

Practising Certificate Renewals

By Josephine Stone.

Section 22 of the Legal Practitioners Act stipulates that a legal practitioner shall not engage in legal practice unless they have a (current) practising certificate. This includes government employees.

In the Northern Territory all practising certificates must be renewed by 1 October. The Society sends out applications for renewal in the first week of September.

Practising without a certificate, even for a short period, raises a number of consequences.

First, the individual practitioner cannot recover any costs or disbursements in respect of any work of a professional nature. If such costs have been paid they are recoverable by the person who paid them.

Secondly, even if the practitioner has subsequently complied with renewal requirements, the practising certificate cannot be back dated to 1 October. The certificate can only date from the date the application is received by the Law Society.

Thirdly, the practitioner, and any clients, is without the benefit of professional indemnity insurance which has serious implications.

Fourthly, there is the conduct issue which can lead to disciplinary proceedings and, in serious cases, suspension or strike off proceedings. The obligation to comply is personal to each and every practitioner. Explanations of clerical or administrative error on the part of others do not excuse the personal responsibility of the practitioner.

Practitioners should be aware that delays in renewing the practising certificate will be treated by the Law Society as a complaint matter on the basis of practising without a certificate.

The following examples are taken from local and interstate cases.

EXAMPLE 1

Mr A is employed by a public agency. He has been admitted for three years. His employer's practice is to distribute, collect and pay for the practising certificates of all its employee solicitors. The application was not lodged with the Society until 14 October 2005, some two weeks after the due date and was only partially completed. The practitioner was contacted to provide additional documentation which he did on 28 October 2005. He was therefore without a practising certificate for four weeks. A complaint file was raised and the practitioner's conduct investigated.

EXAMPLE 2

Ms B is a sole practitioner. She has been in prac-

tise for many years. For the last three years she has taken annual leave around the time the certificate is renewable and has been late in her application for renewal, despite verbal reprimands from the Society. Following the last late renewal, a complaint file was raised and as part of its investigation the Law Society conducted an audit of all files current for the period the practitioner was without a certificate.

EXAMPLE 3

Ms C had taken maternity leave from a large private firm and was not due back until November. The application for renewal was sent to the employer in September. Her employer's practice is to distribute, collect and pay for the practising certificates of all its employee solicitors. The employer did not forward the application to Ms C at her home address and it was subsequently overlooked when she did return to work. The omission was discovered by the practitioner when she made enquiries with the Society concerning an unrelated matter in early December. A complaint file was raised and the practitioner's professional conduct investigated.

Online legal research cont...

any other DynamicDocs form or document. Significantly cutting duplicated effort and reducing the risk of human error in repetitive data entry processes.

Services that further extend on these capabilities are on the horizon. New product categories will be introduced that streamline workflows within practices, facilitate easier interaction with clients and other legal professionals, and allow real-time access to the courts. Alongside these new product categories you will continue to see the evolution of core research materials to deliver increased value to your legal research.

The legal practitioner who evolves with the technology will be the winner.

LexisNexis extends an offer for all readers of Balance to register for a free online trial of LexisNexis AU. All trials registered before 30 April 2006 go into the draw to win one of seven Blackberry handhelds.

Visit: www.lexisnexis.com.au/bigcapabilities2 today! Terms and conditions apply

ENDNOTES

1. SOURCE: GCA (Global Competitive Assessment) 2005 Study, LexisNexis.
2. SOURCE: The Indexable Web, UniversitA di Pisa and University of Iowa joint study. <http://www.cs.uiowa.edu/~assignori/web-size/>