

# Council Dinner

The annual Council Dinner took place on Friday 4th October at the Balmoral Conference Centre, Belfast.



Left: His Hon. Judge Hart; Lord Chief Justice of Northern Ireland; Rev. Winston Graham (President of the Methodist Church in Ireland); David Trimble MLA; Reg Weir QC (Chairman, Bar Council); V. Alan Hewitt (President, Law Society NI); Lord Justice Campbell Mrs. Joan Harbinson (Chair, Equality Commission); Tony Hopkins (Chairman, Laganside Corporation); Mrs. Joan Whiteside, Chairman General Consumer Council)

Right: Ms. Orla Murray (Law Society NI Human Rights Committee) Mr. George Coulter (Vice-Chairman Association of Consulting Engineers) Ms. Fiona Donnelly (Law Society NI Advocacy Working Party)



Below: Mr. Brian Doherty (Law Society NI Human Rights Committee); Mr. Eunan McMullan (Legal Director, Police Ombudsman's Department); Lord Chief Justice of Northern Ireland; Ms. Mary O'Neill (Law Society NI Council); Mr. Joe Donnelly, (Junior Vice-President Law Society NI)



Above: Ms. Fiona Lamont BL; Mr. Tony McGettigan (Past President Law Society NI) Mr. Norville Connolly (Law Society NI Council) Mrs. Antoinette Curran (Past President Law Society NI) Mr. Tony Caher (Law Society NI Advocacy Working Party)



Above: Mr. John Neill; Mr. David Trimble; Mr Alan Hewitt



Left: Mr. John Neill (Senior Vice-President Law Society NI) Mr. V. Alan Hewitt (President Law Society NI); Lord Chief Justice; Mr. Joe Donnelly, (Junior Vice-President Law Society NI)



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# LARAMIE IS NOT CALIFORNIA

*We reproduce below the text of the speech of the President, Mr Alan Hewitt, at the Council Dinner on 4th October 2002.*

This is the occasion each year when the President of our Society delivers a 'state of the nation' address, to the collective delight, dismay or apathy of the assembled guests. Presidents on these occasions should perhaps bear in mind Abraham Lincoln's words at Gettysburg:

"The world will little note, nor long remember, what we say here." and perhaps also Adlai Stevenson's comment that "any boy may become president. I suppose it's just one of the risks he takes."

Now, I know you will find it hard to believe, but some lawyers have on occasion been known to have a slightly inflated opinion of themselves; happily, suitable correctives are usually to hand. One of the classic putdowns was in an exchange of correspondence in 1988 between a lawyer from California and a truly remarkable lady, Becky Klemt, a lawyer from Laramie, Wyoming. Barbara Stephenson's predecessor as American consul in Belfast, Mike Sullivan, came from Wyoming, and I remember him telling me that although it had an area bigger than Ireland, the population of the entire state was no more than 800,000.

Anyway, this particular exchange acquired cult status in America, and I can assure you that the letters are genuine. Becky Klemt, the lawyer from Laramie, had written to the Californian lawyer asking if he would enforce a judgment she had obtained against her client's ex-husband, who had fled to California. He replied (and I won't attempt any variety of American accent):

"Without sounding pretentious, my current retainer for cases is a flat \$100,000, with an additional charge of \$1,000 per hour. Since I specialise in international trade and geopolitical relations between the Middle East and Europe, my clientel is very unique and limited, and I am afraid I am unable to accept other

work at this time."

Becky Klemt replied:

"Steve, I've got news – you can't say you charge a \$100,000 retainer fee and an additional \$1,000 an hour without sounding pretentious. It just can't be done. Especially when you're writing to someone in Laramie, Wyoming, where you're considered pretentious if you wear socks to court or drive anything fancier than a Ford Bronco. Hell, Steve, all the lawyers in Laramie, put together, don't charge \$1,000 an hour.

"Anyway, we were sitting round the office discussing your letter and decided you had a good thing going. We doubt we could get away with charging \$1,000 an hour in Laramie (where people are more inclined to barter with livestock than pay in cash, but we do believe we could join you in California, where evidently people can get away with just about anything. Therefore, we four lawyers in our firm intend to join you in the practice of international trade and geopolitical relations between the Middle East and Europe.

"Now, Steve, you're probably thinking that we don't know anything about the Middle East and Europe, but I think you'll be pleasantly surprised to find that this is not the case. Paul Schierer is actually from the Middle East – he was raised outside of Chicago, Illinois, and although those national newsmen insist on calling Illinois the Midwest, to us, if it's between New York and the Missouri River, it's the Middle East.

"Additionally, although I myself have never personally been to Europe, my sister just returned from a vacation there and told me lots about it, so I believe I would be of some help to you on that end of the negotiations. Hoke MacMillan has actually been there, although it was 15 years ago, so you might have to update him on recent geopolitical developments. Also, Hoke has applied to the Rotary Foreign Exchange Student Program for a 16 year old Swedish girl and believes



she will be helpful in preparing him for trips abroad.

"Steve, let us know when we should join you in California so that we can begin doing whatever it is you do. In anticipation of our move, we've all been practicing trying to say we charge \$1,000 an hour with a straight face, but, so far, we haven't been able to do it. I suspect it'll be easier once we actually reach California....Anyway, because I'll be new to the area of international trade and geopolitical relations, I'm thinking of only charging \$500 - \$600 an hour to begin with. Will that be enough to meet our overheads?

"I look forward to hearing from you before you go away again for six weeks.

"Yours sincerely, Becky Klemt.  
PS: Incidentally, we have advised our client of your hourly rate. She is willing to pay you \$1,000 per hour to collect this judgment, provided it doesn't take you more than four seconds."

The provision of legal services in Northern Ireland is much closer to the Laramie model than the Californian model, not in the sense that we consider it pretentious to wear socks to court, but in that we have a network of small solicitors' practices covering every town in the Province and providing independent advice and professional services to the whole community at relatively modest cost. About half of all

practices are run by sole practitioners, and another quarter by two principals. No firm has more than 15 partners, and only 10% have more than three. Globalisation of legal services is not, I suspect, a frequent topic of conversation in Lisburn, or Ballymena, or Enniskillen, any more than it is in Belfast, although for all I know, as in the famous case, it may be that in Upper Buckna they speak of little else. There is often a strong personal relationship between the solicitor and client, sometimes going back through the generations, and despite what you may occasionally read in the papers, all surveys in Northern Ireland so far have shown that the great majority of clients are very happy with the service they receive from their own solicitor. I see no need to apologise for the structure of the profession in the Province – it works for us, and more importantly it works for our clients.

Our model of self-regulation works too. In his recent annual report, the Lay Observer, Professor Vincent Mageean, commented that when self-regulatory frameworks are being considered, recognition should be given to those factors which differentiate Northern Ireland from elsewhere. He said, and I quote, that “the Law Society’s competent operation compares most favourably with other parts of the UK.” He continued:

“Factors which contribute to this position I believe include the comparatively small membership of the Law Society, the largely cohesive concerns of that membership, the size of legal operations, the comparative closeness to the elected officials and the highly professional standards shown by the vast majority of solicitors. These factors should be given due cognisance when new and appropriate self-regulation frameworks are being considered thus avoiding unnecessarily imported solutions which may search for non-existent problems.”

It was very refreshing to have this eminently sensible reminder that one size does not fit all. Laramie is not California.

The fact that we are closer to the Laramie model than the Californian model does not of course mean that

we operated in a vacuum unaffected by world events, and I would like for a few minutes to consider some of the events of the last few months which have impacted on the practice of law here and elsewhere.

We have seen the collapse of Enron and Worldcom, and a number of lesser corporate debacles. The subsequent evaporation of investor confidence has been disastrous, not only for some of the giants of the commercial world, but also for ordinary people everywhere. Savings have been eroded and pension funds devalued. The assumptions on which many people quite reasonably planned their future have proved to be ill founded. While the causes are many and complex, one of them has surely been simple greed: greed on the part of entrepreneurs and corporations, and greed on the part of some of their advisers. The role of Arthur Andersen in some of these matters has been analysed to death in the media and I don’t propose to add to the debate tonight, except to say that it points up quite vividly the vital importance of the core values of the legal profession. Those values have usually been summarised as independence, confidentiality and the avoidance of conflicts of interest, and I believe that they are intrinsic to our local, or Laramie, model for the provision of legal services. They are not concepts which have been devised simply to justify the proliferation of regulations by the Law Society, but are in fact essential for the protection of our clients. That was clearly recognised by the European Court of Justice recently in the Nova case, when it decided that it was perfectly in order for the Dutch Bar to prohibit its members from entering into partnership with accountants. The Court held that competition, desirable as it may be, must be subservient to the independence of the profession and the protection of the core values.

Regulations which secure that independence and protection are not just permissible, they are necessary. Unfortunately, the wisdom of the European Court’s approach has not yet been grasped by the Office of Fair Trading, which in its report on Competition in the

Professions seems completely hung up on the idea of competition at all costs.

We are currently in the middle of an important debate about what has become known as supermarket law. Its proponents have the odd notion that clients could somehow be protected if they had to obtain their legal services from lawyers employed by large commercial organisations. It was gratifying to be able to join with my good friends Elma Lynch, President of the Law Society of Ireland, and David Preston, President of the Law Society of Scotland, in writing an article which was published in the Gazette of the Law Society of England & Wales recently, setting out in some detail our reasons for the rejection of supermarket law and the preservation of our present regulations – reasons which are recognised everywhere else in Europe, and which may yet be recognised in England.

This has been a good year for the progress of mediation, or alternative dispute resolution, as an alternative to litigation in suitable cases. It’s an area which has obvious potential for lawyers, who have a head start on anyone else in this field, and it has been given a boost by some members of our judiciary who have rightly taken the view that the court’s time should not be wasted where the dispute is clearly capable of being sorted out by mediation. This approach isn’t recognised everywhere, though, and I thought you might be interested in the results of this year’s Stella awards. These awards are named after the lady in America who sued McDonald’s when she spilt coffee on herself. There were some very strong contenders – for example, the action of Terence Dickson of Bristol, Pennsylvania, who was leaving a house he had just burgled by way of the garage. He couldn’t get the garage door open, because the automatic door opener was malfunctioning. He couldn’t re-enter the house, because the door connecting the house and garage locked itself behind him. The family were on holiday. He had to subsist for eight days on a case of Pepsi and a large bag of dog food. He sued for undue mental anguish, and the jury awarded him \$500,000 dollars.

*Continued on pages 22 - 23...*

# The 2001 Survey of Solicitors' Practices in Northern Ireland – part two

Our first article outlined the variation that exists between firms in terms of their staffing levels – their 'gearing' and use of support staff. It also considered fees per equity partner. This article moves on to look at the cost structure of the 150 firms who participated in last year's Survey. Traditionally, many firms in England and Wales have viewed a good cost structure as being 40% salaries, 30% overheads and 30% net profit for the

equity partners.

The first chart illustrates how salary costs vary (as a percentage of fee income) according to the number of equity partners in the firm.

