

# President's Column

## FEE INCREASES

Following a recommendation by the Structure of the Legal Profession Committee the Council of the Law Society has unanimously determined that it should ask the Attorney-General to approve an increase in the fees payable for Practising Certificates as follows:

- a) Unrestricted from \$615.00 to \$1,000.00
- b) Restricted from \$400.00 to \$800.00

It is proposed that the increased fees would include membership of the Law Society. So that the net increases in fees will be \$265.00 and \$280.00 respectively.

It will not be compulsory to be a member of the Law Society. If a legal practitioner chooses not to be a member of the Law Society the legal practitioner can simply inform the Law Society that he/she does not wish to be a member. However, it is proposed that the Practising Certificate fee would remain the same for all legal practitioners including those who choose not to be members of the Law Society.

In order for such an increase to be obtained it will be necessary to amend Regulation 3 of the Legal Practitioners Regulations (NT).

There has not been an increase in Practising Certificate fees since 1993.

The Council of the Law Society believes it is necessary to increase Practising Certificate fees for the following reasons:

1. The introduction of the National Travelling Practising Certificate regime (which the Council believe is inevitable) will mean the Law Society will lose \$70,000 or \$80,000 per annum of its income. Such income would otherwise be paid annually by interstate practitioners.
2. Developments in the National Legal Services Market will mean that the Law Society will need extra funds to enable it to try and ensure
  - a) competition policy is introduced in a way which is not detrimental to the Northern Territory legal profession and at the same time enhances the legal interests and choices of the public;
  - b) the Northern Territory profession is adequately informed of the structural changes which are part of the development of the National Legal Services Market;
  - c) the interests and needs of the Northern Territory Legal Profession are properly catered for in changing legal environment.

The Law Society has taken steps to try and minimise the suggested increase in fees. These steps have included:

- a) writing to the Law Society of South Australia, the Victorian Bar Association and the New South Wales Bar Association and asking if they would be prepared to provide some financial assistance to the Law Society as the members of those organisations constitute the greatest proportion of interstate practitioners who practise in the Northern Territory. Regrettably both the Law Society of South Australia and the Victorian Bar Association have said that they are unable to provide any financial assistance. We are still waiting on a response from the New South Wales Bar Association.
- b) asking the Law Council of Australia for financial assistance. It is anticipated that the Law Council will respond to the Law Society's request at its Annual General Meeting which is to be held in Darwin on 19 September 1998;
- c) asking the Northern Territory Government for specific and limited forms of assistance.

Even if some form of assistance is forthcoming in response to the Law Society's requests it will be necessary to increase fees by the suggested amount as the assistance which may be forthcoming will not be sufficient to make up for the loss of fees which will occur as a result of the introduction of the National Travelling Practising Certificate Regime.

The additional services which it will be necessary for the Law Society to provide include:

- a) advising what legislation should be adopted to meet the requirements of the National Legal Services Market and the interests of the Northern Territory legal profession. This will involve a thorough review of the Legal Practitioners Act NT and an analysis of interstate legislative packages;
- b) drafting and advising in relation to protocols which will be used to implement the National Scheme;
- c) advising in relation to new practise structures and the effects of deregulation;
- d) establishing or arranging for participation in accreditation schemes for specific areas of practise;
- e) assessing the proposed Model Conduct Rules;



*Steve Southwood, President*

- f) advising in relation to the discipline of interstate practitioners;
- g) promoting NT legal practitioners interstate;
- h) developing and expanding continuing legal education, particularly in relation to technological developments;
- i) advising Northern Territory legal practitioners about practise interstate;
- j) responding to proposed law reform
- k) monitoring changes in the National Legal Services Market.
- l) monitoring National admission to practise requirements;
- m) assisting Northern Territory legal practitioners to meet National standards so that they do not lose their competitive edge in a larger market.

The Law Society has already taken some steps with regard to the above matters. Sue Oliver has been retained to provide a report about the proposed developments in the National Legal Services Market including the Model Conduct Rules and the implications of the National Travelling Practising Certificate regime.

In the future, it will be necessary to retain someone to provide such reports on a more regular basis. A more corporate approach will need to be taken by the Law Society and the Secretariat will need to be sufficiently funded and staffed if the above services are to be provided.

