

Version
as at 12 February 2026



Lawyers and Conveyancers Act 2006

Public Act 2006 No 1
Date of assent 20 March 2006
Commencement see section 2

Contents

	Page
1 Title	15
2 Commencement	15

Part 1

Preliminary provisions

3 Purposes	16
4 Fundamental obligations of lawyers	16
5 Fundamental obligations of conveyancing practitioners	16
6 Interpretation	17
7 Misconduct defined in relation to lawyer and incorporated law firm	29
8 Misconduct defined in relation to conveyancing practitioner and incorporated conveyancing firm	30
9 Misconduct defined in relation to provision of regulated services by employees	32
10 Exceptions to section 9	33
11 Misconduct defined in relation to employees who are not practitioners	35

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

12	Unsatisfactory conduct defined in relation to lawyers and incorporated law firms	35
13	Unsatisfactory conduct defined in relation to conveyancing practitioners and incorporated conveyancing firms	36
14	Unsatisfactory conduct defined in relation to employees who are not practitioners	37
15	Directors and shareholders of incorporated firms	37
16	Shareholders of incorporated firms	38
17	Liabilities of director or shareholder of incorporated firm	38
18	Liability of lawyer principals in respect of pecuniary loss by reason of theft	39
19	Liability of conveyancing practitioner principals in respect of pecuniary loss by reason of theft	40
20	Act to bind the Crown	41

Part 2

Restrictions on provision of legal services and conveyancing services

Legal services

21	Provision of legal services	41
22	Misleading descriptions	41
23	False or misleading representations in relation to supply of legal services	42
24	Reserved areas of work for lawyers and incorporated law firms	42
25	Lawyers of other jurisdictions	43
26	Drafting court documents	44
27	Exceptions to sections 21, 22, 24, and 26	44
28	Proceedings in respect of offences against any provision of sections 21 to 24	46
29	Contempt of court [<i>Repealed</i>]	46
30	Practice by lawyer on his or her own account	46
31	Exceptions to section 30	47

Conveyancing services

32	Provision of conveyancing services	48
33	Misleading descriptions	48
34	Proceedings in respect of offence against section 32 or section 33	48
35	Practice of conveyancing	49
36	Exceptions to sections 32, 33, and 35	49
37	Practice by conveyancing practitioner on his or her own account	51
38	Exceptions to section 37	51

Practising certificates

39	Issue of practising certificates	52
40	Effect of application for practising certificate	53

41	Power to refuse to issue practising certificate	53
42	Right to appeal	55
	<i>Injunctions</i>	
43	Injunctions	55
	<i>Appointment of agent to conduct sole practice or act as board of incorporated firm</i>	
44	Practitioners to whom Schedule 1 applies	55
45	Offences	56
	<i>Penalty</i>	
46	Penalty	56
	<i>Provisions not affected</i>	
47	Provisions not affected	56
	Part 3	
	Admission and enrolment of barristers and solicitors	
	<i>Admission of barristers and solicitors</i>	
48	Admission as barrister and solicitor	57
49	Qualifications	57
50	Evidence of qualifications	58
51	Evidence of suitability	58
52	Admission	59
53	Reciprocal admission	59
54	Rules of court as to admission	60
55	Fit and proper person	60
	<i>Roll of barristers and solicitors</i>	
56	Registrar to keep roll of barristers and solicitors	62
57	Enrolment	62
58	Striking off and restoration of names by order of Disciplinary Tribunal or High Court	62
59	Removal from roll if deemed registration ceases in some circumstances	63
60	Voluntary removal of name from roll, and restoration	63
61	Supply of information	64
62	Admission and restoration fees	64
	Part 4	
	New Zealand Law Society	
63	Continuation of New Zealand Law Society	64
64	Membership	65
	<i>Functions</i>	
65	Regulatory functions	65
66	Representative functions	65

Powers

67	Regulatory powers	66
68	Representative powers	67
69	Power to borrow	67
70	Constitution of New Zealand Law Society	67
71	Registration of constitution and amendments to constitution	68
72	Application of Legislation Act 2019 to constitution of New Zealand Law Society	68
73	Practising fees	68
74	Levies	69
75	Subscriptions	70
76	Annual report	71

Part 5

New Zealand Society of Conveyancers

77	Establishment of New Zealand Society of Conveyancers	71
78	Membership	71

Functions

79	Regulatory functions	72
80	Representative functions	72

Powers

81	Regulatory powers	72
82	Rules for registration of conveyancers	73
83	Fit and proper person	74
84	Rules relating to education	76
85	Representative powers	77
86	Power to borrow	78
87	Constitution of New Zealand Society of Conveyancers	78
88	Registration of constitution and amendments to constitution	78
89	Application of Legislation Act 2019 to constitution of New Zealand Society of Conveyancers	79
90	Practising fees	79
91	Levies	80
92	Subscriptions	81
93	Annual report	81

Part 6

Conduct of practice by practitioners

Practice rules and regulations

94	Practice rules	82
95	Code of professional conduct and client care	83
96	Practice rules in relation to nominee companies	84
97	Certain practice rules in relation to lawyers	84
98	Certain practice rules in relation to conveyancing practitioners	84

99	Indemnity rules	85
100	Consultation in relation to rules	86
101	Criteria in relation to approval of practice rules by Minister	86
102	Registration of practice rules	87
103	Amendment of rules	87
104	Power of Minister to amend rules	88
105	Registration of amendments to rules	88
106	Application of Legislation Act 2012 to rules [<i>Repealed</i>]	89
107	Effect of practice rules	89
108	Regulations in relation to practitioners	89
	<i>Investigations</i>	
109	Investigation of affairs of practices	90
	<i>Trust accounts</i>	
110	Obligation to pay money received into trust account at bank	91
111	Obligation to account for trust money and valuable property	92
112	Obligation to keep records in respect of trust accounts and valuable property	92
113	Protection of money received	93
114	Duty of practitioners to ensure that funds earn interest	93
115	Regulations relating to trust accounts	93
116	Provisions relating to regulations relating to trust accounts	96
	<i>Barristers and King's Counsel</i>	
117	Status of barristers	98
118	Office or rank of Queen's Counsel	98
118A	Eligibility for appointment	98
118B	Restrictions on practice of specified category of lawyers who hold rank	99
118C	Queen's Counsel appointed before 1 August 2008	99
118D	Senior Counsel appointed after 31 July 2008 and before 3 December 2012	100
119	Regulations relating to King's Counsel	101
119A	Other ways of ceasing to hold rank	102
119B	Style of rank if Sovereign for time being is King	102
119C	Royal prerogative power to appoint unaffected	103
	Part 7	
	Complaints and discipline	
120	Purposes	103
	<i>Complaints service</i>	
121	Obligation to establish complaints service	104
122	Rules	104
123	Administration of complaints service	105

124	Functions of New Zealand Law Society in relation to complaints service	105
125	Functions of New Zealand Society of Conveyancers in relation to complaints service	106
<i>Standards Committees</i>		
126	Lawyers Standards Committees	106
127	Conveyancing Practitioners Standards Committees	107
128	Notice to Minister	107
129	Membership of Standards Committees	107
130	Functions of Standards Committees	108
131	Rules relating to Standards Committees	108
<i>Complaints</i>		
132	Complaints about practitioners, incorporated firms, and their employees	109
133	Complaint of failure to comply with order or final determination	109
134	Complaint to be in writing	110
135	Appropriate complaints service	110
136	Complaint by Law Society or Society of Conveyancers	110
137	Action on receipt of complaint	110
138	Decision to take no action on complaint	111
139	Notice of decision	111
140	Inquiry by Standards Committee	112
141	Notice to person to whom complaint or inquiry relates	112
142	Procedure of Standards Committee	112
143	Negotiation, conciliation, and mediation	113
144	Power to appoint investigators	114
145	Instrument of appointment	114
146	Investigations by investigators	115
147	Powers of investigation	115
148	Report to Standards Committee	117
149	Disclosure of report	117
150	Discretion in relation to contents of report	118
151	Evidence	119
152	Power of Standards Committee to determine complaint or matter	119
153	Hearings on the papers	120
154	Reference of complaint or matter to Disciplinary Tribunal	121
155	Application for suspension of practitioner	121
156	Power of Standards Committee to make orders	122
157	Further power to make order for payment of costs	124
158	Notice of determination	125
159	Power to notify Registrar-General of Land	126
160	Complaints by beneficiaries in relation to costs	126
161	Stay of proceedings for recovery of costs	126

<i>Intervention in practice</i>		
162	Purpose	127
163	Circumstances justifying intervention	127
164	Intervention in relation to regulated trust accounts	128
165	Administration of funds obtained from regulated trust accounts	129
166	Claims in respect of money paid to Standards Committee	129
167	Power of Standards Committee to repay money	130
168	Directions relating to Fidelity Scheme	130
169	Power to take possession of money, property, records, and documents	130
170	Power in relation to postal articles and email communications	131
171	Offences	131
172	Warrant to search premises	132
173	Warrant to inspect bank accounts	132
174	Obligation to produce warrant	133
175	Notice of execution of warrant	133
176	Powers and duties of Standards Committee in relation to documents and records	133
177	Notification to clients of practitioner or former practitioner	134
178	Power to notify Registrar-General of Land	135
179	Notification of practitioner or former practitioner, partner, employer, or director	135
180	Application to High Court by practitioner, former practitioner, related person or entity, partner, employer, or director	136
181	Recovery of expenses of Standards Committee	136
182	Application of money in satisfaction of expenses	137
<i>General provisions in relation to Standards Committees</i>		
183	Power to appoint committees	138
184	Delegation of functions and powers	138
185	Members, investigators, etc, not personally liable	139
186	Protection and privileges of witnesses	139
187	Privileges and immunities of counsel	140
188	Disclosure of information	140
189	Enforcement of orders	141
<i>Legal Complaints Review Officer</i>		
190	Legal Complaints Review Officer	141
191	Criteria for appointment	142
192	Functions of Legal Complaints Review Officer	142
192A	Orderly and efficient operation	142
193	Right of review	143
194	Applicants in relation to complaints	143
195	Applicants in relation to inquiries	143
196	Applicants in relation to power to intervene	144

197	Applicants in other cases	144
198	Applications for review	145
199	Obligation to conduct review	145
200	Avoidance of unnecessary formality	145
201	Postponement for consideration of negotiation, conciliation, or mediation	145
	<i>Powers of Legal Complaints Review Officer</i>	
202	General powers	147
203	Scope of review of final determination	147
204	Power to obtain information	147
205	Legal Complaints Review Officer may strike out, determine, or adjourn application for review	148
	<i>Procedure</i>	
206	Proceedings of Legal Complaints Review Officer	148
206A	Suppression orders	149
207	Evidence	150
208	Disclosure of evidence and information to parties	150
209	Power to direct reconsideration of complaints, matters, or decisions	150
210	Order for payment of costs	151
211	Powers exercisable on review	152
212	Laying of charge with Disciplinary Tribunal	152
213	Obligation to report outcomes and recommendations	153
214	Adverse comment	154
215	Enforcement of orders for payment of money	154
	<i>Practice notes, procedural information, and publication of decisions</i>	
215A	Practice notes	155
215B	Online publication of information about procedures, time frames, and progress of decisions	155
	<i>Cost recovery</i>	
216	Purpose	155
217	Levy	155
218	Legal Complaints Review Officer Trust Account	156
219	Special circumstances levy	157
220	Payment of levies	157
221	Recovery of levy	158
	<i>Annual reports</i>	
222	Reports in relation to cost recovery	158
223	Annual report	158
224	Contents of annual report	159
225	Further provisions relating to Legal Complaints Review Officer	159

New Zealand Lawyers and Conveyancers Disciplinary Tribunal

226	New Zealand Lawyers and Conveyancers Disciplinary Tribunal	159
227	Functions of Disciplinary Tribunal	159
228	Membership of Disciplinary Tribunal	160
229	Disciplinary Tribunal may sit in divisions	161
230	Appointment of chairperson and deputy chairperson	161
231	Responsibilities of chairperson	161
232	Deputy chairperson and acting deputy chairperson	162
233	Appointment of other members	163
233A	Appointment of temporary acting member	163
234	Constitution for proceedings	164
235	Quorum	165

Procedure

236	Rules of natural justice	165
237	Representation before Disciplinary Tribunal	166
238	Hearings to be in public	166
238A	Hearing on papers	166
239	Evidence	166
239A	Online publication of information about procedures, time frames, and progress of decisions	167
239B	Online publication of final written decisions	167
240	Restrictions on publication	168
240A	Disciplinary Tribunal may strike out, determine, or adjourn proceeding	169
241	Charges that may be brought before Disciplinary Tribunal	169
242	Orders that may be made where charge proved	170
243	Power to refer bill of costs to Standards Committee	171
244	Making of order for striking off roll, cancellation of registration, or suspension from practice	172
245	Interim suspension from practice	173
246	Restoration of name to roll or register	174
247	Revocation of order in respect of employee	174
248	Consent to employ	175
249	Order for payment of costs	176
249A	Practice notes	176
250	Rules of procedure	177
251	Contempt of Disciplinary Tribunal	177
252	Power of Disciplinary Tribunal to determine procedure	178

Appeals

253	Appeal against order or decision of Disciplinary Tribunal	178
254	Appeal to Court of Appeal on question of law	178
255	Order for striking off, cancellation of registration, restoration, or suspension to be filed in High Court	179

<i>Miscellaneous provisions</i>		
256	Notice of order for striking off, cancellation of registration, restoration, or suspension to be published in <i>Gazette</i>	180
257	Reimbursement of costs of hearing	182
258	Enforcement of orders of Disciplinary Tribunal	182
259	Annual report	183
260	Further provisions relating to Disciplinary Tribunal	183
<i>Offences</i>		
261	Failure to comply with summons	184
262	Obstruction	184
262A	Offence of breaching suppression order	185
263	Publication	185
264	Liability of principal for acts of agent, etc	185
265	Time for filing charging document	185
<i>Jurisdiction of High Court and Court of Appeal</i>		
266	Lawyer's name may be struck off on application to High Court	186
267	High Court may dismiss application, or reserve case for Court of Appeal	186
268	Inherent jurisdiction of High Court	186
269	Notice of order for striking off or suspension to be published in <i>Gazette</i>	187
270	Jurisdiction of High Court not limited	187
<i>General provisions</i>		
271	Legal professional privilege	187
272	Protection of New Zealand Law Society and New Zealand Society of Conveyancers and other persons	187
Part 8		
New Zealand Council of Legal Education		
273	Continuation and renaming of Council	188
274	Functions	188
275	Powers	189
276	Consultation with New Zealand Law Society	190
277	Levies	190
278	Power of Council to make regulations	191
279	Power of Council to make rules	192
280	Power to appoint committees	192
281	Institute of Professional Legal Studies	193
282	Membership	194
283	Term of office	195
284	Extraordinary vacancies	195
285	Proceedings not affected by vacancies	196
286	Chairperson	196

287	Further provisions applying to Council	196
288	Annual report	196

Part 9

Lawyers and Conveyancers Special Fund

289	Lawyers and Conveyancers Special Fund	197
290	Money payable into Fund	197
291	Separate bank account	197
292	Management Committee	197
293	Membership of Management Committee	197
294	Meetings of Management Committee	198
295	Bank accounts	198
296	Investment of money	198
297	Audit of accounts	199
298	Distribution of Special Fund	199
299	Nominated trust accounts	199
300	Money required to be held in nominated trust account	200
301	Interest to be payable on nominated trust account	200
302	Banks to pay interest on nominated trust accounts to Special Fund	201
303	Practitioners, incorporated firms, and banks not liable to account to client for interest payable on nominated trust account	201

Part 10

Fidelity Funds

304	Purpose	202
305	Interpretation	202
306	Claim event	203
307	Lawyers to whom, and incorporated law firms to which, this Part applies	204
308	Conveyancing practitioners to whom, and incorporated conveyancing firms to which, this Part applies	205
309	Lawyers' Fidelity Fund	206
310	Conveyancing Practitioners' Fidelity Fund	207
311	Rules	207
312	Contributions to Lawyers' Fidelity Fund	209
313	Contributions to Conveyancing Practitioners' Fidelity Fund	210
314	Power of New Zealand Law Society to impose extraordinary levy	211
315	Power of New Zealand Society of Conveyancers to impose extraordinary levy	212
316	Contributions and levies	213
317	Election not to receive money or other valuable property in trust	213
318	Making, expiration, and revocation of election under section 317	213
319	Offence	214
320	Application of Lawyers' Fidelity Fund	214
321	Application of Conveyancing Practitioners' Fidelity Fund	215

322	No compensation in respect of money instructed to be invested	215
323	Advances from fidelity fund for purposes of this Part	218
324	Claims against fidelity fund	218
325	Defences to claims against fund	218
326	Rights of subrogation	218
327	Money recovered by claimants to be held in trust if rights of subrogation apply	219
328	Provisions applicable if fund insufficient to satisfy claims	219
329	Power to rule off fund	220
330	Consequences of rule off	221
331	Regulatory society may enter into contracts of insurance	222
332	Application of insurance money	222

Part 11

Miscellaneous provisions

Conditional fee agreements

333	Definitions	223
334	Conditional fee agreements	223
335	Exclusions	224
336	Practice rules in relation to conditional fee agreements	224

Unclaimed money in trust account

337	Unclaimed money in trust account	224
-----	----------------------------------	-----

Protection of Councils of New Zealand Law Society and New Zealand Society of Conveyancers and other persons

338	Councils and members, etc, not personally liable	225
-----	--	-----

Regulations

339	Regulations	226
-----	-------------	-----

Amendments to Real Estate Agents Act 1976

340	Meaning of real estate agent	226
341	Repeal	226

Amendments to Land Transfer Act 1952

342	Interpretation	227
343	Correctness of instrument to be certified	227
344	Who may give certification	227
345	Recovery of compensation paid and costs in case of fraud	227

Amendments to Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002

346	Interpretation	227
347	Power to make electronic lodgement compulsory	227

Amendments to other enactments

348	Amendments to other enactments	227
-----	--------------------------------	-----

<i>Repeals</i>		
349	Repeals	227
	<i>Transitional provisions in respect of complaints and disciplinary proceedings</i>	
350	Prohibition on complaints and investigations under Law Practitioners Act 1982	227
351	Complaints about conduct before commencement of section	228
352	Penalty	229
353	Continuation of disciplinary proceedings and certain other proceedings	229
354	Continuation of Lay Observers	229
355	Exercise by Legal Complaints Review Officer of role of Lay Observer	230
356	Exercise by Lawyers Standards Committee of role of complaints committee	230
357	Exercise by Lawyers Standards Committee of role of District Disciplinary Tribunal	231
358	Exercise by New Zealand Lawyers and Conveyancers Disciplinary Tribunal of role of New Zealand Law Practitioners Disciplinary Tribunal	231
359	Appeal from decision of District Disciplinary Tribunal or Lawyers Standards Committee exercising powers of District Disciplinary Tribunal	231
360	Appeal from decision of New Zealand Law Practitioners Disciplinary Tribunal or New Zealand Lawyers and Conveyancers Disciplinary Tribunal	232
361	Revision of practitioner's bill of costs	233
	<i>Transitional provision relating to Law Society inspectorate</i>	
362	Law Society inspectorate	234
	<i>Transitional provisions relating to Solicitors' Fidelity Guarantee Fund</i>	
363	Continuation of Part 9 of Law Practitioners Act 1982 <i>[Repealed]</i>	234
364	Money payable into Solicitors' Fidelity Guarantee Fund <i>[Repealed]</i>	235
365	Claims in relation to Solicitors' Fidelity Guarantee Fund <i>[Repealed]</i>	235
366	Public notice of last day for making claims <i>[Repealed]</i>	235
367	Winding up of Solicitors' Fidelity Guarantee Fund <i>[Repealed]</i>	235
368	Completion of determination of claim <i>[Repealed]</i>	235
369	Application of Solicitors' Fidelity Guarantee Fund on winding up <i>[Repealed]</i>	235

370	Repeal of provisions relating to Solicitors' Fidelity Guarantee Fund	235
	<i>Transitional provisions relating to barristers and solicitors</i>	
371	Persons deemed to have been admitted as barristers and solicitors	236
	<i>Transitional provisions relating to dissolution of District Law Societies</i>	
372	Continuation and dissolution of District Law Societies	236
373	Assets and liabilities of District Law Societies	236
374	Power to transfer assets of District Law Society library	237
375	Power of incorporated society to provide law library	237
376	Power to contribute to funding of law libraries	238
377	Members to have no right to property on dissolution of incorporated society	238
378	Consequential provisions in relation to assets, money, and property	238
379	Records relating to regulatory activities	239
380	Administration of solicitor's trust account	240
381	Solicitor's records and documents	241
382	Certain matters not affected by transfer of assets and liabilities	241
383	Employees	241
384	Final accounts of District Law Societies	242
385	References to President of District Law Society	243
	<i>Transitional provisions relating to New Zealand Law Society</i>	
386	Members of New Zealand Law Society	243
387	Officers of New Zealand Law Society	243
	<i>Transitional provisions relating to landbrokers</i>	
388	Rights of landbrokers	243
389	Repeal	244
	<i>Transitional provision relating to New Zealand Society of Conveyancers</i>	
390	Exercise of regulatory functions of New Zealand Society of Conveyancers	244
	<i>Transitional provisions relating to Disciplinary Tribunal [Repealed]</i>	
391	Appointment of members of Disciplinary Tribunal [Repealed]	245
392	Quorum [Repealed]	245
393	Power to alter period [Repealed]	245
	Schedule 1	246
	Provisions requiring appointment of agent to conduct sole practice or act as board of incorporated firm	

Schedule 2	257
Provisions applying in relation to investigations under section 109	
Schedule 3	262
Provisions applying in relation to Legal Complaints Review Officer	
Schedule 4	268
Provisions applying in relation to Disciplinary Tribunal	
Schedule 5	274
Provisions applying in relation to New Zealand Council of Legal Education	
Schedule 6	280
Enactments amended	
Schedule 7	283
Enactments repealed	

1 Title

This Act is the Lawyers and Conveyancers Act 2006.

2 Commencement

- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more orders may be made appointing different dates for different provisions.
- (2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1): Lawyers and Conveyancers Act 2006 brought into force, on 1 August 2008, by clause 2 of the Lawyers and Conveyancers Act Commencement Order 2008 (SR 2008/182).

Section 2(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 1

Preliminary provisions

3 Purposes

- (1) The purposes of this Act are—
 - (a) to maintain public confidence in the provision of legal services and conveyancing services:
 - (b) to protect the consumers of legal services and conveyancing services:
 - (c) to recognise the status of the legal profession and to establish the new profession of conveyancing practitioner.
- (2) To achieve those purposes, this Act, among other things,—
 - (a) reforms the law relating to lawyers:
 - (b) provides for a more responsive regulatory regime in relation to lawyers and conveyancers:
 - (c) enables conveyancing to be carried out both—
 - (i) by lawyers; and
 - (ii) by conveyancing practitioners:
 - (d) states the fundamental obligations with which, in the public interest, all lawyers and all conveyancing practitioners must comply in providing regulated services:
 - (e) repeals the Law Practitioners Act 1982.

4 Fundamental obligations of lawyers

Every lawyer who provides regulated services must, in the course of his or her practice, comply with the following fundamental obligations:

- (a) the obligation to uphold the rule of law and to facilitate the administration of justice in New Zealand:
- (b) the obligation to be independent in providing regulated services to his or her clients:
- (c) the obligation to act in accordance with all fiduciary duties and duties of care owed by lawyers to their clients:
- (d) the obligation to protect, subject to his or her overriding duties as an officer of the High Court and to his or her duties under any enactment, the interests of his or her clients.

5 Fundamental obligations of conveyancing practitioners

Every conveyancing practitioner who provides regulated services must, in the course of his or her practice, comply with the following fundamental obligations:

- (a) the obligation to be independent in providing regulated services to his or her clients;
- (b) the obligation to act in accordance with all fiduciary duties and duties of care owed by conveyancing practitioners to their clients;
- (c) the obligation to protect, subject to his or her duties under any enactment, the interests of his or her clients.