### Chart one

Note: In each chart we show the median and the upper and lower quartiles. The median is the middle value in the range and is not

influenced by the magnitude of the extreme values (as the average is). The lower and upper quartiles indicate the range of values. 25% of firms are below the lower quartile, and 25% of firms are above the upper quartile. Chart one indicates that for the participating firms the overall median for salaries as a percentage of fee income is actually 30%. In a quarter of firms it is 23% or less. There is a wide range for all firm sizes, in line with the range in gearing and support staff levels. As discussed later in this article, the main drawback with this particular benchmark is that no cost is included for the equity partners, and this can make comparison, for example between different departments within a firm, difficult

### Chart two

Chart two indicates that non-salary overheads – all the costs of running a firm apart from staff costs – average around 27% of total fee income. In a quarter of firms this is under 21%, and a quarter exceed 35%. There is remarkable consistency across the three size groups.

These two charts would suggest that typical net profit percentages are around 40% - generally better than those achieved in England and Wales.

### Chart three

Charts three and four illustrate the average non-salary overheads per equity partner by size of firm and by location. This benchmark must be treated with some care, since these overheads will vary considerably according to the number of people employed. The more staff you have, the higher the firm's rent, its telephone and stationery bills etc.

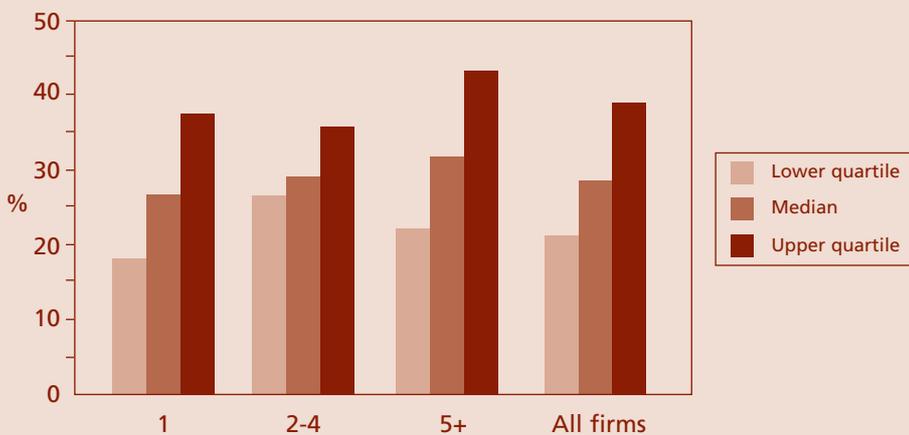
### Chart four

Chart four indicates the higher non-salary overheads per equity partner in Belfast. This may be caused by the higher rents firms pay in the city or may simply be because most of the larger firms were based in Belfast.

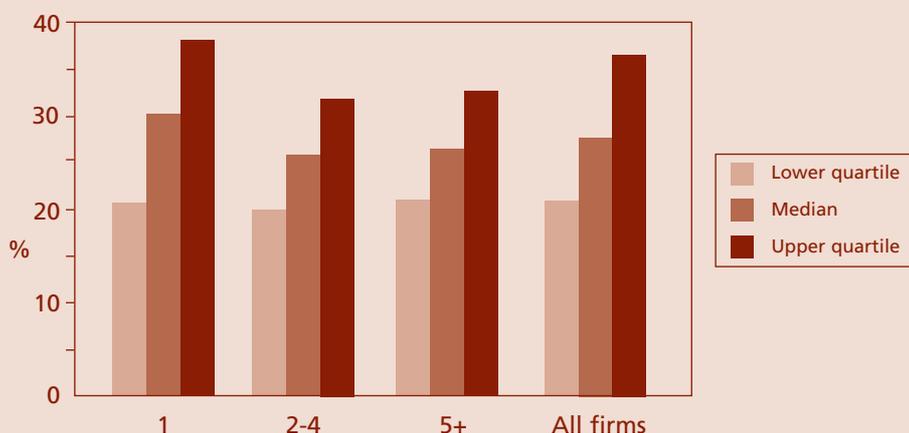
### Chart five

The final chart, chart five, looks once

**Chart 1 - Staff salaries as a % of total fee income**



**Chart 2 - Non-salary overheads as a % of total fee income**



again at salaries relative to fees. As discussed earlier, it can be very useful to include a notional salary for each equity partner, especially in larger firms that are organised on a departmental basis. In the Survey we have included a notional salary per equity partner of £33,250 for financial years ending in 2000 and £34,250 for financial years ending in 2001.

This chart indicates an overall median of just over 50%, which is very much in line with firms in England and Wales. This is a useful measure because, by including a salary that represents the cost of each equity partner as a fee-earner, it becomes much easier to access relative performance within a firm.

To summarise this second article:

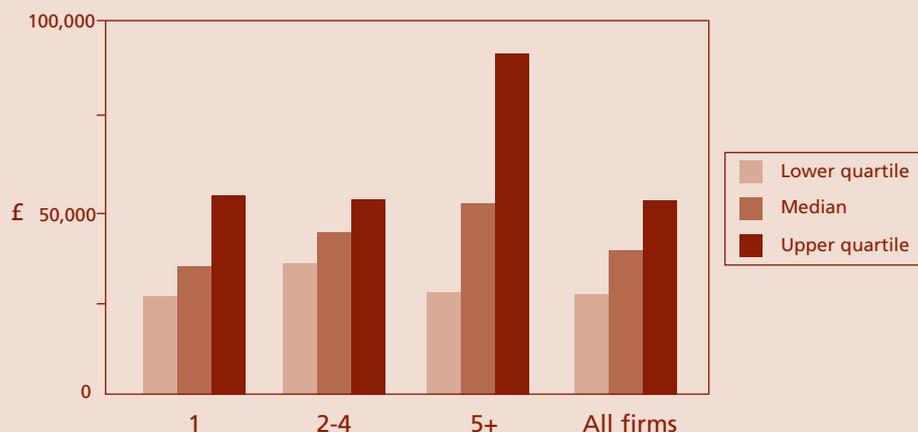
- Overall, the fee income of the participating firms appears to be absorbed as 30% salaries, 30% non- salary overheads and 40% net profit;
- If a notional salary is included for the equity partners, it becomes easier to assess relative performance, especially in larger firms that are organised on a departmental basis.

Our final article in this series will deal with the salary levels of employed fee-earners.

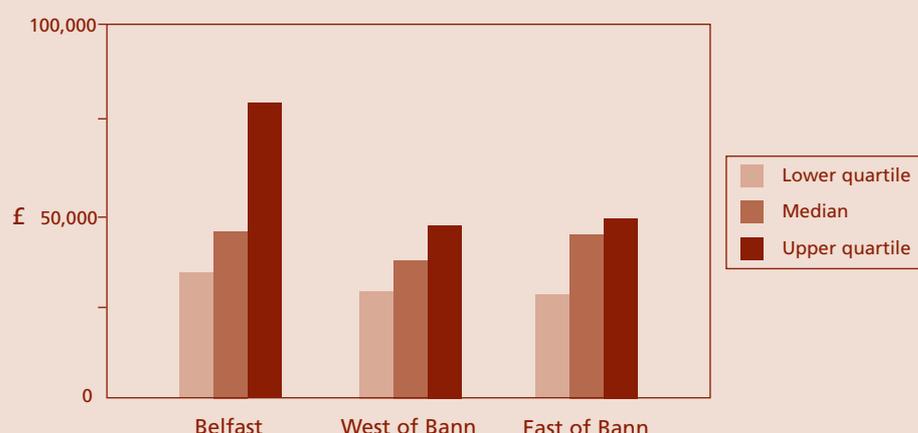
*\*John McCutcheon, until his recent retirement, was Professor of Actuarial Studies in the Department of Actuarial Mathematics and Statistics at Heriot-Watt University, Edinburgh. For many years he was a member of the Remuneration Committee of the Law Society of Scotland, whose annual Expense of Time Survey he conducted during the period 1980-2001. He carried out last year's Survey of Solicitors' Practices for the Law Society of Northern Ireland.*

*Andrew Otterburn is a management consultant and author of 'Profitability & Financial Management', published by the Law Society in London. He specialises in advising law firms on their profitability, management and future strategy. Over the last twelve years he has revised over 130 firms of solicitors.*

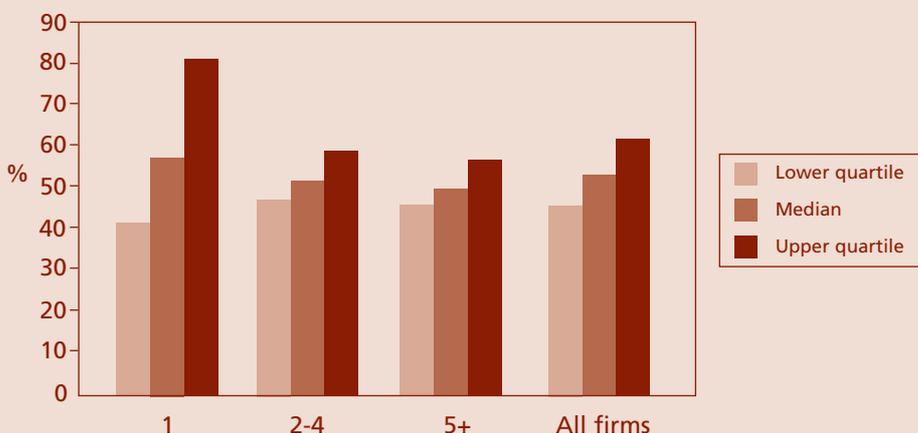
**Chart 3 - Non-salary overheads per equity partner**



**Chart 4 - Non-salary overheads per equity partner**



**Chart 5 - All salaries (inc. partners) as a % of total fee income**



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**We would also take this opportunity to thank the committee of the Belfast Solicitors' Association for their hospitality at the Practice Management and Client Care Seminar 28th September 2002, and congratulate them on the excellent attendance.**

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## Risk Management

ADVICE



# Money Laundering - Keeping Clean

With the new legislation on money laundering coming into practice, solicitors are having to be more vigilant than ever when it comes to their clients' business practices. In the past, solicitors only had to report any activity on the part of their client which they suspected to involve drugs or acts of terrorism. Now the onus is on solicitors to be more proactive and to take responsibility.

Solicitors, as well as other professionals involved in investment business on the part of a client, are now being touted as the 'gatekeepers of society'. However, the Bank of England is changing the way in which these gatekeepers are responsible for society. It is not enough, if a client is found guilty of tax evasion, for example, for a solicitor to say he had no idea or reason to suspect. A solicitor will be expected to prove his innocence of such knowledge to convince other lawyers and members of the legal profession that the information he had regarding his client was not enough to become suspicious, let alone prove, that his client was involved in money laundering. So what should a practice be doing to make sure it is covered against a claim of knowledge of money laundering?

- Firstly, and most importantly, do as thorough a check as possible on a potential client before agreeing to undertake any work on his behalf.
- Check the area where your client is undertaking the majority of his business. In other words, is the

client linked to countries with high levels of organised crime, such as Russia or Nigeria, offshore banking centres such as the Cayman Islands, countries with highly developed financial systems, for example, Germany and the Netherlands?

- Keep a sharp eye out for several factors, such as unusual settlement requests (in other words, large transactions being paid by cash involving purchase of a property/investments), or a settlement by a third party; unusual instructions, for example, clients who have no discernible reason to use the firm, and may simply want the law firm's good name behind them; secretive clients who refuse to divulge to you all aspects of their businesses.

Firms need to ensure an openness within their practices, and the freedom for partners to discuss their clients with each other. It is important that a partner can raise his suspicions with other partners if there seems to be any wrongdoing on the part of his client. It is also important that strict procedures are in place for partners to follow should they become suspicious.

