

DALY

Edition: October 2003

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- * **Gay Law Reforms**
 - * **Chief Justice Martin Retires**
 - * **New Chief Justice appointed**
 - * **CREDIT NT (the drug court)**

LSNT priorities list

Currently the Law Society is working on several major issues including information requests from the ATO, Professional Indemnity Insurance and, at the top of the priority list, the Financial Services Reform Act (FSRA).

All members should have received a letter from the Law Society alerting them to the impact of FSRA and encouraging them to seek independent legal advice.

Essentially the FSRA amendment is the introduction of new laws regarding businesses that advise, deal or offer a depository or custodial service in financial products. The definition of financial products is quite broad.

The obligations under the Act require that if you deal in financial products then you must either have an Australian Financial Services licence or an exemption in respect of the same.

The Law Society has sought independent advice in respect of:

1. The Legal Practitioners Fidelity Fund Committee;
2. The Professional Indemnity Insurance scheme;
3. The Law Society Public Purposes Trust; and
4. The Legal Practitioners Trust Committee.

We have been advised that all of the above fall under the definition of financial services and we are seeking exemptions. We have also been advised that we may not get an exemption for the PII Scheme. If that is the case, the Law Society will need to apply for a licence. Barbara Bradshaw, the Secretariat and the LSNT Executive are currently working on this. It has placed an enormous burden on the Secretariat, especially Barbara, as the applications are by no means simple - they require a considerable amount of precise information.

Professional Indemnity Insurance

The Law Society has continued discussions with its brokers, Marsh. The PII committee met with Cheryl Richardson of Marsh on the 16 October 2003. Marsh is continuing to go to the general market in Australia, and possibly in London, to look for the best

possible deal for our PII. I will keep you updated on this matter.

It has been suggested by Marsh that we alter our insurance year to end in June rather than December. This complicates matters a little, because it means we will have to either secure 18 months insurance from this December, or two blocks of 9 months, or 6 months and then 12 months.

We are currently considering a number of avenues regarding PII, however the Council is keen to secure insurance on the best possible terms for all our members and that includes taking into consideration such things as the wording of the policy, the level of insurance and, of course, the premium.

Australian Taxation Office

Another issue the Law Society has dealt with is the Australia Taxation Office's (ATO) request for information about members.

As Barbara Bradshaw advised in *The Practitioner*, the LSNT sought advice from Senior Counsel as to whether the Law Society must provide the ATO with the information requested, which includes:

1. Full name: surname, first name, middle initial;
2. Date of Birth;
3. Residential address;
4. Firm or employer name;
5. Firm or employer address; and
6. Whether engaged in legal practice as a Barrister, Partner, Employee, Sole Practitioner or Director of a Company practicing law.

Our brief to Senior Counsel was whether or not:

- (a) The information request fell within the scope of information which may be requested under at least one of the authorising provisions of the *Legal Practitioners Act*;
- (b) Whether the request from the ATO is made for a purpose within at least



Merran Short, President

one of the authorising provisions of the LPA; and

- (c) If yes to both of the above, does the Law Society Northern Territory have any lawful excuse not to provide the information.

The concluding opinion of Senior Counsel was that the Law Society Northern Territory has no basis or grounds not to comply with the notice and is obliged to do so, insofar as it has the necessary information.

Senior Counsel also advised the LSNT that it was appropriate to inform our members of the fact of the notice and that we will be providing the requested information. This has now been done.

The ATO has indicated it is satisfied with the information provided.

For further information regarding the ATO's request please contact Barbara Bradshaw at the Secretariat.

Priestley 12

Another matter which the LSNT has been working hard on during this month is the introduction of the Priestley 12 pre-admission course at the Charles Darwin University (formerly the Northern Territory University).

Barbara Bradshaw will provide more information through *The Practitioner*, however this change essentially means that from January 2004 anyone seeking admission in the Northern Territory will have to complete a pre-admission course or equivalent to be

continued page 6

NTWLA's new President reporting in

As the newly elected President of the NTWLA, I am pleased to announce that the Annual General Meeting was held on 4 September 2003 and the following people were elected, unopposed, to the Executive Committee: Secretary - Jodi Mather (DoJ Courts); Treasurer - Frieda Evans (DoJ Courts); Committee - Sharon Krause (Cridlands), Shirley Rowe (Telstra); members - Heather Ross and Artemis Kaltourimidis (both of Ward Keller).

