

AUSTRALIA BRANCH

LLD September 12, 2008 No. 105

Via E-Mail

TIME SENSITIVE

SERVICE COMMITTEE

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

Dear Brothers:

Thank you for your reply dated GAJ:LPX August 19, 2008, No. 542S. We have now adjusted the S-77 form and separate instruction sheet in harmony your recommendations. We enclose copies of these documents for your approval. Additionally, we attach a draft letter addressed to all bodies of elders in our country in which we explain the adjusted procedure. We are unsure if you consider it necessary for the elders to list *all* of the Scriptural references connected with an offence or if citing some of the relevant Scriptures would suffice. We would appreciate any suggestions you may have regarding the contents of this letter.

We note that *Branch Organization* 18:26 states that the United States branch “revises ... English forms” and in *Branch Organization* 18:20 it says that “dates are changed when forms are revised in English.” Therefore, regarding the proposed adjusted S-77-E form, could you advise how we may represent this change on the form? Will the United States branch provide a new revision date (the current date is 10/06)? We already use the edition code “Au” to show that we have changed other local information on the form.

You ask about how we propose to track persons who are accused and/or disfellowshipped for child molestation and other abuse. We intend to continue doing what we have done in the past, that is, maintaining a list of such individuals along with the necessary details of what transpired. All appointments processed by the Service Department are checked against that list of names. We see no major difficulties in our continuing to collect and retain this needed information for several reasons:

- (1) The *Privacy Act* (Act) permits “sensitive information” to be collected if it relates to a member of the organization or to an individual who has regular contact with the organization provided “at or before the time of collecting the information, the organization undertakes to the individual whom the information concerns that the organization will not disclose the information without the individual’s consent.” There should be little difficulty in explaining this process to the individual concerned and obtaining this consent when the matter or allegation is handled; and
- (2) On a completely separate basis, the Act also permits “sensitive information” to be collected, without consent from the individual concerned, if “the collection is necessary for the establishment, exercise or defence of a legal or equitable claim.” The collection and retention of this kind of information is needed to enable the organization to defend itself against potential future legal claims in connection with individuals who have been involved in child molestation and other abuse situations. This provision should also provide the organization with the necessary basis to retain “sensitive information” of this kind collected in the past, without the consent of the individual.

You also ask if we have considered the formation of a new legal entity which might come under the 'small business' exemption. We confirm that we are presently considering the formation of a separate legal entity for the purposes of minimizing liability in the case of litigation and we intend to correspond with you regarding this matter in the near future. However, we do not feel that forming a separate legal entity will result in exemption from privacy legislation in the long term. The Australian Law Reform Commission has recently recommended that parliament abolish the "small business" exemption and that all businesses should come under the Act. It is highly likely that this recommendation will be adopted in the not-too-distant future.

We look forward to your response and send our warm Christian love and best wishes.

Your brothers,

H. V. Mouritz

For the Australia Branch Committee

Encls: WHQ105a.doc

WHQ105b.doc

WHQ105c.doc

[*S-77 Notification of Disfellowshipping or Disassociation*]

[Instructions for completing the S-77 form]

[Draft letter to All Bodies of Elders]