If a firm is at all unsure about a possible client, it is far better to err on the side of caution and refuse to take on the

business. However, if a client arouses suspicions once retained, then it is far better to warn the authorities immediately, rather than run the risk of the authorities taking your firm to court, partners being struck off, and some possibly ending up in jail. Alternatively, if this along does not seem a high enough risk, think about what could happen to the reputation of your firm. Who will want to retain a practice that is believed to be doing business with money launderers?

This article was prepared by Alexander Forbes Professions' risk management team.



# WEB WATCH

The world wide web is sometimes described as the planet's greatest library. It is also a great tool shed providing the discerning user with a huge array of gizmos to improve or facilitate the way we use the Internet or simply manage and transfer information on our PC at work or at home.

Recently the Bugbear created havoc for many law firms. One tool that proved up to the task of keeping users safe from it and all other viruses is to be found at [emailfiltering.co.uk](http://emailfiltering.co.uk). This system, which recently received a five out of five rating from Internet magazine, requires no software to be installed on the user's machine and costs less than £2 a month to use. It works as follows. Email destined for your inbox is first diverted to a computer that filters out viruses and also spam before sending on the rest to the addressee. The anti-virus software is updated daily (how many offices can boast this?) and spam reduction is claimed to be as high as 99%. A one month free trial is available to all who arrive with their username (as supplied by their service provider) and their pop3 password. The system also provides users with the opportunity to check



[barryjphillips@hotmail.com](mailto:barryjphillips@hotmail.com)

their email through the web just as they might with a hotmail account. A must-buy product if ever there was one.

Those who enjoy the mobility that web mail offers may be particularly interested in two web sites. Visitors to [twigger.co.uk](http://twigger.co.uk) for a small fee can check their office or home bound email through a web page at that site while those disaffected with hotmail or Ireland.com web accounts may wish to transfer to Fastmail.com. The basic form of the account here is free. But for a small one off payment users get huge amounts of storage space and few of the restrictions that commonly come with many email accounts. Just as the name suggests, the process of checking mail is fast. Users experience few of the painfully long delays that they might do accessing a hotmail account during busy parts of the day or while trying to attach large files to an outgoing email.

Another useful tool is the East-Tec File shredder ([www.east-tec.com](http://www.east-tec.com)). This destroys sensitive and private files beyond recovery. Simply drag and drop files to the shredder icon on your desktop. The software overwrites and verifies the destruction of every bit of file making recovery impossible. The basic version costs \$19.99.

Finally, visitors to [Nicocuppen.com](http://Nicocuppen.com) can purchase and download fax software for just \$29. This allows users to send faxes directly from their PC or for that matter their scanner assuming they also have a modem.

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BELFAST SOLICITORS



ASSOCIATION

# Belfast Solicitors' Association Seminar Programme

## Recent Developments in Clinical Negligence

On 21st November 2002 at 12.30 pm  
At Law Society House  
By Mr Patrick Mullarkey of Campbell Fitzpatrick Solicitors

## Proceeds of Crime, Money Laundering (Client Care and Practice Management)

On 29th November 2002 at 12.30pm  
At Law Society House  
By The Economic Crime Bureau

## The Trustees Act 2001 and the implications for Trustees

On 5th December 2002 at 12.30pm  
At Law Society House  
By Bank of Ireland Trust Department

## An Education on Costs and the Taxation Procedure. (Client Care and Practice Management)

On 6th December 2002 from 2pm until 5pm  
At Law Society House  
Speakers to include Paul Kerr, Law Cost Drawer

## The New Criminal Injuries Compensation Scheme

On 16th January 2003 at 12.30pm  
At Law Society House  
By Anne McCleary, the Chief Executive of the Compensation Agency

*All lunchtime seminars cost £10.00 for BSA members and £20.00 for non-members. The cost of the costs seminar is £25.00 for BSA members and £50.00 non-members.*

# BSA NOTICES

**AGM:** This year's AGM will be held on the 27 November at 12.30 in Law Society House. The support of our membership would be greatly appreciated.

**BSA Committee Vacancies:** There are a number of vacancies to be filled this year. The Association would like to hear from anyone who has the interest and time to speak and act on behalf of our growing membership. Interested parties should liaise with or write to the Secretary (Peter Campbell of Campbell Fitzpatrick Solicitors - tel 9032 7388 or e-mail peter@campbell-fitzpatrick.co.uk).

**BSA Dinner:** Date for your diary. The BSA dinner dance will be on Saturday, 11 January 2003 at the Ramada Hotel, Shaws Bridge, Belfast. Further details will be published in the next edition. Tickets are expected to sell very quickly as per previous years.

## Seminar Programme Booking Form

BELFAST SOLICITORS



ASSOCIATION

Name \_\_\_\_\_

Firm \_\_\_\_\_

Tel \_\_\_\_\_

Lectures \_\_\_\_\_

Enclosure \_\_\_\_\_

Suggestions for further lectures \_\_\_\_\_

**Booking forms to be returned to BSA c/o Karen Henebry of Cleaver Fulton & Rankin Solicitors, 50 Bedford Street, Belfast**

# BSA On-Line

The BSA website can be found at:

[www.belfast-solicitors-association.org](http://www.belfast-solicitors-association.org)

# High Court Costs Update

1. The Belfast Solicitors' Association (BSA) along with representatives from the insurance industry has historically agreed a Guide for costs in the High Court. Up until 1998 the Guide was accepted as a means to facilitate the agreement of costs on standard cases without the need for taxation. It had become quite clear however that the Guide was not representative of fair and reasonable remuneration for a High Court case.

Since the removal of the jury system in 1987 and the introduction of Queen's Bench Rules to bring us more in line with England, there has been substantially more work per case for the Solicitor to carry out. The insurance industry appeared to refuse to recognise this and the BSA were left with no option but to consult professional advisors to assist in the production of an up to date realistic guide.

When this Guide was completed further meetings took place with the insurers who refused to accept the guide. Without further consultation with the BSA the insurers issued what they called their 'scale'. This 'scale' has never been accepted by the BSA which has repeatedly stated that the insurers' 'scale' is unrealistic and well below fair and reasonable remuneration for standard cases.

2. It appears to the BSA however that because of the reference to 'scale' costs in the final report of the Civil Justice Reform Group we are unable to persuade the insurers to move forward as they would wish to maintain the argument that because many solicitors accept costs in accordance with their 'scale', that their 'scale' is correct. This argument we believe has absolutely no merit.

3. Members of the BSA, to assist our profession have pursued a considerable number of cases to taxation and have written various articles to help educate and assist the profession. It is clear from the results of taxation that even where files have not been specifically prepared for taxation (i.e., they have not been time recorded from start to finish) that the results of the taxations have, on average, exceeded the current BSA Guide. If Solicitors pay more

attention to the time recording of work that they put into the file and not just the good work they do in assisting their client, their costs can only increase.

4. Paul Kerr, Law Cost Drawer, has produced an analysis of 36 cases which proceeded to taxation and which were either settled before hearing or were adjudicated on by the Taxing Master. These cases confirm that the average increase in costs on Taxation or agreed prior to taxation were 49.6% higher than the insurers' so called 'scale' and 22.46 % higher than the current BSA Guide. Significantly in not one case were costs taxed at a level lower than the Insurer's 'scale'. The exact figures and information provided on the 36 cases can be obtained from the BSA web site at [www.belfast-solicitors-association.org](http://www.belfast-solicitors-association.org).

5. As a result of the taxations and with clear knowledge that the BSA Guide understated the costs, we suggested further discussion with the representatives of the insurance industry. Two meetings lasting approximately 2 hours each were arranged in April and May 2002. At these meetings full and frank discussion took place and the insurers acknowledged that solicitors costs in Northern Ireland were vastly less than those in England.

The result of the two meetings was that the Insurers produced what they called their new scale. This 'scale' had no increases. They had introduced a new column for cases that had actually commenced at trial in the High Court. They were prepared to allow Solicitors an extra £250.00 in this event. We informed the Insurers that there was really no point in the discussions going any further if this was their final position. There has been no further discussion on costs to date.

The Insurers refused to accept the evidence of the taxations but cited no independent evidence at all in support of their 'scale'. They point blankly refused to accept the BSA invitation to be objective and carry out their own costs analysis.

6. The hourly rate is widely agreed to be far too low. This serious problem is

being examined and reviewed by the Law Society. The consequences of the taxation process and the review of the hourly rate (the McCutcheon survey will, we believe show that an increase of at least 17% is required) indicate clearly that far from the BSA Guide being unrealistically high it is unrealistically low. The BSA Guide now needs to represent the results of the taxations and will need a further increase when the hourly rate is completed. The BSA wish to work hand in hand with the Law Society in relation to this review and fully support its efforts.

7. The BSA believes strongly that a group of insurers, particularly large Northern Ireland Companies, are engaging in a campaign to enforce their will on our profession. To accept this in any shape or form undermines not only our professional independence but the future of our profession as we know it.

8. The BSA Guide Costs and higher costs are regularly paid by many Defendants, particularly when they know that greater fees will be awarded on taxation. Solicitors must not be bullied and must take control of their own affairs.

9. The BSA therefore recommends:-

i. that you should insist on agreement of costs prior to settlement. This will merely put us in the same position as other professions i.e. Doctors, Engineers, Barristers whose professional fees are not disputed. (Always obtain a Court Order in relation to costs as soon as the case is settled as it will be needed for taxation).

ii. That Solicitors should take more care and time in relation to recording work done (not just your own work but those of your staff in relation to each case).

iii. that rather than accept the Insurers scale, members should insist on an initial interim payment and then proceed to taxation. This will assist cash flow and interest is recoverable at the rate of 8% on all fees and outlays from the date of the Court Order until payment is made.



Law Centre (NI)

## Challenge to overseas adoption regulations

Law Centre (NI) was first approached in late 1999 by Mrs Annes seeking advice about adopting a Romanian child, Elena, whom her family had befriended over a number of years. This young person had come to stay with them in Northern Ireland quite a few times and, when she returned to the orphanage in Romania, contact was maintained on a regular basis. Mr and Mrs Annes and their daughter also visited Elena in Romania on a number of occasions. After a few years of close, regular contact and growing affection, the Annes family decided to adopt Elena. Mrs Annes first came to our office because Social Services was refusing to carry out the relevant reports as Elena had just turned seventeen years old at that stage. Social Services was concerned that, whilst Elena might be lawfully adopted in Romania by the Annes, she might not ultimately be granted a visa to come to the UK to reside with them as their daughter.

Adoptions (Designation of Overseas Adoptions) Order 1973 is a Department of Health Order which lists those countries whose adoptions are recognised in the UK. The effect of being from a country on this list is that, once the adoption takes place through the family courts abroad, the adopted child is automatically treated in law as if s/he were the legitimate child of the adoptive parents. However, children from all other countries not listed in the 1973 Order must first be adopted through the family courts in their country of origin, then reside in the UK for one year after which they must be re-adopted by the family through the courts in the UK. This is a very slow and sometimes very costly procedure. It also

precludes the adoption of a person who is close to seventeen years old because, when the adoption abroad takes place, s/he will automatically be excluded from the provisions by virtue of the fact that s/he will never satisfy the one year residency requirement necessary in order to be re-adopted in the UK as s/he will be eighteen years old before that period expires and beyond adoption age.

The Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoptions was signed by the UK in 1994. It is not yet ratified by the UK although most European countries have ratified it. The Convention sets out very detailed procedures which those responsible for the child and the family wanting to adopt as well as the family courts considering these matters must go through. The Convention states that those countries which implement the recommended procedures are recognised as being competent authorities for the purpose of inter-country adoptions.

The list of countries in the 1973 Order is limited and the Order has not been revised since it was first drawn up nearly thirty years ago. Romania is not on the Order and, whilst Romanian adoption practices in the 1970's may have justified close scrutiny, like other non-designated countries it has since ratified the Hague Convention.

European Regulation EEC 1612/68 provides for the freedom of movement for workers and their family members within the European Community. The Immigration (European Economic Area) Regulations 2000 incorporated part of the EEC Regulation into domestic legislation. Consequently, Article 6 of the Immigration Regulation defines a family member as a spouse, descendant under 21 or dependant. Mrs Annes was born in Northern Ireland, as a dual citizen she elected to rely on her Irish citizenship for the purpose of Elena's application to enter the UK. As a person who is economically active in the UK, she is exercising treaty rights and it was on this basis that we advised Elena that she could apply to enter the UK as a member of the Annes family. Elena therefore applied for a European Economic Area (EEA) Family Permit at the British Embassy in Bucharest. The application was refused on the grounds that the Romanian adoption certificate was not issued by a competent authority as Romania is not a designated country for the purpose of the 1973 Order.

The Law Centre lodged a notice of appeal against the decision on a number of grounds in October 2000 and a date for hearing was set in February 2002. One ground for appeal was that the UK was wrong not to recognise Elena as a family member either as a descendant under 21 or as a dependant. The Law Centre made an application to the Human Rights Commission requesting financial assistance to enable expert opinion to be obtained for the purpose of the appeal. The Human Rights Commission agreed to fund fees incurred in obtaining counsel's written opinion as well as an expert report on the issues involved in this case. Both were obtained, the expert report was produced by the Advice on Individual Rights In Europe Centre.

Neither the European Regulation nor the domestic Regulations 2000 contain a definition of descendants or provide any guidance in relation to adopted children. However, European Court jurisprudence demonstrates a flexible attitude by the court to the issue of the construction of Regulations. In the case of *Diatta v Land Berlin* [1985] [ECR 577], the Court stated that the definition of family member contained in Regulation 1612/68 cannot be construed restrictively and indeed held that the Regulation does not even require that a member of the family in question live permanently with the person exercising treaty rights. It at the very least seems to be a peculiar interpretation of Community law that, whilst it intends to assist and facilitate the free movement of workers by enabling family members to travel and reside with the worker within the Community, certain adopted children are not provided for. It was argued before the court that the decision not to recognise Romania as a competent authority for the purpose of inter-country adoptions could not stand in light of the fact that Romania had ratified the Hague Convention.

On the issue of dependency, Elena received approximately £50 from her family in Northern Ireland every six weeks, which in Romania is a considerable amount of money. A broad approach has been adopted by the Court of Justice in defining the status of dependency and the relationship of dependency will not be affected by the fact that the worker does not wholly or largely support the dependant. So whilst, Elena was being provided for to some degree by the

orphanage in Romania, it should not have precluded her from being defined as a dependant for the purpose of her application to enter the UK as member of the Annies family. Consequently, it was argued before the court that Elena is both a descendant and dependant of her adopted family in Northern Ireland.

The adjudicator allowed the appeal on a number of grounds, one of which was that he accepted Elena came within both categories, descendant and dependant, and he directed that Elena be issued with leave to remain on this basis. Upon receipt of the determination from the Immigration Appellate Authority, the Law Centre submitted an application to the Home Office requesting that Elena be issued with documentation confirming that she has permission to remain in the UK as a member of the Annies family. The Home Office lodged an application for leave to appeal against the decision to the Immigration Appeal Tribunal. Leave was granted. However, while waiting to receive the date of hearing, the Home Office issued Elena with documentation authorising her to remain in the UK as a family member of an EEA citizen exercising treaty rights. In issuing this document, the Home Office is recognising the fact that Elena comes within Article 6 Immigration (European Economic Area) Regulations 2002. However, it still remains to be seen whether the Home Office withdraws the appeal to the Tribunal.

Whilst the circumstances involved are very specific to Elena, the importance of this case is that it goes some way towards extending the definition of family member beyond the "natural" family and is one of a number of cases which will hopefully result in the discriminatory Adoptions (Designation of Overseas Adoptions) Order 1973 being repealed.

Fidelma O'Hagan, Law Centre (NI)

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**For further information, contact Patricia Morgan, Assistant Director (Training and Support services) or request a programme from our Publications Department.**

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# British and Irish Legal History Conference

(incorporating the 16th British Legal History Conference)

University College, Dublin  
2-5 July 2003

## ADVENTURES OF THE LAW

In 1920 W J Johnston, later to serve as a judge in the new Irish Free State, on the High and Supreme Courts, successively, published a seminal article in the Law Quarterly Review on the importation in the twelfth century, in the baggage-train of the Anglo-Normans, of the Common Law into Ireland. The article bore the felicitous title "The First Adventure of the Common Law" (36 LQR 9).

In choosing "Adventures of the Law" as the theme for the 2003 British Legal History Conference, the organising committee would wish the title to be viewed as suggestive rather than prescriptive. It could attract the presentation of papers on the penetration of a legal system such as that of the Common Law into new lands ("adventures of the law" in the geographical sense espoused by W J Johnston); or, equally, papers on doctrinal inventiveness in the law, whether wise, foolish or just plain misguided ("adventures of the law" in an intellectual sense). But again, as with past conferences in the series, it is not the desire of the organisers to restrict the range of papers that individual participants might wish to present.

This is the first occasion that the British Legal History Conference will be meeting outside Britain. In the circumstances, it is considered not inappropriate by the organising committee that one, or perhaps two, of the working groups (there will be ten in all) should be devoted to recent research work in the legal history of Ireland. The precise number would depend on the response generated abroad as well as locally by this announcement of

the projected aspect to the Conference.

The Conference will be held on the campus of University College Dublin and is being organised by a committee of the Irish Legal History Society (a joint Republic of Ireland/Northern Ireland society) which has published 11 volumes on diverse facets of Irish legal history since its foundation in 1988. The Conference enjoys sponsorship from the legal profession, legal publishers and from University College Dublin.

Papers are invited. Individuals proposing to offer such papers are

asked to complete the attached form and to send it, together with a synopsis of its content (in not more than 200 words), not later than 31st January 2003, to:

Legal History Conference Organiser  
Faculty of Law  
Roebuck Castle  
University College  
Dublin 4  
Ireland  
Tel:- +353 1 7168342  
Fax: +353 1 2692655  
e-mail: legalhistoryconference@ucd.ie  
website: www.ucd.ie/~leghist

## British and Irish Legal History Conference

2-5 July 2003

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**Please tick the following as requisite:**

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I would like to receive more information about the Conference

I want to attend the Conference but would not wish to offer a paper

Please return this form to the address shown above

# Half Yearly Meeting

The half-yearly meeting of the Presidents, Vice-Presidents and Chief Executives of the four home law societies was held in Belfast on 11th October 2002.

*Pictured are:- (front row, l-r) David Preston, President of the Law Society of Scotland; Elma Lynch, President of the Law Society of Ireland; Alan Hewitt, President of the Law Society of Northern Ireland and Carolyn Kirby, President of the Law Society of England and Wales.*



*(back row, l-r) Geraldine Clark, Vice President of the Law Society of Ireland; Joe Donnelly, Vice President of the Law Society of Northern Ireland; Suzanne Bryson, Deputy Secretary of the Law Society of Northern Ireland; Douglas Mill, Chief Executive of the Law Society of Scotland; John Bailie, Chief Executive of the Law Society of Northern Ireland; Joe Platt, Vice-President of the Law Society of Scotland; Ken Murphy, Director-General of the Law Society of Ireland; Peter Williamson, Vice-President of the Law Society of England and Wales and Janet Paraskeva, Chief Executive of the Law Society of England and Wales.*

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**Guest speakers:** Alan Reilly – Carson & McDowell  
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Issues covered in the course include Site Assembly, Building Contracts, Analysis of a Commercial Lease, Finance, and Business Tenancies Order (NI) 1996.

**When:** From Monday, 10th February for 6 weeks (with an optional 7th evening)  
**Time:** 6.00 – 8.00p.m.  
**Venue:** Institute of Professional Legal Studies, 10 Lennoxvale, Belfast  
**Cost:** £500

**Successful completion of the course will lead to a Certificate in Commercial Conveyancing from IPLS.**

**12 CPD points are awarded for attendance at this course.**

Booking form and cheques, made payable to Queen's University Belfast, should be sent to Mrs Joan Playfair, Institute of Professional Legal Studies, 10 Lennoxvale, Belfast, BT9 5BY.

**Closing Date for applications: Monday, 14th January 2003**

**(Places are limited to 20 people)**

**This course is designed primarily for those who have relatively little practice experience in commercial conveyancing.**

## Booking Form

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I enclose remittance of £ \_\_\_\_\_

## London International Weekend 27th - 29th September 2002



NORTHERN IRELAND  
YOUNG SOLICITORS ASSOCIATION

There was no shortage of volunteers to represent the NIYSA committee at this year's International Weekend in London. A group of six of us attended the conference, hosted annually by the London Young Solicitors Group, with the support of the National Young Solicitors Group and the Young Barristers Committee. This remains one of the premier international events for young lawyers. It is a perfect vehicle for meeting delegates from the many countries who are attending, as well as young lawyers who live and work in and around London. The International Weekend is regarded amongst NIYSA members as being one of the highlights of our educational and social year. This particular conference proved no exception.

The weekend commenced on Friday evening in the refined splendour of Lincoln's Inn, where over drinks and canapés, we had an opportunity to meet our fellow delegates. The remainder of the evening was slightly more energetic as we danced our way through to the wee hours at one of Soho's nightspots, 6 Degrees.

Saturday was spent experiencing the medieval grandeur of the Tower of London. Gerry Forlin BL delivered a lively and informative talk on the daily life of a criminal barrister practicing in legal London. We then heard from Mr Rannoch Daly, Governor, HM Prison, which was somewhat apt given our surroundings! The highlight of our afternoon seminar was the theatrical lecture given by a Warder of the Tower of London. Any gaps in our knowledge of Tudor history were well and truly filled. All those brave enough were then taken on a tour of the compound.

The weekend culminated in a Black Tie Gala Dinner at London Zoo. The champagne reception took place in the Reptile House, where, strangely, a man in a gorilla suit was found lurking! We were then treated to a sumptuous meal in the adjacent conference centre. Predictably, another late night of dancing ensued.

Sunday brunch on HMS Belfast brought another hugely successful International Weekend to a close.

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## NIYSA Christmas Disco

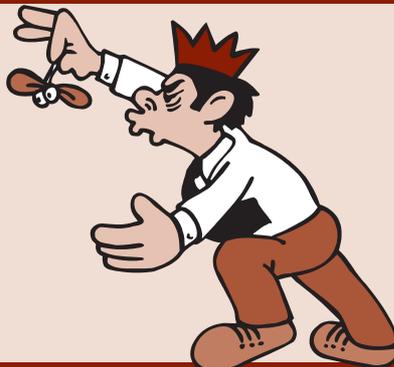
### O'Neills Bar

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9.00pm - to late

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The NIYSA Committee would like to thank all those who attended the End of Term Disco in June. We are pleased to advise that we raised the sum of £800 for the Phoebe Lyle Trust.

