

## **AUSTRALIA BRANCH**

AB:LLA July 15, 2008 No. 322

Via E-Mail

### **TIME SENSITIVE**

#### **SERVICE COMMITTEE**

Re: Privacy Laws and Proposed Revision of S-77 Form

Dear Brothers:

We are writing about recent developments with regard to our obligations under the Privacy laws. It seems that we will need to take steps urgently to reduce the amount of material in our files and in the files of the congregations. We will first outline the situation and then present our proposals.

In earlier correspondence from the year 2001, and in particular our letters LLA August 28, 2001, No. 354, and LLA January 8, 2002, No. 164, we advised the Publishing Committee and Coordinator's Committee of the difficulties in Australia following the introduction of the *Privacy Amendment (Private Sector) Act, 2000* ("the Act"). Organizations that are affected by the Act must provide an individual with any personal information the organization holds about him if he requests it. The organization can only hold "sensitive" information about a person with his consent. "Sensitive" information is defined to include matters relating to religious, ethnic, and sexual practices.

Initially, we have made use of a provision that exempts a "small business" from complying with the Act. Under the Act, a "small business" is one with an annual turnover for the previous year of \$3,000,000 (Australian) or less. It has been our position that turnover does not include contributions or donations. However, the Privacy Commissioner has ruled against us on this question, and we are appealing his decision. It is highly likely that in a few weeks' time we will be directed to comply with the Act. We can appeal this decision, but we doubt that it will succeed. An appeal with resultant publicity may give the impression that we have something to hide.

The application of these principles to the branch and the congregations will affect the way we collect and retain information about judicial matters. Our immediate concern is that the Privacy Commissioner's involvement arises out of a request made by a disfellowshipped apostate. We believe that this person will advertise the fact that we have been forced to give him access to documents we hold concerning him, and he will invite others also to request access to documents we may hold about them. While there are other records held by both the branch office and congregations that will need further consideration, we would like to give our first and immediate attention to records relating to judicial matters.

In your letter GAO:AT January 3, 2002 No. 223S, in anticipation of the possibility of our need to comply with the legislation, you wrote that if we felt that there was an exception that needed to be made for us to comply with the law we should write the Service Committee of the Governing Body and express what adjustments we felt would be necessary for our branch and the reasons why they are necessary. "Otherwise," you stated, "we feel that you should follow the policy outlined herein." Your letter included some guidelines provided to our brothers in Europe who are in a similar situation.

On disciplinary matters you stated: "If you are not allowed to keep **records accumulated in the past**, discard the current Disfellowshipped Persons Forms (S-77) and (S-79a/b) that do not comply with the law. Adjustments can be made as outlined in this letter to have your files conform with the law on processing personal data."

We are enclosing a suggested revision of the S-77 form for use in Australia. It is designed to minimize the information contained on the form, and to avoid the recording of undesirable expressions when completing the form. This particularly applies to item 2 where we have replaced the request for a summation and explanation with a series of check boxes. We have chosen to list the disfellowshipping offences by name rather than citing a scripture text. In some cases, a scripture text, such as 1 Corinthians 6:9, will include more than one offence. For example, a disfellowshipped person who has committed adultery may claim that citing the scripture implies that he is a homosexual. The list of offences is taken from ks91 and we understand that the S-77 would need to be amended when ks91 is revised, or when we receive other instructions related to offences.

We have also made some amendments to the instructions, and we propose to put them in a separate document, so that if we have to provide someone with a copy of the S-77 form, the instructions would not be included, since they do not form a part of the record concerning the individual. The revised instruction sheet asks the judicial committee to attach a separate detailed summary. This summary will be discarded when the matter has been considered and finalized by the Service Desk. If there is a need for any information in the attached summary that should be retained, the Service Desk will make a carefully worded and brief comment on the back of the revised S-77. The Service Desk will then send the judicial committee a copy of the form along with the direction that all other documents should be destroyed, retaining only the branch's stamped copy of the S-77 in their confidential files. The Service Desk will also destroy all other unnecessary related records.

The Act does not prevent us from keeping records, as long as they are retained for a primary purpose. We can retain them as long as we believe that we have further use for them. We have therefore listed our proposal to set out our primary purposes for retaining records on the back of the revised S-77 form. We do not need the individual's permission to keep this information, but we must give him access to it if he requests it.

The Service Department and Legal Department in the branch are in agreement with this procedure. The Branch Committee has also considered it, and all present are in agreement with it. We have attached copies of the proposed revised S-77-E Au, and the additional instruction sheet S-77a-E Au.

We believe that this will enable the congregations to retain sufficient information to assist them when applications are made for reinstatement and will minimize the information that will be available to disfellowshipped persons who request access to records relating to them.

We have headed this letter "Time Sensitive" because we hope to be able to minimize the records of persons who may be potential trouble-makers before direction is given by the Privacy Commissioner. Since we expect the Commissioner to do that by the end of the month, we are asking for any suggestions and comments you may have as well as your approval as soon as possible. As stated above, there are other matters that we will need to consider. We hope to do this shortly, and we will write again about them in due course.

Please accept our warm Christian love.

Your brothers,

H. V. Mouritz  
For the Australia Branch Committee

c: Coordinators' Committee  
Enclosures. WHQ322a.doc  
WHQ322b.doc