

Older People and the Law

Fourth Edition



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YOUNG LAWYERS
A Fresh Perspective

Older People and the Law

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Disclaimer

This publication is intended to provide older people with a simple guide to their current legal rights as well as information on other services available within the community. The material contained in this publication is general and is not intended as advice on any particular matter. No reader should act or fail to act on the basis of any material contained in this publication. NSW Young Lawyers, the Law Society of New South Wales, the NSW Attorney General's Department and the authors disclaim all liability for errors or omissions of any kind whatsoever, or for any loss or damage, in whole or in part, arising from any person relying on any information published in this publication.

While every care has been taken to ensure the accuracy of the information contained in this publication, readers should check the currency of information pertaining to a particular program and amounts awarded under a program or entitlements with the relevant government department, as these will vary from time to time.

The publication has been written according to the applicable laws in Australia relevant to an older person resident in New South Wales as at 1 September 2005.

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ABOUT NEW SOUTH WALES YOUNG LAWYERS

NSW Young Lawyers (**NSWYL**) is a vibrant organisation of lawyers under 36 years of age or in the first five years of practice, and all law students. While our organisation is a division of the Law Society of NSW, we are a very distinct group of lawyers with our own energy and voice in the profession and the community. Some of the goals of NSWYL are:

- to further the interests and objectives of lawyers generally, and in particular, young lawyers in New South Wales;
- to stimulate the interest of and promote the participation of young lawyers in the activities of lawyers in general; and
- to promote the benefit of the community and disadvantaged groups in general.

NSWYL is comprised of a number of committees and working groups. Our pro bono and community services work is organised through the Pro Bono and Community Services TaskForce (**TaskForce**) who wrote this edition of Older People and the Law.

The TaskForce, like its predecessor the Community Services Committee, brings together volunteer lawyers and law students from diverse backgrounds all of whom share a common goal of using their legal and personal skills to benefit the community.

We encourage you to visit our website (www.younglawyers.com.au) to find out more about our organisation and the Taskforce. Alternatively you can contact Poppy Drekis on (02) 9926 0269 or at ptd@lawsocnsw.asn.au.

In keeping with our philosophy of service to all Australians, this book has been made available to you free-of-charge. But as we have only been able to produce a limited number of copies of this book, we ask that if you find that you no longer need this book, then please pass it on to someone who you think could use it, or donate it to your local library, aged care facility or senior citizens group.

Alternatively you can access an electronic copy of this publication at the NSW Attorney General's Department website (www.lawlink.nsw.gov.au). If you do not have internet access at home, you can access the internet for free at your local library or you can access the internet at the growing numbers of internet cafes for a small charge.

PREFACE TO THE FOURTH EDITION

In the three years since the third Edition, both our society and the law have changed significantly. Therefore it will come as no surprise that the production of the fourth edition of this popular book has been a major effort with each chapter updated and new chapters written to cope with all the developments, particularly in the areas of privacy, employment, elder abuse, family law and taxation. In addition to responding to changes in the law, we have also responded to changes in how our community gains access to information and we are proud to be able to offer a dedicated companion website with this publication with the assistance Attorney-General's Department.

Of course, none of this would have been possible without the lawyers who have generously raised their hands to volunteer in doing the hard work. First and foremost, my sincerest thanks goes to Peta Dean, who co-edited this work with me, and all the Pro Bono and Community Services TaskForce (**TaskForce**) members who have contributed to various parts of this book - Peter Allsopp, Karen Criticos, Rebecca Dimaridis, Nick Eastman, Justine Field, Rebecca Flynn, Kelly Godfrey, Tamara Goodwin, Nick Gouliaditis, Alexandra Harland, Claire Hausler, Inoka Ho, Rosemarie Honore, Janette Kovacic, Van Le, Susannah Maclaren, Kelly Morgan, Kar Na Tan, Naomi Reiner, Renee Saibi, Gemma Saville, Marie Louise Scarf, Ekta Shandil, Louise Stone, Jenny Thrum, Molly Tregoning, John Truswell, Annette Urquijo and Christopher Wood. Without their collective efforts and enthusiasm for this project, its completion would not have been possible. I am particularly grateful for their efforts in light of the long hours demanded of young lawyers.

I extend my gratitude for Greg Barlow's assistance with the cover and Andrew Joyner for his illustrations which add some light hearted relief to our heavy text.

Next I must thank our external reviewers. This publication would not be of the standard it needs to be without their ability to cast a critical eye over our work. In that respect I am grateful to the Centre for Elder Law at the University of Western Sydney and in particular, Sue Field the Public Trustee of NSW Fellow in Elder Law for her review and comments. Likewise, I thank David Skidmore at the Combined Pensioners and Superannuants Association of NSW Inc for his suggestions and Meredith Osborne, Community Legal Education Officer at the Blue Mountains Community Legal Centre for her comments in relation to chapters 8 and 12. While I am indebted for their assistance, final responsibility for the text must lie with me.

I also acknowledge Bob Debus, the Attorney General of NSW for his endorsement of this book, Laurie Glanfield, Director General of the Attorney General's Department of NSW and his staff for their support and funding the publication. The assistance of the President of NSW Young Lawyers Nathan Laird, Vice President Susannah Maclaren, Secretary Lester Fernandez, Treasurer Scott Alden, Executive Officer Poppy Drekis, Committees Co-coordinator Mel Domingo and office assistant Katrina Hall for their help getting this publication out to the community. Finally, I thank Albert Yuen and Jennifer McVicar, the immediate past Chairs of the Community Services Committee, for their guidance and assistance in getting this project started.

I, and each contributor, hope that this book and its companion website will be a useful reference for seniors and their families. If you have any comments or recommendations for how this book can be improved, please contact Katrina Hall on (02) 9926 0270 or kxh@lawsocnsw.asn.au or visit the Older People and the Law Handbook's companion website at www.lawlink.nsw.gov.au/seniors.

Davyd Wong

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New South Wales Young Lawyers
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Sydney*

FOREWORD

In our increasingly complex society, the need for accessible information about our legal rights is critical for everyone living in the community today. It can often be difficult to know where to start looking when you need legal assistance. The fourth edition of *Older People and the Law* book and its new companion website provides appropriate information to help older people make decisions about their legal rights and options.

It is a user-friendly and simple guide about the complex issues of the law affecting seniors. It is a useful resource and provides answers to the most common legal questions and where to turn for help when you need it.

I commend the NSW Young Lawyers Pro Bono and Community Services TaskForce who voluntarily gave their time to write this handbook.

Bob Debus

Attorney General of New South Wales