# The Al-Qa'ida and Taliban (United Nations Measures) Order 2002

This news release is issued in respect of the financial measures taken against Al-Qa'ida and the Taliban.

The Bank of Ireland, as agent for Her Majesty's Treasury, issues this news release to advise that on 30 September 2002 the United Nations Sanctions Committee added four individuals to the UN Consolidated List maintained under resolution 1390 (2002). The individuals now therefore fall with the UK regime under the Al-Qa'ida and Taliban (United Nations Measures) Order 2002 (SI 2002/111, as amended by SI 2002/251).  
Individuals

1. BAHAJI, Said – DOB: July 15, 1975; POB: Haselünne, Lower Saxony, Germany; Citizenship: Germany; Provisional German passport number 28642163, issued by the city of Hamburg; Formerly resident at: Bunatwiete 23, 21073 Hamburg, Germany; (Currently subject to an international warrant of arrest issued by Germany).

2. BINALSHIBH, Ramzi Mohamed Abdullah - (aka BINALSHEIDAH, Ramzi Mohamed Abdullah aka BIN AL SHIBH, Ramzi); DOB: May 1 1972; POB: Hadramawt, Yemen; Citizenship: Yemen; Passport number 00085243, issued on November 12, 1997 in Sanaa, Yemen; alias OMAR, Ramzi Mohamed Abdellah – DOB: September 16, 1973; POB: Khartoum, Sudan; Citizenship: Sudan; (Currently in US custody).

3. EL MOTASSADEQ, Mounir – DOB: April 3, 1974; POB: Marrakesh, Morocco; Citizenship: Morocco; Passport number: H 236483, issued on October 24, 2000 by the Embassy of Morocco in Berlin; (Currently on trial in Hamburg, Germany); resident in 21073 Hamburg, Göschenstrasse 13.

4. ESSABAR, Zakarya – DOB: April 3, 1977; POB: Essaouria, Morocco, E 189935; Citizenship: Morocco; Passport number: M 271351, issued on October 24, 2000 by the Embassy of Morocco in Berlin; Registered resident at Dortmund Strasse 38, 22419 Hamburg, Germany; (Currently subject

to an international warrant of arrest issued by Germany).

The names are in addition to those listed in:

- The Bank's Notices dated 19 April 2002 and 11 March 2002 – each entitled NOTICE CONTAINING A DIRECTION UNDER ARTICLE 8 OF THE AL-QA'IDA AND TALIBAN (UNITED NATIONS MEASURES) ORDER 2001 (SI 2001/111).

- The Bank's Notices dated 14 August 2002, 18 July 2002, 19 April 2002, 9 January 2002, 28 December 2001, 21 December 2001 and 6 December 2001 – each entitled NOTICE CONTAINING A DIRECTION UNDER ARTICLE 4 OF THE TERRORISM (UNITED NATIONS MEASURES) ORDER 2001 (SI 2001/3365). Copies of this release are available on the Bank of England's website: [www.bankofengland.co.uk/sanctions/](http://www.bankofengland.co.uk/sanctions/)

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# The Trustee Act (NI) 2001

*In last month's edition of the Writ Sheena Grattan outlined the main provisions of the Trustee Act (NI) 2001- which came into force on 29 July 2002- in relation to default powers, remuneration and appointment and retirement. In this final part of the series she considers how the Act may affect the drafting of trusts and wills.*

## **Powers are default in nature**

We have seen that the Trustee Act (NI) 2001 (the Act) confers considerably more extensive powers on trustees than were available to them previously by virtue of the Trustee Investment Act 1961 and the Trustee Act (NI) 1958. The objective of the Act (and that of its English counterpart, the Trustee Act 2000) is to reflect best drafting practice – ie to equip all trustees with the same range of powers as professional draftsmen habitually confer on trustees. This means, of course, that following the enactment of the Act the need to include express powers is less pressing than was previously the case. However, there are still considerable administrative powers and provisions which it might be advisable to include, depending on the circumstances of the trust. Similarly, it may be appropriate to exclude some of the obligations which the Act would otherwise impose on trustees.

## **Investment and acquisition of land**

It will be recalled that the Act permits a trustee to invest as if he or she were the beneficial owner of the trust property. Trustees are also empowered to acquire land whether as an investment or for occupation by a beneficiary and, unlike the position in England, are not limited to legal estates or land within the United Kingdom. The standard administrative powers recommended by English texts post the 2000 Act generally allow trustees to acquire any interest in land, equitable as well as legal, no matter where in the world it is situated. It is obviously not necessary to do so in Northern Ireland, so draftspersons may now consider –

especially in simple drafts – that it is unnecessary to have an express investment clause. However, it should be noted that the Act does not define the word “investment”. Older case law interpreted the concept as requiring an income yield, and while more recent authority would appear to acknowledge that capital growth alone can qualify as an investment, it is probably still prudent to clarify expressly that this is the case. Similarly, if the settlor/testator wishes to give the trustees the option of investing in unsecured loans this should be expressly covered. The dated decision in *Khoo Tek Keong v Ch'g Tuan Neoh* [1934] AC 529 is authority for the principle that an unsecured loan cannot be an investment and while its current status has also been questioned the matter is far from clear. Finally, it should be noted that the Act has not altered the law in relation to ethical investment policies. The primary duty of trustees remains the promotion of the beneficiaries' financial interests and any settlor or testator who wishes his trustees to pursue particular investment practices on ethical grounds should expressly provide for such.

## **Acquisition of property for use by a beneficiary**

The acquisition of land has already been referred to in the preceding paragraph. The structure of standard precedents in relation to use and enjoyment of trust property by beneficiaries varies considerably. In some they are included in the same clause as investment powers; in others they appear separately. The latter practice is probably to be preferred but the distinction is of no substantial importance. Case law has established the property acquired merely for use and enjoyment by a beneficiary is not an investment (*Re Peczenik's ST* [1964] 1 WLR 720 at 723). Prior to the Act there had to be an express power for trustees to be able to purchase either a residence for a beneficiary to live in (*Re Power* [1947] Ch 572) or any other assets for use by a beneficiary. The statutory power which the Act confers on trustees to acquire land for the

beneficiary's use has obviated the need for the former. However, express provision is still required for the purchase of chattels for enjoyment in kind by a beneficiary – a particularly useful facility when trustees wish to make “indirect” economic provision so as to maximise a beneficiary's means-tested welfare benefits.

## **Delegation**

It has been seen that the Act allows trustees to delegate to an agent but imposes a number of restrictions (only certain matters may be delegated; a beneficiary cannot be an agent and a policy statement is required when delegating “asset management” – ie investment – functions). The trust instrument can expressly remove most of these requirements (there is still some uncertainty about whether it is possible to exclude the requirements under section 15 to produce written policy statements - the best discussion of this is found in Volume II of the current issue of *Williams on Wills*). Many of the administrative provisions published in the standard English practitioner works override the restrictions on the statutory powers, both in relation to delegation and the appointment of nominees and custodians.

## **Remuneration**

The Act's provisions relating to remuneration were discussed in detail last month. They will be very useful to practitioners of non-charitable trusts who are not sole trustees when an express charging clause has been omitted. However, it must be stressed that they are no substitute for such a clause – the draftsperson should continue to ensure that express charging clauses are inserted. The Act's clarification that charging clauses should be interpreted so as to include work which a layperson could have done means that a shorter clause will now suffice.

## **Insurance**

The much wider power of insurance which the Act confers has obviated

the need for the inclusion of a clause permitting trustees to insure trust property for any amount against any risk. It is submitted that it is never desirable to transmute the statutory power to insure into an express duty to insure. Insurance may be disproportionately expensive or impossible to obtain. It should be remembered that the statutory duty of care applies to insuring trust property and if trustees unreasonably fail to do so they will most certainly be in breach of it.

**Appointment/Retirement**

It is submitted that there is no sense in expressly excluding the new power which the Act gives beneficiaries if all sui juris to force the retirement of trustees and appoint new trustees. If the beneficiaries are sui juris they can terminate the trust anyway and establish a new trust with different trustees. All that has been lost is the possible Capital Gains Tax benefits.

**Exemption Clauses**

It was noted in the first part of this series that it is possible to exclude the statutory duty of care. Should, however, the draftsman insert such a provision? It may be justified in an inter vivos settlement where the settlor is to be a trustee but not, it is submitted, if the draftsman or his or her partner is to be a trustee.

Indeed, exemption clauses in general have been a controversial subject of late. Following the decision of the English Court of Appeal in *Armitage v Nurse* [1998] Ch 241 it is now relatively settled below the House of Lords that one can exclude liability except for fraud in the sense of "knowing dishonesty" and "reckless indifference". Is it good practice to insert such wide exemption clauses? Two points can be made. First, the Law Commission is reviewing exemption clauses and it is expected that changes will be made to the position in relation to both the statutory duty of care and more general exemption clauses.

Secondly, it should be remembered that the Rules of Professional Conduct preclude solicitors from contracting out of liability for negligence – so *Armitage v Nurse* style exemption clauses (and exclusion of the statutory

duty of care) should be avoided when a solicitor is to be appointed as a trustee. Most respectable precedents restrict liability to acts of fraud or negligence – at least in relation to professional trustees.

**Areas of no change**

Finally, it might be helpful to clarify that the Act is not a consolidation of the statutory provisions governing trustees' powers and duties and that the bulk of the Trustee Act (NI) 1958 has not been repealed. In particular, it should be noted that the Act does not change the law in relation to the following (non-exhaustive) list of administrative powers and the previous practice in relation to drafting will not be altered:

- Power of maintenance (section 32 of 1958 Act)
- Power of advancement (section 33 of 1958 Act)
- Power to carry on trade
- Power to appropriate trust property in satisfaction of a beneficiary's share

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*Continued from page 3...*

Jerry Williams of Little Rock, Arkansas, didn't do quite so well. He had been bitten in the buttocks by his neighbour's beagle, but the jury felt that the dog may have been provoked by the fact that Mr Williams had been shooting it repeatedly with an airgun.

However Amber Carson of Lancaster, Pennsylvania did better. She damaged her back when she slipped on a patch of soft drink on the floor of a restaurant. She was awarded \$113,500, despite the fact that she had thrown the soft drink at her boyfriend during an argument 30 seconds earlier.

But the clear winner was Merv Grazinski of Oklahoma City. In November 2000 he purchased a new 32 foot Winnebago motor home. Travelling home in it, he joined the freeway, set the cruise control at 70mph and went to the kitchen area to make himself a cup of coffee. The vehicle left the freeway and overturned. Merv was considerably the worse for the experience. He sued Winnebago for not advising him in their handbook that it was not a good idea to do this sort of thing. He was awarded \$1,750,000 and a new Winnebago.

I am sure that such things would not happen in Laramie, and with luck they will never happen here. To return to the subject of core values, you might think that in this area the Government could be relied on to protect the true interests of the public.