6 Interpretation

In this Act, unless the context otherwise requires,—

bank means a registered bank within the meaning of the Banking (Prudential Supervision) Act 1989 that is carrying on in New Zealand the business of banking

banker means the manager or other person for the time being in charge of the office of a bank in which any account is kept

barrister means a person enrolled as a barrister and solicitor of the High Court under or by virtue of this Act and practising as a barrister, whether or not he or she also practises as a solicitor; and, in relation to any country outside New Zealand, includes, for the purposes of sections 49(3)(a) and 53, any person authorised to exercise in that country functions similar to those exercised by barristers in New Zealand

chief executive, in relation to a Crown organisation,—

- (a) means the chief executive or principal officer (however described) of that organisation; and
- (b) includes,—
 - (i) in the case of a department, the head of the department and a chief executive appointed under the Public Service Act 2020; and
 - (ii) in the case of a Crown entity, the chief executive officer of the Crown entity; and
 - (iii) in the case of the Police of New Zealand, the Commissioner of Police; and
 - (iv) in the case of the New Zealand Defence Force, the Chief of Defence Force; and
 - (v) in the case of an Office of Parliament, the head of the office concerned

community law centre means a community law centre within the meaning of section 93 of the Legal Services Act 2011 that is providing community legal services under a contract entered into by the Secretary for Justice pursuant to section 94 of that Act

company means a company within the meaning of the Companies Act 1993

complaint means a complaint under section 132

complaints service means a complaints service established under section 121

conveyancer means a person, not being a lawyer or a person acting under the supervision of a lawyer, who provides conveyancing services

Conveyancers Society inspectorate means the inspectorate established by the New Zealand Society of Conveyancers pursuant to regulations made under section 115

conveyancing—

- (a) means—
 - (i) legal work carried out for the purpose of effecting or documenting any transaction or prospective transaction that does or would create, vary, transfer, or extinguish a legal or equitable estate, interest, or right in any real property; and
 - (ii) legal work carried out for the purpose of effecting or documenting a sale or purchase of a business, whether or not land is involved; and
- (b) includes legal work carried out for the purpose of effecting or documenting—
 - (i) a lease of land; or
 - (ii) the grant of a mortgage or charge over any interest in land; or
 - (iii) the creation of a trust affecting any real property or any interest in land; and
- (c) includes any legal services that are incidental to, or ancillary to, any work of a kind described in paragraph (a) or paragraph (b); and
- (d) includes, in particular, the presenting of any instrument for registration under the Land Transfer Act 2017 or the Deeds Registration Act 1908 and the carrying out of any other work required by either of those Acts to be performed by, or on behalf of, persons seeking to effect registration of instruments; but
- (e) does not include the legal work involved in the preparation or drafting of a will; and
- (f) despite paragraph (d), does not include the work (not being legal work) involved in an agent of a practitioner or incorporated firm presenting an instrument for registration under the Land Transfer Act 2017 or the Deeds Registration Act 1908

conveyancing practitioner means a person who holds a current practising certificate issued by the New Zealand Society of Conveyancers

Conveyancing Practitioners' Fidelity Fund means the fund established, pursuant to section 310, by practice rules made by the New Zealand Society of Conveyancers

Conveyancing Practitioners Standards Committee means a Conveyancing Practitioners Standards Committee established pursuant to section 127

conveyancing services means services that a person provides by carrying out conveyancing for any other person

Council, in Part 8 and Schedule 5, means the New Zealand Council of Legal Education

country includes every territory for whose international relations the Government of that country is responsible

course of study—

- (a) means,—
 - (i) in relation to lawyers, the course of study for any prescribed examination that is a qualification for admission as a barrister and solicitor of the High Court; and
 - (ii) in relation to conveyancers, the course of study for any examination that is a qualification for registration as a conveyancer; and
- (b) includes, in relation to any course of study to which paragraph (a)(i) or paragraph (a)(ii) applies, the structure of the course, the prescriptions for each subject, any prerequisites to the course or to any of the subjects of study in the course, and the examinations for the subjects

Crown entity has the meaning given to it by section 7(1) of the Crown Entities Act 2004

Crown organisation means a Crown entity, department, or government-related organisation

department has the meaning given to it by section 2(1) of the Public Finance Act 1989

direct supervision has,—

- (a) in relation to a lawyer who provides regulated services, the meaning given to it by the practice rules of the New Zealand Law Society; and
- (b) in relation to a conveyancing practitioner who provides regulated services, the meaning given to it by the practice rules of the New Zealand Society of Conveyancers

director, in relation to an incorporated firm, means a director as defined in section 126 of the Companies Act 1993

Disciplinary Tribunal means the New Zealand Lawyers and Conveyancers Disciplinary Tribunal established by section 226

document, in relation to a practitioner, includes—

- (a) any paper, deed, security, or instrument (including a negotiable instrument); and

- (b) any postal article within the meaning of the Postal Services Act 1998, including any such article delivered or to be delivered to any private box used for the purposes of the practitioner's practice; and
- (c) any document delivered or to be delivered to a document exchange box used for the purposes of the practitioner's practice; and
- (d) any reproduction or copy of a document; and
- (e) any information recorded or stored by means of any tape-recorder, computer, or other device, and any material subsequently derived from information so recorded or stored

employee includes,—

- (a) in relation to the New Zealand Defence Force, a member of the Armed Forces; and
- (b) in relation to the Police of New Zealand, a constable

employer organisation means an organisation—

- (a) whose members consist of employers; and
- (b) whose purpose is or includes the promotion of the interests of its members as employers

executive director of the New Zealand Law Society means the person for the time being appointed to hold that position by the Council of the New Zealand Law Society

fundamental obligations means,—

- (a) in relation to lawyers, the fundamental obligations set out in section 4; and
- (b) in relation to conveyancing practitioners, the fundamental obligations set out in section 5

government-related organisation has the meaning given to it by section 4 of the Crown Organisations (Criminal Liability) Act 2002

health professional organisation means an organisation—

- (a) whose members consist of health practitioners within the meaning of the Health Practitioners Competence Assurance Act 2003; and
- (b) whose purpose is or includes the promotion of—
 - (i) the professional standards of its members; and
 - (ii) the interests of its members in their capacity as health practitioners

High Court means the High Court of New Zealand; and includes a Judge of that court

incorporated conveyancing firm means, subject to sections 15 and 16, a company that—

- (a) provides to the public services that are, in relation to a conveyancing practitioner, regulated services; and
- (b) has as its directors no persons other than conveyancing practitioners who are actively involved in the provision by the body corporate of regulated services; and
- (c) has as its shareholders, in respect of shares that confer voting rights, no persons other than—
 - (i) conveyancing practitioners of the kind described in paragraph (b); or
 - (ii) persons who are administrators of the estates of persons who, at the time of their death, were conveyancing practitioners of the kind described in paragraph (b); and
- (d) has as its shareholders, in respect of shares that do not confer voting rights, no persons other than—
 - (i) conveyancing practitioners of the kind described in paragraph (b) (any 1 or more or each of whom may, but none of whom is required to, hold those shares as a trustee of a qualifying trust); or
 - (ii) persons who are relatives of conveyancing practitioners of the kind described in paragraph (b); or
 - (iii) persons who are administrators of the estates of persons who, at the time of their death, were shareholders of the kind described in subparagraph (i) or subparagraph (ii)

incorporated firm means an incorporated conveyancing firm or an incorporated law firm

incorporated law firm means, subject to sections 15 and 16, a company that—

- (a) provides to the public services that are, in relation to a lawyer, regulated services; and
- (b) has as its directors no persons other than lawyers who are actively involved in the provision by the body corporate of regulated services; and
- (c) has as its shareholders, in respect of shares that confer voting rights, no persons other than—
 - (i) lawyers of the kind described in paragraph (b); or
 - (ii) persons who are administrators of the estates of persons who, at the time of their death, were lawyers of the kind described in paragraph (b); and
- (d) has as its shareholders, in respect of shares that do not confer voting rights, no persons other than—

- (i) lawyers of the kind described in paragraph (b) (any 1 or more or each of whom may, but none of whom is required to, hold those shares as a trustee of a qualifying trust); or
- (ii) persons who are relatives of lawyers of the kind described in paragraph (b); or
- (iii) persons who are administrators of the estates of persons who, at the time of their death, were shareholders of the kind described in subparagraph (i) or subparagraph (ii)

investigator means an investigator appointed under section 144

Law Society inspectorate means the inspectorate established by the New Zealand Law Society pursuant to regulations made under section 115

lawyer means a person who holds a current practising certificate as a barrister or as a barrister and solicitor

Lawyers and Conveyancers Disciplinary Tribunal means the New Zealand Lawyers and Conveyancers Disciplinary Tribunal established by section 226

Lawyers' Fidelity Fund means the fund established, pursuant to section 309, by practice rules made by the New Zealand Law Society

Lawyers Standards Committee means a Lawyers Standards Committee established pursuant to section 126

lay member, in relation to the Disciplinary Tribunal, means a member of the Disciplinary Tribunal who holds office under section 228(c)

Legal Complaints Review Officer means the Legal Complaints Review Officer appointed under section 190

legal services means services that a person provides by carrying out legal work for any other person

Legal Services Agency means the agency established by the Legal Services Act 2000

legal work includes—

- (a) the reserved areas of work:
- (b) advice in relation to any legal or equitable rights or obligations:
- (c) the preparation or review of any document that—
 - (i) creates, or provides evidence of, legal or equitable rights or obligations; or
 - (ii) creates, varies, transfers, extinguishes, mortgages, or charges any legal or equitable title in any property:
- (d) mediation, conciliation, or arbitration services:
- (e) any work that is incidental to any of the work described in paragraphs (a) to (d)

Management Committee means the management committee established for the Special Fund by section 292(1)

mental or physical condition means any mental or physical condition or impairment; and includes, without limitation, a condition or impairment caused by alcohol or drug abuse

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

misconduct has,—

- (a) in relation to a lawyer (whether in practice on his or her own account or not), the meaning given to it by section 7; and
- (b) in relation to an incorporated law firm, the meaning given to it by section 7; and
- (c) in relation to a conveyancing practitioner (whether in practice on his or her own account or not), the meaning given to it by section 8; and
- (d) in relation to an incorporated conveyancing firm, the meaning given to it by section 8; and
- (e) in relation to a lawyer who is an employee, not only the meaning given to it by section 7, but also the meaning given to it by section 9(1); and
- (f) in relation to a conveyancing practitioner who is an employee not only the meaning given to it by section 8 but also the meaning given to it by section 9(2); and
- (g) in relation to a person who is not a practitioner but who is an employee of a practitioner or an incorporated firm, the meaning given to it by section 11

money includes—

- (a) bank notes and other currency, being any negotiable instruments used or circulated, or intended for use or circulation, as currency; and
- (b) postal notes and money orders; and
- (c) promissory notes and bills of exchange,—

whether of New Zealand or any other country

New Zealand Law Society means the society continued in existence by section 63

New Zealand Society of Conveyancers means the society established by section 77

nominated trust account means a trust account nominated under section 299

Office of Parliament has the meaning given to it by section 2(1) of the Public Finance Act 1989

patent attorney has the same meaning as **registered patent attorney** in Part 6 of the Patents Act 2013

postal operator means a person for the time being registered as a postal operator under the Postal Services Act 1998

practice rules means rules made under section 94

practising certificate means,—

- (a) in relation to a lawyer, a practising certificate issued under section 39(1) by the New Zealand Law Society; and
- (b) in relation to a conveyancing practitioner, a practising certificate issued under section 39(2) by the New Zealand Society of Conveyancers

practitioner means a lawyer or a conveyancing practitioner, as the case may be

printed form includes—

- (a) a form that is provided by a duplication or reproduction process, by printing from an electronic file or record, or by any similar process; and
- (b) a form—
 - (i) which is contained in an electronic file or record; and
 - (ii) which can be filled in, in whole or in part, before being transmitted electronically or being reproduced by printing it from that electronic file or record

qualifying trust means, for the purposes of the definitions in this section of incorporated conveyancing firm and incorporated law firm, a trust in which—

- (a) each beneficiary is a relative of 1 or more of the trustees; and
- (b) each trustee is (for an incorporated conveyancing firm) a conveyancing practitioner, or (for an incorporated law firm) a lawyer, who is actively involved in the provision by the body corporate of regulated services

record includes—

- (a) any file, register, ledger, book of account, or passbook, and any reproduction or copy of any of them or of any entry in any of them; and
- (b) any apparatus or equipment in or on which information is recorded, stored, or embodied in any form so as to be capable of being retrieved, reproduced, or processed by any means; and
- (c) any material by means of which information is supplied to, or derived from, any such apparatus or equipment

registered conveyancer means a person who is registered as a conveyancer under rules made under section 81(2)(a)

Registrar means a Registrar of the High Court; and includes a Deputy Registrar

regulated services means,—

- (a) in relation to a lawyer or an incorporated law firm,—
 - (i) legal services; and
 - (ii) conveyancing services; and
 - (iii) services that a lawyer provides by undertaking the work of a real estate agent; and
- (b) in relation to a conveyancing practitioner or an incorporated conveyancing firm,—
 - (i) conveyancing services; and
 - (ii) services that a conveyancing practitioner provides by undertaking the work of a real estate agent

regulated trust account, in relation to a practitioner,—

- (a) means a trust account required by this Act, or by any rules made under this Act, to be kept—
 - (i) by the practitioner or a related person or entity; or
 - (ii) by any incorporated firm of which the practitioner is a director or shareholder; and
- (b) includes any bank account in which money belonging to a client of the practitioner, of a related person or entity, or of an incorporated firm of which the practitioner is a director or shareholder is held if that money is held—
 - (i) by, or in the name of, the practitioner or any such incorporated firm; or
 - (ii) by, or in the name of, any person who is, in relation to the practitioner, a related person or entity; or
 - (iii) by, or in the name of, any agent, or employee of the practitioner or of any such incorporated firm; or
 - (iv) by, or in the names of, both the practitioner or any such incorporated firm and any person described in subparagraph (ii) or subparagraph (iii)

related entity means,—

- (a) in relation to a lawyer, any body (including a partnership or body corporate) on behalf of which, or in association with which, the lawyer provides, whether in his or her capacity as an employee, shareholder, or director or in any other capacity, regulated services to the public; and
- (b) in relation to a conveyancing practitioner, any body (including a partnership or body corporate) on behalf of which, or in association with which, the conveyancing practitioner provides, whether in his or her capacity as

an employee, shareholder, or director or in any other capacity, regulated services to the public

related person or entity means, in relation to a practitioner,—

- (a) a related entity; or
- (b) any person who practises in partnership with the practitioner; or
- (c) any person who—
 - (i) employs the practitioner to provide regulated services to the public; or
 - (ii) is a director or shareholder of an incorporated law firm or incorporated conveyancing firm in which the practitioner practises

relative, in relation to a conveyancing practitioner or lawyer, means, for the purposes of the definitions in this section of incorporated conveyancing firm and incorporated law firm, any of the following:

- (a) a spouse, civil union partner, or de facto partner of the conveyancing practitioner or lawyer:
- (b) a parent or grandparent of the conveyancing practitioner or lawyer:
- (c) a step-parent of the conveyancing practitioner or lawyer:
- (d) a brother, sister, half-brother, or half-sister of the conveyancing practitioner or lawyer:
- (e) a child or grandchild of the conveyancing practitioner or lawyer:
- (f) a step-child of the conveyancing practitioner or lawyer:
- (g) a parent of the conveyancing practitioner's or lawyer's spouse, civil union partner, or de facto partner

reserved areas of work means the work carried out by a person—

- (a) in giving legal advice to any other person in relation to the direction or management of—
 - (i) any proceedings that the other person is considering bringing, or has decided to bring, before any New Zealand court or New Zealand tribunal; or
 - (ii) any proceedings before any New Zealand court or New Zealand tribunal to which the other person is a party or is likely to become a party; or
- (b) in appearing as an advocate for any other person before any New Zealand court or New Zealand tribunal; or
- (c) in representing any other person involved in any proceedings before any New Zealand court or New Zealand tribunal; or

- (d) in giving legal advice or in carrying out any other action that, by section 21F of the Property (Relationships) Act 1976 or by any provision of any other enactment, is required to be carried out by a lawyer

roll means the roll of barristers and solicitors kept by any Registrar under this Act

shareholder, in relation to an incorporated firm, means a shareholder as defined in section 96 of the Companies Act 1993

solicitor means a person enrolled as a barrister and solicitor of the High Court under, or by virtue of, this Act and practising as a solicitor, whether or not he or she also practises as a barrister; and, in relation to any country outside New Zealand, includes, for the purposes of sections 49(3)(a) and 53, any person authorised to exercise in that country functions similar to those exercised by solicitors in New Zealand

Special Fund means the fund continued in existence by section 289 and now known as the Lawyers and Conveyancers Special Fund

Standards Committee means a Lawyers Standards Committee or a Conveyancers Standards Committee

statutory officer means a person—

- (a) holding or performing the duties of an office established by an enactment; or
- (b) performing duties expressly conferred on that person by virtue of his or her office by an enactment; or
- (c) holding office as the chief executive of a Crown organisation

trust account—

- (a) means, in relation to a practitioner or incorporated firm, any trust account at a bank in New Zealand that is a trust account in the name of that practitioner or incorporated firm; and
- (b) includes, in relation to a practitioner, any trust account at a bank in New Zealand that—
- (i) is in the name of a firm in which that practitioner is a partner or is held out to be a partner; or
- (ii) is in the name of an incorporated firm of which that practitioner is a director or shareholder

trust account records—

- (a) means records relating to a trust account; and
- (b) includes any information which relates to a trust account and which is recorded or stored by means of any tape-recorder, computer, or other device, and any material subsequently derived from information so recorded or stored

trustee company means a trustee company within the meaning of the Trustee Companies Act 1967

union—

- (a) has the same meaning as in section 5 of the Employment Relations Act 2000; and
- (b) includes an organisation—
 - (i) whose members consist of unions; and
 - (ii) whose purpose is or includes the promotion of the interests of its members as unions; and
- (c) includes a health professional organisation

unsatisfactory conduct has,—

- (a) in relation to a lawyer (whether in practice on his or her own account or not), the meaning given to it by section 12; and
- (b) in relation to an incorporated law firm, the meaning given to it by section 12; and
- (c) in relation to a conveyancing practitioner (whether in practice on his or her own account or not), the meaning given to it by section 13; and
- (d) in relation to an incorporated conveyancing firm, the meaning given to it by section 13; and
- (e) in relation to a person who is not a practitioner but who is an employee of a practitioner or an incorporated firm, the meaning given to it by section 14.

Compare: 1982 No 123 ss 2, 65(4)

Section 6 **bank**: amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 6 **chief executive** paragraph (b)(i): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 6 **community law centre**: substituted, on 1 July 2011, by section 144 of the Legal Services Act 2011 (2011 No 4).

Section 6 **conveyancing** paragraph (d): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 6 **conveyancing** paragraph (f): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 6 **employee**: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 6 **employer organisation**: inserted (with effect from 1 August 2008), on 4 August 2008, by section 5 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 6 **health professional organisation**: inserted (with effect from 1 August 2008), on 4 August 2008, by section 5 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 6 **incorporated conveyancing firm** paragraph (d)(i): amended, on 20 November 2012, by section 8(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 6 **incorporated law firm** paragraph (d)(i): amended, on 20 November 2012, by section 8(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 6 **patent attorney**: replaced, on 24 February 2017, by section 8 of the Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89).

Section 6 **qualifying trust**: inserted, on 20 November 2012, by section 8(3) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 6 **relative** paragraph (e): amended, on 20 November 2012, by section 8(4) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 6 **union**: inserted (with effect from 1 August 2008), on 4 August 2008, by section 5 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

7 **Misconduct defined in relation to lawyer and incorporated law firm**

- (1) In this Act, **misconduct**, in relation to a lawyer or an incorporated law firm,—
- (a) means conduct of the lawyer or incorporated law firm that occurs at a time when he or she or it is providing regulated services and is conduct—
 - (i) that would reasonably be regarded by lawyers of good standing as disgraceful or dishonourable; or
 - (ii) that consists of a wilful or reckless contravention of any provision of this Act or of any regulations or practice rules made under this Act that apply to the lawyer or incorporated law firm or of any other Act relating to the provision of regulated services; or
 - (iii) that consists of a wilful or reckless failure on the part of the lawyer, or, in the case of an incorporated law firm, on the part of a lawyer who is actively involved in the provision by the incorporated law firm of regulated services, to comply with a condition or restriction to which a practising certificate held by the lawyer, or the lawyer so actively involved, is subject; or
 - (iv) that consists of the charging of grossly excessive costs for legal work carried out by the lawyer or incorporated law firm; and
 - (b) includes—
 - (i) conduct of the lawyer or incorporated law firm that is misconduct under subsection (2) or subsection (3); and
 - (ii) conduct of the lawyer or incorporated law firm which is unconnected with the provision of regulated services by the lawyer or incorporated law firm but which would justify a finding that the lawyer or incorporated law firm is not a fit and proper person or is otherwise unsuited to engage in practice as a lawyer or an incorporated law firm.
- (2) A lawyer or an incorporated law firm is guilty of misconduct if, at a time when he or she or it is providing regulated services, and without the consent of the High Court or of the Disciplinary Tribunal, the lawyer or incorporated law firm knowingly employs, or permits to act as a clerk or otherwise, in relation to

the provision of regulated services, any person who, to the knowledge of the lawyer or incorporated law firm,—

- (a) is under suspension from practice as a barrister or as a solicitor or as a conveyancing practitioner; or
 - (b) has had his or her name struck off the roll of barristers and solicitors of the High Court; or
 - (c) has had his or her registration as a conveyancing practitioner cancelled by an order made under this Act; or
 - (d) is disqualified, by an order made under section 242(1)(h), from employment in connection with a practitioner's or incorporated firm's practice.
- (3) A person is guilty of misconduct if that person, being a lawyer or an incorporated law firm, shares, with any person other than another lawyer or incorporated law firm, the income from any business involving the provision of regulated services to the public.
- (4) Despite subsection (3), a lawyer or an incorporated law firm is not guilty of misconduct under that subsection by reason only of sharing with a patent attorney (in the circumstances, and in accordance with any conditions, prescribed by the practice rules) the income from any business involving the provision of regulated services to the public.
- (5) Despite subsection (3), neither an incorporated law firm nor a lawyer who is actively involved in the provision by an incorporated law firm of regulated services is guilty of misconduct under that subsection by reason only of the incorporated law firm making a distribution to shareholders of that firm.

8 Misconduct defined in relation to conveyancing practitioner and incorporated conveyancing firm

- (1) In this Act, **misconduct**, in relation to a conveyancing practitioner or an incorporated conveyancing firm,—
- (a) means conduct of the conveyancing practitioner or incorporated conveyancing firm that occurs at a time when he or she or it is providing regulated services and is conduct—
 - (i) that would reasonably be regarded by conveyancing practitioners of good standing as disgraceful or dishonourable; or
 - (ii) that consists of a wilful or reckless contravention of any provision of this Act or of any regulations or practice rules made under this Act that apply to the conveyancing practitioner or incorporated conveyancing firm or of any other Act relating to the provision of regulated services; or
 - (iii) that consists of a wilful or reckless failure, on the part of the conveyancing practitioner, or, in the case of an incorporated conveyancing firm, on the part of a conveyancing practitioner who

- is actively involved in the provision by the incorporated conveyancing firm of regulated services, to comply with a condition or restriction to which a practising certificate held by the conveyancing practitioner, or the conveyancing practitioner so actively involved, is subject; or
- (iv) that consists of the charging of grossly excessive costs for conveyancing carried out by the conveyancing practitioner or incorporated conveyancing firm; and
- (b) includes—
- (i) conduct of the conveyancing practitioner or incorporated conveyancing firm that is misconduct under subsection (2) or subsection (3); and
- (ii) conduct by the conveyancing practitioner or incorporated conveyancing firm which is unconnected with the provision of regulated services by the conveyancing practitioner or incorporated conveyancing firm but which would justify a finding that the conveyancing practitioner or incorporated conveyancing firm is not a fit and proper person or is otherwise unsuited to engage in practice as a conveyancing practitioner or an incorporated conveyancing firm.
- (2) A conveyancing practitioner or incorporated conveyancing firm is guilty of misconduct if, at a time when he or she or it is providing regulated services, and without the consent of the High Court or of the Disciplinary Tribunal, the conveyancing practitioner or incorporated conveyancing firm knowingly employs, or permits to act as a clerk or otherwise, in relation to the provision of regulated services, any person who, to the knowledge of the conveyancing practitioner or incorporated conveyancing firm,—
- (a) is under suspension from practice as a barrister or as a solicitor or as a conveyancing practitioner; or
- (b) has had his or her name struck off the roll of barristers and solicitors of the High Court; or
- (c) has had his or her registration as a conveyancing practitioner cancelled by an order made under this Act; or
- (d) is disqualified, by an order made under section 242(1)(h), from employment in connection with a practitioner's or incorporated firm's practice.
- (3) A person is guilty of misconduct if that person, being a conveyancing practitioner or an incorporated conveyancing firm, shares with any person other than another conveyancing practitioner or incorporated conveyancing firm, the income from any business involving the provision of regulated services to the public.
- (4) Despite subsection (3), neither an incorporated conveyancing firm nor a conveyancing practitioner who is actively involved in the provision by an incorp-

orated conveyancing firm of regulated services is guilty of misconduct under that subsection by reason only of the incorporated conveyancing firm making a distribution to shareholders of that firm.

9 Misconduct defined in relation to provision of regulated services by employees

- (1) A lawyer is guilty of misconduct who, being an employee, provides regulated services to the public other than in the course of his or her employment—
- (a) by a lawyer; or
 - (b) by a partnership comprised entirely of lawyers; or
 - (c) by an incorporated law firm; or
 - (d) by a community law centre; or
 - (e) by the Ministry of Justice; or
 - (f) by Public Trust; or
 - (g) by the Maori Trustee; or
 - (h) by a trustee company; or
 - (i) by an employer organisation; or
 - (j) by a union.
- (1A) Despite subsection (1), a lawyer is guilty of misconduct if, in the course of his or her employment—
- (a) by an employer organisation, he or she provides—
 - (i) legal services to a person other than the organisation or a member of the organisation; or
 - (ii) legal services to a member of the organisation that are not relevant to his or her or its membership of the organisation; or
 - (iii) regulated services that are not legal services to any person; or
 - (b) by a union, he or she provides—
 - (i) legal services to a person other than the union or a member of the union; or
 - (ii) legal services to a member of the union that are not relevant to his or her or its membership of the union; or
 - (iii) regulated services that are not legal services to any person.
- (1B) For the purposes of subsection (1A), legal services provided to a member of an employer organisation or, as the case requires, a union are relevant to his or her or its membership of the employer organisation or union if the legal services relate to—
- (a) the member's rights, obligations, or liabilities in his or her capacity—
 - (i) as a member of the employer organisation or union; or

- (ii) as an employer or employee; or
 - (b) any matter concerning or arising out of any employment relationship (within the meaning of the Employment Relations Act 2000), including any former or prospective relationship of that kind; or
 - (c) any claim or action by or against the member under any enactment specified in section 236(4) of the Employment Relations Act 2000; or
 - (d) compliance with any enactment or other requirement governing the performance of the duties of the member in the conduct of the member's normal business or profession; or
 - (e) any question or matter concerning the member's professional liability, entitlement under any contract of insurance relating to professional liability, or compliance with professional standards.
- (2) A conveyancing practitioner is guilty of misconduct who, being an employee, provides regulated services to the public other than in the course of his or her employment—
- (a) by a conveyancing practitioner; or
 - (b) by a partnership comprised entirely of conveyancing practitioners; or
 - (c) by an incorporated conveyancing firm; or
 - (d) by a lawyer; or
 - (e) by a partnership comprised entirely of lawyers; or
 - (f) by an incorporated law firm; or
 - (g) by Public Trust; or
 - (h) by the Maori Trustee; or
 - (i) by a trustee company.
- (3) This section is subject to section 10.

Section 9(1)(e): amended, on 1 July 2011, by section 144 of the Legal Services Act 2011 (2011 No 4).

Section 9(1)(h): amended (with effect from 1 August 2008), on 4 August 2008, by section 6(1) of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 9(1)(i): added (with effect from 1 August 2008), on 4 August 2008, by section 6(1) of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 9(1)(j): added (with effect from 1 August 2008), on 4 August 2008, by section 6(1) of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 9(1A): inserted (with effect from 1 August 2008), on 4 August 2008, by section 6(2) of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 9(1B): inserted (with effect from 1 August 2008), on 4 August 2008, by section 6(2) of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

10 Exceptions to section 9

- (1) Nothing in section 9 prevents—

- (a) a lawyer from being employed by a person other than a person described in paragraphs (a) to (j) of section 9(1); or
 - (b) a conveyancing practitioner from being employed by a person other than a person described in paragraphs (a) to (i) of section 9(2); or
 - (c) a lawyer who is employed by a person other than a person described in paragraphs (a) to (j) of section 9(1) from providing in the course of his or her employment regulated services to his or her employer; or
 - (d) a conveyancing practitioner who is employed by a person other than a person described in paragraphs (a) to (i) of section 9(2) from providing in the course of his or her employment regulated services to his or her employer; or
 - (e) a lawyer to whom paragraph (c) of this subsection applies from assisting or enabling his or her employer to provide to the public regulated services that are not—
 - (i) legal services that come within the definition of reserved areas of work; or
 - (ii) services that consist of the drafting, settling, or revising of any document that is to be filed in proceedings before any court or tribunal (if the drafting, settling, or revising of that document by the employer of the lawyer would contravene section 26); or
 - (iii) conveyancing services; or
 - (iv) services that a lawyer provides by undertaking the work of a real estate agent.
- (2) Nothing in section 9 prevents—
- (a) a lawyer who is acting in his or her capacity as a statutory officer, and not in his or her personal capacity,—
 - (i) from providing regulated services to the public in the discharge of his or her duties, or the exercise of his or her powers, under any enactment; or
 - (ii) from doing any thing that is intended to facilitate, or is conducive or incidental to, the discharge of the functions conferred on the statutory officer by any enactment; or
 - (b) a lawyer who is employed by a Crown organisation or is an employee of a statutory officer or Crown organisation, and who is acting in the course of his or her employment,—
 - (i) from providing regulated services to the public in the discharge of any duties, or in the exercise of any powers, of the Crown organisation or statutory officer under any enactment; or

- (ii) from doing any thing that is intended to facilitate, or is conducive or incidental to, the discharge of the functions conferred on the Crown organisation or statutory officer by any enactment.
- (3) Nothing in section 9 prevents a lawyer who is both an employee and a lawyer practising on his or her own account from providing regulated services to the public in his or her capacity as a lawyer practising on his or her own account.
- (4) Despite subsections (1) to (3), nothing in section 9 or this section permits a lawyer who is employed by a person other than a person described in paragraphs (a) to (j) of section 9(1) to assist or enable his or her employer to provide regulated services to a person with whom the lawyer has a lawyer and client relationship.
- (5) Nothing in section 9 prevents a lawyer who is not an employee of a community law centre or citizens advice bureau from providing legal services to the public under the auspices of a community law centre or citizens advice bureau.
- (6) Nothing in section 9 or this section limits—
 - (a) the application of section 7 to a lawyer who is an employee or statutory officer; or
 - (b) the application of section 8 to a conveyancing practitioner who is an employee or statutory officer.

Section 10(1)(a): amended (with effect from 1 August 2008), on 4 August 2008, by section 7 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 10(1)(c): amended (with effect from 1 August 2008), on 4 August 2008, by section 7 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 10(4): amended (with effect from 1 August 2008), on 4 August 2008, by section 7 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

11 Misconduct defined in relation to employees who are not practitioners

In this Act, **misconduct**, in relation to a person who is not a practitioner but who is an employee of a practitioner or an incorporated firm,—

- (a) means conduct of the person in the course of his or her employment by the practitioner or incorporated firm that would, if it were conduct of a practitioner, render the practitioner liable to have his or her name struck off the roll or to have his or her registration as a conveyancing practitioner cancelled; and
- (b) includes conduct of the person which is unconnected with his or her employment by the practitioner or incorporated firm but which would justify a finding that the person is not of good character or is otherwise unsuited for employment by a practitioner or incorporated firm.

