

# New Requirements for Trust Account Audits

By Rosalind Burke, Director, Ethics and Practice

It is anticipated that the *Legal Practitioners (Miscellaneous) Amendment Act 2013* will be proclaimed on July 1, 2014. This Act will result in sweeping changes to the requirements relating to incorporation of legal practices, costs disclosure and disciplinary processes, and trust accounting. The purpose of this paper is to provide a very brief overview of some of the changes relating to the audit of trust accounts.

The new provisions utilise new terminology. The persons engaged by you to perform the annual audit of your trust account are referred to as *external examiners*, rather than auditors, and the audit itself will be called the *external examination*. External examinations should not be confused with the trust account inspections carried out by the Law Society every two to three years (these will be referred to as *investigations* under the new provisions).

Practitioners operating a trust account will need to appoint an external examiner. Persons who wish to be appointed as external examiners must apply to the Law Society to be a designated person. Only designated persons will be able to be appointed as external examiners. The process and requirements for being

a designated person will be set out in the new Regulations (currently being drafted) but are expected to be similar to the requirements currently contained in regulation 25 which sets out the requirements for the approval of auditors.

The Society will have the power to revoke a person's designation, and will also have the power to appoint an external examiner of its own choosing if it is not satisfied that the required examination has taken place or that the external examiner appointed by the practitioner has carried out the examination in accordance with the regulations. The practitioner will be required to bear the cost of any examination performed on the instruction of the Society.

External examiners have the ability to examine all of the affairs of the practice for the purpose of an examination. This includes examination of all of the financial and business records of the practice, and the partners or directors of the practice, even if they do not relate to the trust account.

The requirements with respect to the matters to be examined and the content of the examination report are not expected to change significantly.

Final examinations are required to be done when a trust account is closed and the reports are required to be lodged with the Society by the practitioner (not the external examiner) within 60 days of the end of the examination period.

Annual external examinations must take place as soon as practicable after the end of each financial year and the reports of those examinations must be provided to the Society by the external examiner as soon as practicable after completing the external examination.

There is no provision which provides for automatic suspension of a practitioner's practising certificate if an external examination report is not provided to the Society (section 33(2)), but such a breach may provide grounds for a decision to be made to suspend a practising certificate.

The maximum penalty for breaches of the external examination requirements is now \$50,000. Practitioners who breach the requirements will also be at risk of investigation and disciplinary action by the Legal Profession Conduct Commissioner. **B**

## Annual Winter Appeal for Animal Shelters

The Law Society's Animal Law Committee has organised a winter appeal, running until May 1, to help a number of organisations with their welfare activities, including the RSPCA shelter at Lonsdale, Fauna Rescue of SA Inc, Hahndorf Interim Shelter Inc, SA Dog Rescue Inc, the Animal Welfare League of South Australia and Minton Farm.

These organisations do a wonderful job in feeding, accommodating and caring for domestic and native animals that are sick, have been injured and/or are homeless.

If you would like to support this cause, donations of the following items of food, toys, bedding and incidentals would be much appreciated:

- Good quality (that is non-generic names) wet and dry kitten and cat food, wet and dry puppy and dog food (for dogs and cats) and dry dog food (for emus and birds).

- Sunflower seed and small parrot mix (for birds).
- Nuts and dried fruit (for possums and birds).
- Breakfast cereals including muesli, rolled oats, rice cereal, Weet-Bix, Farex baby rice cereal, All-Bran (for wombats and Kangaroos).
- Chaff and hay (for Kangaroos).
- Pureed apple, tinned corn and peas (for possums)
- **Toys:** Any toys for kittens, puppies, adult cats and dogs.
- **Bedding:** Old jumpers, pillow cases, sheets, flannels, blankets and towels,
- **Incidentals:** Dish detergent, washing detergent, bleach, disinfectant, good quality non-scented tissues.

Donations can be dropped off to:

- Rosanne Rositano, Lilys Doggy Day Care Pty Ltd – 934 South Road Edwardstown SA 5039 Phone: 83714445 or mobile: 0402266339
- Ronan O'Brien, RSPCA South Australia – 16 Nelson Street, Stepney SA
- Karina Huddleston - Commercial and Legal – 250 Flinders Street, Adelaide SA
- David Robertson - 11 Shaftsbury Street, Eden Hills, SA
- Anna Jackson (by arrangement) – 558 Portrush Rd Glen Osmond, 0438 375 403

If your donations are substantial or if you have difficulty in attending any of the drop off points please contact Rosanne Rositano (83714445 or 0402266339) or Joanne Mitchell-Smith (joterri@webvixen.com.au) to arrange for your donations to be collected. **B**