Sadly, that has not been this Society's experience. In fact, since I came into office last November, I have come to doubt seriously whether the Government is in any way committed to upholding a strong, independent legal profession. I was talking earlier about classic putdowns. If you ever need a good putdown, I can strongly recommend entering into consultations with the Northern Ireland Office about proposed legislation. You must first recognise, however, that the word "consult", in this context, tends not to have its usual meaning. My dictionary mentions "confer about", "deliberate upon" and "take into consideration".

The NIO would be rather shocked by such ideas. What they mean by 'consultation' is (1) "We put forward proposals; (2) you consider and comment on them, and (3) we then do exactly what we had decided to do in the first place." We do get the nicest letters though, with little phrases such as "The Minister will obviously want to hear your concerns" and "I am sorry if you are disappointed by this". The notion that the Minister wants to hear my concerns, or is sorry if I am disappointed, while flattering, does in the light of our experience bring to mind Damon Runyon's comment that "if this is not a lie it will do until a lie comes along."

Over the last year or so we have been forced to the conclusion that too often the overriding purpose of Government policy and new legislation is merely to save money, and in practice it doesn't even usually achieve that. If that seems harsh, let me give you three examples:

First, our land registration system is in danger of complete breakdown, because the Government has consistently, and for many years, failed to give proper resources and support to the Land Registry. Lip service is paid to a bright future in which electronic conveyancing and a fully computerised Registry will make property transactions quick and straightforward.

I can say categorically that without a very significant increase in funding and resources for the Registry, particularly by way of additional legal staff, that simply isn't going to happen. At best, the old system will stagger on, at enormous long-term expense to the community.

Secondly, we have had the introduction of a new tariff system of compensation for criminal injuries. This was represented by the NIO as being the implementation of the principles of Sir Kenneth Bloomfield's report and a great advantage to injured parties. It wasn't and isn't. The Bloomfield report recommended tariffs only for minor injuries.

Anyone suffering a really serious criminal injury now, particularly one which requires long-term medical and nursing care, will be paid a

fraction of the compensation they really require. By refusing payment for advice from independent lawyers, it is hoped that the victims will not be tempted either to consult them in the first place or to appeal against bad decisions. Whether any money will actually be saved is anybody's guess, because the figures showing the full cost of the changeover, and of running the new system, have never been released. They may not even exist.

Thirdly, we are at present in the middle of the most significant shake-up in legal aid for almost thirty years. Next year, if all goes to plan, the Legal Aid Department will hand over its functions to the new Legal Services Commission. While we wish the Commission well, and had hoped to see a smooth and efficient transition, experience is again proving that such things cannot be done on a shoestring.

The draft Access to Justice Order, which will provide the future framework for legal aid, is very difficult to get to grips with, because it contains only the bare bones of the proposed new system, leaving much of the important detail to be dealt with by subordinate legislation. That means future regulations promulgated by the Government and subject to very inadequate parliamentary scrutiny. What is actually on display in the draft Order makes us very concerned that Northern Ireland is again going to be forced into an English mould, and that the structures which have served a small community well for three decades will be replaced by others which are completely inappropriate in their scale and bureaucracy.

Conditional fee agreements are not even working in England, and we heard last week at the English Law Society's conference in Manchester that they have caused chaos.

Contrary to popular myth, statistics show that the cost of legal aid per head of the population in Northern Ireland is less than in any other part of the United Kingdom. Unfortunately, not only are our legal aid lawyers paid less, they are also paid extremely late, and the current delays are quite unacceptable and are causing real hardship to many of

our colleagues.

It has become fashionable in some circles to talk of the desirability of lawyers doing pro bono work, as if that were a new idea. In point of fact, I know of very few solicitors in Northern Ireland who do not now, and who have not for years, given their services either free of charge or at greatly reduced rates to all sorts of deserving cases. However, none of us realised that legal aid work was supposed to come into the pro bono category. In England, the drift away from legal aid work is accelerating all the time, and it is obvious that the same thing is likely to happen here.

While we in the Society have found the Government's dismissal of our submissions very frustrating, what is even more disturbing is that in almost every case, our views have been shared by the Assembly and supported in cross-party Assembly reports, but have still been rejected out of hand by the NIO. Jonathan Bardon, in his History of Ulster tells how Sir John Davies, who survived being disbarred for breaking a cudgel over a fellow lawyer's head to become Irish attorney-general in 1606, yearned to impose English law "on the Irishry in the Province of Ulster.....the most rude and unreformed part of Ireland." I sometimes wonder how much attitudes have really changed in 400 years.

The present crisis in the National Health Service is being mirrored in the nation's legal aid schemes, and for exactly the same reasons: underfunding and refusal to listen to the professionals who actually provide the services. When things get out of hand, the usual reaction is to appoint another management consultant. We don't need more management consultants in legal aid or anywhere else. We don't need unbridled and unregulated competition. We do need to strengthen all that is best in the local model of legal service provision, and above all to preserve the core values which underpin the protection of the public and the safeguarding of the rule of law. If that is not done, it is by no means inconceivable that we could eventually see the loss of a truly independent legal profession." [The President then welcomed, and proposed the toast to, the guests].

## INFORMATION NOTICE



Please note that the Supreme Court - Daily Law List (to be posted at approx 4.00pm each day) and the QB Weekly Fixed Lists for following 4 weeks are now available thorough the Court Service website and can be accessed at the following website address.

[www.courtsni.gov.uk](http://www.courtsni.gov.uk)

Please select the 5th Option under the "SERVICES MENU" - COURT LISTS.

Note: As you are aware the weekly lists are subject to frequent change and we plan to update them each Friday, to take account of any changes.

If you have any queries please contact the Appeals and Lists Office –  
Tel Number: 90 724702/5

B Graham

Barbara Graham (Mrs)  
Listing Officer  
3 October 2002

RCJ Central Office

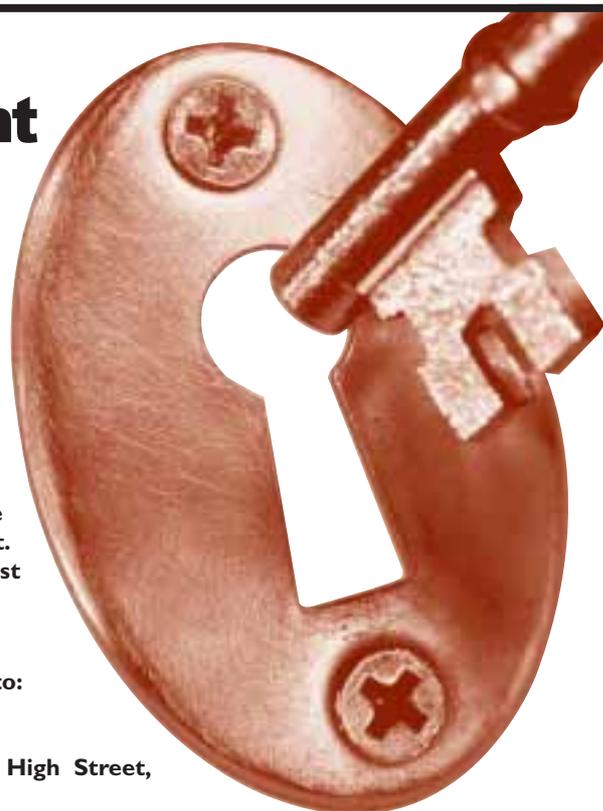
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# Solicitors Practice (Amendment) Regulations 1998

The Council of the Law Society of Northern Ireland in exercise of the powers conferred upon them by Articles 74 (1) and 75 (1) of the solicitors (Northern Ireland) Order 1976 and all other powers enabling them in that behalf, and with the concurrence of the Lord Chief Justice of Northern Ireland, hereby make the following regulations for the purposes mentioned in Article 26 (1) of the said Order:-

1. These Regulations may be cited as the Solicitors Practice (Amendment) Regulations 1998 and shall come into force on 1st October 1998.
2. The Solicitors Practice Regulations 1987 shall be amended by the addition, after Regulation 12, of the following new regulations:-
  - 12A A solicitor shall not, directly or indirectly, make or offer to make any payment to or on behalf of any person for the purpose of obtaining or retaining instructions from that person or for the purpose of securing the transfer of that person's instructions from another solicitor.
  - 12B (1) Without prejudice to the provisions of Regulation 12A, a solicitor shall not directly or indirectly lend money to a client without requiring that client to obtain independent legal advice on the terms of that loan, other than as provided by paragraphs (2) and (3) of this Regulation.
    - (2) A solicitor may make an advance to his client in respect of the proceeds of a claim which has been settled or for which judgment has been obtained or in respect of other funds due to the client but which have not yet been received provided:-
      - (a) there is no prior claim on the proceeds or funds, whether by operation of the statutory charge under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, or pursuant to an undertaking, or otherwise; and
      - (b) the solicitor has obtained a signed statement from the client acknowledging:-
        - (i) the reasons for the advance;
        - (ii) the amount of the advance;
        - (iii) that no interest will be paid to the solicitor;
        - (iv) that the advance is to be re-paid by deduction from the proceeds or funds due in the particular case as soon as these are received.
      - (3) A solicitor may make an advance to his client in anticipation of receipt of the proceeds of a claim or of other funds which will become due to that client provided:
        - (a) the advance is not made for any of the purposes specified in Regulation 12A; and
        - (b) the solicitor has informed the client in writing of the estimated net amount of proceeds or funds likely to be received and that the advance may give rise to a conflict of interest at a later date which may result in the client being required to obtain independent legal advice; and
        - (c) the solicitor has obtained a signed statement from the client acknowledging:
          - (i) the reasons for the advance;
          - (ii) the amount of the advance;
          - (iii) that no interest will be paid to the solicitor;
          - (iv) that the advance is to be re-paid by deduction from the proceeds or funds due to the client in the particular case as soon as these are received;
          - (v) that the advance will be due and repayable to the solicitor whether or not the anticipated proceeds or funds are received.
      - (4) Nothing in this Regulation shall prevent a solicitor from making payments on behalf of his client in respect of outlays which may form part of the solicitor's bill of costs.
    - (5) In conveyancing transactions nothing in this regulation shall prevent a solicitor making a short term advance on behalf of his client where there is a binding contract in order to facilitate completion of the transaction.
  - 12C A solicitor shall not provide an undertaking in respect of money which is or may become due to his client except where and to the extent that no other party is entitled to the money in priority to that client and the client has given a written irrevocable authority to the solicitor in respect of the undertaking".

## LAW SOCIETY NOTICE

### Loans and Advances to clients

The Disciplinary Tribunal at a recent hearing asked the Society to make it clear to solicitors that it will take a serious view of any complaints of breaches of the Solicitors' Practice (Amendment) Regulations 1998 coming before it in future, and in particular for offences under same arising after the date of this notice.

The Regulations are published here. The Tribunal and the Society take the view that these Regulations protect both clients and solicitors. They allow for disinterested advice by the solicitor to the client in relation to pursuit of claims. Any financial interest by a solicitor in the outcome of a case may lead to allegations that the solicitor's judgement was clouded in the handling or settling of that case. In addition, the giving of loans and advances can undermine the economic viability of solicitors' practices and cause serious financial problems therein.

# CPD Reminder

All solicitors admitted to the Roll During or subsequent to the practice year commencing on 6 January 1992 should be aware that their CPD record cards must be returned to the Law Society on or before 5 January 2003. Have you completed the requisite number of hours?