Necessarily, the size of the proposed Practising Certificate fee increase is very considerable. Fortunately it comes about at a time when the Law Society has managed to reduce the total cost of Insurance Premiums, Practising Certificate fees and Fidelity Fund fees by about 15% since 1994/95. Even with the proposed fee increase, total costs of such items will still be less than they were in 1994/95.

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## REFORMING COURT PROCESS FOR LAW ENFORCEMENT - NEW DIRECTIONS

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to make decisions regarding the ultimate resolution of the case to be engaged earlier in the process by both prosecution and defence;

- d) The double handling of cases that currently occurs because the committal and trial are treated as a two stage process;
- e) The difficulties both parties experience in securing continuity of counsel;
- f) The availability of legal aid for indigent accused prior to committal;
- g) The disparity between the resources available to the prosecution and the publicly funded defendant.
- h) The lack of any real incentive for defendants to enter a plea of guilty at committal (even though they intend to plead guilty in the superior court);
- j) The need to identify and confine the issues in dispute at trial.

### POSSIBLE SOLUTIONS

Some jurisdictions are dealing with these issues better than others and I believe by building on that experience Legal Aid, the criminal bar, the DPP and the courts can, through a redirection of resources and a willingness to change procedures contribute to the more efficient determination of indictable matters, without the need for major legislative change.

Whilst acknowledging that each jurisdiction has particular local issues with which to contend, the Directors of Public Prosecutions and National Legal (The Directors of Legal Aid Commissions) have been working cooperatively to identify measures which will contribute to the more efficient resolution of indictable charges without diminishing the presumption of innocence. We are in the process of finalising a document which identifies elements of a "best practice" approach to dealing with

indictable crime and this will be circulated to the profession for comment over the next few weeks.

### CONSUMER REPRESENTATIVE POSITIONS

- Council of the Financial Services Complaints Resolution Scheme
- Board of Directors of the Life Insurance Complaints Service Ltd

Individuals interested in either position must submit a written nomination.

Organisations who nominate individuals must submit a written nomination covering that person and must also obtain the agreement of the individual being nominated.

Duty statements can be obtained from the Law Society or by contacting Sue Barrett on PH: 02 6213 6122.

The closing date for the nominations is:

**Friday 21 August 1998**

## ADDITIONAL JUDGE APPOINTMENT

The Hon. Justice H.W. Olney

**The Hon. Justice Howard William Olney has been appointed additional Judge of the Northern Territory Supreme Court and brings a wealth of experience to this important position.**

Born in Perth, Western Australia, Justice Olney later studied Law at the University of W.A. In 1957 Justice Olney was admitted to practice as a Barrister and Solicitor of the Supreme Court of W.A.

Before the appointment of Queen's Counsel, Justice Olney was a Stipendiary Magistrate at Carnarvon, WA and later joined the independent bar in Perth, WA.

In the last 20 years Justice Olney has been a Supreme Court Judge of WA, Federal Court Judge in Australia and Judge of the Family Court.

Justice Olney has had vast experience in a number of tribunals; Presidential Member

of the Administrative Appeals, Deputy President, Federal Police Disciplinary and National Native Title.

In March this year Justice Olney was appointed Aboriginal Land Commissioner. Justice Olney had previously served as Aboriginal Land Commissioner for three years from 1988 to 1992.

## PRESIDENTS COLUMN

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### WELCOME JUSTICE OLNEY

The Law Society welcomes the appointment of Justice Olney as an additional Judge of the Supreme Court of the Northern Territory. Justice Olney is well known to the Northern Territory practitioners as a Judge of the Federal Court and as Aboriginal Land Commissioner

pursuant to the Land Rights Act. His Honour has had a very distinguished career which commenced in 1957 in Western Australia.

### LAW REFORM WORKING PARTY

The Law Reform Working Party (NT) met for the first time on Monday 13 July 1998. The Working Party is headed by the Chief Minister

and Attorney General. It is anticipated that the Working Party will be looking at a wide range of law reform. If there are any particular areas of law reform that practitioners believe should be considered by the Working Party would they please advise Jim Campbell or myself.

