC), where the settlement amount exceeds \$3,000. Once the insurer has made the advance payment, the dealing between the insurer and the HIC is concluded.

The HIC then corresponds with the claimant to determine, what amount, if any, is owed to the Commonwealth. If less than the 10% figure is owed, the balance is paid to the claimant. If the amount owed is greater, the HIC will seek repayment of the excess amount.

The advance payment option is retrospective and will be available to an insurer for judgments and settlements which have occurred since 1 February 1996.

*An overview of the changes to legislation can be obtained from the Law Society and further information is available on tel: 07 3360 7033.*

## Compensation Payments & DSS

The Department of Social Security has released a kit on compensation issues, aimed at professionals with a working knowledge of compensation issues, Social Security and the law.

The kit contains, among other things, material intended for members of the legal profession, in particular, guidelines on advising clients about the effect of a lump sum compensation payment on Social Security payments.

The Law Society has a copy of the kit for consultation, as well as pamphlets in plain English aimed at Social Security recipients who may receive compensation payment. Further copies of the kit may be ordered from the DSS Compensation Liaison Officer, Trevor Fay on (08) 203 2367

## Marketing is not a Dirty Word

*(continued from page 1)*

Don't leave the implementation of your marketing plan to one person, even if he or she is officially responsible for marketing in your firm. Everyone should play a role in marketing from the managing partner through to your receptionist. This spreads the workload, helps enthuse everyone with winning new work and creates a marketing culture in which staff are more aware of the little marketing opportunities that arise every day.

There will always be "rainmakers" in the legal profession who have a natural talent for getting on with people and persuading them to do business with the firm. But marketing equips lawyers who feel they aren't naturals with some skills and confidence to make marketing an effective team effort.

*This extract is an example of how Ms Fenton's seminars can assist your practice. If you would like to attend a half day seminar, please register your interest with Janet Neville at the Law Society on 8981 5104.*