All information about forthcoming events is held on the Law Society website – [www.lawsoc-ni.org](http://www.lawsoc-ni.org). The website also has a list of frequently asked questions and answers thereto.



*Chair of the Education Committee Attracta Wilson presents a bottle of 'bubbly' to Damien McCready, the first person to return his completed CPD card.*

The website also has a list of frequently asked questions and answers thereto.

## LEGAL AID NOTICE

### Criminal Legal Aid Forms

Criminal Legal Aid practitioners will be aware that criminal claim forms have recently been revised. The main change to these forms relate to the completion of fees claimed on the back page. This is now a Legal Aid Department (LAD) audit requirement.

This back page must be completed. Sub totals within the claim and the overall total claim must be calculated and completed by the claimant's solicitor in all cases (even cases where a composite fee only is being claimed).

LAD advises that if a claim is not completed properly it will have no alternative but to return the claim and related papers to the submitting practitioner.

All legal aid practitioners should also note that it is now an a LAD requirement to submit original receipts for outlay (photocopies are no longer acceptable). This applies to all claims submitted to LAD in relation to any type of proceedings or advice.

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## LAW SOCIETY NOTICE

### Section 76 Terrorism Act 2000

Following a consultation exercise in which the Society's Criminal Law Committee participated, the Government has passed an Order through Parliament repealing Section 76 of the Terrorism Act, effective from 25th July 2002.

The effect of this repeal is that the PACE standard for the admission of confession evidence now also applies to cases under the Terrorism Act.

## EMPLOYMENT LAWYERS' GROUP (NI)

**Sec.** John O'Neill, Thompsons McClure Solicitors, 171 Victoria Street, Belfast

**Chairperson** Adam Brett

**E-mail:** JohnO'Neill@thompsons.Law.co.uk

**Hon. Treasurer** Orlagh O'Neill

**Website:** [www.legal-island.com/elg.htm](http://www.legal-island.com/elg.htm)

### Lunchtime Seminar

## 'Who is an employee? And who cares?'

**Speaker:** Brian Langstaff QC

**Date:** 22 November 2002

**Time:** 1pm (tea coffee and sandwiches from 12.30pm)

**Venue:** Law Society House, Victoria Street, Belfast

**Cost:** Members £3, Non-members £6.

*Booking forms and cheques, payable to The Employment Lawyers' Group (NI), should be sent to our Treasurer, Ms Orlagh O'Neill, Napier & Sons, Solicitors, 1-9 Castle Arcade, High Street, Belfast BT1 5DE.*

### Booking Form

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## Membership Renewal

Membership fees are now due for 2002-03. Fees are unchanged at £10 per annum. Members are invited to renew their membership for the forthcoming year. New members are encouraged to join. Please return the form below to our Treasurer, Ms Orlagh O'Neill, at the address cited overleaf, with cheques made payable to Employment Lawyers' Group (NI).

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# High Court, Court of Appeal and Tribunal decisions

## REFERENCE BY HER MAJESTY'S ATTORNEY GENERAL FOR NORTHERN IRELAND (NO.2 OF 2002)

Indecent assault on male. – sentence deferred on condition that the offender attended a voluntary programme for prevention of sexual abuse. – AG seeks leave to refer sentence to court on the ground that it was unduly lenient. – HELD that immediate sentence of imprisonment should apply instead  
COURT OF APPEAL  
CARSWELL LJ  
20 SEPTEMBER 2002

## IN THE MATTER OF AN APPLICATION BY "D" FOR JUDICIAL REVIEW AND IN THE MATTER OF DECISIONS OF THE CHIEF CONSTABLE OF THE ROYAL ULSTER CONSTABULARY AND THE DEPARTMENT FOR REGIONAL DEVELOPMENT

Application for leave to challenge erection of Orange Arch. – Arch erected without appropriate consent of Department of Regional Development. – HELD that decision by DRD not to prosecute the Orange Lodge was unlawful  
QUEENS BENCH DIVISION  
COGLIN J  
19 SEPTEMBER 2002

## DINGLES BUILDERS (NI) LTD and MOST REVEREND FRANCIS GERARD BROOKS ET AL

Interlocutory appeal from refusal of appellant's application for leave to join plaintiff's solicitors as third party. – purchase of land from Roman Catholic church. – whether plaintiff authorised to agree disposal of lands. – whether solicitors negligent in conduct of transaction. – appeal dismissed  
COURT OF APPEAL  
CARSWELL LJ  
6 SEPTEMBER 2002

## FLYNN, PATRICK T/A JOSEPH REA THE JEWELLERS AND JOHN REID

Sale of goods. – contract and unilateral mistake. – ring sold at cheaper price by mistake to respondent. – applicant claims remaining balance. – appeal dismissed

## COUNTY COURT 4 OCTOBER 2002

### MATEER, ROBERT DANIEL and MATEER, KERRY

Declaration sought that plaintiff is beneficial owner of property of which defendant has legal title. – property purchased by plaintiff. – Housing Executive renovation grant obtained in name of defendant. – both claim ownership. – presumption of gift or trust. – declaration of title and ownership made for defendant  
FAMILY DIVISION  
WEATHERUP J  
5 JULY 2002

### R V MAWHINNEY, ANDREW GEORGE

Application for leave to appeal against conviction. – murder. – whether conviction should be changed to manslaughter on the grounds of provocation. – application dismissed  
COURT OF APPEAL  
NICHOLSON LJ, CAMPBELL LJ  
20 SEPTEMBER 2002

### MCCAMBRIDGE, GREGORY KEVIN and THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND

Mortgage. – right to redeem. – mortgage in possession. – mortgagee's right to sell by auction. – whether mortgagor entitled to retain sale  
CHANCERY DIVISION  
GIRVAN J  
17 SEPTEMBER 2002

### MCLEAN, SAMUEL A, VINCENT PAUL MCLEAN, WILMA MCCLEAN, SAMUEL J MCLEAN AND CATHERINE NEESON and KIRKPATRICK, AGNES, JOSEPH O'CALLAGHAN, PATRICK GERARD HANNON AND SP GRAHAM

Appeal against dismissal of application for provisional grant of bookmaking licence. – whether objections from respondents had been correctly presented in time. – appeal dismissed  
COURT OF APPEAL  
CARSWELL LJ, NICHOLSON LJ, WEATHERUP J  
6 SEPTEMBER 2002

### MCGOLDRICK, PATRICK CHARLES (A MINOR), MCGOLDRICK, JONATHAN (A

### MINOR), AND MCGOLDRICK, KELLY MARIA and MCILDOWNEY, GAVIN BERNARD AND MCILDOWNEY, BRIAN

Costs on settlement of claims involving minors before proceedings are issued. – compensation agreed but no agreement as to costs. – procedural clarification  
COURT OF APPEAL  
MCCOLLUM LJ  
11 SEPTEMBER 2002

### RE: NS and JAS and JBS

Application by a father for unsupervised contact with his 3 children against wishes of mother. – allegations of sexual abuse. – application successful. – course of contacts judicially decided for subsequent 8 months. – supervised contact changing to unsupervised contact  
FAMILY DIVISION  
WEATHERUP J  
5 JULY 2002

### O'NEILL, CHARLES AND GOLFLINK SYSTEMS LTD and J DONAL MURPHY T/A MURPHY KERR & CO SOLICITORS (A FIRM)

Damages for loss and damage awarded against defendant. – whether costs should have been awarded against defendant  
QUEENS BENCH DIVISION  
WEATHERUP J  
13 SEPTEMBER 2002

### SOUTH EAST BELFAST HEALTH AND SOCIAL SERVICES TRUST and TS AND LC

Taxation of costs in Children Order proceedings. – clarification of a range of outstanding issues including whether order for taxation can be made where parties not legally aided. – what orders a county court judge can make in respect of costs of legally aided parties under the Order. – whether orders for taxation can be made from Family Proceedings Court under Family Homes and Domestic Violence Order  
HARTE J  
19 SEPTEMBER 2002

### WHITE, JOHN and HARLAND AND WOLFF PLC

Personal injuries. – asbestosis. – health and safety. – damages. – £30,000 awarded

QUEENS BENCH DIVISION  
CAMPBELL LJ  
27 JUNE 2002

### Industrial Tribunals

**RIDDIOUGH V MFI SERVICES LTD,  
2086/01, 4 JULY 2002**

Applicant complained of sex discrimination and unfair dismissal. – Tribunal rejects applicant's claim that a complaint was posted within the time limits. – Applications are dismissed

**GILLESPIE V O'NEILL BROS BUILDING  
CONTRACTORS LTD, 02405/00;  
02749/00, 19 JUNE 2002**

Tribunal rules that applicant has a disability under s.1(1) Disability Discrimination Act 1995

**MCCANDLESS V CFL  
COMMUNICATIONS SPECIALISTS  
LIMITED 03158/00, 26 JUNE 2002**

Both parties failed to attend. – Tribunal dismissed the application

**IRELAND V DEPARTMENT OF HIGHER &  
FURTHER EDUCATION TRAINING &  
EMPLOYMENT, VISCOUNT  
DISTRIBUTION (1994) LTD AND PECO  
MARKETING, 004421, 17 JUNE 2002**

Tribunal rules there was a relevant transfer of an undertaking to satisfy reg.3 TUPE

**MCELROY V HOME FIRST COMMUNITY  
TRUST, 00481/00, 5 JULY 2002**

Auxiliary nurse summarily dismissed after gross misconduct. – applicant alleged unfair dismissal. – Tribunal finds the dismissal to be fair

**TELFORD V MAYBIN PROPERTY  
SUPPORT SERVICES (NI) LTD T/A  
MAYBIN SECURITY & GUARDING  
SERVICES, 02618/00, 10 MAY 2002**

Applicant complained of unfair dismissal. – Tribunal ruled applicant was unfairly dismissed and ordered compensation to be paid

**MCCLLENAGHAN V SIMPSON &  
UNIVERSITY OF ULSTER, 01132/00, 28  
MAY 2002**

In an earlier decision the Tribunal found that the applicant did not receive treatment amounting to action short of dismissal within meaning of A.73 Employment Rights (NI) Order 1996. – Respondents applied for costs. – Tribunal dismissed application

Copies of the above are available from the library.

## ADVERTISEMENT

# Housing Executive - Building Contracts Solicitors Panel 2003-2005

### Introduction

The Executive regularly renews its external Solicitors Panels. As a result, there currently are vacancies on the two member Building Contracts Solicitors Panel.

The work mainly involves acting on behalf of the Executive in building contract related arbitrations and/or litigation (including proceedings arising out of contract claims and/or arising out of building defects).

### Eligibility Criteria

A firm will be eligible for appointment to the Panel if it satisfies all of the following eligibility criteria:

1. The firm's principal or one of the principals must have been in practice as a principal on his/her own account for at least three years.
2. At least two solicitors must be working in the firm (including any employed solicitor).
3. The firm must be willing to designate a solicitor in the firm who will be primarily responsible for actually carrying out Panel work.
4. The firm must have substantial relevant experience.
5. The designated solicitor must have at least three years post qualification experience (or post qualification experience for periods in aggregate amounting to three years) as a solicitor.

### Duration of Panel

Membership of the Panel will be for a period of three years.

### Selection Procedure

Any firm willing to be considered for appointment may obtain a questionnaire and details of the selection criteria by writing to the Building Contracts Panel Co-ordinator, Contract Services, 6th Floor, The Housing Centre, 2 Adelaide Street, Belfast, BT2 8PB.