12 Unsatisfactory conduct defined in relation to lawyers and incorporated law firms

In this Act, **unsatisfactory conduct**, in relation to a lawyer or an incorporated law firm, means—

- (a) conduct of the lawyer or incorporated law firm that occurs at a time when he or she or it is providing regulated services and is conduct that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent lawyer; or
- (b) conduct of the lawyer or incorporated law firm that occurs at a time when he or she or it is providing regulated services and is conduct that would be regarded by lawyers of good standing as being unacceptable, including—
 - (i) conduct unbecoming a lawyer or an incorporated law firm; or
 - (ii) unprofessional conduct; or
- (c) conduct consisting of a contravention of this Act, or of any regulations or practice rules made under this Act that apply to the lawyer or incorporated law firm, or of any other Act relating to the provision of regulated services (not being a contravention that amounts to misconduct under section 7); or
- (d) conduct consisting of a failure on the part of the lawyer, or, in the case of an incorporated law firm, on the part of a lawyer who is actively involved in the provision by the incorporated law firm of regulated services, to comply with a condition or restriction to which a practising certificate held by the lawyer, or the lawyer so actively involved, is subject (not being a failure that amounts to misconduct under section 7).

13 Unsatisfactory conduct defined in relation to conveyancing practitioners and incorporated conveyancing firms

In this Act, **unsatisfactory conduct**, in relation to a conveyancing practitioner or an incorporated conveyancing firm, means—

- (a) conduct of the conveyancing practitioner or incorporated conveyancing firm that occurs at a time when he or she or it is providing regulated services and is conduct that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent conveyancing practitioner; or
- (b) conduct of the conveyancing practitioner or incorporated conveyancing firm that occurs at a time when he or she or it is providing regulated services and is conduct that would be regarded by conveyancing practitioners of good standing as being unacceptable, including—
 - (i) conduct unbecoming a conveyancing practitioner or an incorporated conveyancing firm; or
 - (ii) unprofessional conduct; or
- (c) conduct consisting of a contravention of this Act, or of any regulations or practice rules made under this Act that apply to the conveyancing practitioner or incorporated conveyancing firm, or of any other Act

relating to the provision of regulated services (not being a contravention that amounts to misconduct under section 8); or

- (d) conduct consisting of a failure on the part of the conveyancing practitioner, or, in the case of an incorporated conveyancing firm, on the part of a conveyancing practitioner who is actively involved in the provision by the incorporated conveyancing firm of regulated services, to comply with a condition or restriction to which a practising certificate held by the conveyancing practitioner, or the conveyancing practitioner so actively involved, is subject (not being a failure that amounts to misconduct under section 8).

14 Unsatisfactory conduct defined in relation to employees who are not practitioners

In this Act, **unsatisfactory conduct**, in relation to a person who is not a practitioner but who is an employee of a practitioner or an incorporated firm,—

- (a) means conduct of the person in the course of his or her employment by the practitioner or incorporated firm that would, if it were conduct of a practitioner, be unsatisfactory conduct under section 12 or section 13; and
- (b) includes conduct consisting of a contravention of this Act, or of any regulations or practice rules made under this Act that apply to the person, or of any other Act relating to the provision of regulated services (not being a contravention that amounts to misconduct under section 11).

15 Directors and shareholders of incorporated firms

- (1) A company does not cease to be an incorporated firm merely because a lawyer or conveyancing practitioner who is actively involved in the provision by the company of regulated services and who is a director of the company or is both a director and shareholder of the company dies or ceases, temporarily or permanently, to be actively involved in the provision of regulated services by the company if,—

- (a) in the case where he or she is the only director of the company or is both the only director and a shareholder of the company, his or her powers as a director of that company are exercised or performed—
 - (i) by the donee of a power of attorney given under, or treated by clause 12 or clause 19(4) of Schedule 1 as given under, clause 3(1) or clause 5(1) of Schedule 1; or
 - (ii) by the alternate of a donee of the kind described in subparagraph (i); or
- (b) in any other case where he or she is a director of the company or is both a director and shareholder of the company, at least 1 other lawyer or 1 other conveyancing practitioner, as the case may require, who is

actively involved in the provision of regulated services by the company is a director of the company.

- (2) A company is not prevented from being an incorporated firm merely because of the application of any of the provisions of section 126(1)(b) to (d), (2), or (3) of the Companies Act 1993 to—
 - (a) a person who, in the case of an incorporated law firm, is not a lawyer who is actively involved in the provision by the incorporated law firm of regulated services; or
 - (b) a person who, in the case of an incorporated conveyancing firm, is not a conveyancing practitioner who is actively involved in the provision by that incorporated conveyancing firm of regulated services.
- (3) Subsection (1)(b) is subject to section 16.

16 Shareholders of incorporated firms

- (1) This section applies to any person who is a shareholder in a company that is an incorporated firm and who is qualified to be such a shareholder by reason of being—
 - (a) a lawyer or conveyancing practitioner who is actively involved in the provision of regulated services by the company; or
 - (b) a relative of a lawyer or conveyancing practitioner of the kind described in paragraph (a).
- (2) If, as a result of a lawyer or conveyancing practitioner dying or ceasing, temporarily or permanently, to be actively involved in the provision of regulated services by a company that is an incorporated firm, a person to whom this section applies would cease to be qualified as a shareholder of that company, this Act is, unless the lawyer or conveyancing practitioner is the only director of that company, to be applied in relation to that company, until the date specified in subsection (3), as if that person were qualified to be a shareholder of that company.
- (3) The date specified for the purposes of subsection (2) is the earlier of—
 - (a) the date on which the shares in the company that are held by the person to whom this section applies are disposed of by or on behalf of that person or the administrator of that person's estate;
 - (b) the date of the last day of the period of 12 months beginning with the date on which the lawyer or conveyancing practitioner ceases to be actively involved in the provision of regulated services by that company.

17 Liabilities of director or shareholder of incorporated firm

- (1) For the avoidance of doubt, and subject to sections 18 and 19, a practitioner who is a director or shareholder of an incorporated firm is not liable, on a joint or several basis, by reason only of being such a director or shareholder,—

- (a) for any act or omission of any other director or shareholder of the firm;
or
 - (b) for the debts or liabilities of the firm.
- (2) Subject to subsection (1), a practitioner who is a director or shareholder of an incorporated firm is subject to all the professional obligations to which he or she would be subject if he or she were in practice on his or her own account.

18 Liability of lawyer principals in respect of pecuniary loss by reason of theft

- (1) If a person suffers pecuniary loss by reason of the theft of any money or valuable property that has been entrusted to a lawyer or an incorporated law firm in the course of the lawyer's or incorporated law firm's practice, the persons specified in subsection (2) are, in addition to the person who committed the theft, personally liable for that pecuniary loss if the theft was committed—
- (a) by any person who is, in relation to the lawyer, a related person or entity;
or
 - (b) by any agent, employer, or employee of the lawyer or incorporated law firm (whether or not that agent, employer, or employee is also a lawyer);
or
 - (c) by any agent or employee of a person who is, in relation to the lawyer, a related person or entity (whether or not that agent or employee is also a lawyer); or
 - (d) by any partner or director or other person who controls or manages the incorporated law firm or any body that is, in relation to the lawyer, a related entity.
- (2) The persons who are personally liable under subsection (1) are as follows:
- (a) the lawyer to whom, or the incorporated law firm to which, the money or other valuable property was entrusted;
 - (b) any person who is, in relation to the lawyer referred to in paragraph (a), a related person or entity;
 - (c) any person who is a director or shareholder of the incorporated law firm referred to in paragraph (a).
- (3) Despite subsection (2), a person who is a shareholder of the incorporated law firm referred to in subsection (2)(a) is not personally liable under subsection (1) if—
- (a) that shareholder does not hold any shares in the incorporated law firm that confer voting rights; and
 - (b) that shareholder is not a person who is actively involved in the provision by the incorporated law firm of regulated services; and

- (c) that shareholder is not a person who is an administrator of the estate of a person who, at the time of his or her death, was—
 - (i) a director of the incorporated law firm; or
 - (ii) a lawyer who was actively involved in the provision by the incorporated law firm of regulated services.

19 Liability of conveyancing practitioner principals in respect of pecuniary loss by reason of theft

- (1) If a person suffers pecuniary loss by reason of the theft of any money or valuable property that has been entrusted to a conveyancing practitioner or an incorporated conveyancing firm in the course of the conveyancing practitioner's or incorporated conveyancing firm's practice, the persons specified in subsection (2) are, in addition to the person who committed the theft, personally liable for that pecuniary loss if the theft was committed—
 - (a) by any person who is, in relation to the conveyancing practitioner, a related person or entity; or
 - (b) by any agent, employer, or employee of the conveyancing practitioner or incorporated conveyancing firm (whether or not that agent, employer, or employee is also a conveyancing practitioner); or
 - (c) by any agent or employee of a person who is, in relation to the conveyancing practitioner, a related person or entity (whether or not that agent or employee is also a conveyancing practitioner); or
 - (d) by any partner or director or other person who controls or manages the incorporated conveyancing firm or any body that is, in relation to the conveyancing practitioner, a related entity.
- (2) The persons who are personally liable under subsection (1) are as follows:
 - (a) the conveyancing practitioner to whom, or the incorporated conveyancing firm to which, the money or other valuable property was entrusted;
 - (b) any person who is, in relation to the conveyancing practitioner referred to in paragraph (a), a related person or entity;
 - (c) any person who is a director or shareholder of the incorporated conveyancing firm referred to in paragraph (a).
- (3) Despite subsection (2), a person who is a shareholder of the incorporated conveyancing firm referred to in subsection (2)(a) is not personally liable under subsection (1) if—
 - (a) that shareholder does not hold any shares in the incorporated conveyancing firm that confer voting rights; and
 - (b) that shareholder is not a person who is actively involved in the provision by the incorporated conveyancing firm of regulated services; and

- (c) that shareholder is not a person who is an administrator of the estate of a person who, at the time of his or her death, was—
 - (i) a director of the incorporated conveyancing firm; or
 - (ii) a conveyancing practitioner who was actively involved in the provision by the incorporated conveyancing firm of regulated services.

20 Act to bind the Crown

This Act binds the Crown.

Part 2

Restrictions on provision of legal services and conveyancing services

Legal services

21 Provision of legal services

- (1) A person commits an offence who, not being a lawyer or an incorporated law firm,—
 - (a) provides legal services in New Zealand; and
 - (b) describes himself, herself, or itself as—
 - (i) a lawyer; or
 - (ii) a law practitioner; or
 - (iii) a legal practitioner; or
 - (iv) a barrister; or
 - (v) a solicitor; or
 - (vi) a barrister and solicitor; or
 - (vii) an attorney-at-law; or
 - (viii) counsel.
- (2) This section is subject to the exceptions set out in sections 25(2) and 27.

22 Misleading descriptions

- (1) A person commits an offence who holds himself or herself, or any other person, out (whether directly or indirectly) as providing legal services, or as being entitled, qualified, able, or willing to provide legal services, under the description of lawyer or any of the terms specified in subparagraphs (ii) to (viii) of section 21(1)(b), if it would be an offence against section 21 for that person or, as the case may be, that other person to provide legal services under that description.
- (2) A person commits an offence who uses or permits to be used in connection with that person's name or business or with the name under which that person

carries on business any words, letters, or symbols that the person intends to cause, or are reasonably likely to cause, anyone else to believe that the first-mentioned person or any other person—

- (a) is a lawyer; or
- (b) holds any type of admission, enrolment, or practising certificate under this Act,—

unless the first-mentioned person or, as the case requires, that other person is a lawyer or is admitted or enrolled or holds that practising certificate.

- (3) A person commits an offence who uses or permits to be used any words, letters, or symbols that the person intends to cause, or are reasonably likely to cause, anyone else to believe that the first-mentioned person or any other person possesses a qualification in law or any branch of the law or possesses special expertise in any branch of the law, unless the first-mentioned person or, as the case requires, that other person holds that qualification or possesses that special expertise.
- (4) This section is subject to the exceptions set out in sections 25(2) and 27.

Compare: 1995 No 95 s 10

23 False or misleading representations in relation to supply of legal services

- (1) A person commits an offence who, in connection with the supply or possible supply of legal services or with the promotion by any means of the supply or use of legal services, makes a false or misleading representation that the legal services are provided, or are to be provided, by, or under the direct supervision of, a person (being that person or any other person)—
 - (a) who is entitled to provide legal services under the description of lawyer or any other term specified in subparagraphs (ii) to (viii) of section 21(1)(b); or
 - (b) who possesses any qualification in law or any branch of law.
- (2) Section 45 of the Fair Trading Act 1986 applies, with all necessary modifications, in relation to any proceedings for an offence against subsection (1) as if those proceedings were proceedings under Part 5 of that Act.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the contravention of that subsection was due—
 - (a) to a reasonable mistake; or
 - (b) to reasonable reliance on information supplied by another person.

24 Reserved areas of work for lawyers and incorporated law firms

- (1) A person commits an offence—
 - (a) who, for gain or reward (whether direct or indirect) and not being a lawyer or an incorporated law firm, carries out work of a kind described

- in paragraph (a) of the definition of reserved areas of work (as set out in section 6); or
- (b) who, not being a lawyer, carries out work of a kind described in paragraph (b) or paragraph (c) or paragraph (d) of the definition of reserved areas of work (as set out in section 6).
- (1A) For the purposes of subsection (1), an employer organisation or a union does not carry out work of the kind referred to in paragraph (a) or (b) of that subsection merely because—
- (a) the employer organisation employs a lawyer who carries out work of that kind for members of the organisation, whether or not the organisation receives any gain or reward for that work:
 - (b) the union employs a lawyer who carries out work of that kind for members of the union, whether or not the union receives any gain or reward for that work.
- (2) This section is subject to the exceptions set out in sections 25(2) and 27.

Section 24(1A): inserted (with effect from 1 August 2008), on 4 August 2008, by section 8 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

25 Lawyers of other jurisdictions

- (1) Nothing in sections 21 to 24 prevents a person who is a member of the legal profession of a country outside New Zealand, but who does not hold any type of admission, enrolment, or practising certificate under this Act,—
- (a) from providing in New Zealand legal services that do not involve carrying out work in any of the reserved areas of work; or
 - (b) from doing any work, or transacting any business, in New Zealand if that work is business concerning—
 - (i) the law of a country or territory outside New Zealand; or
 - (ii) international law; or
 - (c) providing legal services (including appearances) in New Zealand in relation to any proceedings before any court or other body if, for the purpose of those proceedings, it is essential that the provider of those legal services has knowledge of—
 - (i) the law of a country or territory outside New Zealand; or
 - (ii) international law.
- (2) Nothing in sections 21 to 24 prevents a person who is a member of the legal profession of a country outside New Zealand, but who does not hold any type of admission, enrolment, or practising certificate under this Act, from describing himself or herself in accordance with any of the terms specified in section 21(1)(b) if—
- (a) the person is able to practise under such a description in a country outside New Zealand; and

- (b) the description incorporates a reference to the country in which the person is able to practise under that description and the fact that the ability to practise under such a description is connected with that country or territory; and
- (c) the use of the description by the person does not contravene any of the provisions of Part 1 of the Fair Trading Act 1986 and, in particular, does not contravene section 11 or section 13(b) of that Act.

26 Drafting court documents

- (1) A person commits an offence who, for gain or reward (whether direct or indirect) and not being an authorised person within the meaning of subsection (2), drafts, settles, or revises for or on behalf of any person who is a party to proceedings before any court or tribunal or who proposes to intervene in, or become a party to, any such proceedings any document that is to be filed in those proceedings.
- (2) In this section,—
 - authorised person** means, in relation to proceedings before any court or tribunal,—
 - (a) a lawyer; or
 - (b) a person who is entitled under an Act to draft, settle, or revise a document that is to be filed in those proceedings; or
 - (c) a person acting under the supervision of a lawyer
 - document** does not include any special document or class of document that is declared by the Governor-General by Order in Council to be a document or class of document to which subsection (1) does not apply.
- (3) This section is subject to the exceptions set out in section 27.
- (4) An order under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 26(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

27 Exceptions to sections 21, 22, 24, and 26

- (1) Sections 21, 22, 24, and 26 do not prevent—
 - (a) any person from representing himself or herself in proceedings before any court or tribunal; or

- (b) any person from appearing as an advocate, or representing any other person before any court or tribunal if the appearance or representation is allowed or required—
 - (i) by any legislation; or
 - (ii) by the court or tribunal; or
 - (c) any person who may, in accordance with paragraph (b), appear in any proceedings as an advocate or representative from—
 - (i) giving advice in relation to those proceedings; or
 - (ii) giving assistance in drafting, settling, or revising documents for filing in those proceedings.
- (2) Sections 21, 24, and 26 do not prevent any person who works in a community law centre or who is employed by a community law centre from giving to a person who is or intends to be a litigant in person in any proceedings—
 - (a) advice in relation to those proceedings; or
 - (b) assistance in drafting, settling, or revising documents for filing in those proceedings.
- (3) A person does not commit an offence against any provision of sections 21, 22, 24, and 26 by reason only of filling in, on behalf of any other person, a printed form required for the purposes of any proceedings before any court or tribunal if—
 - (a) the printed form is either—
 - (i) a form prescribed for the purpose of the proceedings; or
 - (ii) a form prepared by a person who, at the time when it was prepared, was an authorised person within the meaning of section 26(2); and
 - (b) it is reasonable to expect that the form could be properly completed by persons who were not authorised persons within the meaning of section 26(2); and
 - (c) no charge is made, directly or indirectly, for the filling in of the form or any service in relation to the filling in of the form.
- (4) Sections 24 and 26 do not prevent a statutory officer or Crown organisation, or any employee of a statutory officer or Crown organisation,—
 - (a) from discharging any of his, her, or its duties, or exercising any of his, her, or its powers, under any enactment; or
 - (b) from doing any thing that is intended to facilitate, or is conducive or incidental to, the discharge of the functions conferred on the statutory officer or Crown organisation by any enactment.
- (5) Section 24 does not prevent a conveyancing practitioner from providing conveyancing services.

Section 27(1)(b)(i): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

28 Proceedings in respect of offences against any provision of sections 21 to 24

- (1) A charging document in respect of an offence against any provision of sections 21 to 24 may be filed only—
 - (a) by the President of the New Zealand Law Society; or
 - (b) by a person authorised by the Council of the New Zealand Law Society to file that charging document.
- (2) In any proceedings for an offence against any provision of sections 21 to 24, a certificate purporting to be signed by the executive director of the New Zealand Law Society or a person authorised by the Council of the New Zealand Law Society to sign that certificate and stating that at any time or during any period specified in the certificate any person was not, and was not deemed to be, the holder of a current practising certificate as a barrister, or as a barrister and solicitor, as the case may require,—
 - (a) is admissible in evidence; and
 - (b) is, in the absence of proof to the contrary, sufficient evidence of the matters stated in it.
- (3) The production of a certificate for the purposes of subsection (2) purporting to be signed by the executive director of the New Zealand Law Society or a person authorised by the Council of the New Zealand Law Society to sign that certificate is prima facie evidence of the certificate without proof of the signature of the person purporting to have signed it.

Compare: 1982 No 123 s 56(5), (6)(a)

Section 28(1): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

29 Contempt of court

[Repealed]

Section 29: repealed, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

30 Practice by lawyer on his or her own account

- (1) No lawyer may commence practice on his or her own account, whether in partnership or otherwise, unless—
 - (a) he or she—
 - (i) meets the requirements with regard to both practical legal experience and suitability that are imposed by rules made under this Act; and
 - (ii) meets any other criteria that are prescribed by rules made under this Act; or

- (b) he or she is granted by the High Court, on grounds set out in rules made under this Act, leave to practise on his or her own account.
- (2) A lawyer who is a director or shareholder of an incorporated law firm is deemed to be practising on his or her own account.
- (3) A lawyer may apply to the High Court for leave to practise on his or her own account.
- (4) The High Court, in deciding whether to grant an application for leave, must have regard to the matters that are specified in rules made under this Act in relation to such an application.
- (5) The High Court may grant leave subject to such conditions (if any) as it thinks proper.
- (6) A lawyer commits an offence who, in contravention of this section, commences practice on his or her own account.

Compare: 1982 No 123 s 55(2)

31 Exceptions to section 30

- (1) Despite anything in section 30, a lawyer may, at any time, commence practice on his or her own account, whether in partnership or otherwise, if, immediately before the commencement of this section, he or she would have been entitled to do so under the Law Practitioners Act 1982 had this Act not been passed; and, for the purposes of this subsection, section 55 of that Act has effect as if it had not been repealed.
- (2) Section 30 does not restrict the right of a lawyer—
 - (a) to practise as a barrister and solicitor on his or her own account, if at any time previously (whether before or after the commencement of this section) he or she has lawfully practised on his or her own account as a solicitor or as a barrister and solicitor; or
 - (b) to resume practice as a barrister on his or her own account, if at any time previously (whether before or after the commencement of this section) he or she has lawfully practised as a barrister on his or her own account.
- (3) Despite subsection (2), if,—
 - (a) in the case of a lawyer to whom subsection (2)(a) applies, more than 10 years have elapsed since that lawyer last practised on his or her own account as a solicitor or as a barrister and solicitor; or
 - (b) in the case of a lawyer to whom subsection (2)(b) applies, more than 10 years have elapsed since that lawyer last practised on his or her own account as a barrister,—

that lawyer is not entitled to practise on his or her own account as a barrister and solicitor or as a barrister until he or she has received adequate instruction to the satisfaction of the Council of the New Zealand Law Society in the duties of a barrister and solicitor or of a barrister, as the case may require.

- (4) Section 30 does not restrict the right of a lawyer who is not entitled to practise on his or her own account, to act in any community law centre whose employing body comprises 1 or more lawyers qualified to practise on his or her own account, under the direct supervision of a lawyer qualified to practise on his or her own account and employed by that community law centre, or with the approval of the Secretary for Justice.

Compare: 1982 No 123 s 55(7), (8)

Section 31(4): amended, on 1 July 2011, by section 144 of the Legal Services Act 2011 (2011 No 4).

Conveyancing services

32 Provision of conveyancing services

- (1) A person commits an offence who, not being a lawyer or an incorporated law firm or a conveyancing practitioner or an incorporated conveyancing firm, provides conveyancing services in New Zealand and describes himself or herself as a lawyer, a conveyancing practitioner, a conveyancer, or a land broker.
- (2) For the purposes of subsection (1), a person describes himself or herself as a lawyer not only if he or she describes himself or herself as a lawyer but also if he or she uses, in describing himself or herself, any of the terms specified in subparagraphs (ii) to (viii) of section 21(1)(b).
- (3) This section is subject to the exceptions set out in section 36 or section 388(3).

33 Misleading descriptions

- (1) A person commits an offence who, not being a lawyer or an incorporated law firm or a conveyancing practitioner or an incorporated conveyancing firm, uses, in connection with his or her business, employment, or profession, any words, initials, abbreviations of words, symbols, or representations intended or likely to cause any other person to believe that the person is qualified to undertake conveyancing.
- (2) This section is subject to the exceptions set out in section 36 or section 388(3).

34 Proceedings in respect of offence against section 32 or section 33

- (1) A charging document in respect of an offence against section 32 or 33 may be filed only—
- (a) by the President of the New Zealand Law Society; or
 - (b) by the President of the New Zealand Society of Conveyancers; or
 - (c) by a person authorised by the Council of the New Zealand Law Society or the Council of the New Zealand Society of Conveyancers to file that charging document.
- (2) In any proceedings for an offence against section 32 or section 33, a certificate of any of the following kinds is admissible in evidence and is, in the absence of proof to the contrary, sufficient evidence of the matters stated in it:

- (a) a certificate purporting to be signed by the executive director of the New Zealand Law Society or a person authorised by the Council of the New Zealand Law Society to sign that certificate and stating that at any time or during any period specified in the certificate any person was not, and was not deemed to be, the holder of a current practising certificate as a barrister, or as a barrister and solicitor, as the case may require:
 - (b) a certificate purporting to be signed by the executive director of the New Zealand Society of Conveyancers or a person authorised by the Council of the New Zealand Society of Conveyancers to sign that certificate and stating that at any time or during any period specified in the certificate any person was not, and was not deemed to be, the holder of a current practising certificate as a conveyancing practitioner.
- (3) The production of a certificate for the purposes of subsection (2) purporting to be signed by the executive director of the New Zealand Law Society or by a person authorised by the Council of the New Zealand Law Society to sign that certificate or by the executive director of the New Zealand Society of Conveyancers or by a person authorised by the Council of the New Zealand Society of Conveyancers to sign that certificate is prima facie evidence of the certificate without proof of the signature of the person purporting to have signed it.

Compare: 1982 No 123 s 56(5), (6)(a)

Section 34(1): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

35 Practice of conveyancing

- (1) A person commits an offence who, for gain or reward (whether direct or indirect) and not being an authorised person within the meaning of subsection (2), provides conveyancing services to any other person.
- (2) In this section, **authorised person** means—
 - (a) a lawyer; or
 - (b) an incorporated law firm; or
 - (c) a conveyancing practitioner; or
 - (d) an incorporated conveyancing firm; or
 - (e) a person acting under the supervision of a lawyer or conveyancing practitioner.
- (3) This section is subject to the exceptions set out in section 36 or section 388(5).

Compare: 1982 No 123 s 65(1), (3)

36 Exceptions to sections 32, 33, and 35

- (1) Sections 32, 33, and 35 do not prevent any person from preparing for or on behalf of any other person any tenancy agreement or agreement evidencing a tenancy if—

- (a) the tenancy is for a term of 12 months or less; and
 - (b) no right of renewal is conferred on the tenant by the agreement.
- (2) Sections 32, 33, and 35 do not prevent any person who holds a current licence under the Real Estate Agents Act 2008—
- (a) from preparing any agreement for sale and purchase of land or any interest in land or of the goodwill of a business or of chattels; or
 - (b) from giving advice about legal rights and obligations that is incidental to the preparing of an agreement of the kind referred to in paragraph (a).
- (2A) However, subsection (2) does not apply to a person who, under the Real Estate Agents Act 2008, holds a licence as a salesperson unless the person has had at least 6 months experience as such as a licensee.
- (3) Sections 32, 33, and 35 do not prevent a patent attorney from drawing, preparing, or reviewing—
- (a) those provisions of any conveyance, deed, or agreement that relate to intellectual property rights; or
 - (b) any conveyance, deed, or agreement by which only intellectual property rights are assigned.
- (4) A person does not commit an offence against any provision of sections 32, 33, and 35 by reason only of preparing, on behalf of any other person, any conveyance, deed, or agreement that is prepared by filling in a printed form if—
- (a) the printed form is either—
 - (i) a prescribed form; or
 - (ii) a form prepared by a person who, at the time when it was prepared, was an authorised person within the meaning of section 35(2); and
 - (b) it is reasonable to expect that the form could be properly completed by persons who were not authorised persons within the meaning of section 35(2); and
 - (c) no charge is made, directly or indirectly, for the filling in of the form or any service in relation to the filling in of the form.
- (4A) A patent attorney does not commit an offence against any provision of sections 32, 33, and 35 by reason only of—
- (a) preparing documents, transacting business, and conducting proceedings for the purposes of the Patents Act 2013:
 - (b) exercising any other rights and privileges as may be prescribed under the joint registration regime provided for in Part 6 of the Patents Act 2013.
- (5) Section 35 does not prevent a statutory officer or Crown organisation, or any employee of a statutory officer or Crown organisation,—

- (a) from discharging any of his, her, or its duties, or exercising any of his, her, or its powers, under any enactment; or
- (b) from doing any thing that is intended to facilitate, or is conducive or incidental to, the discharge of the functions conferred on the statutory officer or Crown organisation by any enactment.

Compare: 1982 No 123 s 65(1)(c), (2)(a), (c); 1953 No 64 s 101(3)

Section 36(2): amended, on 16 November 2009, by section 173 of the Real Estate Agents Act 2008 (2008 No 66).

Section 36(2A): inserted, on 16 November 2009, by section 173 of the Real Estate Agents Act 2008 (2008 No 66).

Section 36(4A): inserted, on 24 February 2017, by section 8 of the Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89).

Section 36 compare note: amended, on 24 February 2017, by section 8 of the Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89).

