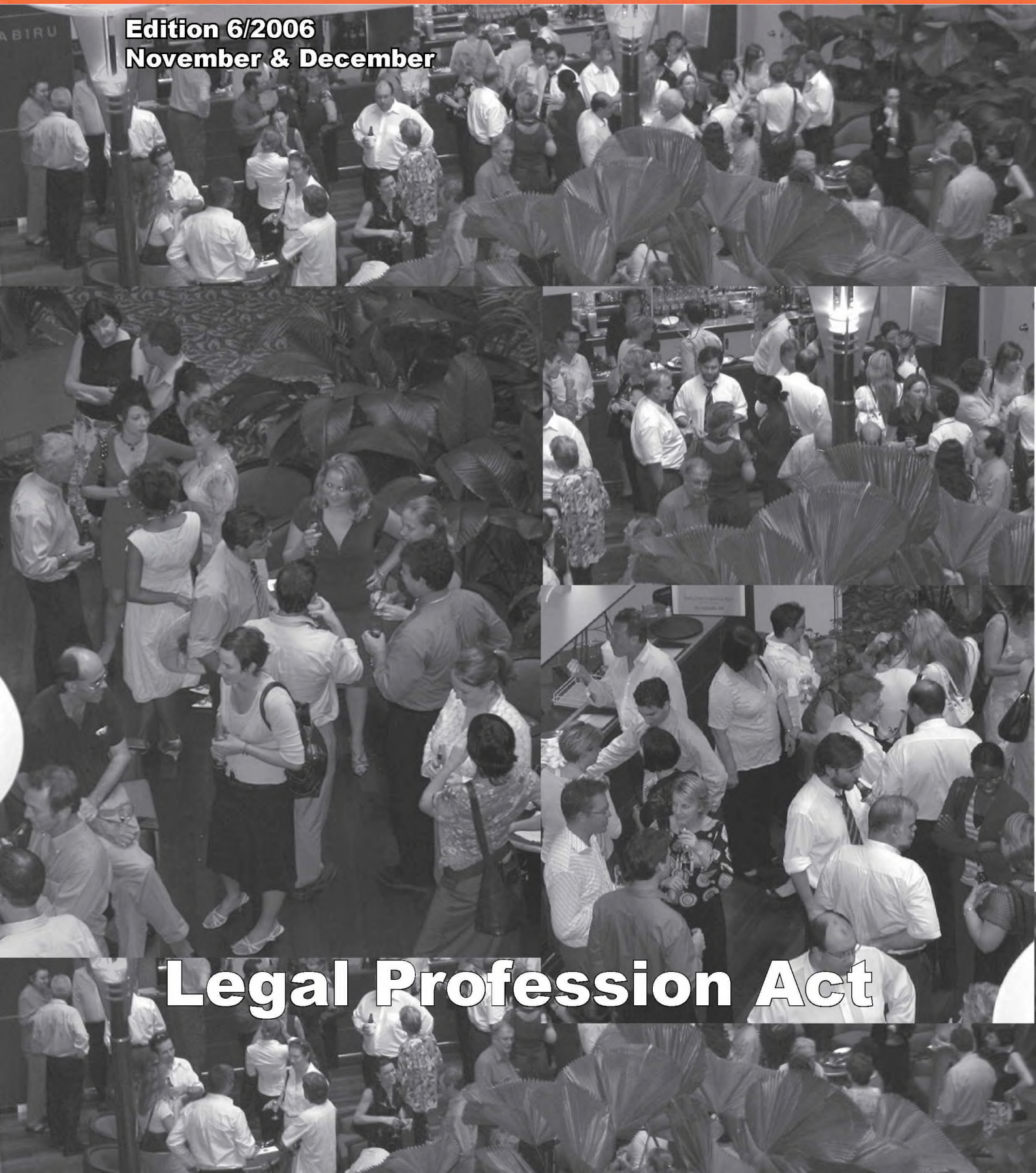


# BALANCE

LAW SOCIETY NORTHERN TERRITORY

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**Legal Profession Act**



# The Legal Profession Bill and other light holiday reading



Allison Robertson, President

**As you would no doubt all be aware, the Legal Profession Bill 2006 has now passed through the Legislative Assembly, weighing in as the biggest bill ever to be dealt with in the NT Parliament – quite a feat for our small profession. There is about a page for every lawyer in the Territory!**

The development of the Legal Profession Bill has certainly dominated much of 2006 from the Society's perspective, and the work is set to continue in 2007, in the immediate future with the development of necessary regulations and then with the implementation and education process.

The secretariat and the LPB committee have been setting out various strategies which we are confident will have you, the profession, well across the new legislation by the time its various provisions commence. The relevant dates are currently anticipated to be 1 April for the bulk of provisions, 1 July 2007 for trust accounting provisions and 31 December 2007 for the costs disclosure/assessment provisions.

But the Legal Profession Bill is not the only light reading you can undertake over the holiday season.