The new committee is full of enthusiasm and new ideas. There are several more events being added into the usual diary. This committee is also planning on ways to increase membership and the involvement of the women lawyers in the Territory, particularly in Alice Springs and Katherine.

Since starting as President, I have met with NTWLA Patron Judge Sally Thomas, Chief Justice Brian Martin and Chief Magistrate Hugh Bradley.

As the NTWLA representative to the Australian Women Lawyers Board (AWL), I travelled to Sydney in September to attend the the first of four face-to-face meetings being held over the next year.

The AWL's objectives are mainly policy driven. Recently, AWL has been involved in the promotion of paid maternity leave within the legal profession, the adoption of transparent

judicial appointments protocols by each of the Federal and State Attorneys-General, and the development of a Model Briefing Policy with the Victorian Women Barristers Association.

The central objective of the Model Briefing Policy is to promote non-discriminatory briefing practices. Chief Justice Black is supportive of the policy and has agreed to collect statistics on the gender of counsel appearing in the Federal Court jurisdiction.

Also of concern to AWL is the proposed increase in HECS fees for law students and the effect it will have when the law graduates are admitted as practitioners. The Federal Government appears to be justifying its argument to increase these fees on the basis that all law students will have the capacity to repay the debt incurred for HECS fees. Women in the law rarely achieve the same earning capacity as their

male counterparts.

In New South Wales during 2002, 37% of the practising profession holding current practising certificates were women and, of this group, only 7% were partners. In the 1998/99 period, nationally, only 29% of the practising profession holding current practising certificates were women and, of this group, only 7% were working proprietors and working partners of unincorporated businesses¹.

I will be collecting statistics on women in the law in the Territory for AWL and endeavour to report them in *Balance*.

Gabrielle Martin - President

(Endnotes)

¹ "After Ada - a new precedent for women in law" 29 October 2002. Paper of the Law Society of New South Wales adopted by the NSW Law Society Council on 19 September 2002. ①

President's column: LSNT priorities list cont...

eligible for admission to the Supreme Court of the Northern Territory. A transition period means that this will not apply to people who started articles prior to January 2004.

Events

The previous two months have also been a busy time for more social events.

On 8 September 2003, the Attorney General officially opened the Domestic Violence Legal Service for the Northern Territory Legal Aid Commission.

The new LSNT Council has met four times since it was voted in at the Annual General Meeting on 3 September 2003. The large number of pressing issues that the Council is currently dealing with has required a greater number of meetings.

On 19 and 20 September 2003, Barbara Bradshaw, Duncan Maclean

and myself attended Law Council meetings in Canberra - the Law Society's meeting on Friday and the Law Council meeting on Saturday.

At the Law Council meeting Stephen Southwood QC was elected unopposed to the position of President Elect, so next year the Northern Territory will have its first President of the Law Council of Australia. I congratulate Steve on his achievements. He is very well regarded within the Law Council for his hard work and dedication.

On 26 September 2003, I attended farewell drinks for Chief Justice Nicholson, who is retiring from the Federal Court.

On Monday 13 October 2003 the Attorney General hosted farewell drinks on his balcony for Chief Justice Brian Martin. Chief Justice Martin was presented with a painting by Carl Van

Nieuwmans. Apparently the painting has been hanging in the Alice Springs Court Residence for some time and the Chief Justice has admired it on many occasions.

On 14 October 2003 South Australian Supreme Court Judge, Brian Ross Martin, was announced as the incoming Northern Territory Chief Justice. The Law Society welcomed the appointment of Justice Martin who is extremely well-regarded within the South Australian legal profession.

As you can see it has been a very busy month. I have had an opportunity to speak to some members regarding current issues and concerns. I would also like to extend an invitation to all members who have issues they wish to raise - please contact me through the Secretariat or via telephone or email at the office.①