37 Practice by conveyancing practitioner on his or her own account

- (1) No conveyancing practitioner may commence practice on his or her own account, whether in partnership or otherwise, unless—
 - (a) he or she—
 - (i) meets the requirements with regard to both practical experience in conveyancing and suitability that are imposed by rules made under this Act; and
 - (ii) meets any other criteria that are prescribed by rules made under this Act; or
 - (b) he or she is granted by the High Court, on grounds set out in rules made under this Act, leave to practise on his or her own account.
- (2) A conveyancing practitioner who is a director or shareholder of an incorporated conveyancing firm is deemed to be practising on his or her own account.
- (3) A conveyancing practitioner may apply to the High Court for leave to practise on his or her own account.
- (4) The High Court, in deciding whether to grant an application for leave, must have regard to such matters as are specified in rules made under this Act in relation to such an application.
- (5) The High Court may grant leave subject to such conditions (if any) as it thinks proper.
- (6) A conveyancing practitioner commits an offence who, in contravention of this section, commences practice on his or her own account.

Compare: 1982 No 123 s 55(2)

38 Exceptions to section 37

- (1) Despite anything in section 37, a conveyancing practitioner may, at any time, commence practice on his or her own account, whether in partnership or

otherwise, if, immediately before the commencement of section 67 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002, he or she held a licence as a landbroker under section 229 of the Land Transfer Act 1952.

- (2) Section 37 does not restrict the right of a conveyancing practitioner to practise as a conveyancing practitioner on his or her own account, if at any time previously (whether before or after the commencement of this section) he or she has lawfully practised on his or her own account as a landbroker or conveyancing practitioner.
- (3) Despite subsection (2), if, in the case of a conveyancing practitioner to whom subsection (2) applies, more than 10 years have elapsed since that conveyancing practitioner last practised on his or her own account as a landbroker or conveyancing practitioner, that conveyancing practitioner is not entitled to practise on his or her own account as a conveyancing practitioner until he or she has received adequate instruction to the satisfaction of the Council of the New Zealand Society of Conveyancers in the duties of a conveyancing practitioner.

Compare: 1982 No 123 s 55(7), (8)(a)

Practising certificates

39 Issue of practising certificates

- (1) The New Zealand Law Society, on application made to it by any person whose name is on the roll, must issue to that person a practising certificate either as a barrister or as a barrister and solicitor.
- (2) The New Zealand Society of Conveyancers, on application made to it by any person whose name is on the register of conveyancers, must issue to that person a practising certificate as a conveyancing practitioner.
- (3) Despite subsections (1) and (2), no person may hold at the same time both a practising certificate issued under subsection (1) and a practising certificate issued under subsection (2).
- (4) Despite subsections (1) and (2), the society to which the application is made—
 - (a) may decline to issue a practising certificate to a person until that person has paid to it any fees and levies then payable by that person under this Act or under any rules made or resolutions passed under this Act; and
 - (b) may refuse to issue a practising certificate to a person—
 - (i) on the ground that the person does not meet the criteria prescribed by practice rules made under section 94(a); or
 - (ii) on the ground set out in section 41(1), namely, that the person is not a fit and proper person to hold a practising certificate; and
 - (c) may refuse to issue a practising certificate to a person who, under section 19 of the Trans-Tasman Mutual Recognition Act 1997, seeks

the issue of the practising certificate, if that person does not meet the requirements that apply, under section 17 of the Trans-Tasman Mutual Recognition Act 1997, in relation to an individual who seeks the issue of a practising certificate of the kind sought.

- (5) A person who is suspended from practice must deposit his or her current practising certificate (if any) with the society that issued the certificate.

Compare: 1982 No 123 ss 57(1), 59(1)(b)

40 Effect of application for practising certificate

If a person who holds a practising certificate applies for a practising certificate for a further period and pays the prescribed fees and levies, and is otherwise entitled under this Act to the issue of the practising certificate applied for, that person is, until the certificate applied for is received by that person, or that person receives written notice that his or her application for a practising certificate has been refused, whichever first occurs, to be treated, for the purposes of this Act, as if that person were the holder of the practising certificate applied for.

Compare: 1982 No 123 s 56(3)

41 Power to refuse to issue practising certificate

- (1) A regulatory society may refuse to issue a practising certificate to a person on the ground that the person is not a fit and proper person to hold a practising certificate.
- (2) For the purposes of determining whether or not a person is a fit and proper person to hold a practising certificate, the regulatory society may take into account any matters it considers relevant and, in particular, may take into account any of the following matters:
- (a) in the case of lawyers, any of the matters that may be taken into account under section 55 for the purpose of determining whether or not a person is a fit and proper person to be admitted as a barrister and solicitor of the High Court:
 - (b) in the case of conveyancing practitioners, any of the matters that may be taken into account under section 83 for the purpose of determining whether or not a person is a fit and proper person to be granted registration as a conveyancer:
 - (c) the person has obtained a practising certificate because of incorrect or misleading information:
 - (d) the person has contravened a condition of a practising certificate held by the person:
 - (e) the person has contravened this Act or a corresponding law:
 - (f) the person has contravened an order of the Disciplinary Tribunal or a corresponding tribunal:

- (g) the person has not undertaken any ongoing legal education required by practice rules made pursuant to section 97(1)(b) or section 98(1)(c):
- (h) without limiting any other paragraph,—
 - (i) the person's name has been removed from a foreign roll or a foreign register; or
 - (ii) the person has failed to pay a required contribution or levy to the Lawyers' Fidelity Fund or the Conveyancing Practitioners' Fidelity Fund; or
 - (iii) the person does not hold any professional indemnity insurance required by rules made under section 99 or is otherwise in breach of any such rules; or
 - (iv) the person has failed to pay any costs or expenses for which the person is liable under this Act or any regulations, rules, or resolutions made under this Act:
- (i) any other matters the regulatory society thinks appropriate.
- (3) A person may be considered to be a fit and proper person to hold a practising certificate even though the person is within any of the categories of the matters referred to in subsection (2), if the regulatory society considers that the circumstances warrant the determination.
- (4) If a matter was—
 - (a) disclosed in an application for admission as a barrister and solicitor or in an application for registration as a conveyancer in this or another jurisdiction; and
 - (b) determined by a High Court or the body considering the application for registration as a conveyancer not to be sufficient for refusing admission or registration,—the matter cannot be taken into account as a ground for refusing to issue a practising certificate, unless later disclosures demonstrate that the matter is part of a course of conduct that may warrant refusal.
- (5) Subsection (2) does not limit—
 - (a) the grounds on which it may be determined whether or not a person is a fit and proper person to hold a practising certificate; or
 - (b) the criteria that may be prescribed under section 94(a).
- (6) In this section, **regulatory society** means—
 - (a) the New Zealand Law Society; or
 - (b) the New Zealand Society of Conveyancers.

42 Right to appeal

- (1) A person may appeal to the Disciplinary Tribunal against any decision of the New Zealand Law Society or the New Zealand Society of Conveyancers to decline to issue, or to refuse to issue, a practising certificate to the person.
- (2) Every appeal under subsection (1)—
 - (a) must be by way of rehearing; and
 - (b) must be made within such time and in such form as may be prescribed by the Disciplinary Tribunal under section 227(g).
- (3) On hearing an appeal under subsection (1), the Disciplinary Tribunal may confirm, reverse, or modify the decision appealed against.

Injunctions

43 Injunctions

The High Court or the District Court may, on the application of any person (including the New Zealand Law Society or the New Zealand Society of Conveyancers), grant an injunction restraining a person from engaging in conduct that constitutes or would constitute any of the following:

- (a) a contravention of any of the provisions of sections 21, 22, 23, 24, 26, 30(6), 32, 33, 35, and 37(6):
- (b) an attempt to contravene such a provision:
- (c) aiding, abetting, counselling, or procuring any other person to contravene such a provision:
- (d) inducing, or attempting to induce, any other person, whether by threats, promises, or otherwise, to contravene such a provision:
- (e) being in any way (whether directly or indirectly) knowingly concerned in, or party to, the contravention by any other person of such a provision:
- (f) conspiring with any other person to contravene such a provision.

Compare: 1986 No 5 s 81

Section 43: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Appointment of agent to conduct sole practice or act as board of incorporated firm

44 Practitioners to whom Schedule 1 applies

- (1) Schedule 1 applies to—
 - (a) every lawyer who holds a practising certificate as a barrister and solicitor and who is providing legal services in New Zealand on his or her own account without partners:
 - (b) every lawyer who is the only director of an incorporated law firm:

- (c) every conveyancing practitioner who is providing conveyancing services in New Zealand on his or her own account without partners:
 - (d) every conveyancing practitioner who is the only director of an incorporated conveyancing firm.
- (2) For the purposes of this section, a practitioner does not practise on his or her own account without partners only by reason of the application to that practitioner of section 30(2) or section 37(2).

Compare: 1982 No 123 s 70(1)

45 Offences

Without prejudice to Schedule 1 or any of the provisions of this Part, a practitioner to whom Schedule 1 applies commits an offence if, without lawful justification or excuse, he or she—

- (a) fails to give a power of attorney in accordance with clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1) of Schedule 1, as the case may require; or
- (b) revokes a power of attorney otherwise than in accordance with clause 14 of Schedule 1; or
- (c) fails to give a notice under clause 20 of Schedule 1.

Compare: 1982 No 123 s 78

Penalty

46 Penalty

A person who commits an offence against section 21 or section 22 or section 23 or section 24 or section 26 or section 30(6) or section 32 or section 33 or section 35 or section 37(6) or section 45 is liable on conviction,—

- (a) in the case of a natural person, to a fine not exceeding \$50,000;
- (b) in the case of a corporation, to a fine not exceeding \$150,000.

Section 46: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Provisions not affected

47 Provisions not affected

This Part does not limit or affect—

- (a) section 168 of the Animal Welfare Act 1999; or
- (b) section 68 of the Court Martial Act 2007; or
- (c) sections 323 and 324 of the Oranga Tamariki Act 1989; or
- (d) section 4A(3) of the Commissions of Inquiry Act 1908; or
- (e) section 214(1) of the Copyright Act 1994; or

- (f) section 40 of the Designs Act 1953; or
- (g) section 38 of the Disputes Tribunal Act 1988; or
- (h) section 236 of the Employment Relations Act 2000; or
- (i) section 108(3) of the Human Rights Act 1993; or
- (j) the provisions of the joint registration regime for patent attorneys in Part 6 of the Patents Act 2013; or
- (k) section 10 of the Criminal Procedure Act 2011; or
- (l) section 190 of the Trade Marks Act 2002.

Section 47(b): substituted, on 1 July 2009, by section 87 of the Court Martial Act 2007 (2007 No 101).

Section 47(c): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 47(g): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 47(j): replaced, on 24 February 2017, by section 8 of the Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89).

Section 47(k): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 3

Admission and enrolment of barristers and solicitors

Admission of barristers and solicitors

48 Admission as barrister and solicitor

- (1) Every person admitted by the High Court under this Act must be admitted as a barrister and solicitor; and no person may be admitted as a barrister or solicitor only.
- (2) Subject to this Act and to any order made under it, and to the express provisions of any other enactment, every person admitted as a barrister and solicitor is entitled, while his or her qualification continues, to practise in or before any court or tribunal.

Compare: 1982 No 123 s 43(1), (4)

49 Qualifications

- (1) A person is qualified for admission as a barrister and solicitor if he or she is in at least 1 of the categories in this section.
- (2) The first category is persons who—
 - (a) have all the qualifications for admission prescribed or required by the New Zealand Council of Legal Education; and
 - (b) are fit and proper persons to be admitted as barristers and solicitors of the High Court; and

- (c) meet the criteria prescribed by rules made under section 54.
- (3) The second category is persons who—
 - (a) have been admitted as a barrister, solicitor, barrister and solicitor, advocate, or attorney by a senior court of any other country; and
 - (b) have all the qualifications prescribed or required by the New Zealand Council of Legal Education in consultation with the Council of the New Zealand Law Society; and
 - (c) are fit and proper persons to be admitted as barristers and solicitors of the High Court; and
 - (d) meet the criteria prescribed by rules made under section 54.
- (4) The third category is persons who have been issued with a certificate by a Registrar stating that the candidate has given notice under section 19 of the Trans-Tasman Mutual Recognition Act 1997 to the Registrar acting as a local registration authority under that Act.

Compare: 1982 No 123 s 44

Section 49(3)(a): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

50 Evidence of qualifications

- (1) A document purporting to be signed on behalf of any university in New Zealand by a person authorised for the purpose, by name or office, by the New Zealand Council of Legal Education and certifying that a candidate has a qualification for admission prescribed or required by the New Zealand Council of Legal Education is, in the absence of proof to the contrary, sufficient evidence of that fact.
- (2) A document purporting to be signed by the chief executive of the New Zealand Council of Legal Education, or his or her delegate, and certifying that a candidate has all the qualifications for admission prescribed or required by the New Zealand Council of Legal Education is, in the absence of proof to the contrary, sufficient evidence of that fact.

Compare: 1982 No 123 s 45

51 Evidence of suitability

A certificate purporting to be signed by the executive director of the New Zealand Law Society, or a person authorised for the purpose, by name or office, by the Council of the New Zealand Law Society, and certifying that a candidate is both a fit and proper person to be admitted as a barrister and solicitor of the High Court and a person who meets the criteria prescribed by rules made under section 54 is, in the absence of proof to the contrary, sufficient evidence of those facts.

52 Admission

- (1) A candidate seeking admission on the ground that he or she is qualified under section 49(2) or (3) must apply to the High Court in accordance with this Act and with any rules made under this Act.
- (2) The High Court must make an order admitting the candidate as a barrister and solicitor of the High Court if—
 - (a) the High Court is satisfied that the candidate is qualified for admission under section 49(2) or (3); and
 - (b) the candidate has taken the following oath:

“I, AB, swear that I will truly and honestly conduct myself in the practice of a barrister and solicitor according to the best of my knowledge and ability.”
- (3) A candidate seeking admission on the ground that he or she is qualified under section 49(4) must apply to the High Court.
- (4) The High Court must make an order admitting the candidate as a barrister and solicitor of the High Court if the High Court is satisfied that the candidate is qualified for admission under section 49(4).
- (5) Nothing in subsection (4) or section 49(4) limits the provisions of sections 20 to 28 of the Trans-Tasman Mutual Recognition Act 1997.

Compare: 1982 No 123 s 46

53 Reciprocal admission

- (1) Where the Governor-General is satisfied—
 - (a) that the law relating to the admission of barristers or solicitors of a senior court of any country other than New Zealand is such as to ensure that they possess proper qualifications and competence; and
 - (b) that by the law of that country barristers and solicitors of the High Court of New Zealand will be entitled to admission as barristers or as solicitors of that senior court on terms as favourable as those on which barristers or solicitors of that court will under this Act be entitled to admission as barristers and solicitors of the High Court of New Zealand,—

the Governor-General may, by Order in Council, order that barristers or solicitors of that senior court who have been in practice before that court for not less than 3 years must, on giving due notice and the prescribed proof of their qualifications and good character, and on payment of the prescribed fees, but subject to any exceptions, conditions, and modifications specified in the order, be admitted as barristers and solicitors of the High Court of New Zealand without examination.
- (2) Any such order may refer to barristers only, or to solicitors only, or to barristers and solicitors, of any such country.

- (3) Every person admitted under any such order is deemed to have been duly admitted under this Act.
- (4) By the same or any subsequent order, the Governor-General may provide for all matters authorised by this section to be prescribed, and for all matters necessary to give effect to the order and to this section.
- (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 s 47

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 53(1): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Section 53(1)(a): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Section 53(1)(b): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Section 53(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

54 Rules of court as to admission

- (1) Rules, not inconsistent with this Act, may from time to time be made, in the manner prescribed by the Senior Courts Act 2016, in respect of the evidence of the qualifications, character, and fitness of candidates, and generally in respect of any matter relating to the admission of candidates as barristers and solicitors of the High Court.
- (2) Rules made under this section may prescribe non-educational criteria to be met by candidates for admission as barristers or as barristers and solicitors, which criteria may preclude the admission of a person who has, at any time, been convicted of an offence of a kind or class specified in rules made under this section or who has, at any time, been declared bankrupt.
- (3) Nothing in subsection (2) limits the generality of subsection (1).

Compare: 1982 No 123 s 48

Section 54(1): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

55 Fit and proper person

- (1) For the purpose of determining whether or not a person is a fit and proper person to be admitted as a barrister and solicitor of the High Court, the High Court or the New Zealand Law Society may take into account any matters it

considers relevant and, in particular, may take into account any of the following matters:

- (a) whether the person is of good character:
- (b) whether the person has, at any time, been declared bankrupt or been a director of a company that has been put into receivership or liquidation:
- (c) whether the person has been convicted of an offence in New Zealand or a foreign country; and, if so,—
 - (i) the nature of the offence; and
 - (ii) the time that has elapsed since the offence was committed; and
 - (iii) the person's age when the offence was committed:
- (d) whether the person has engaged in legal practice in New Zealand when not admitted under this Act or a corresponding law, or not holding an appropriate New Zealand practising certificate, as required by law:
- (e) whether the person has practised law in a foreign country—
 - (i) when not permitted by or under the law of that country to do so; or
 - (ii) if permitted to do so, in contravention of a condition of the permission:
- (f) whether the person is subject to—
 - (i) an unresolved complaint under a corresponding foreign law; or
 - (ii) a current investigation, charge, or order by a regulatory or disciplinary body for persons engaging in legal practice under a corresponding foreign law:
- (g) whether the person—
 - (i) is a subject of current disciplinary action in another profession or occupation in New Zealand or a foreign country; or
 - (ii) has been the subject of disciplinary action of that kind that has involved a finding of guilty, however expressed:
- (h) whether the person's name has been removed from a foreign roll, and that person's name has not been restored:
- (i) whether the person's right of practice as a lawyer has been cancelled or suspended in a foreign country:
- (j) whether the person has contravened, in New Zealand or a foreign country, a law about trust money or a trust account:
- (k) whether the person is subject to an order under this Act or a corresponding law disqualifying the person from being employed by, or a partner of, a lawyer or an incorporated law firm:

- (1) whether, because of a mental or physical condition, the person is unable to perform the functions required for the practice of the law.
- (2) The High Court or the New Zealand Law Society may determine that a person is a fit and proper person to be admitted as a barrister and solicitor even though the person—
 - (a) is within any of the categories mentioned in any of the paragraphs of subsection (1); or
 - (b) does not satisfy all of the criteria prescribed by rules made under section 54.
- (3) Subsection (1) does not limit—
 - (a) the grounds on which it may be determined that a candidate is not a fit and proper person for admission as a barrister and solicitor; or
 - (b) the criteria that may be prescribed by rules made under section 54.

Roll of barristers and solicitors

56 Registrar to keep roll of barristers and solicitors

Every Registrar must keep in his or her office a roll of barristers and solicitors.

Compare: 1982 No 123 s 49(1)

57 Enrolment

On the making by the High Court of an order admitting any person as a barrister and solicitor, and on payment of the prescribed admission fee, the Registrar must place that person's name on the roll.

Compare: 1982 No 123 s 50

58 Striking off and restoration of names by order of Disciplinary Tribunal or High Court

- (1) On the publication in the *Gazette* of a notice of an order made by the Lawyers and Conveyancers Disciplinary Tribunal, or by the High Court on appeal from the Lawyers and Conveyancers Disciplinary Tribunal, that the name of a person enrolled as a barrister and solicitor of the High Court under or by virtue of this Act be struck off the roll, the Registrar must forthwith strike that name off the roll.
- (2) On the publication in the *Gazette* of a notice of an order made by the Lawyers and Conveyancers Disciplinary Tribunal that the name of a person be restored to the roll, and on payment of the prescribed restoration fee, the Registrar must restore that name to the roll.
- (3) In each case, the Registrar must make an entry in the roll of the date and effect of the order and of the fact that it was made by the Lawyers and Conveyancers

Disciplinary Tribunal or by the High Court on appeal from that Tribunal, as the case may require.

Compare: 1982 No 123 s 51

Section 58(1): amended, on 20 November 2012, by section 10 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

59 Removal from roll if deemed registration ceases in some circumstances

- (1) The Registrar must remove from the roll the name of a person enrolled as a barrister and solicitor of the High Court under or by virtue of this Act who—
 - (a) was admitted under section 52(4); and
 - (b) had deemed registration under the Trans-Tasman Mutual Recognition Act 1997 at the time he or she was admitted,—

if the Registrar receives written notice from a Registrar acting as a local registration authority that the deemed registration has ceased for a reason set out in section 28(1)(a) or section 28(1)(c) to (e) of that Act.

- (2) The Registrar must cause to be published in the *Gazette* a notice to the effect that the name has been removed from the roll under this section.
- (3) The expenses incurred in publishing the notice must be paid by the person whose name is removed.

Compare: 1982 No 123 s 51A

Section 59(1): amended, on 20 November 2012, by section 11 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

60 Voluntary removal of name from roll, and restoration

- (1) Any person may, at any time, with the prior consent of the Council of the New Zealand Law Society, request the Registrar to remove his or her name from the roll.
- (2) Any person whose name has been removed from the roll under this section may, at any time, with the prior consent of the Council of the New Zealand Law Society, request the Registrar to restore his or her name to the roll.
- (3) On being satisfied that such consent has been given, the Registrar must—
 - (a) remove the person's name from the roll or, as the case may require, restore it to the roll; and
 - (b) forthwith cause to be published in the *Gazette* a notice to the effect that the name has been removed from, or, as the case may be, restored to, the roll at the request of the person under this section.
- (4) The expenses incurred in publishing the notice must be paid by the person whose name is removed or restored.

Compare: 1982 No 123 s 52

61 Supply of information

Every Registrar must supply to the New Zealand Law Society from time to time such information as it requires for the purpose of issuing practising certificates.

62 Admission and restoration fees

- (1) The Council of the New Zealand Law Society may, from time to time, by resolution, fix fees to be paid to the Society—
 - (a) by any candidate for admission as a barrister and solicitor:
 - (b) by any person for the restoration of his or her name to the roll.
- (2) The Council may not fix fees under this section unless the Minister has approved the proposed fees.
- (3) A resolution fixing fees under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 s 53

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 62(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 62(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 62(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 4 New Zealand Law Society

63 Continuation of New Zealand Law Society

- (1) This section continues in being the society called the New Zealand Law Society (being the society continued in being by section 3(1) of the Law Practitioners Act 1982 and existing at the commencement of this section).
- (2) The New Zealand Law Society is a body corporate with perpetual succession and a common seal, and, except as provided in this Act, has and may exercise—
 - (a) all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity; and
 - (b) the power to do any other thing it is authorised to do—

- (i) by this Act; or
 - (ii) by any other enactment; or
 - (iii) by any rule of law.
- (3) The New Zealand Law Society may not exercise any of its rights, powers, or privileges except for the purpose of performing its functions.
- Compare: 1982 No 123 s 3(1), (3)

64 Membership

The New Zealand Law Society has members in accordance with its constitution and this Act, but membership is voluntary and does not of itself—

- (a) impose on the members any liability in respect of any contract, debt, or other obligation made or incurred by the New Zealand Law Society; or
- (b) confer on the members any right, title, or interest in the property of the New Zealand Law Society.

Compare: 1982 No 123 s 3(2)

Functions

65 Regulatory functions

The regulatory functions of the New Zealand Law Society are—

- (a) to control and regulate the practice in New Zealand by barristers and by barristers and solicitors of the profession of the law:
- (b) to uphold the fundamental obligations imposed on lawyers who provide regulated services in New Zealand:
- (c) to monitor and enforce the provisions of this Act, and of any regulations and rules made under it, that relate to the regulation of lawyers:
- (d) to monitor and enforce, throughout the period specified in any order made under section 390, the provisions of this Act, and of any regulations and rules made under it, that relate to the regulation of conveyancers:
- (e) to assist and promote, for the purpose of upholding the rule of law and facilitating the administration of justice in New Zealand, the reform of the law.

Compare: 1982 No 123 s 4

66 Representative functions

The representative functions of the New Zealand Law Society are to represent its members and to serve their interests.

*Powers***67 Regulatory powers**

- (1) The New Zealand Law Society has all such powers, rights, and authorities as are necessary or expedient for or conducive to the performance of its regulatory functions.
- (2) Without limiting the generality of subsection (1), the New Zealand Law Society has, in addition to any other powers conferred on it by this or any other Act, the following powers:
 - (a) to issue practising certificates to all barristers and barristers and solicitors who seek to provide legal services:
 - (b) to keep and maintain a register of the persons who hold practising certificates as barristers or as barristers and solicitors:
 - (c) to make practice rules that are binding on all lawyers or any specified class of lawyers:
 - (d) to oppose any application made for admission as a barrister and solicitor, or any other application made under this Act:
 - (e) to institute prosecutions against lawyers or other persons for the breach of any statute, rules, or regulations relating to the provision of legal services:
 - (f) to appoint and pay any person to perform any work or services for the Society, or any lawyer to appear before any court, tribunal, or other body in any matter in which the Society is concerned or interested:
 - (g) to pay all costs, witnesses' expenses, and other payments incidental to, or connected with, any application or proceedings to which the Society is a party or at the hearing of which it is entitled to appear:
 - (h) to pay the whole or any part of the expenses incurred by members in attending meetings of the Council of the Society or meetings of any committee appointed by the Council.
- (3) The New Zealand Law Society may, in its regulatory capacity and for the purpose of enabling the fulfilment of its regulatory functions under this Act, publish information for the education of lawyers and the public.
- (4) The New Zealand Law Society, in its regulatory capacity, may provide and charge for services, including premises, for the purpose of the Society's representative functions and powers, but the Society must not in its regulatory capacity subsidise the provision of any such services.

Compare: 1982 No 123 s 5(1), (2)(c)–(g)

68 Representative powers

- (1) The New Zealand Law Society has all such powers, rights, and authorities as are necessary or expedient for, or conducive to, the performance of its representative functions.
- (2) Without limiting the generality of subsection (1), the New Zealand Law Society has, in addition to any other powers conferred on it by this or any other Act, the following powers:
 - (a) to provide or arrange for the provision of services and facilities for lawyers, including seminars and educational and training services and facilities:
 - (b) to publish periodicals, pamphlets, and other materials:
 - (c) to establish or join in establishing any body, whether incorporated or not, and whether in New Zealand or elsewhere, for the purpose of the performance or exercise of any of the Society's representative functions or powers.
- (3) The New Zealand Law Society, in its representative capacity, may provide and charge for services, including premises, for the purpose of the Society's regulatory functions and powers. Charges for the provision of such services must not exceed fair market rates.

Compare: 1982 No 123 s 5(1), (2)(a), (b), (h)

69 Power to borrow

- (1) The New Zealand Law Society has the power to borrow money required by it to perform its functions in either its regulatory capacity or its representative capacity or both.
- (2) The New Zealand Law Society has the power to mortgage, charge, or otherwise grant security over assets held and levies made in its regulatory capacity in order to secure borrowings made to enable it to perform its regulatory functions.
- (3) The New Zealand Law Society has the power to mortgage, charge, or otherwise grant security over the assets held by it for the benefit of its members to secure borrowings made by it to enable it to perform its representative functions.

Compare: 1982 No 123 s 14

70 Constitution of New Zealand Law Society

- (1) The New Zealand Law Society must have a constitution that provides for—
 - (a) a Council of the New Zealand Law Society and the powers of the Council; and
 - (b) the ways in which persons become members of the New Zealand Law Society; and

- (c) the ways in which persons cease to be members of the New Zealand Law Society; and
 - (d) the summoning and holding of general meetings of the New Zealand Law Society, and the method of voting at those meetings; and
 - (e) a president and 1 or more vice-presidents of the Council; and
 - (f) an Executive Board of the New Zealand Law Society; and
 - (g) the appointment by the Council of an executive director of the New Zealand Law Society, who may be a member of the Council; and
 - (h) the amendment and replacement of the constitution.
- (2) In addition to the provisions required by subsection (1), the constitution may contain any other provisions that are not inconsistent with this Act or any other Act or any rule of law.