Completed questionnaires must be returned to arrive with the Co-ordinator at the above address not later than 4.00pm on Friday 29th November 2002. No acknowledgements will be sent.

### Missing Will

William Francis (Liam) Blake deceased late of 6 Church Street, Enniskillen, County Fermanagh.  
 Date of death – 23 August 2002.  
 Would any person having knowledge of the whereabouts of a Will of the above named person, please contact:  
 John Quinn  
 Solicitor  
 14 Belmore Street  
 Enniskillen  
 Co Fermanagh  
 BT74 6AA  
 Telephone:- 028 6632 6008  
 Fax:- 028 6632 2592

### Assistant Solicitors Required

Excellent position and long-term prospects with a large, well-established and prosperous general practice. Experience not essential. Attractive salary (commensurate with experience). Please apply to Macaulay Wray, Solicitors, 35 New Row, Coleraine.

Assistant solicitor required for Ballymena practice. Conveyancing experience preferred but not essential. Part-time candidates considered. Apply, in the first instance, in writing, enclosing full CV to:  
 Jack McCann & Son  
 Solicitors  
 20 Ballymoney Road  
 Ballymena  
 BT43 5BY  
 All enquiries, telephone 028 2564 2388 or email  
 emma.mccann@jackmccann.com

DA Martin Solicitors  
 18a Church Street  
 Antrim  
 BT41 4BA  
 Require an Assistant Solicitor for general litigation. An attractive salary will be offered to the successful candidate.  
 Please apply in writing to the above address enclosing a Curriculum Vitae. All applications will be treated in the strictest confidence.

### Solicitors Required

Solicitor required for busy practice in Co Armagh. Experience in general practice preferable but all applications welcome. An attractive salary will be offered to the successful candidate. Applications in writing with Curriculum Vitae to PO Box no 110, c/o Citigate NI Ltd, Citigate House, 157-159 High Street, Holywood, Co Down, BT18 9HU. All applications will be treated in the strictest confidence. We are an Equal Opportunities Employer.

Solicitor required for busy and rapidly expanding City Centre legal practice. Experience in litigation work essential. The successful candidate will have their own caseload of both County Court and High Court work. Attractive salary and excellent opportunities to successful applicant. Apply with CV to:  
 Jim Clinton  
 Kevin R Winters & Co Solicitors  
 46 Castle Street  
 BELFAST  
 BT1 1HB

### Locum Required

January – start of April 2003  
 Experience in matrimonial and Children Order work preferred  
 Please direct all enquiries to:  
 Fiona Boyle  
 Joseph F McCollum & Company  
 Solicitors  
 52 Regent Street  
 Newtownards  
 Co Down BT23 4LP  
 Tel:- 028 9181 3142

### LAW SOCIETY NOTICE

I have been contacted by some lady golfers from the Republic of Ireland who would like organise an annual match. Would any lady golfers who are willing to play please contact Oonagh McClure on 028 90 890400.

### LAW SOCIETY NOTICE

#### Mobile Telephones (Re-Programming) Act 2002

This new legislation, which extends to Northern Ireland, creates a number of criminal offences relating to the electronic identifiers of mobile wireless communications devices.

In particular it becomes an offence to reprogramme the unique International Mobile Equipment Identity (IMEI) number which identifies a mobile telephone handset. It is also possible to interfere with the operation of the IMEI number by the addition of a small electronic chip to the handset, and this too is made illegal.

The Act also introduces new offences of possessing, supplying or offering to supply equipment for the purpose of unauthorised reprogramming.

### ADVERTISEMENT



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E-Mail: law@crowleymillar.com

(PLEASE CONTACT JOHN W CARROLL B.COMM BCL)

## Missing Land Certificates

Folio: 27579

County: Armagh

Registered Owner: Northern Ireland Electricity

Lands at: Camlough, County Armagh

Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned folio should forthwith produce said Certificate or communicate such information to the undermentioned solicitors.

And take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

Cleaver Fulton Rankin Solicitors

50 Bedford Street  
BELFAST BT2 7FW

Folio: 12658

County: Londonderry

Registered owner: John Mullan  
Lands of Coolnasillagh

Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned folio should forthwith produce said certificate or communicate such information to the under mentioned Solicitors.

And take further notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

WB Thompson & Co

Solicitors

36 Catherine Street

Limavady

Co Londonderry

BT49 9DB

Folio: 32892

County: Tyrone

Registered owner: Atlas Recyclers Ltd  
Lands of: 81 Dyan Road, Caledon,

County Tyrone

Take notice that any person having custody of or information as to the whereabouts of the Land Certificate relating to the above mentioned folio should forth with produce said Certificate or communicate such information to the undermentioned solicitors.

And further take notice that unless the said Land Certificate is so produced or adequate information as to its whereabouts is so communicated within three weeks of publication of this notice, a duplicate Land Certificate may be applied for.

Mills Selig

21 Arthur Street

Belfast

BT1 4GA

Folios: 3875 & 5055

County: Londonderry

Registered owner: Samuel & Ellen  
Ferguson

Lands of Megargy, Magherafelt,  
County Londonderry

Take notice that any person having custody of or information as to the whereabouts of the Land Certificates relating to the above-mentioned Folios should forthwith produce said Certificates or communicate such information to the under-mentioned Solicitors.

And take further notice that unless the said Land Certificates are so produced or adequate information as to their whereabouts is so communicated within three weeks of publication of this notice, duplicate Land Certificates may be applied for.

Millar, Shearer & Black

Solicitors

40 Molesworth Street

Cookstown

County Tyrone

BT80 8PH

Folio no: 40522

County: Down

Registered owner: Mary Morgan  
Lands at Goward, Hilltown, Newry,  
County Down

Take notice that any person having custody of or information, as to the whereabouts of the Land Certificate relating to the above mentioned Folio should forthwith produce said Certificate or communicate such information to the under mentioned Solicitor.

And take further notice that unless the said Land Certificate is so produced or adequate information of its whereabouts is received within three weeks of publication of this notice, a duplicate Land Certificate shall be applied for.

Emmet J Kelly & Co

Solicitors

21 Rathfriland Street

Banbridge

Co Down

BT32 3LA

Tel/fax: 028 4062 9397

Land Certificate Folio 4245 County  
Derry

Lands at Dunboe, Coleraine, County  
Derry

Would any solicitor holding or having any knowledge of the whereabouts of the above Land Certificate, which was issued by the Land Registry in the late 1940s to P J Agnew & Sons Solicitors, contact Brendan McLernon, Daniel A McKenna & Company, 29 New Row, Coleraine, County Londonderry.

### Licence Required

## Wanted

Liquor Licence to Purchase  
Please contact the under mentioned  
Solicitor

Emmet J Kelly & Co  
Solicitors

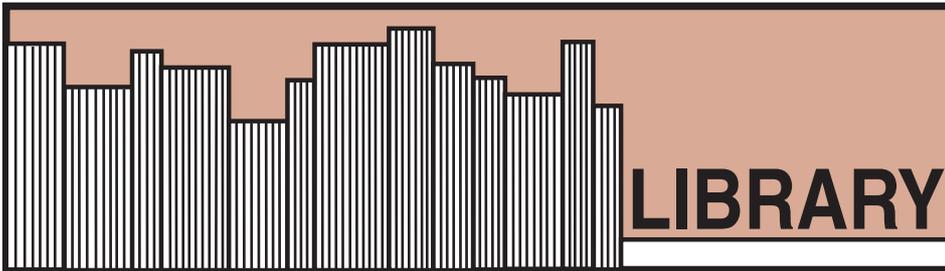
21 Rathfriland Street

Banbridge

Co Down

BT32 3LA

Tel/fax: 028 4062 9397



## Select Sites

### Legislation on the Web – an update

#### Acts of the UK Parliament

<http://www.hms.gov.uk/acts.htm>

With effect from the first Public General Act of 1988, the full text of all new Public General Acts are available via these Web Pages. All Public General Acts appear as originally passed by the UK Parliament.

With effect from the first Local Act of 1991, the full text of all new Local Acts are available via these Web Pages. All Local Acts appear as originally passed by the UK Parliament. This site is sectioned both alphabetically and numerically.

#### UK Statutory Instruments

<http://www.hms.gov.uk/stat.htm>

With effect from the first printed Statutory Instrument of 1987, the full text of all published Statutory Instruments are available on the Internet via these Web Pages. This information is accessed by year and then S.I. number.

#### Public Bills

<http://www.parliament.the-stationery-office.co.uk/pa/pabills.htm>

Public bills before Parliament are available in full text on this site. At the head of each bill is a note of the stage which the bill has reached in its passage through Parliament.

<http://www.parliament.the-stationery-office.co.uk/pa/cm/cmwb.htm>

A complete list of public bills introduced in Parliament in the current session, together with information about their progress through Parliament, can be found on the Weekly Information Bulletin.

#### Acts of the Scottish Parliament

<http://www.scotland-legislation.hms.gov.uk/legislation/scotland/s-acts.htm>

All Acts of the Scottish Parliament (1999-2002) are published in full text form and are accessible from this Web page. They appear as originally enacted by the Scottish Parliament.

#### Northern Ireland legislation

<http://www.northernireland-legislation.hms.gov.uk/>

This site has Acts of the Northern Ireland Assembly from 2000 to the present day as well as explanatory notes. It also has Statutory Rules from 1991 to the present day as well as access to draft rules from 2000-2002. It also has links to Acts of the UK Parliament and UK Statutory Instruments which apply exclusively or primarily to Northern Ireland. As well as all this information the user can also access the Updated Statutes of Northern Ireland 1981 –2000. This site reflects the statute law (primary legislation) at 31 December 2000 by taking the changes set out in the "Cumulative Supplement to the Statutes Revised" and integrating them into the Statutes of Northern Ireland from 1981 to 2000.

All of the above sites have a search facility. The search engine has been designed to help identify the document that you wish to browse. If for example the user does not know the year or number of a particular piece of legislation he can search the text of all documents on each site listed above by typing in a keyword.

## New Books in Library

- 1) Barnett: Tolley's managing dismissals. Tolley. 2002
- 2) Oakley: Megarry's manual of the law of real property. 8th ed. Sweet & Maxwell. 2002
- 3) Tolley's health and safety at work handbook 2003. 15th ed. Tolley. 2002
- 4) MacDonald: Managing fixed-term & part-time workers. Tolley. 2002
- 5) Simon's direct tax service finance act handbook. Butterworths. 2002

## LAW SOCIETY NOTICE

### Supreme Court of Judicature of Northern Ireland

Offices of the Supreme Court Pursuant to Order 64, rule 5(1), of the Rules of the Supreme Court (Northern Ireland) 1980, the Offices of the Supreme Court will be closed to the public on the following days:  
 Wednesday 25th December 2002  
 Thursday 26th December 2002  
 Friday 27th December 2002  
 Wednesday 1st January 2003  
 The Supreme Court itself will not sit during the Halloween Recess which is from Monday 28th October until Friday 1st November 2002 (both days inclusive). Over the Christmas Period the Courts will not sit from Monday 23 December to Friday 3 January (both days inclusive)

**Copy deadline for November  
Friday 8th November 2002**

Law Society Library Email:

**[hsemple@lawsoc-ni.org](mailto:hsemple@lawsoc-ni.org)**

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