The Federal Attorney-General recently announced, in the wake of the Cole enquiry into AWB, a review by the Australian Law Reform Commission of legal professional privilege (*see page 11*). A good read of the ALRC's material on the privilege enquiry should be high on everyone's holiday reading list.

The ALRC is charged with:

- (a) considering the investigatory or associated functions of Commonwealth bodies that have coercive information gathering or associated powers including the Australian Federal Police, Australian Crime Commission, Australian Competition and Consumer Commission, Australian Prudential Regulation Authority, Australian Securities and Investments Commission, Australian Taxation Office, Australian Communications and Media Authority, Centrelink, Medicare Australia, Commonwealth royal commissions,

Commonwealth Director of Public Prosecutions, and any other relevant Commonwealth bodies, and

- (b) considering the following questions:

- (i) would further modification or abrogation of legal professional privilege in some areas be desirable in order to achieve more effective performance of Commonwealth investigatory functions?
- (ii) would it be desirable to clarify existing provisions for the modification or abrogation of legal professional privilege, with a view to harmonising them across the Commonwealth statute book?
- (iii) would it be desirable to introduce or clarify other statutory safeguards where legal professional privilege is modified or abrogated, with a view to harmonising them across the Commonwealth statute book? and
- (iv) any related matter.

It is well worth noting the Shadow Attorney-General Nicola Roxon has expressed a view that reform of legal professional privilege is overdue, and has argued that the enquiry should extend to more than federal agencies.

Ms Roxon was quoted in a recent edition of *Lawyers Weekly* as saying

*"if lawyers want to maintain a privilege, which it is – a privilege not a right – then we need to make sure it's being used properly, and there needs to be some better mechanism for making sure that's the case"* .

The ALRC has until 3 December 2007 to report, and it is expected that the Law Council of Australia

**continued next page...**



## **Territory Parliament debates Legal Profession Bill**

At its December sittings, the Northern Territory Parliament debated the biggest ever bill in the history of the Northern Territory.

“The 400 page, 800 clause bill is not only the largest piece of Legislation, but it is very important because it sets out new guidelines for the legal profession,” said NT Attorney-General Syd Stirling.

“The Legal Profession Legislation will make it easier for lawyers to practice across State and Territory borders by removing differences in regulations between jurisdictions.

“It is better for their clients because it will better ensure that legal work is carried out by properly qualified lawyers.

“It is also better for regulatory bodies like the Law Society as it will make doing business more efficient.”

The Bill provides for :

- Uniform definitions of misconduct preventing lawyers struck off or penalised in one jurisdiction from simply moving to practice law in another jurisdiction;
- A uniform standard for law degrees and practical legal training, and Australia wide recognition of those qualifications;
- Uniform rules dealing with trust accounts and fidelity funds;
- Standardised requirements for disclosing information on legal costs to clients. This will ensure that both clients and lawyers will have the same understanding of their rights and obligations regardless of where they live or practice in Australia; and
- A nationally uniform system governing the entitlements of foreign lawyers to practice the law of their home country in Australia.

“The Legal Profession Bill expands the Law Society’s powers to investigate and regulate the legal profession,” said Law Society NT President Allison Robertson.

“The new Act aligns the Territory legal profession with national standards.

“This will provide better protection for legal consumers through increased accountability and more transparent fee arrangements.

“We would like to congratulate all those who worked to hard on this Bill – the largest in the NT Parliament’s history.”

## **The Legal Profession Bill and other light holiday reading cont...**

will be preparing a submission, which will either be supported or supplemented by submissions of law societies and bar associations. We will keep you informed of any developments in relation to this most important enquiry.

Also on your list of holiday reading should be any material emanating from the office of the Federal Minister for Indigenous Affairs, Mal Brough. Having spent much of 2006 trying to steal the limelight and moral high ground on a variety of Indigenous issues, there would appear to be no let-up in sight, with the latest round being the somewhat extraordinary proposition that the provision of Federal assistance for “non-essential” services such as school and housing facilities should be tied to the execution of 99-year leases by traditional owners over their land (*see page 14*).

The Society has recently established a committee on Indigenous Legal Affairs, which it is hoped will provide advice and support to the LSNT council on issues as they arise, and which will also be able to liaise with the Law Council’s Indigenous Issues Advisory Committee, which will be continuing to deal with the Federal Government on matters such as land tenure and the permit system.

Finally, if that does not give you enough reading material to fill your Christmas break, there is always the multiplicity of publications generated by the Murdoch/Falconio trial – personally, I’ll just wait for the movie!

On behalf of the council and secretariat, I wish you and yours a very happy, safe and restful Christmas break and fruitful New Year.

## **‘Oops I did it again’ addendum**

The September-October edition of *Balance* included an article entitled “Oops I did it again” by Josephine Stone.

The article indicated that the policy excess on PII is only payable for payout of a claim. Currently, the policy excess is payable once defence costs are incurred or on payout of a claim.