Compare: 1996 No 39 s 6(1)(a)–(e), (k), (2)

71 Registration of constitution and amendments to constitution

- (1) The Council of the New Zealand Law Society must, no later than 14 days after the day on which this section comes into force, deliver to the Registrar of Companies at Wellington for registration a document, which is to be described as and which is to constitute the constitution of the New Zealand Law Society.
- (2) The Council of the New Zealand Law Society must, no later than 14 days after the passing of any amendment to the constitution or the replacement of the constitution, deliver to the Registrar of Companies at Wellington for registration a copy of the amendment or the new constitution.

Compare: 1996 No 39 s 6(3), (4)

72 Application of Legislation Act 2019 to constitution of New Zealand Law Society

The New Zealand Law Society's constitution, and any amendments to it, are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation referred to in this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 72: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

73 Practising fees

- (1) Every lawyer must pay an annual practising fee to the New Zealand Law Society.

- (2) The amount of the annual practising fee is to be fixed from time to time by a resolution made by the Council of the New Zealand Law Society (*see* subsections (6) and (7)).
- (3) The money received by the New Zealand Law Society by way of practising fees is to be used by the Society for the sole purpose of funding the regulatory functions and powers of the Society.
- (4) A resolution under subsection (2) may provide for the payment of practising fees of different amounts by different classes of lawyers.
- (5) A practising fee is payable in such manner as the practice rules prescribe or authorise and is recoverable on behalf of the New Zealand Law Society as a debt due to it.
- (6) The Council may not fix fees under subsection (2) unless the Minister has approved the proposed fees.
- (7) A resolution under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 s 60(1)(a)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 73(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 73(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 73(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

74 Levies

- (1) The Council of the New Zealand Law Society—
 - (a) may, by resolution, for the sole purpose of funding the regulatory functions and powers of the Society, impose on lawyers a levy or levies not exceeding in the aggregate in any year, in respect of any lawyer, an amount equal to one-quarter of the maximum practising fee payable by any lawyer for that year; and
 - (b) in addition, may, by resolution, for the purpose of section 221(1), impose on all lawyers a levy or levies to recover from those lawyers the amount of any levy paid by the Society under section 217 or section 219.
- (2) Any resolution under subsection (1) may provide—
 - (a) for payment of the levy—

- (i) by all lawyers; or
 - (ii) by any specified class or classes of lawyers; or
 - (iii) by lawyers practising in any specified part or parts of New Zealand:
- (b) for the payment of different amounts—
 - (i) by different classes of lawyers; or
 - (ii) by lawyers practising in different parts of New Zealand.
- (3) The proceeds of any levy imposed under subsection (1) must not be used by the Society in the exercise of its representative functions and powers or to meet any debt or liability incurred by the Society in respect of its representative functions and powers.
- (4) The amount of any levy imposed under subsection (1) is payable in such manner as the practice rules prescribe or authorise, and is recoverable on behalf of the New Zealand Law Society as a debt due to it.
- (5) A resolution under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 s 9

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 74(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

75 Subscriptions

- (1) For the sole purpose of funding the representative functions and powers of the New Zealand Law Society, the Council of that Society may, by resolution, require the payment of a subscription by each member of that Society.
- (2) Any resolution under subsection (1) may provide—
- (a) for the payment of the subscription—
 - (i) by all members; or
 - (ii) by any specified class or classes of members; or
 - (iii) by members practising in any specified part or parts of New Zealand:
 - (b) for the payment of different amounts—
 - (i) by different classes of members; or
 - (ii) by members practising in different parts of New Zealand.

- (3) The amount of any subscription is payable in such manner as the constitution prescribes or authorises and is recoverable on behalf of the New Zealand Law Society as a debt due to it.

76 Annual report

- (1) The New Zealand Law Society must, as soon as practicable after the end of each year ending with 30 June, furnish to the Minister a report on the exercise of its regulatory functions and powers during that year.
- (2) The report must include financial statements in relation to the exercise of those functions and powers.
- (3) The Minister must present a copy of the report to the House of Representatives as soon as practicable after its receipt by the Minister.

Part 5

New Zealand Society of Conveyancers

77 Establishment of New Zealand Society of Conveyancers

- (1) This section establishes a New Zealand Society of Conveyancers.
- (2) The New Zealand Society of Conveyancers is a body corporate with perpetual succession and a common seal, and, except as provided in this Act, has and may exercise—
 - (a) all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity; and
 - (b) the power to do any other thing it is authorised to do—
 - (i) by this Act; or
 - (ii) by any other enactment; or
 - (iii) by any rule of law.
- (3) The New Zealand Society of Conveyancers may not exercise any of its rights, powers, or privileges except for the purpose of performing its functions.

78 Membership

The New Zealand Society of Conveyancers has members in accordance with its constitution and this Act, but membership is voluntary and does not of itself—

- (a) impose on the members any liability in respect of any contract, debt, or other obligation made or incurred by the New Zealand Society of Conveyancers; or
- (b) confer on the members any right, title, or interest in the property of the New Zealand Society of Conveyancers.

*Functions***79 Regulatory functions**

The regulatory functions of the New Zealand Society of Conveyancers are—

- (a) to control and regulate the practice in New Zealand by conveyancers of the profession of conveyancing;
- (b) to uphold the fundamental obligations imposed on conveyancing practitioners who provide regulated services;
- (c) to monitor and enforce the provisions of this Act, and of any regulations and rules made under it, that relate to the regulation of conveyancing practitioners;
- (d) to perform and exercise, in relation to the profession of conveyancing, functions and powers similar to those conferred on the New Zealand Council of Legal Education by sections 274 and 275.

80 Representative functions

The representative functions of the New Zealand Society of Conveyancers are to represent its members and to serve their interests.

*Powers***81 Regulatory powers**

- (1) The New Zealand Society of Conveyancers has all such powers, rights, and authorities as are necessary or expedient for, or conducive to, the performance of its regulatory functions.
- (2) Without limiting the generality of subsection (1), the New Zealand Society of Conveyancers has, in addition to any other powers conferred on it by this or any other Act, the following powers:
 - (a) to make, under section 82, rules providing for the registration of conveyancers;
 - (b) to issue practising certificates to all registered conveyancers who seek to provide conveyancing services;
 - (c) to keep and maintain a register of the registered conveyancers who hold practising certificates as conveyancers;
 - (d) to make practice rules that are binding on all conveyancing practitioners or any specified class of conveyancing practitioners;
 - (e) to institute prosecutions against conveyancing practitioners or other persons for the breach of any statute, rules, or regulations relating to the provision of conveyancing services;

- (f) to appoint and pay any person to perform any work or services for the Society, or any lawyer to appear before any court, tribunal, or other body in any matter in which the Society is concerned or interested:
 - (g) to pay all costs, witnesses' expenses, and other payments incidental to, or connected with, any application or proceedings to which the Society is a party or at the hearing of which it is entitled to appear:
 - (h) to pay the whole or any part of the expenses incurred by members in attending meetings of the Council of the Society or meetings of any committee appointed by the Council.
- (3) The New Zealand Society of Conveyancers may, in its regulatory capacity and for the purpose of enabling the fulfilment of its regulatory functions under this Act, publish information for the education of conveyancing practitioners and the public.
- (4) The New Zealand Society of Conveyancers, in its regulatory capacity, may provide and charge for services, including premises, for the purpose of the Society's representative functions and powers, but the Society must not in its regulatory capacity subsidise the provision of any such services.

Compare: 1982 No 123 s 5(1), (2)(c)–(g)

82 Rules for registration of conveyancers

- (1) The New Zealand Society of Conveyancers must have, under section 81(2)(a), rules providing for the registration of conveyancers.
- (2) The rules must—
- (a) prescribe the criteria to be met by candidates for registration as conveyancers:
 - (b) provide not only for the grant of registration but also for the postponement or refusal of registration:
 - (c) provide for the imposition of conditions on a grant of registration:
 - (d) provide for the cancellation or suspension of registration:
 - (e) prescribe the fees payable in respect of registration and applications for registration:
 - (f) provide for the amendment of the register if a person has been wrongfully registered or the particulars appearing in the register in relation to any person are incorrect:
 - (g) provide for the register to be open to public inspection, at all reasonable times, without fee.
- (3) The rules must,—
- (a) for the purpose of ensuring that those granted registration as conveyancers are qualified to provide conveyancing services in New Zealand,

- provide educational criteria to be met by candidates for registration as conveyancers; and
- (b) for the purpose of ensuring that foreign qualifications, registration, and experience can be taken into account, provide for, or include mechanisms providing for, the recognition of foreign qualifications, registration, and experience.
- (4) The rules may—
- (a) provide for the appointment of officers and committees and other bodies, and define their functions and powers:
- (b) prescribe conditions subject to which registration may be granted:
- (c) prescribe forms:
- (d) provide for the delegation of functions, duties, and powers:
- (e) confer rights of appeal against any decision or determination made, or any requirement or condition imposed, under the rules.
- (5) The rules are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 82(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

83 Fit and proper person

- (1) For the purpose of determining whether or not a person is a fit and proper person to be granted registration as a conveyancer, the New Zealand Society of Conveyancers or any other body that is required to consider an application for the grant of registration as a conveyancer may take into account any matters it considers relevant and, in particular, may take into account any of the following matters:
- (a) whether the person is of good character:
- (b) whether the person has, at any time, been declared bankrupt or been a director of a company that has been put into receivership or liquidation:
- (c) whether the person has been convicted of an offence in New Zealand or a foreign country; and, if so,—
- (i) the nature of the offence; and
- (ii) the time that has elapsed since the offence was committed; and
- (iii) the person's age when the offence was committed:

- (d) whether the person has provided conveyancing services in New Zealand when not registered under this Act or a corresponding law, or not holding an appropriate New Zealand practising certificate, as required by law:
 - (e) whether the person has provided conveyancing services in a foreign country—
 - (i) when not permitted by or under the law of that country to do so; or
 - (ii) if permitted to do so, in contravention of a condition of the permission:
 - (f) whether the person is subject to—
 - (i) an unresolved complaint under a corresponding foreign law; or
 - (ii) a current investigation, charge, or order by a regulatory or disciplinary body for persons engaging in legal practice under a corresponding foreign law:
 - (g) whether the person—
 - (i) is a subject of current disciplinary action in another profession or occupation in New Zealand or a foreign country; or
 - (ii) has been the subject of disciplinary action of that kind that has involved a finding of guilty, however expressed:
 - (h) whether the person's name has been removed from a foreign register, and that person's name has not been restored:
 - (i) whether the person's right to provide conveyancing services has been cancelled or suspended in a foreign country:
 - (j) whether the person has contravened, in New Zealand or a foreign country, a law about trust money or a trust account:
 - (k) whether the person is subject to an order under this Act or a corresponding law disqualifying the person from being employed by, or a partner of, a conveyancing practitioner or an incorporated conveyancing firm:
 - (l) whether, because of a mental or physical condition, the person is unable to perform the functions required for the provision of conveyancing services.
- (2) The New Zealand Society of Conveyancers, or any other person who is required to consider an application for the grant of registration as a conveyancer, may determine that a person is a fit and proper person to be granted registration as a conveyancer even though the person is within any of the categories mentioned in any of the paragraphs of subsection (1).
- (3) Subsection (1) does not limit—
- (a) the grounds on which it may be determined that a person is not a fit and proper person to be granted registration as a conveyancer; or

- (b) the grounds on which it may be determined that a person does not have the qualifications or experience required for registration as a conveyancer; or
- (c) the criteria that may be prescribed by rules made under section 82(2)(a).

84 Rules relating to education

- (1) The rules referred to in section 82(3) may,—
 - (a) subject to this Act, set, or provide for the setting of, the qualification and educational requirements for candidates for registration as conveyancers:
 - (b) subject to this Act, define and prescribe, or provide for the defining and prescribing of, courses of study required to be undertaken by candidates for registration as conveyancers:
 - (c) provide for the delivery of the courses of study referred to in paragraph (b):
 - (d) provide for the New Zealand Society of Conveyancers to deliver, where necessary, the courses of study referred to in paragraph (b) or the courses of study referred to in paragraph (e) or both:
 - (e) provide for the licensing of other persons to deliver courses of study in practical legal training for candidates for registration as conveyancers:
 - (f) provide for the making of arrangements under which the courses of study referred to in paragraph (b) are to be monitored and assessed:
 - (g) prescribe, in relation to the registration of conveyancers, mechanisms for—
 - (i) the recognition of foreign qualifications, registration, and experience; and
 - (ii) the recognition of qualifications for the purposes of the principle set out in section 15 of the Trans-Tasman Mutual Recognition Act 1997:
 - (h) subject to this Act, provide for the granting to any candidate for registration as a conveyancer such credits (whether *ad eundem* or otherwise) or exemptions as it thinks fit, and on such conditions as it thinks fit, for the purposes of any course of study:
 - (i) encourage and, where the New Zealand Society of Conveyancers thinks it necessary or appropriate, provide for research and postgraduate study:
 - (j) provide for the tendering of advice to the council of any university on any matter relating to the education of conveyancers:
 - (k) provide for the making to the Minister of any reports that the Minister requires relating to the education of conveyancers:

- (1) subject to this Act and any other Act, provide for the New Zealand Society of Conveyancers to do whatever it considers necessary or expedient in order that it may best accomplish the purposes for which it exists.
- (2) Without limiting subsection (1), rules of the kind described in that subsection—
 - (a) may require that a candidate credited or exempted under rules of the kind described in subsection (1)(h) must pass an examination in the law of New Zealand relating to conveyancing or in the practice of law in New Zealand relating to conveyancing or in both:
 - (b) may provide for the New Zealand Society of Conveyancers to charge any person or organisation reasonable fees in respect of—
 - (i) any matter the person or organisation submits to the New Zealand Society of Conveyancers for its consideration:
 - (ii) any work or services the New Zealand Society of Conveyancers has done or performed for the person or organisation:
 - (iii) enrolling for or sitting any examination conducted or proposed to be conducted by, or on behalf of, the New Zealand Society of Conveyancers.

Compare: 1982 No 123 s 38

85 Representative powers

- (1) The New Zealand Society of Conveyancers has all such powers, rights, and authorities as are necessary or expedient for, or conducive to, the performance of its representative functions.
- (2) Without limiting the generality of subsection (1), the New Zealand Society of Conveyancers has, in addition to any other powers conferred on it by this or any other Act, the following powers:
 - (a) to provide or arrange for the provision of services and facilities for conveyancing practitioners, including seminars and educational and training services and facilities:
 - (b) to publish periodicals, pamphlets, and other materials:
 - (c) to establish or join in establishing any body, whether incorporated or not, and whether in New Zealand or elsewhere, for the purpose of the exercise of any of the Society's representative functions or powers.
- (3) The New Zealand Society of Conveyancers, in its representative capacity, may provide and charge for services, including premises, for the purpose of the Society's regulatory functions and powers. Charges for the provision of such services must not exceed fair market rates.

Compare: 1982 No 123 s 5(1), (2)(a), (b), (h)

86 Power to borrow

- (1) The New Zealand Society of Conveyancers has the power to borrow money required by it to perform its functions in either its regulatory capacity or its representative capacity or both.
- (2) The New Zealand Society of Conveyancers has the power to mortgage, charge, or otherwise grant security over assets held and levies made in its regulatory capacity in order to secure borrowings made to enable it to perform its regulatory functions.
- (3) The New Zealand Society of Conveyancers has the power to mortgage, charge, or otherwise grant security over the assets held by it for the benefit of its members to secure borrowings made by it to enable it to perform its representative functions.

Compare: 1982 No 123 s 14

87 Constitution of New Zealand Society of Conveyancers

- (1) The New Zealand Society of Conveyancers must have a constitution that provides for—
 - (a) a Council of the New Zealand Society of Conveyancers and the powers of the Council; and
 - (b) the ways in which persons become members of the New Zealand Society of Conveyancers; and
 - (c) the ways in which persons cease to be members of the New Zealand Society of Conveyancers; and
 - (d) the summoning and holding of general meetings of the New Zealand Society of Conveyancers, and the method of voting at those meetings; and
 - (e) a president and 1 or more vice-presidents of the Council; and
 - (f) an Executive Board of the New Zealand Society of Conveyancers; and
 - (g) the amendment and replacement of the constitution.
- (2) In addition to the provisions required by subsection (1), the constitution may contain any other provisions that are not inconsistent with this Act or any other Act or any rule of law.

88 Registration of constitution and amendments to constitution

- (1) The Council of the New Zealand Society of Conveyancers must, no later than 14 days after the day on which this section comes into force, deliver to the Registrar of Companies at Wellington for registration a document, which is to be described as, and which is to constitute, the constitution of the New Zealand Society of Conveyancers.
- (2) The Council of the New Zealand Society of Conveyancers must, no later than 14 days after the passing of any amendment to the constitution or the replace-

ment of the constitution, deliver to the Registrar of Companies at Wellington for registration a copy of the amendment or the new constitution.

89 Application of Legislation Act 2019 to constitution of New Zealand Society of Conveyancers

The New Zealand Society of Conveyancers' constitution, and any amendments to it, are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation referred to in this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 89: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

90 Practising fees

- (1) Every conveyancing practitioner must pay an annual practising fee to the New Zealand Society of Conveyancers.
- (2) The amount of the annual practising fee is to be fixed from time to time by a resolution made by the Council of the New Zealand Society of Conveyancers (*see* subsections (6) and (7)).
- (3) The money received by the New Zealand Society of Conveyancers by way of practising fees is to be used by the Society for the sole purpose of funding the regulatory functions and powers of the Society.
- (4) A resolution under subsection (2) may provide for the payment of practising fees of different amounts by different classes of conveyancing practitioners.
- (5) A practising fee is payable in such manner as the practice rules prescribe or authorise and is recoverable on behalf of the New Zealand Society of Conveyancers as a debt due to it.
- (6) The Council may not fix fees under subsection (2) unless the Minister has approved the proposed fees.
- (7) A resolution under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 s 60(1)(a)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 90(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 90(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 90(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

91 Levies

- (1) The Council of the New Zealand Society of Conveyancers—
 - (a) may, by resolution, for the sole purpose of funding the regulatory functions and powers of the Society, impose on conveyancing practitioners a levy or levies not exceeding in the aggregate in any year, in respect of any conveyancing practitioner, an amount equal to one-quarter of the maximum practising fee payable by any conveyancing practitioner for that year; and
 - (b) in addition, may, by resolution, for the purpose of section 221(2), impose on all conveyancing practitioners a levy or levies to recover from those practitioners the amount of any levy paid by the Society under section 217 or section 219.
- (2) Any resolution under subsection (1) may provide—
 - (a) for payment of the levy—
 - (i) by all conveyancing practitioners; or
 - (ii) by any specified class or classes of conveyancing practitioners; or
 - (iii) by conveyancing practitioners practising in any specified part or parts of New Zealand:
 - (b) for the payment of different amounts—
 - (i) by different classes of conveyancing practitioners; or
 - (ii) by conveyancing practitioners practising in different parts of New Zealand.
- (3) The proceeds of any levy imposed under subsection (1) must not be used by the Society in the performance and exercise of its representative functions and powers or to meet any debt or liability incurred by the Society in respect of its representative functions and powers.

- (4) The amount of any levy imposed under subsection (1) is payable in such manner as the practice rules prescribe or authorise, and is recoverable on behalf of the New Zealand Society of Conveyancers as a debt due to it.
- (5) A resolution under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 s 9

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 91(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

92 Subscriptions

- (1) For the sole purpose of funding the representative functions and powers of the New Zealand Society of Conveyancers, the Council of that Society may, by resolution, require the payment of a subscription by each member of that Society.
- (2) Any resolution under subsection (1) may provide—
- (a) for the payment of the subscription—
 - (i) by all members; or
 - (ii) by any specified class or classes of members; or
 - (iii) by members practising in any specified part or parts of New Zealand:
 - (b) for the payment of different amounts—
 - (i) by different classes of members; or
 - (ii) by members practising in different parts of New Zealand.
- (3) The amount of any subscription is payable in such manner as the constitution prescribes or authorises, and is recoverable on behalf of the New Zealand Society of Conveyancers as a debt due to it.

93 Annual report

- (1) The New Zealand Society of Conveyancers must, as soon as practicable after the end of each year ending with 30 June, furnish to the Minister a report on the performance and exercise of its regulatory functions and powers during that year.
- (2) The report must include financial statements in relation to the performance and exercise of those functions and powers.

- (3) The Minister must present a copy of the report to the House of Representatives as soon as practicable after its receipt by the Minister.

Part 6

Conduct of practice by practitioners

Practice rules and regulations

94 Practice rules

- (1) The New Zealand Law Society and the New Zealand Society of Conveyancers must each have rules that include or provide for—
- (a) the criteria for eligibility for a practising certificate:
 - (b) the payment of the practising fees that are payable under section 73 or section 90 and the issue of practising certificates under section 39(1) or section 39(2):
 - (c) the payment of levies imposed by a resolution made under section 74(1) or section 91(1), and the payment of subscriptions payable under a resolution made under section 75(1) or section 92(1):
 - (d) the keeping and maintenance of a register of practitioners:
 - (e) standards of professional conduct and client care:
 - (f) in the case of the New Zealand Law Society, the matters relating to the Lawyers' Fidelity Fund that are referred to in section 309:
 - (g) in the case of the New Zealand Society of Conveyancers, the matters relating to the Conveyancing Practitioners' Fidelity Fund that are referred to in section 310:
 - (h) in the case of the New Zealand Law Society, the circumstances in which, and the conditions subject to which, lawyers and incorporated law firms may share with patent attorneys the income from any business involving the provision of regulated services to the public:
 - (i) the requirements to be met before a practitioner may practise as such on his or her own account, whether as a sole practitioner, in partnership, or otherwise:
 - (j) a requirement for practitioners and incorporated firms to provide clients in advance with information on the principal aspects of client service, including—
 - (i) the basis on which fees will be charged; and
 - (ii) indemnity insurance arrangements or other arrangements in respect of professional indemnity; and
 - (iii) the coverage provided by any fidelity fund; and
 - (iv) complaints mechanisms:

- (k) the regulation of the receipt, holding, and disbursement of money and other property received or held by practitioners or incorporated firms on behalf of other persons:
 - (l) the operation of the complaints service established by it under section 121:
 - (m) the criteria to be met by persons who are candidates for appointment as investigators:
 - (n) the circumstances and manner in which the appointment of an investigator may be revoked:
 - (o) the kinds of conduct, including criminal offences, for which a practitioner or former practitioner may be disciplined:
 - (p) prescribing the maximum sum that a Standards Committee may order be paid under section 156(1)(d) by way of compensation:
 - (q) the delegation of functions, duties, and powers under the practice rules:
 - (r) the amendment and replacement of the practice rules.
- (2) Practice rules under this Part are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 94(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

95 Code of professional conduct and client care

The New Zealand Law Society and the New Zealand Society of Conveyancers, in exercising the powers conferred by section 94(e), must each have rules that include or provide for a code of professional conduct and client care, which will be a reference point for discipline and which will focus on, but need not be limited to,—

- (a) in the case of lawyers, the duties of lawyers as officers of the High Court and the duties of lawyers to their clients:
- (b) in the case of conveyancing practitioners, the duties of conveyancing practitioners to their clients:
- (c) in the case of both lawyers and conveyancing practitioners, the duties imposed on them by their fundamental obligation to be independent in providing regulated services to their clients.

96 Practice rules in relation to nominee companies

Practice rules made by the Council of the New Zealand Law Society must regulate, or provide for the regulation of, the formation, operation, management, and winding up of nominee companies that—

- (a) are operated by barristers and solicitors or incorporated law firms; and
- (b) invest money in contributory mortgages or other securities on behalf of clients.

Compare: 1982 No 123 s 17(2)(g)

97 Certain practice rules in relation to lawyers

- (1) Practice rules made by the New Zealand Law Society—
 - (a) must provide for the issue of practising certificates to persons as “barristers” or “barristers and solicitors”:
 - (b) may require lawyers, or any class of lawyers, to undertake ongoing legal education relating to the law or the practice of law.
- (2) Practice rules made pursuant to subsection (1)(b) may, without limitation,—
 - (a) provide for the times or frequencies at which the legal education must be undertaken and the topics to be addressed:
 - (b) require that particular legal education be undertaken, or (in addition or as an alternative) require that the legal education comply with specified requirements:
 - (c) exempt, or provide for the exemption of, any lawyer or class of lawyer, from all or any practice rules made pursuant to subsection (1)(b).

Compare: 1982 No 123 s 17(2)(fa)

98 Certain practice rules in relation to conveyancing practitioners

- (1) Practice rules made by the New Zealand Society of Conveyancers—
 - (a) must provide educational criteria to be met by candidates for practising certificates as conveyancing practitioners:
 - (b) must provide for, or include mechanisms providing for, the recognition of foreign qualifications, registration, and experience:
 - (c) may require conveyancing practitioners, or any class of conveyancing practitioners, to undertake ongoing education relating to the law or the practice of conveyancing.
- (2) Practice rules made pursuant to subsection (1)(c) may, without limitation,—
 - (a) provide for the times or frequencies at which the education must be undertaken and the topics to be addressed:
 - (b) require that particular education be undertaken, or (in addition or as an alternative) require that the education comply with specified requirements:

- (c) exempt, or provide for the exemption of, any conveyancing practitioner or class of conveyancing practitioner from all or any rules made under section 94 pursuant to subsection (1)(c) of this section.

Compare: 1982 No 123 s 17(2)(fa)

99 Indemnity rules

- (1) The New Zealand Law Society and the New Zealand Society of Conveyancers must each have practice rules concerning the indemnity of practitioners or any class of practitioners or any incorporated firms or any class of incorporated firms against claims made against them in respect of anything done or omitted by them in their professional capacity.
- (2) Practice rules made under subsection (1)—
 - (a) may authorise the New Zealand Law Society or the New Zealand Society of Conveyancers or both to establish or maintain a fund or funds:
 - (b) may authorise or require the New Zealand Law Society or the New Zealand Society of Conveyancers or both to take out and maintain insurance:
 - (c) may require practitioners or any class of practitioners or incorporated firms or any class of incorporated firms to hold professional indemnity insurance:
 - (d) may require that professional indemnity insurance held for the purposes of paragraph (c) be held only with insurers approved by the New Zealand Law Society or the New Zealand Society of Conveyancers, as the case may require.
- (3) Without prejudice to the generality of subsections (1) and (2), practice rules made under the provisions of those subsections—
 - (a) may specify the terms and conditions upon which indemnity is to be available, and any circumstances in which the right to it is to be excluded or modified:
 - (b) may provide for the management, administration, and protection of any fund maintained by virtue of subsection (2)(a) and require practitioners or any class of practitioners or incorporated firms or any class of incorporated firms to make payments to any such fund:
 - (c) may require practitioners or any class of practitioners or incorporated firms or any class of incorporated firms to make payments by way of premium on any insurance policy maintained by the New Zealand Law Society or the New Zealand Society of Conveyancers by virtue of subsection (2)(b):
 - (d) may specify the minimum terms and conditions that an insurance policy must satisfy for the purposes of subsection (2)(c):

- (e) may specify circumstances in which practitioners or any class of practitioners or incorporated firms or any class of incorporated firms are exempt from the rules or any provision of them:
 - (f) may empower the New Zealand Law Society or the New Zealand Society of Conveyancers or both to take steps to ascertain whether the rules are being complied with:
 - (g) may make such incidental, procedural, or supplementary provisions as are necessary to give full effect to subsections (1) and (2).
- (4) The New Zealand Law Society and the New Zealand Society of Conveyancers each has power to carry into effect any arrangements that it considers necessary or expedient for the purpose of indemnity under this section.

Compare: 1982 No 123 s 17(3), (4)(a), (b), (c), (h), (i), (j); Solicitors Act 1974 s 37(1), (2), (3)(a), (b), (c), (d), (g), (h), (i), (5) (UK)

100 Consultation in relation to rules

- (1) This section applies to—
- (a) the rules made by the Council of the New Zealand Society of Conveyancers under section 81(2)(a); and
 - (b) the practice rules made by the Council of the New Zealand Law Society or the Council of the New Zealand Society of Conveyancers, as the case may be.
- (2) The rules to which this section applies must be made only after the Minister has approved, and the following people have been consulted on, the proposed rules:
- (a) lawyers or conveyancers, as the case may be; and
 - (b) such other persons or groups as the Minister may direct.

Section 100(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

101 Criteria in relation to approval of practice rules by Minister

The Minister must, in deciding whether to approve any practice rules, have regard, among other things, to—

- (a) the fundamental obligations of the practitioners to whom the practice rules relate:
- (b) the principle that it may be necessary or expedient to impose duties or restrictions on practitioners in order to protect the interests of consumers:
- (c) the principle that the burden of a duty or restriction should be proportionate to the benefits that are expected to result from the imposition of the duty or restriction:

- (d) the consistency of the rules with New Zealand’s international obligations:
- (e) the provisions of this Act and all rights and obligations of practitioners under the law.

102 Registration of practice rules

- (1) The Council of the New Zealand Law Society must, no later than 14 days after the day on which this Part comes into force, deliver to the Registrar of Companies at Wellington for registration a copy of its practice rules (as approved by the Minister).
- (2) The Council of the New Zealand Society of Conveyancers must, no later than 14 days after the day on which the whole of Part 5 comes into force, deliver to the Registrar of Companies at Wellington for registration—
 - (a) a copy of the rules in force under section 81(2)(a) (as approved by the Minister); and
 - (b) a copy of its practice rules (as approved by the Minister).

103 Amendment of rules

- (1) The Council of the New Zealand Law Society or the Council of the New Zealand Society of Conveyancers may, at any time, amend any of its rules to which section 100 applies, or revoke them and replace them with new rules.
- (2) An amendment, or a revocation and replacement, may be made only after the Minister has approved, and the following people have been consulted on, the proposed amendment or revocation and replacement:
 - (a) lawyers or conveyancers, as the case may be; and
 - (b) such other persons or groups as the Minister may direct.
- (3) An instrument that amends, or revokes and replaces, rules under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 103(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 103(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 103(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

104 Power of Minister to amend rules

- (1) If the Minister considers any rules to which section 100 applies to be deficient in any respect, the Minister may, subject to subsections (2) and (3), make such amendments to those rules as are necessary to remedy the deficiency.
- (2) Amendments made under subsection (1) to rules to which section 100 applies may relate only to matters in respect of which rules under section 81(2)(a) or practice rules, as the case may require, may be made.
- (3) The Minister, in deciding whether to make amendments under subsection (1) to any rules,—
 - (a) must consult the council by which the rules were made; and
 - (b) may consult such other persons or groups as the Minister thinks fit.
- (4) An instrument that amends rules under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 104(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

105 Registration of amendments to rules

- (1) The Council of the New Zealand Law Society or the Council of the New Zealand Society of Conveyancers must, after—
 - (a) passing any amendment to any rules to which section 100 applies; or
 - (b) revoking any rules to which section 100 applies and replacing them with new rules,—

deliver to the Registrar of Companies at Wellington for registration a copy of the amendment (as approved by the Minister) or a copy of its new rules (as approved by the Minister).

- (2) If any rules are amended by the Minister under section 104, the Minister must, after making the amendment, deliver to the Registrar of Companies at Wellington for registration a copy of that amendment.
- (3) Subsection (1) or (2) must be complied with no later than 14 days after the instrument that amends or revokes and replaces the rules is published under the Legislation Act 2019.

Section 105(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 105(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 105(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

106 Application of Legislation Act 2012 to rules

[Repealed]

Section 106: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

107 Effect of practice rules

- (1) The practice rules of the New Zealand Law Society are binding on all lawyers and former lawyers, whether or not they are members of the New Zealand Law Society, and on all incorporated law firms and former incorporated law firms, but are not binding on other persons.
- (2) The practice rules of the New Zealand Society of Conveyancers are binding on all conveyancing practitioners and former conveyancing practitioners, whether or not they are members of the New Zealand Society of Conveyancers, but are not binding on other persons.
- (3) No partnership deed, employment agreement, or other legal arrangement governing the manner in which a practitioner is in practice, business, or employment may require a practitioner to act in breach of the practice rules and any part of a deed, condition of employment, agreement, or other legal arrangement that purports to require such conduct is void.

Section 107(1): amended (with effect from 1 August 2008), on 4 August 2008, by section 10 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

108 Regulations in relation to practitioners

- (1) The Governor-General may, by Order in Council, make regulations providing for any of the matters in respect of which rules to which section 100 applies may be made.
- (2) Regulations made under subsection (1) have general effect and are binding not only on practitioners and former practitioners but also on other persons to whom they apply.
- (3) So far as any rules to which section 100 applies are inconsistent with, or repugnant to, any regulations made under subsection (1) or section 119(1), those rules are to be treated as subject to the regulations.
- (4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 108(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Investigations

109 Investigation of affairs of practices

- (1) The New Zealand Law Society may, at any time, appoint a person—
 - (a) to examine from time to time the accounts of lawyers or firms of lawyers or incorporated law firms; and
 - (b) to furnish to the Society confidential reports—
 - (i) as to any irregularity in the accounts of any lawyer or firm of lawyers or incorporated law firm that may be disclosed by any examination conducted under paragraph (a); and
 - (ii) as to any other matter that, in the opinion of the person so appointed, should be reported upon or further investigated.
- (2) The New Zealand Society of Conveyancers may, at any time, appoint a person—
 - (a) to examine from time to time the accounts of conveyancing practitioners or firms of conveyancing practitioners or incorporated conveyancing firms; and
 - (b) to furnish to the Society confidential reports—
 - (i) as to any irregularity in the accounts of any conveyancing practitioner or firm of conveyancing practitioners or incorporated conveyancing firm that may be disclosed by any examination conducted under paragraph (a); and
 - (ii) as to any other matter that, in the opinion of the person so appointed, should be reported upon or further investigated.
- (3) A person may be appointed under subsection (1) or subsection (2) only if he or she is—
 - (a) an officer or member of the Society by which the appointment is made; or
 - (b) a qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013); or
 - (c) in the case of an appointment to be made under subsection (1), a person who holds office as an inspector appointed to the Law Society inspectorate; or
 - (d) in the case of an appointment to be made under subsection (2), a person who holds office as an inspector appointed to the Conveyancers Society inspectorate.
- (4) An appointment made under subsection (1) or subsection (2) must be in writing.

- (5) Schedule 2 applies in relation to investigations conducted by persons appointed under this section.

Compare: 1982 No 123 s 85(1), (2)

Section 109(3)(b): amended, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Trust accounts

110 Obligation to pay money received into trust account at bank

- (1) A practitioner who, in the course of his or her practice, receives money for, or on behalf of, any person—
- (a) must ensure that the money is paid promptly into a bank in New Zealand to a general or separate trust account of—
 - (i) the practitioner; or
 - (ii) a person who, or body that, is, in relation to the practitioner, a related person or entity; and
 - (b) must hold the money, or ensure that the money is held, exclusively for that person, to be paid to that person or as that person directs.
- (2) An incorporated firm that, in the course of its practice, receives money for, or on behalf of, any person—
- (a) must ensure that the money is paid promptly into a bank in New Zealand to a general or separate trust account of the firm; and
 - (b) must hold the money, or ensure that the money is held, exclusively for that person, to be paid to that person or as that person directs.
- (3) For the purposes of this section, a practitioner or an incorporated firm is deemed to have received money belonging to another person if—
- (a) that person, or a bank or other agency acting for, or on behalf of, that person, deposits funds by means of a telegraphic or electronic transfer of funds into the bank account of—
 - (i) the practitioner or incorporated firm; or
 - (ii) a person who, or body that, is, in relation to the practitioner, a related person or entity; or
 - (b) the practitioner or incorporated firm takes control of money belonging to that person.
- (4) A person commits an offence against this Act and is liable on conviction to a fine not exceeding \$25,000 who knowingly acts in contravention of subsection (1) or subsection (2).

Compare: 1982 No 123 s 89(1), (3)

Section 110(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

111 Obligation to account for trust money and valuable property

- (1) If, in the course of the practice of a practitioner or an incorporated firm, the practitioner, a related person or entity, or the incorporated firm receives or holds money or other valuable property on behalf of any person, the practitioner, related person or entity, or incorporated firm must account properly for the money or other valuable property to the person on whose behalf the money or other valuable property is held.
- (2) A person commits an offence against this Act and is liable on conviction to a fine not exceeding \$25,000 who knowingly acts in contravention of subsection (1).

Compare: SR 1998/17 r 3(1)(a)

Section 111(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

112 Obligation to keep records in respect of trust accounts and valuable property

- (1) If, in the course of the practice of a practitioner or an incorporated firm, the practitioner, a related person or entity, or the incorporated firm receives or holds money or other valuable property in trust on behalf of any person, the practitioner, related person or entity, or incorporated firm—
 - (a) must, in relation to the money, keep trust account records that disclose clearly the position of the money in the trust accounts of the practitioner, related person or entity, or incorporated firm; and
 - (b) must, in relation to other valuable property, keep records that—
 - (i) describe the property received or held; and
 - (ii) show the date on which the property was received; and
 - (iii) if the property has been disposed of, give details of the disposition of the property, including the date on which, and the person to whom, the property was disposed of; and
 - (c) must keep the records required by this section in such a manner as to enable those records to be conveniently and properly audited or inspected.
- (2) Subsection (1) does not apply to a person (being a practitioner, related person or entity, or incorporated firm)—
 - (a) who does not provide regulated services; or
 - (b) who, in the course of providing regulated services, does not, on that person's own behalf or in his or her capacity as a director or shareholder of an incorporated firm, do any of the following:
 - (i) receive or hold money or other valuable property in trust for any other person:
 - (ii) invest money for any other person:

- (iii) have a trust account:
 - (iv) receive fees or disbursements in advance of an invoice being issued.
- (3) A person commits an offence against this Act and is liable on conviction to a fine not exceeding \$25,000 who knowingly acts in contravention of subsection (1).

Compare: SR 1998/17 r 3(1)(b), (2)(a)

Section 112(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

113 Protection of money received

- (1) No money to which section 110(1) or (2) applies is available for the payment of the debts of any other creditor of the practitioner, related person or entity, or incorporated firm; nor is any such money liable to be attached or taken in execution under the order or process of any court at the instance of any such creditor.
- (2) Nothing in section 110 or this section takes away or affects any just claim or lien that a practitioner, related person or entity, or incorporated firm who holds money to which section 110(1) or (2) applies may have against that money.

Compare: 1982 No 123 s 89(2), (4)

114 Duty of practitioners to ensure that funds earn interest

It is the duty of every practitioner and of every related person or entity and of every incorporated firm to ensure that, wherever practicable, all money held on behalf of any person by that practitioner, related person or entity, or incorporated firm earns interest for the benefit of that person, unless—

- (a) that person instructs otherwise; or
- (b) it is not reasonable or practicable (whether because of the smallness of the amount, the shortness of the period for which the practitioner, related person or entity, or incorporated firm is to hold the money, or for any other reason) for the practitioner, related person or entity, or incorporated firm to invest the money, at the direction of the person for whom the money is held, so that interest is payable on it for the benefit of that person.

Compare: 1982 No 123 s 89A

115 Regulations relating to trust accounts

- (1) The Governor-General may, from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - (a) regulating the use and audit of trust accounts of practitioners and of related persons or entities and of incorporated firms, and prescribing the duties of practitioners and of related persons or entities and of incorporated firms in regard to trust accounts:

- (b) prohibiting or regulating the collection of money of a client by a lawyer or class of person connected with a lawyer or an incorporated law firm:
- (c) regulating the lending of money of a client by a practitioner or class of person connected with a practitioner or incorporated firm:
- (d) prohibiting or regulating the borrowing of money of a client by a practitioner or class of person connected with a practitioner or incorporated firm:
- (e) regulating the receipt, banking, payment, investment, and recording of money and other valuable property entrusted to practitioners, related persons or entities, or incorporated firms:
- (f) requiring the keeping of registers of properties, authorities, and appointments held by practitioners and related persons or entities and incorporated firms:
- (g) requiring that a practitioner who intends to set up on his or her own account or to become a director or shareholder of an incorporated firm, or who manages or administers trust accounts, must undertake training in trust account management and in the obligations of lawyers or conveyancing practitioners or incorporated firms, as the case may require, in relation to trust accounts:
- (h) prescribing the duties of persons appointed under section 109 to conduct examinations of accounts, and prescribing the duties of practitioners and related persons or entities and incorporated firms in relation to such examinations and the circumstances in which a practitioner, related person or entity, or incorporated firm may be required to pay the cost of any such examination:
- (i) establishing a scheme for the protection of money entrusted to practitioners, related persons or entities, or incorporated firms:
- (j) providing for the establishment of an inspectorate by the New Zealand Law Society or the New Zealand Society of Conveyancers or by both:
- (k) prescribing functions, duties, rights, and powers of the Law Society inspectorate or the Conveyancers Society inspectorate or both:
- (l) authorising any inspector appointed to the Law Society inspectorate or the Conveyancers Society inspectorate to delegate any function, duty, right, or power conferred on that inspector in his or her capacity as a member of the inspectorate (other than the power of delegation):
- (m) providing for payment by lawyers and by related persons or entities and by incorporated law firms of fees and costs of the Law Society inspectorate:
- (n) providing for payment by conveyancing practitioners and by related persons or entities and by incorporated conveyancing firms of fees and costs of the Conveyancers Society inspectorate:

- (o) authorising any auditor or the Law Society inspectorate or the Conveyancers Society inspectorate to communicate directly, for the purpose of establishing whether the regulations have been complied with,—
 - (i) with clients of lawyers and with related persons or entities; and
 - (ii) with clients of incorporated law firms; and
 - (iii) with clients of conveyancing practitioners and with related persons or entities; and
 - (iv) with clients of incorporated conveyancing firms; and
 - (v) with other persons:
- (p) prescribing the persons to whom the reports of auditors must be sent for inspection, information, or record:
- (q) prescribing the persons to whom written communications between the auditor or inspector and the lawyer or incorporated law firm and between the auditor or inspector and any person who, or body that, is, in relation to the lawyer, a related person or entity may be disclosed:
- (r) prescribing the persons to whom written communications between the auditor or inspector and the conveyancing practitioner or incorporated conveyancing firm and between the auditor or inspector and any person who, or body which, is, in relation to the conveyancing practitioner, a related person or entity may be disclosed:
- (s) providing that a practitioner, a related person or entity, an incorporated firm, an auditor, the Law Society inspectorate, and the Conveyancers Society inspectorate are subject to an obligation not to divulge, otherwise than as prescribed, any matter of which the practitioner, the related person or entity, the incorporated firm, the auditor, or the inspectorate is informed in the course of an audit, review, or inspection, and are also subject to the like liability in damages to a client of the practitioner, the related person or entity, or the incorporated firm as the practitioner or the incorporated firm would be if the practitioner, related person or entity, or incorporated firm divulged any such matter:
- (t) prescribing fees or costs, or scales of fees or costs, to be paid to auditors, or the Law Society inspectorate or the Conveyancers Society inspectorate, or providing for the determination of the amounts of such fees or costs in such manner as may be prescribed; and providing that the Law Society inspectorate or the Conveyancers Society inspectorate may charge fees for performing any of their respective functions:
- (u) prescribing the circumstances (if any) in which, and the conditions subject to which, any trust account may be kept in a name other than that by which the client is usually known; and requiring trust accounts to be kept in all other circumstances in the names by which the clients are usually known:

- (v) requiring practitioners and related persons or entities and incorporated firms to keep registers of documents and information:
 - (w) requiring practitioners, related persons or entities, incorporated firms, banks, and other persons to supply (either at specified times or upon request) to auditors, the Law Society inspectorate, the Conveyancers Society inspectorate, the New Zealand Law Society, or the New Zealand Society of Conveyancers such information and returns as may be necessary to ensure compliance with the regulations:
 - (x) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this section, and the amounts of the fines that may be imposed in respect of any such offences, not exceeding \$25,000 in respect of any offence:
 - (y) prescribing generally such requirements as may be necessary to ensure that trust accounts are duly kept, and that persons beneficially entitled to money and securities held by practitioners, related persons or entities, or incorporated firms on trust are informed of the money and securities held and of the investment of any such money or securities.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 ss 17(2)(e)–(f), 91(1)(a)–(f), (i)–(n), (q)–(s), (v), (w)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 115(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

116 Provisions relating to regulations relating to trust accounts

- (1) In section 115, **client**, in relation to a practitioner or incorporated firm, includes any person on whose behalf money is, or securities are, held by the practitioner or incorporated firm.
- (2) In section 115, **class of person connected with a practitioner or incorporated firm** includes,—
 - (a) in relation to a practitioner,—
 - (i) a spouse or partner or child of the practitioner; and
 - (ii) any nominee of the practitioner; and
 - (iii) any company registered under the Companies Act 1993 of which the principal financial interest or effective control is directly or

- indirectly vested in the practitioner or any spouse or partner or child or children or nominee of the practitioner; and
- (iv) any other incorporated or unincorporated body of which the principal financial benefit or effective control is directly or indirectly vested in the practitioner or any spouse or partner or child or children or nominee of the practitioner; and
- (b) in relation to an incorporated firm,—
- (i) a spouse or partner or child of a person who is a director or shareholder of the firm; and
 - (ii) any nominee of the firm or of a person who is a director or shareholder of the firm; and
 - (iii) any company registered under the Companies Act 1993 of which the principal financial interest or effective control is directly or indirectly vested in the firm or any spouse or partner or child or children or nominee of a person who is a director or shareholder of the firm; and
 - (iv) any other incorporated or unincorporated body of which the principal financial benefit or effective control is directly or indirectly vested in the firm or any spouse or partner or child or children or nominee of a person who is a director or shareholder of the firm.
- (3) In subsection (2), **partner**, in relation to a person, means a civil union partner or de facto partner of that person.
- (4) Regulations made under section 115(g) may, without limitation,—
- (a) provide that the training must be undertaken at specified times or frequencies, or in specified circumstances:
 - (b) require that a particular course or courses be undertaken, or (in addition, or as an alternative) require that the training comply with specified requirements or be provided by a particular agency or agencies:
 - (c) provide that satisfactory results from assessment or examination be required as part of training:
 - (d) exempt, or provide for the exemption of, any lawyer or class of lawyer or any conveyancing practitioner or class of conveyancing practitioner or any other person or class of person from all or any regulations made under section 115(g):
 - (e) provide that fees may be charged to any person applying for or undertaking the training required by regulations made under section 115(g).
- (5) Regulations made under section 115 do not limit or derogate from the disciplinary powers of a Standards Committee or the Disciplinary Tribunal under this Act or of the Appeals Council under the New Zealand Institute of Chartered Accountants Act 1996.

- (6) Without prejudice to subsection (5), wilful failure to comply with any regulations made under section 115 is, if the High Court thinks fit, ground for the exercise of the High Court's summary jurisdiction under this Act.

Compare: 1982 No 123 ss 17(2)(ea), 91(2)–(5)

Section 116(5): amended, on 7 July 2010, by section 10 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

Barristers and King's Counsel

Heading: amended, on 3 December 2012, by section 5 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

117 Status of barristers

Subject to this Act, barristers of the High Court have all the powers, privileges, duties, and responsibilities that barristers have at law.

Compare: 1982 No 123 s 61

118 Office or rank of Queen's Counsel

The office or rank that before 1 August 2008 was known in New Zealand as Queen's Counsel, and that from the close of 31 July 2008 to the close of 2 December 2012 was renamed as Senior Counsel, is on and after 3 December 2012 again to be known in New Zealand as Queen's Counsel.

Section 118: replaced, on 3 December 2012, by section 6 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

118A Eligibility for appointment

- (1) A person who holds a current practising certificate authorising him or her to practise as a barrister and not as a barrister and solicitor is eligible for appointment, under the Royal prerogative, as a King's Counsel if he or she (whether or not he or she is a statutory officer)—
- (a) practises, and in the course of his or her practice provides regulated services, alone (that is, not in partnership with any other lawyer); and
 - (b) is not actively involved in the provision by an incorporated law firm (other than one in which he or she is the only voting shareholder) of regulated services; and
 - (c) is not an employee (other than an employee of an incorporated law firm in which he or she is the only voting shareholder) who, in the course of his or her employment, provides regulated services.
- (2) Nothing in this section, section 118B, or section 119 limits or affects appointments, under the Royal prerogative (as preserved by section 119C(1) and (2)), to the office of King's Counsel of a person who, when appointed to that office, is all or any of the following:
- (a) a person who is not in the category in subsection (1):

- (b) a person who is appointed otherwise than in accordance with regulations under section 119(1)(a) and (b), guidelines of the kind specified in section 119(2)(b), or both:
- (c) a person who does not possess all or any of the qualifications and experience that guidelines of the kind specified in section 119(2)(a) indicate should be possessed by candidates for appointment as King's Counsel.

Section 118A: inserted, on 3 December 2012, by section 6 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

118B Restrictions on practice of specified category of lawyers who hold rank

- (1) A person who holds the rank of King's Counsel, and who when appointed to that rank was in the category in section 118A(1),—
 - (a) must not practise, or in the course of his or her practice provide regulated services, as a barrister and solicitor, or in partnership with any other lawyer; and
 - (b) must not be actively involved in the provision by an incorporated law firm (other than one in which he or she is the only voting shareholder) of regulated services; and
 - (c) must not be an employee (other than an employee of an incorporated law firm in which he or she is the only voting shareholder) who, in the course of his or her employment, provides regulated services; but
 - (d) is not precluded, by reason only of the fact that he or she holds that rank, from being a statutory officer.
- (2) Subsection (1) is subject to sections 118C(5) and 118D(4), but overrides other provisions of this Act.
- (3) A person who is subject to, and who contravenes, subsection (1) must be treated as having surrendered at the time of the contravention the rank of King's Counsel.

Section 118B: inserted, on 3 December 2012, by section 6 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

118C Queen's Counsel appointed before 1 August 2008

- (1) This section applies to a person who at the close of 31 July 2008 held, and at the close of 2 December 2012 continued to hold, the rank of Queen's Counsel for New Zealand.
- (2) If, after 31 July 2008 and under section 118(5) (as repealed by section 6 of the Lawyers and Conveyancers Amendment Act 2012), the person used, in relation to himself or herself, the words Senior Counsel and the abbreviation SC, then after 2 December 2012 he or she—
 - (a) may continue to use, in relation to himself or herself, those words and that abbreviation; or

- (b) may use instead, in relation to himself or herself, the words King's Counsel and the abbreviation KC.
- (3) The precedence to which the person is entitled is not affected by sections 118 to 119C (as substituted by section 6 of the Lawyers and Conveyancers Amendment Act 2012).
- (4) The following apply to the person in the same way as they apply to a Queen's Counsel appointed to that rank after 2 December 2012:
 - (a) sections 118B, 119A, and 119B (as so substituted):
 - (b) any regulations made under section 119(1)(c) and (e) to (g) (as so substituted).
- (5) Despite subsection (4)(a), section 118B (as so substituted) does not apply, but section 118D(4) (as so substituted) does apply, to the person if after his or her appointment as a Queen's Counsel and before or on 1 April 2010 and under section 118(2)(b) of this Act (as repealed by section 6 of the Lawyers and Conveyancers Amendment Act 2012) or not inconsistently with an enactment in or under an earlier Act that corresponds to this Act he or she—
 - (a) practised, or in the course of his or her practice provided regulated services, as a barrister and solicitor, or in partnership with any other lawyer; or
 - (b) was actively involved in the provision by an incorporated law firm (other than one in which he or she is the only voting shareholder) of regulated services; or
 - (c) was an employee (other than an employee of an incorporated law firm in which he or she is the only voting shareholder) who, in the course of his or her employment, provided regulated services; or
 - (d) was a statutory officer.
- (6) Subsections (3), (4), and (5) apply to the person whether or not after 2 December 2012 and under subsection (2) he or she uses, in relation to himself or herself, the words Senior Counsel and the abbreviation SC.

Section 118C: inserted, on 3 December 2012, by section 6 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

118D Senior Counsel appointed after 31 July 2008 and before 3 December 2012

- (1) This section applies to a person who after 31 July 2008 was appointed to, and at the close of 2 December 2012 continued to hold, the rank of Senior Counsel for New Zealand.
- (2) After 2 December 2012, the person—
 - (a) may continue to use, in relation to himself or herself, the words Senior Counsel and the abbreviation SC; or
 - (b) may instead use, in relation to himself or herself, the words King's Counsel and the abbreviation KC.

- (3) The precedence to which the person is entitled is not affected by sections 118 to 119C (as substituted by section 6 of the Lawyers and Conveyancers Amendment Act 2012).
- (4) After 2 December 2012, the person is not precluded, by reason only of the fact that he or she holds that rank,—
 - (a) from practising, or in the course of his or her practice providing regulated services, either as a barrister or as a barrister and solicitor, or either alone or in partnership with any other lawyer; or
 - (b) from being actively involved in the provision by an incorporated law firm (other than one in which he or she is the only voting shareholder) of regulated services; or
 - (c) from being an employee (other than an employee of an incorporated law firm in which he or she is the only voting shareholder) who, in the course of his or her employment, provides regulated services; or
 - (d) from being a statutory officer.
- (5) The following apply to the person in the same way as they apply to a Queen's Counsel appointed to that rank after 2 December 2012:
 - (a) sections 119A and 119B (as so substituted);
 - (b) any regulations made under section 119(1)(c) and (e) to (g) (as so substituted).
- (6) Subsections (3), (4), and (5) apply to the person whether or not after 2 December 2012 and under subsection (2) he or she uses, in relation to himself or herself, the words King's Counsel and the abbreviation KC.

Section 118D: inserted, on 3 December 2012, by section 6 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

119 Regulations relating to King's Counsel

- (1) The Governor-General may, by Order in Council, make regulations (not inconsistent with this Act) prescribing—
 - (a) the process by which candidates may be recommended to the Governor-General for appointment, by letters patent, under the Royal prerogative as King's Counsel:
 - (b) the fees to be paid by candidates for appointment as King's Counsel:
 - (c) the privileges and duties of King's Counsel:
 - (d) the conditions on or subject to which candidates may be appointed as King's Counsel:
 - (e) the conditions on or subject to which King's Counsel may practise their profession:
 - (f) the precedence that King's Counsel are to have in the courts of New Zealand:

- (g) such other matters as may be necessary in relation to King's Counsel.
- (2) Regulations made under subsection (1) may authorise the Chief Justice and the Attorney-General to issue guidelines (not inconsistent with this Act or any regulations of that kind) in relation to both—
- (a) the qualifications and experience that should be possessed by candidates for appointment as King's Counsel; and
- (b) the process by which such candidates may be recommended for appointment.
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 119: replaced, on 3 December 2012, by section 6 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 119(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

119A Other ways of ceasing to hold rank

- (1) A person who holds the rank of King's Counsel ceases to hold that rank if—
- (a) he or she is suspended from practice as a barrister or as a solicitor or as both (even if the suspension is only until a charge against the person has been heard and disposed of by the Disciplinary Tribunal); or
- (b) his or her name is struck off the roll.
- (2) Nothing in sections 118 to 119C (as substituted by section 6 of the Lawyers and Conveyancers Amendment Act 2012) abrogates the power of the Crown to revoke, under the Royal prerogative, the appointment of any person who was appointed as a King's Counsel for New Zealand.

Section 119A: inserted, on 3 December 2012, by section 6 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

119B Style of rank if Sovereign for time being is King

- (1) If the Sovereign for the time being is a King,—
- (a) every reference to Queen's Counsel in a provision to which this paragraph applies is, unless the context otherwise requires, to be read as a reference to King's Counsel; and

- (b) the words and abbreviation that a lawyer who holds the rank of Queen's Counsel are to use, if he or she wishes, in relation to himself or herself, are King's Counsel and KC.
- (2) Subsection (1)(a) applies to—
 - (a) provisions in this Act (other than in subsection (1) or in section 118C(1)); and
 - (b) provisions in (or in any guidelines issued under) any regulations made under section 119(1).

Section 119B: inserted, on 3 December 2012, by section 6 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

119C Royal prerogative power to appoint unaffected

- (1) Sections 118A and 118B do not derogate from the power to appoint under the Royal prerogative to the office of King's Counsel a person who, when so appointed, was not in the category in section 118A(1) (and by way of explanation who, after being so appointed, is not subject to section 118B, which imposes practice restrictions).
- (2) The powers conferred by section 119 do not derogate from the power to appoint, under the Royal prerogative, people to the office of King's Counsel.

Section 119C: inserted, on 3 December 2012, by section 6 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Part 7 Complaints and discipline

120 Purposes

- (1) The first purpose of this Part is to provide a framework in relation to complaints and discipline.
- (2) The framework is, in relation to complaints, to be—
 - (a) one that relates to complaints about—
 - (i) lawyers and former lawyers; and
 - (ii) incorporated law firms and former incorporated law firms; and
 - (iii) persons who are not practitioners but who are employees or former employees of lawyers and incorporated law firms; and
 - (iv) conveyancing practitioners and former conveyancing practitioners; and
 - (v) incorporated conveyancing firms and former incorporated conveyancing firms; and
 - (vi) persons who are not practitioners but who are employees or former employees of conveyancing practitioners and incorporated conveyancing firms; and

- (b) one within which complaints of the kind referred to in paragraph (a) may be processed and resolved expeditiously and, in appropriate cases, by negotiation, conciliation, or mediation.
- (3) The framework is, in relation to discipline, to be one within which disciplinary charges against persons of the kinds described in subparagraphs (i) to (vi) of subsection (2)(a) may be heard and determined expeditiously.
- (4) The second purpose of this Part is to require the New Zealand Law Society to make, in relation to persons of the kinds described in subparagraphs (i) to (iii) of subsection (2)(a), rules necessary for the purposes of the framework referred to in this section.
- (5) The third purpose of this Part is to require the New Zealand Society of Conveyancers to make, in relation to persons of the kinds described in subparagraphs (iv) to (vi) of subsection (2)(a), rules necessary for the purposes of the framework referred to in this section.
- (6) The fourth purpose of this Part is to preserve the inherent jurisdiction of the High Court to strike off the roll and discipline lawyers in their capacity as officers of the High Court.

Complaints service

121 Obligation to establish complaints service

- (1) The New Zealand Law Society must establish a complaints service to receive complaints about—
 - (a) lawyers and former lawyers; and
 - (b) incorporated law firms and former incorporated law firms; and
 - (c) employees and former employees of lawyers and incorporated law firms.
- (2) The New Zealand Society of Conveyancers must establish a complaints service to receive complaints about—
 - (a) conveyancing practitioners and former conveyancing practitioners; and
 - (b) incorporated conveyancing firms and former incorporated conveyancing firms; and
 - (c) employees and former employees of conveyancing practitioners and incorporated conveyancing firms.

122 Rules

- (1) The New Zealand Law Society and the New Zealand Society of Conveyancers must each make and maintain practice rules governing the operation of the complaints service established by it.
- (2) The rules governing the operation of a complaints service must be designed to ensure, as far as is practicable, that all complaints received by the complaints

service (whether they are about service, costs, conduct, or any other matter) are dealt with in a fair, efficient, and effective manner.

- (3) Practice rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 122(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

123 Administration of complaints service

Each complaints service—

- (a) must be administered in accordance with both—
- (i) this Act; and
 - (ii) the rules governing the operation of the complaints service; and
- (b) must deal, in a fair, efficient, and effective manner, with all complaints received by the complaints service (whether they are about service, costs, conduct, or any other matter).

124 Functions of New Zealand Law Society in relation to complaints service

The functions of the New Zealand Law Society, in administering the complaints service established by it under section 121(1), are as follows:

- (a) to ensure that places are provided at which complaints about lawyers and other persons who belong to the classes of persons described in section 121(1)(a) to (c) may be lodged:
- (b) to give appropriate publicity both to the places at which complaints about lawyers and other persons who belong to the classes of persons described in section 121(1)(a) to (c) may be lodged and to the procedure to be used in lodging such complaints:
- (c) to publish information with a view to making it known that complaints about lawyers and other persons who belong to the classes of persons described in section 121(1)(a) to (c) must be in writing and be supported by appropriate documentation:
- (d) to enter into contracts, on behalf of the New Zealand Law Society, with persons who provide services to, or are employed to assist, Lawyers Standards Committees:
- (e) to ensure throughout New Zealand both the consistency and the quality of the complaints service:

- (f) to provide assistance to Lawyers Standards Committees and to the office of each such committee:
- (g) to provide to the Legal Complaints Review Officer copies of any complaints that the New Zealand Law Society receives about the operation of the complaints service:
- (h) to ensure that decisions of Lawyers Standards Committees, the Legal Complaints Review Officer, and the Disciplinary Tribunal are enforced.

125 Functions of New Zealand Society of Conveyancers in relation to complaints service

The functions of the New Zealand Society of Conveyancers, in administering the complaints service established by it under section 121(2), are as follows:

- (a) to ensure that places are provided at which complaints about conveyancing practitioners and other persons who belong to the classes of persons described in section 121(2)(a) to (c) may be lodged:
- (b) to give appropriate publicity both to the places at which complaints about conveyancing practitioners and other persons who belong to the classes of persons described in section 121(2)(a) to (c) may be lodged and to the procedure to be used in lodging such complaints:
- (c) to publish information with a view to making it known that complaints about conveyancing practitioners and other persons who belong to the classes of persons described in section 121(2)(a) to (c) must be in writing and be supported by appropriate documentation:
- (d) to enter into contracts, on behalf of the New Zealand Society of Conveyancers, with persons who provide services to, or are employed to assist, Conveyancing Practitioners Standards Committees:
- (e) to ensure throughout New Zealand both the consistency and the quality of the complaints service:
- (f) to provide assistance to Conveyancing Practitioners Standards Committees and to the office of each such committee:
- (g) to provide to the Legal Complaints Review Officer copies of any complaints that the New Zealand Society of Conveyancers receives about the operation of the complaints service:
- (h) to ensure that decisions of Conveyancing Practitioners Standards Committees, the Legal Complaints Review Officer, and the Disciplinary Tribunal are enforced.

Standards Committees

126 Lawyers Standards Committees

- (1) The New Zealand Law Society must, by practice rules, establish 1 or more Lawyers Standards Committees as part of its complaints service.

- (2) The members of each Lawyers Standards Committee are to be appointed by the New Zealand Law Society.

127 Conveyancing Practitioners Standards Committees

- (1) The New Zealand Society of Conveyancers must, by practice rules, establish 1 or more Conveyancers Standards Committees as part of its complaints service.
- (2) The members of each Conveyancers Standards Committee are to be appointed by the New Zealand Society of Conveyancers.

128 Notice to Minister

- (1) Where the New Zealand Law Society or the New Zealand Society of Conveyancers appoints any person as a member of a Standards Committee, it must, within 21 days after making the appointment, give to the Minister a written notice setting out particulars of the appointment.
- (2) Those particulars must include—
 - (a) particulars of the committee in respect of which the appointment has been made; and
 - (b) the name and address of the person appointed; and
 - (c) the period for which the person has been appointed.

129 Membership of Standards Committees

- (1) Each Standards Committee is to consist of at least 3 persons.
- (2) At least 1 member of each Standards Committee must be a lay member.
- (3) Subject to subsections (1) and (2), each Standards Committee is to consist of such number of persons as is specified in the rules by which that committee is established.
- (4) Subject to the provisions of this section, the rules establishing a Standards Committee must prescribe—
 - (a) the constitution and proceedings of the committee; and
 - (b) the mode of appointment and tenure of office of the members of the committee (other than the lay member or lay members); and
 - (c) the mode of appointment and the tenure of office of the lay member or lay members of the committee; and
 - (d) the criteria that must be applied in appointing the members of the committee (other than the lay member or lay members); and
 - (e) the procedure to be followed, and the criteria to be applied, in selecting any person for appointment as a lay member of the committee; and
 - (f) the procedure for the filling of vacancies in the membership of the committee; and

- (g) the circumstances in which a member of the committee may be removed from office.

130 Functions of Standards Committees

The functions of each Standards Committee are (subject to any limitations imposed on the committee by or under this Act or the rules that govern the operation of the committee)—

- (a) to inquire into and investigate complaints made under section 132:
- (b) to promote, in appropriate cases, the resolution of complaints by negotiation, conciliation, or mediation:
- (c) to investigate of its own motion any act, omission, allegation, practice, or other matter that appears to indicate that there may have been misconduct or unsatisfactory conduct on the part of a practitioner or any other person who belongs to any of the classes of persons described in section 121:
- (d) to intervene, in the circumstances prescribed by this Act, in the affairs of practitioners or former practitioners or incorporated firms:
- (e) to make final determinations in relation to complaints:
- (f) to lay, and prosecute, charges before the Disciplinary Tribunal.

131 Rules relating to Standards Committees

The rules governing the operation of a Standards Committee must include, but are not limited to,—

- (a) rules providing details of the procedures to be followed in relation to complaints:
- (b) rules specifying the manner in which a Standards Committee is to exercise its functions and powers:
- (c) rules providing for—
 - (i) the publication of information relating to the existence of the complaints service; and
 - (ii) the means by which a person may gain access to the complaints service; and
 - (iii) the means by which a complaint may be made:
- (d) rules providing for the publication of information regarding the outcomes and the performance of the complaints service:
- (e) rules specifying the criteria that will apply in relation to a complaint about a bill of costs, which criteria may provide that a complaint is not to be dealt with unless the bill of costs to which the complaint relates is for a sum that exceeds an amount specified in the rules:

- (f) rules specifying the circumstances in which the New Zealand Law Society or the New Zealand Society of Conveyancers or a Standards Committee may publish the identity of a person who has been censured by a Standards Committee.

Complaints

132 Complaints about practitioners, incorporated firms, and their employees

- (1) Any person may complain to the appropriate complaints service about—
 - (a) the conduct—
 - (i) of a practitioner or former practitioner; or
 - (ii) of an incorporated firm or former incorporated firm; or
 - (iii) of a person who is not a practitioner but who is an employee or former employee of a practitioner or an incorporated firm; or
 - (b) the standard of the service provided, in relation to the delivery of regulated services,—
 - (i) by a practitioner or former practitioner; or
 - (ii) by an incorporated firm or former incorporated firm; or
 - (iii) by a person who is not a practitioner but who is an employee or former employee of a practitioner or an incorporated firm; or
 - (c) the alleged failure of a practitioner or former practitioner or an incorporated firm or former incorporated firm, or an employee or former employee of a practitioner or an incorporated firm, to comply, within a specified time or a reasonable time, with any order or final determination made under this Act by a Standards Committee or the Legal Complaints Review Officer.
- (2) Any person who is chargeable with a bill of costs, whether it has been paid or not, may complain to the appropriate complaints service about the amount of any bill of costs rendered by a practitioner or former practitioner or an incorporated firm or former incorporated firm (being a bill of costs that meets the criteria specified in the rules governing the operation of the Standards Committee that has the function of dealing with the complaint).
- (3) Nothing in subsection (2) limits the provisions of sections 160 and 161.

Compare: 1982 No 123 ss 98(1), 145(1)

133 Complaint of failure to comply with order or final determination

- (1) A complaint that a practitioner or former practitioner or an incorporated firm or former incorporated firm, or an employee or former employee of a practitioner or an incorporated firm, has failed to comply with an order or final determination of a Standards Committee may not be made under section 132(1)(c) if,—

- (a) in any case in which an application for the review of the order or determination has been lodged with the Legal Complaints Review Officer within the time allowed, that application has not been disposed of; or
 - (b) in any other case, the time allowed for the lodging with the Legal Complaints Review Officer of an application for the review of the order or determination has not expired.
- (2) For the purposes of section 132(1)(c), a reasonable time for complying with an order or final determination of a Standards Committee must not be less than the time allowed for the lodging with the Legal Complaints Review Officer of an application for the review of that order or determination.

134 Complaint to be in writing

A complaint is made by giving written notice of the complaint to the appropriate complaints service.

135 Appropriate complaints service

- (1) If the complaint relates to a lawyer or former lawyer or an incorporated law firm or former incorporated law firm, or an employee or former employee of a lawyer or incorporated law firm, the appropriate complaints service, for the purposes of sections 132 and 134, is the complaints service established under section 121(1) by the New Zealand Law Society and the complaint must be referred by that service to a Lawyers Standards Committee.
- (2) If the complaint relates to a conveyancing practitioner or former conveyancing practitioner or an incorporated conveyancing firm or a former incorporated conveyancing practitioner, or an employee or former employee of a conveyancing practitioner or incorporated conveyancing firm, the appropriate complaints service, for the purposes of sections 132 and 134, is the complaints service established under section 121(2) by the New Zealand Society of Conveyancers and the complaint must be referred by that service to a Conveyancers Standards Committee.

136 Complaint by Law Society or Society of Conveyancers

Without limiting the right of any person to make a complaint under section 132, it is declared that a complaint under that section may be made by—

- (a) a member of the council of the New Zealand Law Society or a person acting on its behalf; or
- (b) a member of the council of the New Zealand Society of Conveyancers or a person acting on its behalf.

137 Action on receipt of complaint

- (1) A Standards Committee, on receiving a complaint, may—
- (a) inquire into the complaint; or

- (b) give a direction under section 143; or
 - (c) decide, in accordance with section 138, to take no action on the complaint.
- (2) A Standards Committee that receives a complaint must, as soon as practicable, advise the complainant and the person to whom the complaint relates of the procedure that the Standards Committee proposes to adopt under subsection (1).

Compare: 1993 No 28 s 70

138 Decision to take no action on complaint

- (1) A Standards Committee may, in its discretion, decide to take no action or, as the case may require, no further action, on any complaint if, in the opinion of the Standards Committee,—
- (a) the length of time that has elapsed between the date when the subject matter of the complaint arose and the date when the complaint was made is such that an investigation of the complaint is no longer practicable or desirable; or
 - (b) the subject matter of the complaint is trivial; or
 - (c) the complaint is frivolous or vexatious or is not made in good faith; or
 - (d) the person alleged to be aggrieved does not desire that action be taken or, as the case may be, continued; or
 - (e) the complainant does not have sufficient personal interest in the subject matter of the complaint; or
 - (f) there is in all the circumstances an adequate remedy or right of appeal, other than the right to petition the House of Representatives or to make a complaint to an Ombudsman, that it would be reasonable for the person aggrieved to exercise.
- (2) Despite anything in subsection (1), a Standards Committee may, in its discretion, decide not to take any further action on a complaint if, in the course of the investigation of the complaint, it appears to the Standards Committee that, having regard to all the circumstances of the case, any further action is unnecessary or inappropriate.

Compare: 1993 No 28 s 71(1), (2)

139 Notice of decision

- (1) In any case where a Standards Committee decides to take no action, or no further action, on a complaint, the Standards Committee must forthwith give written notice of that decision to—
- (a) the complainant; and
 - (b) the person to whom the complaint relates; and
 - (c) either—

- (i) the New Zealand Law Society (if the complaint relates to a lawyer or former lawyer or an incorporated law firm or former incorporated law firm, or an employee or former employee of a lawyer or incorporated law firm); or
 - (ii) the New Zealand Society of Conveyancers (if the complaint relates to a conveyancing practitioner or former conveyancing practitioner or an incorporated conveyancing firm or former incorporated conveyancing firm, or an employee or former employee of a conveyancing practitioner or incorporated conveyancing firm).
- (2) The notice must—
- (a) state the decision and the reasons for it; and
 - (b) describe the right of review conferred by section 193; and
 - (c) state the period within which an application for a review of the decision may be lodged (which period is prescribed by section 198(b)).

Compare: 1993 No 28 s 71(3)

140 Inquiry by Standards Committee

If a Standards Committee decides to inquire into a complaint, it must inquire into it as soon as practicable.

Compare: 1982 No 123 s 101(1)

141 Notice to person to whom complaint or inquiry relates

The Standards Committee—

- (a) must send particulars of the complaint or matter to the person to whom the complaint or inquiry relates, and invite that person to make a written explanation in relation to the complaint or matter:
- (b) may require the person complained against to appear before it to make an explanation in relation to the complaint or matter:
- (c) may, by written notice served on the person complained against, request that specified information be supplied to the Standards Committee in writing.

Compare: 1982 No 123 s 101(3)(a), (b), (e)

142 Procedure of Standards Committee

- (1) A Standards Committee must exercise and perform its duties, powers, and functions in a way that is consistent with the rules of natural justice.
- (2) A Standards Committee may, subject to subsection (1), direct such publication of its decisions under sections 138, 152, 156, and 157 as it considers necessary or desirable in the public interest.

- (3) Subject to this Act and to any rules made under this Act, a Standards Committee may regulate its procedure in such manner as it thinks fit.

143 Negotiation, conciliation, and mediation

- (1) A Standards Committee may give, in relation to any complaint received by it, a direction that, within a time or before a date fixed by the Standards Committee, the parties both—
- (a) explore the possibility of resolving, by negotiation, conciliation, or mediation,—
 - (i) the complaint; or
 - (ii) such issues relating to the complaint as the Standards Committee specifies; and
 - (b) report to the Standards Committee.
- (2) A Standards Committee must not give a direction under subsection (1) if it considers that such a direction—
- (a) would not contribute constructively to resolving the complaint; or
 - (b) would not, in all the circumstances, be in the public interest; or
 - (c) would undermine the urgent nature of the complaint.
- (3) If a complaint involves an issue of misconduct or unsatisfactory conduct, a Standards Committee may deal with, or continue to deal with, that complaint despite—
- (a) any direction given under subsection (1); and
 - (b) any negotiation, conciliation, or mediation in relation to the complaint or any issue involved in the complaint; and
 - (c) any settlement agreed by the parties to the complaint.
- (4) If the parties reach an agreed settlement in relation to the complaint or any issue involved in the complaint, the Standards Committee—
- (a) may record the terms of the settlement; and
 - (b) may, by consent of the parties, declare all or some of the terms of the settlement to be all or part of a final determination of the complaint by the Standards Committee.
- (5) No evidence is admissible in any court or before any person acting judicially or before a Standards Committee or before the Legal Complaints Review Officer or the Disciplinary Tribunal of any information, statement, or admission disclosed or made to any person in the course of any negotiation, conciliation, or mediation conducted, pursuant to a direction given under subsection (1), for the purpose of resolving a complaint or any issue involved in a complaint.
- (6) Nothing in this section prevents the discovery or affects the admissibility of any evidence (being evidence which is otherwise discoverable or admissible and which existed independently of any negotiation, conciliation, or mediation

conducted pursuant to a direction given under subsection (1) for the purpose of resolving a complaint or any issue involved in a complaint) merely because the evidence was presented in the course of the negotiation, conciliation, or mediation.

144 Power to appoint investigators

- (1) The New Zealand Law Society or the New Zealand Society of Conveyancers or a Standards Committee (acting within the terms of any authority given by either of those societies) may, from time to time, appoint 1 or more persons to act as investigators in relation to—
 - (a) complaints and matters being inquired into by a Standards Committee; or
 - (b) any particular complaint or matter being inquired into by a Standards Committee.
- (2) Every appointment under subsection (1) is to be made on such terms and conditions, including terms and conditions as to salary, fees, or expenses as the body making the appointment considers appropriate.
- (3) Every person appointed under subsection (1) must meet the criteria prescribed, in respect of appointments under that subsection, by practice rules made by the New Zealand Law Society or the New Zealand Society of Conveyancers, as the case may require.
- (4) Any appointment made under subsection (1) may, at any time, be revoked in accordance with practice rules made by the New Zealand Law Society or the New Zealand Society of Conveyancers, as the case may require.

145 Instrument of appointment

- (1) The body effecting an appointment under section 144(1) must supply to the person appointed a written instrument of appointment evidencing that the person appointed has the authority vested in an investigator appointed under this Act.
- (2) The instrument must be signed by at least 2 members of—
 - (a) the Council of the New Zealand Law Society; or
 - (b) the Council of the New Zealand Society of Conveyancers; or
 - (c) a Standards Committee.
- (3) The production by any person of the instrument of appointment supplied to that person under subsection (1) is sufficient proof of that person's authority to act as an investigator appointed under this Act.
- (4) Every person appointed as an investigator under this Act must, if so required, produce the instrument of appointment supplied to that person under subsection (1) before exercising any power under section 147.

- (5) Every person appointed as an investigator under this Act must, on the termination of his or her appointment, surrender to the body by which he or she was appointed the instrument of appointment supplied to that person under subsection (1).

Compare: 1982 No 123 s 85(1), (2)

146 Investigations by investigators

- (1) A Standards Committee may, for the purpose of inquiring into any complaint or matter, require an investigator appointed under section 144(1)—
- (a) to inquire into the complaint or matter and any matters related to, or arising from, the complaint or matter; and
 - (b) to furnish to the Standards Committee a report on the complaint or matter and any such related matters.
- (2) The investigator may, in inquiring into, and reporting on, the complaint or matter and any such related matters,—
- (a) examine (among other things) any accounts (including trust accounts) kept—
 - (i) by a practitioner or former practitioner; or
 - (ii) by a person who, or body that, is or was, in relation to a practitioner, a related person or entity; or
 - (iii) by an incorporated firm or former incorporated firm; and
 - (b) state (among other things), in his or her report, the investigator's opinion on the question whether there are reasonable grounds to suspect that a breach of any of the provisions of this Act or the practice rules has been committed—
 - (i) by a practitioner or former practitioner; or
 - (ii) by a person who, or body that, is, or was, in relation to a practitioner, a related person or entity; or
 - (iii) by an incorporated firm or former incorporated firm; or
 - (iv) by a person who is not a practitioner but who is an employee or former employee of a practitioner or an incorporated firm.

147 Powers of investigation

- (1) In this section, **source of information** means—
- (a) a practitioner or former practitioner;
 - (b) a person who, or body that, is or was, in relation to a practitioner, a related person or entity;
 - (c) an incorporated firm or former incorporated firm;
 - (d) an agent or a banker of—

- (i) a practitioner or former practitioner; or
 - (ii) a person who, or body that, is or was in relation to a practitioner, a related person or entity:
 - (iii) an incorporated firm or former incorporated firm:
 - (e) a person who is not a practitioner but who is an employee or former employee of a practitioner or an incorporated firm.
- (2) For the purposes of any inquiry or investigation being conducted under this Act, a Standards Committee or an investigator—
- (a) may, at any time, require a source of information to do any of the following:
 - (i) produce for inspection by the Standards Committee or investigator all books, documents, papers, accounts, or records which are in the possession or under the control of the source of information and which are reasonably necessary for the purposes of the inquiry or investigation:
 - (ii) allow copies of, or extracts from, any such books, documents, papers, accounts, or records to be made:
 - (iii) furnish, in a form approved by, or acceptable to, the Standards Committee or investigator, any information or particulars that may be required by the Standards Committee or investigator, and any copies of, or extracts from, any such books, documents, papers, accounts, or records:
 - (iv) give to the Standards Committee or investigator such information in relation to any such books, documents, papers, accounts, or records as may reasonably be required by the Standards Committee or investigator:
 - (v) produce to the Standards Committee or investigator any trust account records required under this Act or any regulations or rules to be kept by a practitioner or former practitioner or an incorporated firm or former incorporated firm, whether or not those trust accounts are held by the practitioner or former practitioner or a related person or entity or the incorporated firm or former incorporated firm:
 - (vi) allow, to such extent as may reasonably be required in relation to the matters under inquiry or investigation, inspection of all records and documents relating to money received by the person to whom the complaint or inquiry relates or any related person or entity or any agent or banker of the related person or entity, whether the money has been paid into a private account or a trust account at a bank or has not been paid to the credit of any such account:

- (vii) assist the Standards Committee or investigator by requiring the person or entity who is producing the record or document or trust account records to reproduce, in usable form, any information recorded or stored in the document or record or trust account records:
 - (b) may require that any written information or particulars or any copies or extracts furnished under paragraph (a) are verified by statutory declaration or otherwise as the Standards Committee or investigator may require:
 - (c) may employ any person or body to give assistance.
- (3) If a person or body is employed under subsection (2)(c) by a Standards Committee or an investigator, the person or body so employed is to be treated as having been employed on behalf of the New Zealand Law Society or the New Zealand Society of Conveyancers, as the case may require.

Compare: 1982 No 123 ss 85(3), 101(3)(c)–(e)

148 Report to Standards Committee

- (1) The consideration by a Standards Committee of a report from an investigator must take place in private.
- (2) No person (being a member of a Standards Committee or a member of the staff of a Standards Committee) may publish to any other person any information disclosed in a report made to the Standards Committee except—
 - (a) pursuant to any provision of paragraphs (a) to (h) of section 188(2); or
 - (b) pursuant to section 149 or section 150; or
 - (c) in the performance of his or her duty as a member of a Standards Committee or a member of the staff of a Standards Committee.
- (3) A report that is, under section 146(1)(b), furnished to a Standards Committee may be adduced in evidence in proceedings before the Disciplinary Tribunal or the High Court.

149 Disclosure of report

- (1) Subject to subsection (2), a Standards Committee that receives a report from an investigator must give a copy of that report to—
 - (a) any person to whom the report relates, being—
 - (i) a practitioner or former practitioner; or
 - (ii) a person who, or body that, is or was, in relation to a practitioner, a related person or entity; or
 - (iii) an incorporated firm or former incorporated firm; or
 - (iv) an employee or former employee of a practitioner or an incorporated firm; and

- (b) any practitioner representing the person to whom the report relates; and
 - (c) the complainant.
- (2) Where, in the opinion of the Standards Committee there is good reason for not, under subsection (1), giving a copy of the report to a person or for withholding from a person some of the information contained in the report, the Standards Committee may, as the case requires,—
- (a) refuse to give a copy of the report to that person; or
 - (b) make, to the copy given to that person, such deletions or alterations as the Standards Committee considers necessary.
- (3) If, under subsection (2), a Standards Committee takes, in respect of any person, either of the actions referred to in subsection (2), the Standards Committee must give to that person its reasons for the action.

150 Discretion in relation to contents of report

A Standards Committee that receives a report from an investigator may, in its discretion, communicate the contents of it, or any part of the contents, to—

- (a) any person who is a partner in a firm of practitioners to which the practitioner or former practitioner to whom the report relates belongs or belonged:
- (b) any person—
 - (i) who is or was, in relation to the practitioner or former practitioner to whom the report relates, a related person; or
 - (ii) who is or was a director of an entity that is or was, in relation to the practitioner or former practitioner to whom the report relates, a related entity:
- (c) the Law Society inspectorate or the Conveyancers Society inspectorate, as the case may require:
- (d) the auditor of the trust account of the practitioner or former practitioner to whom, or of an incorporated firm or former incorporated firm to which, the report relates:
- (e) the Council of the New Zealand Law Society or the Council of the New Zealand Society of Conveyancers, as the case may require:
- (f) a qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013):
- (g) any Police employee or member of the Serious Fraud Office acting in the performance of his or her duty:
- (h) the Registrar-General of Land for the purpose of enabling the Registrar-General of Land to discharge his or her duties under the Land Transfer Act 2017 or any other enactment:

- (i) any client of the practitioner or former practitioner to whom, or of the incorporated firm or former incorporated firm to which, the report relates.

Compare: 1982 No 123 s 85(6)–(9)

Section 150(f): replaced, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Section 150(g): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 150(h): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

151 Evidence

- (1) A Standards Committee may receive in evidence any statement, document, information, or matter that may in its opinion assist it to deal effectively with the matters before it, whether or not the statement, document, information, or matter would be admissible in a court of law.
- (2) A Standards Committee may take evidence on oath, and for that purpose, any member or officer of the Standards Committee may administer an oath.
- (3) A Standards Committee may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Standards Committee thinks fit, verifying that statement by oath.
- (4) Subject to subsections (1) to (3), the Evidence Act 2006 applies to a Standards Committee in the same manner as if it were a court within the meaning of that Act.
- (5) This section is subject to sections 142(1) and 143(5).

Section 151(4): amended, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

152 Power of Standards Committee to determine complaint or matter

- (1) A Standards Committee may,—
 - (a) after both inquiring into a complaint and conducting a hearing with regard to that complaint; or
 - (b) after both inquiring into a matter under section 130(c) and conducting a hearing with regard to that matter,—make 1 or more of the determinations described in subsection (2).
- (2) The determinations that the Standards Committee may make are as follows:
 - (a) a determination that the complaint or matter, or any issue involved in the complaint or matter, be considered by the Disciplinary Tribunal:
 - (b) a determination that there has been unsatisfactory conduct on the part of—
 - (i) a practitioner or former practitioner; or
 - (ii) an incorporated firm or former incorporated firm; or

- (iii) an employee or former employee of a practitioner or incorporated firm:
 - (c) a determination that the Standards Committee take no further action with regard to the complaint or matter or any issue involved in the complaint or matter.
- (3) Nothing in this section limits the power of a Standards Committee to make, at any time, a decision under section 138 with regard to a complaint.
- (4) Subject to the right of review conferred by section 193 and to section 156(4), every determination made under subsection (1) and every order made under section 156 or section 157 is final.

Section 152(1)(b): amended, on 20 September 2007, by section 4 of the Lawyers and Conveyancers Amendment Act 2007 (2007 No 67).

153 Hearings on the papers

- (1) A hearing conducted under section 152(1) by a Standards Committee is to be a hearing on the papers, unless the Standards Committee otherwise directs.
- (2) Subsections (3) to (8) apply to hearings under section 152(1) that are conducted on the papers.
- (3) If the hearing is with regard to a complaint, the persons who may make written, but not oral, submissions to the Standards Committee are—
 - (a) the complainant;
 - (b) the person in respect of whom the complaint was made;
 - (c) a person who, or body that, is or was, in relation to the person in respect of whom the complaint was made, a related person or entity;
 - (d) a person who is or was a director of an entity that is or was, in relation to the practitioner or former practitioner in respect of whom the complaint was made, a related entity;
 - (e) the New Zealand Law Society (if the person in respect of whom the complaint was made is or was a lawyer or an incorporated law firm or an employee of a lawyer or an incorporated law firm);
 - (f) the New Zealand Society of Conveyancers (if the person in respect of whom the complaint was made is or was a conveyancing practitioner or an incorporated conveyancing firm or an employee of a conveyancing practitioner or an incorporated conveyancing firm).
- (4) If the hearing is with regard to a matter under section 130(c), the persons who may make written, but not oral, submissions to the Standards Committee are—
 - (a) the person to whom the inquiry under section 130(c) relates;
 - (b) a person who, or body that, is or was, in relation to the person to whom the inquiry under section 130(c) relates, a related person or entity;

- (c) a person who is or was a director of an entity that is or was, in relation to the practitioner or former practitioner to whom the inquiry under section 130(c) relates, a related entity:
 - (d) the New Zealand Law Society (if the person to whom the inquiry relates is or was a lawyer or an incorporated law firm or an employee of a lawyer or incorporated law firm):
 - (e) the New Zealand Society of Conveyancers (if the person to whom the inquiry relates is or was a conveyancing practitioner or an incorporated conveyancing firm or an employee of a conveyancing practitioner or incorporated conveyancing firm).
- (5) The persons specified in subsections (3) and (4) may include in their submissions—
- (a) additional relevant written material; and
 - (b) responses to any submissions made to the Standards Committee by any other person.
- (6) Neither the persons specified in subsections (3) and (4) nor their representatives may appear before the Standards Committee.
- (7) The Standards Committee must make its determination on the basis of the written material before it.
- (8) Consideration of the written material may be undertaken in whatever manner the Standards Committee thinks fit.

154 Reference of complaint or matter to Disciplinary Tribunal

- (1) If a Standards Committee makes a determination that the complaint or matter be determined by the Disciplinary Tribunal, the Standards Committee must—
- (a) frame an appropriate charge and lay it before the Disciplinary Tribunal by submitting it in writing to the chairperson of the Disciplinary Tribunal; and
 - (b) give written notice of that determination and a copy of the charge to the person to whom the charge relates; and
 - (c) if the determination relates to a complaint, give both written notice of that determination and a copy of the charge to the complainant.
- (2) If the person who is the subject of the complaint or matter is a provider under the Legal Services Act 2011, the Standards Committee must provide a written notice of the determination to the Secretary for Justice.

Compare: 1995 No 95 s 93(1)(b)

Section 154(2): added, on 1 July 2011, by section 139 of the Legal Services Act 2011 (2011 No 4).

155 Application for suspension of practitioner

If, under section 154(a), a Standards Committee lays before the Disciplinary Tribunal a charge against a practitioner, the Standards Committee may apply

to the Tribunal for an order that, pending the determination of the charge, the practitioner be suspended from practice—

- (a) as a barrister; or
- (b) as a solicitor; or
- (c) as both a barrister and a solicitor; or
- (d) as a conveyancing practitioner.

Compare: 1995 No 95 s 95(a)

156 Power of Standards Committee to make orders

- (1) If a Standards Committee makes a determination under section 152(2)(b), that Standards Committee may—
- (a) order that all or some of the terms of an agreed settlement between the person to whom a complaint relates and the complainant are to have effect, by consent, as all or part of a final determination of the complaint:
 - (b) make an order censuring or reprimanding the person to whom a complaint relates:
 - (c) order the person to whom a complaint relates to apologise to the complainant:
 - (d) where it appears to the Standards Committee that any person has suffered loss by reason of any act or omission of a practitioner or former practitioner or an incorporated firm or former incorporated firm or an employee or former employee of a practitioner or an incorporated firm, order the practitioner or former practitioner or incorporated firm or former incorporated firm, or employee or former employee of a practitioner or an incorporated firm, to pay to that person such sum by way of compensation as is specified in the order, being a sum not exceeding, as the case may require, the amount that is from time to time prescribed for the purposes of this paragraph by rules made under this Act by the New Zealand Law Society or the New Zealand Society of Conveyancers:
 - (e) order the practitioner or former practitioner or incorporated firm or former incorporated firm to reduce his, her, or its fees for any work (being work which has been done by the practitioner or former practitioner or incorporated firm and which is the subject of the proceedings before the Standards Committee) by such amount as is specified in the order:
 - (f) order the practitioner or former practitioner or incorporated firm or former incorporated firm to cancel his, her, or its fees for any work (being work which has been done by the practitioner or former practitioner or incorporated firm or former incorporated firm and which is the subject of the proceedings before the Standards Committee):
 - (g) for the purpose of giving effect to any order made under paragraph (e) or paragraph (f), order the practitioner or former practitioner or incorp-

orated firm or former incorporated firm to refund any specified sum already paid to the practitioner or former practitioner or incorporated firm or former incorporated firm:

- (h) order the practitioner or former practitioner or incorporated firm or former incorporated firm or employee or former employee of a practitioner or an incorporated firm—
 - (i) to rectify, at his or her or its own expense, any error or omission; or
 - (ii) where it is not practicable to rectify the error or omission, to take steps to provide, at his or her or its own expense, relief, in whole or in part, from the consequences of the error or omission:
- (i) order the practitioner or former practitioner or incorporated firm or former incorporated firm, or employee or former employee of a practitioner or an incorporated firm, to pay to the New Zealand Law Society or the New Zealand Society of Conveyancers, as the case may require, a fine not exceeding \$15,000:
- (j) order the practitioner, or any related person or entity, or both to make the practitioner's practice available for inspection at such times and by such persons as are specified in the order:
- (k) order the incorporated firm to make its practice available for inspection at such times and by such persons as are specified in the order:
- (l) order the practitioner or incorporated firm to take advice in relation to the management of his, her, or its practice from such persons as are specified in the order:
- (m) order that the practitioner or any director or shareholder of the incorporated firm undergo practical training or education:
- (n) order the practitioner or former practitioner or incorporated firm or former incorporated firm, or any director or shareholder of the incorporated firm or former incorporated firm, or any employee or former employee of the practitioner or incorporated firm, to pay to the New Zealand Law Society or the New Zealand Society of Conveyancers such sum as the Standards Committee thinks fit in respect of the costs and expenses of and incidental to the inquiry or investigation made, and any hearing conducted, by the Standards Committee:
- (o) order the practitioner or former practitioner or incorporated firm or former incorporated firm, or any director or shareholder of the incorporated firm or former incorporated firm, or any employee or former employee of the practitioner or incorporated firm, to pay to the complainant any costs or expenses incurred by the complainant in respect of the inquiry, investigation, or hearing by the Standards Committee.

- (2) In paragraphs (j) to (l) of subsection (1), **specified**, in relation to any person, means specified either by name or as the holder for the time being of any particular office or appointment.
- (3) An order under this section may be made on and subject to such terms and conditions as the Standards Committee thinks fit.
- (4) The making of an order under this section for the payment of compensation to any person does not affect the right (if any) of that person to recover damages in respect of the same loss, but any sum ordered to be paid under this section, and the effect of any order made under this section for the reduction, cancellation, or refund of fees, must be taken into account in assessing any such damages.
- (5) Where an order made under any of the provisions of paragraphs (d) to (g) of subsection (1) is binding on any practitioner, that practitioner and any person who is, in relation to that practitioner, a related person or entity are jointly and severally liable to pay any amount that is payable under the order.

Compare: 1982 No 123 s 106(2), (4)(a), (b), (c), (f), (g), (i), (j), (7)–(9)

157 Further power to make order for payment of costs

- (1) If a Standards Committee makes a determination under section 152(2)(c), that Standards Committee may order that costs be awarded to any person to whom the complaint or matter related, and that those costs be paid—
 - (a) by the New Zealand Law Society (if that person is a lawyer or former lawyer or an incorporated law firm or former incorporated law firm or an employee or former employee of a lawyer or an incorporated law firm);
or
 - (b) by the New Zealand Society of Conveyancers (if that person is a conveyancing practitioner or former conveyancing practitioner or an incorporated conveyancing firm or former incorporated conveyancing firm or an employee or former employee of a conveyancing practitioner or an incorporated conveyancing firm).
- (2) Even though, in proceedings relating to a complaint or matter, a Standards Committee has made a determination under section 152(2)(c) and has not made a finding that there has been unsatisfactory conduct on the part of a person (being a practitioner or former practitioner or an incorporated firm or former incorporated firm or an employee or former employee of a practitioner or an incorporated firm) to whom the proceedings relate, the Standards Committee may, if it considers that the proceedings were justified and that it is just to do so, order that person to pay to the New Zealand Law Society or the New Zealand Society of Conveyancers such sums as the Standards Committee thinks fit in respect of the expenses of and incidental to the proceedings and any investigation of that person's conduct or of that person's affairs or trust account carried out by, or on behalf of, the Standards Committee.

- (3) In this section, **expenses** includes not only out-of-pocket expenses but also such amounts in respect of salaries of staff and overhead expenses incurred by either the New Zealand Law Society or the New Zealand Society of Conveyancers as the Standards Committee considers properly attributable to an investigation.

Compare: 1982 No 123 s 129

158 Notice of determination

- (1) If a Standards Committee makes a determination of the kind described in section 152(2)(b) or (c), that Standards Committee must forthwith give written notice of that determination to each of the persons who may, under section 193, apply to the Legal Complaints Review Officer for a review of the determination.
- (2) The notice must—
- (a) state the determination and the reasons for it; and
 - (b) specify any orders made under section 156 or section 157 and be accompanied by copies of any such orders; and
 - (c) describe the right of review conferred by section 193; and
 - (d) state the period within which an application for a review of the determination or of any such order or both may be lodged (which period is prescribed by section 198(b)).
- (2A) A duty under subsection (1) (read with sections 6 and 193 to 197) to forthwith give written notice to each member of a class (of related persons) in column 1 of a row of the following table is performed sufficiently by forthwith giving written notice only to the individual or smaller class (of related persons) in column 2 of that row:

	Column 1 Class	Column 2 Individual or smaller class
1	All persons who practise in partnership with the practitioner	Any 1 of those persons who practise in partnership with the practitioner
2	All directors of an incorporated law firm or incorporated conveyancing firm in which the practitioner practises	Any 1 of those directors of that firm
3	All shareholders of an incorporated law firm or incorporated conveyancing firm in which the practitioner practises	All shareholders of that firm who are shareholders of that firm in respect of shares that confer voting rights

- (3) If the person who is the subject of the determination is a provider under the Legal Services Act 2011, the Standards Committee must provide a written notice of the determination to the Secretary for Justice.

Compare: 1993 No 28 s 71(3)

Section 158(2A): inserted, on 20 November 2012, by section 13 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 158(3): added, on 1 July 2011, by section 140 of the Legal Services Act 2011 (2011 No 4).

159 Power to notify Registrar-General of Land

- (1) If a Standards Committee makes a determination of the kind described in section 152(2)(a) or (b), that Standards Committee may give written notice of the making of the determination to the Registrar-General of Land if the Standards Committee considers that the giving of notice of the making of that determination to the Registrar-General is or may be relevant to the discharge by the Registrar-General of his or her duties under the Land Transfer Act 2017 or any other enactment.
- (2) If the determination is of the kind described in section 152(2)(a), the notice must—
 - (a) state the determination; and
 - (b) contain a copy of the charge laid before the New Zealand Disciplinary Tribunal in accordance with section 154.
- (3) If the determination is of the kind described in section 152(2)(b), the notice must comply with section 158(2) as if it were a notice given under section 158(1).

Section 159(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

160 Complaints by beneficiaries in relation to costs

- (1) If a trustee, executor, or administrator has become chargeable with a bill of costs, any person interested in any property out of which a trustee, executor, or administrator has paid or is entitled to pay the bill may, under section 132(2), complain about the amount of the bill.
- (2) If a Standards Committee, on a complaint made pursuant to subsection (1), orders that any money be paid by a practitioner or former practitioner or an incorporated firm or former incorporated firm, it may, if it thinks fit, order that the money or any part of it be paid to the trustee, executor, or administrator chargeable with the bill, instead of to the complainant.
- (3) If the complainant pays any money to the practitioner or former practitioner or incorporated firm or former incorporated firm in respect of the bill, the complainant has the same right to be paid by the trustee, executor, or administrator chargeable with the bill as the practitioner or former practitioner or incorporated firm or former incorporated firm had.
- (4) This section does not limit the right of a trustee, executor, or administrator to complain under section 132(2) about the amount of a bill of costs with which the trustee, executor, or administrator has become chargeable.

Compare: 1982 No 123 s 147(1), (3)

161 Stay of proceedings for recovery of costs

- (1) If, under section 141, a Standards Committee gives notice to a practitioner or former practitioner or an incorporated firm or former incorporated firm that it

has received a complaint under section 132(2) about the amount of a bill of costs rendered by that practitioner or former practitioner or incorporated firm or former incorporated firm, no proceedings for the recovery of the amount of the bill may be commenced or proceeded with until after the complaint has been finally disposed of.

- (2) Where a Standards Committee makes a final determination on a complaint made under section 132(2), it must certify the amount that is found by it to be due to or from the practitioner or former practitioner or incorporated firm or former incorporated firm in respect of the bill and under the determination.
- (3) The certificate of the Standards Committee or, as the case may be, the decision of the Legal Complaints Review Officer on a review of the determination is final and conclusive as to the amount due.
- (4) For the purposes of this section, a complaint is finally disposed of—
 - (a) if—
 - (i) the Standards Committee has made a final determination on the complaint or has, under section 138, decided to take no action, or, as the case may require, no further action on the complaint; and
 - (ii) the complainant has not, within the time allowed, applied to the Legal Complaints Review Officer for a review of the determination or decision; or
 - (b) if the Legal Complaints Review Officer has conducted a review of the determination or decision made by the Standards Committee on the complaint and has reported the outcome of the review to—
 - (i) the complainant; and
 - (ii) the practitioner or former practitioner or incorporated firm or former incorporated firm; and
 - (iii) the Standards Committee.

Compare: 1982 No 123 ss 154, 155(1)

Intervention in practice

162 Purpose

The purpose of sections 163 to 173 is to give to each Standards Committee powers that may be exercised to protect the interests of persons who have suffered loss or are likely to suffer loss or are otherwise likely to be adversely affected as a result of circumstances of the kind described in section 163.

163 Circumstances justifying intervention

A Standards Committee may exercise any power under section 164 or section 169 if it is satisfied, in respect of any practitioner or former practitioner, that—

- (a) there is reasonable cause to believe that the practitioner or former practitioner has been guilty of theft or of any improper conduct in relation to the money or other property of any other person; or
- (b) there is reasonable cause to believe that any person who is an agent (within the meaning of section 305) of the practitioner or former practitioner has been guilty of theft or of any improper conduct in relation to any money or other property entrusted to the practitioner or former practitioner or any related person or entity; or
- (c) the practitioner is, because of his or her mental or physical condition, unable to properly administer any trust account that the practitioner is required to administer as a regulated trust account; or
- (d) the practitioner is, because of his or her mental or physical condition, unable to properly conduct his or her practice; or
- (e) the practitioner or former practitioner has died; or
- (f) the practitioner or former practitioner has been adjudicated a bankrupt; or
- (g) the body corporate by which the practitioner or former practitioner is or was employed is in receivership or liquidation other than for the purpose of amalgamation under Part 13 of the Companies Act 1993; or
- (h) the incorporated firm of which the practitioner or former practitioner is or was a director or shareholder is in receivership or liquidation other than for the purpose of amalgamation under Part 13 of the Companies Act 1993; or
- (i) the name of the practitioner or former practitioner has been struck off the roll; or
- (j) the practitioner or former practitioner has been suspended from practice; or
- (k) the practitioner or former practitioner has been ordered by the Disciplinary Tribunal not to practise as a solicitor on his or her own account; or
- (l) the practitioner or former practitioner has ceased to practise and has neglected to wind up any trust account required by this Act or by any rules made under this Act to be kept by the practitioner.

Compare: 1982 No 123 s 81

164 Intervention in relation to regulated trust accounts

- (1) A Standards Committee, if satisfied that any of the circumstances specified in section 163 exist in respect of a practitioner or former practitioner, may serve on any banker a notice, signed by 2 members of the Standards Committee, requiring the banker to pay to the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers all money held in

any account that is, in relation to that practitioner or former practitioner, a regulated trust account.

- (2) On receipt of the notice, the banker must forthwith pay to the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers all money held by the banker in any such account; and the receipt of the Standards Committee (or the New Zealand Law Society or the New Zealand Society of Conveyancers) is a complete discharge to the banker from all liability in respect of the money.

Compare: 1982 No 123 s 82(1), (2)

165 Administration of funds obtained from regulated trust accounts

- (1) A Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers, on receiving money paid to it under section 164(2), must forthwith cause that money to be paid into a separate account at such bank as the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers appoints; and that account may be operated on by such 2 or more persons as the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers appoints in that behalf.
- (2) If any money that was contained in a regulated trust account and that was paid to a Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers under section 164(2) is money that was held on behalf of any person other than the practitioner or the person or persons in whose name or names the account was held, that money must be held by the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers in trust for the person on whose behalf the money was held.

Compare: 1982 No 123 s 82(3), (4)

166 Claims in respect of money paid to Standards Committee

- (1) Where, under section 164(2), any money is paid to a Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers,—
 - (a) any person claiming to be adversely affected by the payment; and
 - (b) if the money was paid from the regulated account of a deceased practitioner, the executor or administrator of the deceased practitioner or any person claiming to be entitled to a grant of probate or letters of administration of the estate of the deceased practitioner,—

may at any time apply to the court for an order directing the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers to repay the money into the bank account from which it was paid or for such order as the court thinks fit.

- (2) The court, on hearing an application under subsection (1), may make such order as it thinks fit.

Compare: 1982 No 123 s 82(5)

167 Power of Standards Committee to repay money

- (1) Where, under section 164(2) any money is paid to a Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers, that Committee or that Society may at any time, in its discretion, repay the money or any part of it into the bank account from which it was paid.

- (2) Subsection (1) is subject to—

- (a) section 168; and
- (b) any order made by the court under any provision of this Part.

Compare: 1982 No 123 s 82(6)

168 Directions relating to Fidelity Scheme

- (1) Where a Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers has, in relation to a practitioner, served a notice under section 164(1) on the grounds that there is reasonable cause to believe—

- (a) that the practitioner has been guilty of theft or of any improper conduct in relation to money or other property of any other person; or
- (b) that any person who is an agent (within the meaning of section 305) of the practitioner has been guilty of theft or of any improper conduct in relation to any money or other property entrusted to the practitioner,—

the money paid to the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers under section 164(2) must be held by the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers on behalf of and subject to the general or special directions of the Management Committee.

- (2) Subsection (1) is subject to—

- (a) section 165(2); and
- (b) any order made by the court under this Part.

Compare: 1982 No 123 s 82(7)

169 Power to take possession of money, property, records, and documents

A Standards Committee may take possession of any money or other property entrusted to a practitioner or former practitioner or any related person or entity and of any records or documents belonging to a practitioner or former practitioner or any related person or entity or held in a practitioner's or former practitioner's or related person's or entity's possession or under a practitioner's or former practitioner's or related person's or entity's control in the course

of the practitioner's or former practitioner's or related person's or entity's practice—

- (a) if satisfied that any of the circumstances specified in section 163 exist in respect of the practitioner or former practitioner; and
- (b) if, in its opinion, it is expedient to do so.

Compare: 1982 No 123 s 83(1)

170 Power in relation to postal articles and email communications

- (1) For the purposes of section 169, a Standards Committee may serve—
 - (a) on the practitioner or former practitioner or any related person or entity a notice requiring the practitioner or former practitioner or related person or entity to deliver to the Standards Committee all postal articles received at the practitioner's or former practitioner's office address by the practitioner or former practitioner or any related person or entity;
 - (b) on any postal operator or on any person in charge of a mail distribution centre operated by or on behalf of a postal operator or on both a notice requiring the postal operator or person or both to cause to be delivered to the Standards Committee all postal articles addressed to the practitioner or former practitioner at the practitioner's or former practitioner's office address;
 - (c) on any Internet service provider a notice requiring the Internet service provider to cause to be delivered to the Standards Committee exact copies of all emails addressed to the practitioner at any email address used at any time by the practitioner or former practitioner for business purposes.
- (2) Every person who is served with a notice under subsection (1) must comply with that notice.
- (3) The notice must be signed by 2 of the members of the Standards Committee.

Compare: 1982 No 123 s 83(2)

171 Offences

- (1) Every person commits an offence against this Act who, having possession or control of any records or documents belonging to a practitioner or former practitioner or any related person or entity or held in a practitioner's or former practitioner's or related person's or entity's possession or under a practitioner's or former practitioner's or related person's or entity's control in the course of the practitioner's or former practitioner's or related person's or entity's practice, refuses or fails without lawful justification or excuse to deliver them or cause them to be delivered to a Standards Committee forthwith on demand made by that Standards Committee for the purposes of section 169 or section 170.

- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$25,000.

Compare: 1982 No 123 s 87(a)

Section 171(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

172 Warrant to search premises

- (1) A Standards Committee may apply to a Judge of the High Court or a District Court Judge for a warrant to empower any member of the Standards Committee, or any other person on its behalf, to enter upon any premises, by force if necessary, and search for any money or other property or any records or documents of which the Standards Committee is entitled to take possession under section 169 and to remove them to such place as the member or person thinks fit.
- (2) A warrant may be issued under subsection (1) only if the Judge of the High Court or District Court Judge issuing the warrant is satisfied, in relation to a practitioner or former practitioner, that there is reasonable cause to believe—
- (a) that any of the circumstances specified in section 163 exist in respect of the practitioner or former practitioner; and
 - (b) that any money or other property entrusted to the practitioner or former practitioner or a related person or entity or any records or documents belonging to the practitioner or former practitioner or a related person or entity or held in the possession of the practitioner or former practitioner or under the control of the practitioner or former practitioner or related person or entity in the course of the practitioner's or former practitioner's practice are or may be held on the premises in respect of which the warrant is issued.
- (3) Where any person is empowered by a warrant issued under subsection (1) to enter upon any premises, that person may be accompanied when so entering by a constable and must be so accompanied when so entering a dwellinghouse.

Compare: 1982 No 123 s 83(3), (4)

Section 172(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

173 Warrant to inspect bank accounts

- (1) A Standards Committee may apply to a Judge of the High Court or a District Court Judge for a warrant to empower any member of the Standards Committee, or any other person on its behalf,—
- (a) to examine or audit the account of any person in any bank; and
 - (b) for the purpose of the examination or audit,—
 - (i) to require any officer of the bank to produce any document or provide any information that relates to that account and is in the bank's custody, care, or control; and

- (ii) to take copies of any document so produced.
- (2) A warrant may be issued under subsection (1) only if the Judge of the High Court or District Court Judge issuing the warrant is satisfied, in relation to the account in respect of which the warrant is issued, that there is reasonable cause to believe that money entrusted to a practitioner or former practitioner or a related person or entity in connection with legal or conveyancing services has been fraudulently or wrongfully paid into that account.

Compare: 2001 No 10 s 27

174 Obligation to produce warrant

Any person who executes a warrant issued under section 172 or section 173—

- (a) must carry the warrant with him or her; and
- (b) must produce the warrant for inspection, along with evidence of his or her identity, on initial entry and, if requested, at any subsequent time; and
- (c) must, if requested at the time of the execution of the warrant or at any subsequent time, provide a copy of the warrant within 7 days after the request is made.

175 Notice of execution of warrant

- (1) If the occupier of the place is not present at the time at which a warrant issued under section 172 is executed, the person executing the warrant must leave in a prominent location at the place a written statement of—
 - (a) the time and date of the execution of the warrant; and
 - (b) his or her name; and
 - (c) the address of his or her place of business or of any other place at which inquiries may be made.
- (2) If, in the execution of a warrant issued under section 172, the person executing the warrant removes from the premises to which the warrant relates any money or other property or any records or documents, that person—
 - (a) must leave in a prominent place on the premises a written inventory of all things removed; or
 - (b) must, within 10 working days after the execution of the warrant, deliver, or send by registered mail, to the occupier of the premises or the person in charge of the premises, as the case may require, a written inventory of all things removed.

176 Powers and duties of Standards Committee in relation to documents and records

- (1) Where a Standards Committee, in exercising in relation to a practitioner or former practitioner or related person or entity any of its powers under sections

- 169 to 172, receives any documents belonging to a person other than the practitioner or former practitioner or related person or entity, those documents must be held by the Standards Committee until—
- (a) any application made under section 180 and relating to those documents is disposed of by the High Court; or
 - (b) if no application relating to those documents is made under section 180, the expiration of the time allowed for making such an application.
- (2) Thereafter, subject to any order made by the High Court on an application under section 180, the documents must, on demand made by the person to whom the documents belong, be delivered by the Standards Committee to that person or to such other person as that person may direct in writing.
 - (3) Where a Standards Committee, in exercising in relation to a practitioner or former practitioner or related person or entity any of its powers under sections 169 to 172, obtains any records, it may, for the purpose of ascertaining the true position concerning any trust account of the practitioner or former practitioner or any related person or entity, or any money or other property entrusted to the practitioner or former practitioner or any related person or entity, cause such entries as may be necessary to be made in those records, or cause any entries in those records to be amended.
 - (4) A Standards Committee may at any time apply to the High Court for directions concerning any documents or records obtained by the Committee in the exercise of any of its powers under sections 169 to 172.
 - (5) A Standards Committee may at any time in its discretion return any records or documents obtained by the Committee in the exercise of any of its powers under sections 169 to 172 to the person or persons from whom those records or documents were received.
 - (6) Subsection (5) is subject to—
 - (a) any lawful demand made under subsection (2); and
 - (b) any order made by the High Court under any provision of this Part.
 - (7) While any documents are in the possession of a Standards Committee pursuant to the powers conferred on it by sections 169 to 172, any lien or right to a lien which, but for this section, could be exercised by the practitioner or former practitioner or any related person or entity enures for the benefit of the Standards Committee to the exclusion of the practitioner or former practitioner or related person or entity.

Compare: 1982 No 123 s 83(5)–(10)

177 Notification to clients of practitioner or former practitioner

A Standards Committee that exercises in respect of any practitioner or former practitioner or any related person or entity any power under section 164 or section 169—

- (a) may notify any client of the practitioner or former practitioner or any related person or entity of the actions taken by the Standards Committee and of the circumstances that have occasioned the intervention in the practice of the practitioner or former practitioner; and
- (b) may seek from any client of the practitioner or former practitioner or the related person or entity the client's instructions as to the completion of any transactions then current and as to the future disposition of the client's records, documents, money, and other property; and
- (c) may refer transactions to other practitioners for completion if circumstances, such as a client not being available or a client being incapable by reason of incapacity from giving instructions, so require.

178 Power to notify Registrar-General of Land

A Standards Committee that exercises in respect of any practitioner or former practitioner or any related person or entity any power under section 164 or section 169 may give written notice to the Registrar-General of Land of the actions taken by the Standards Committee and of the circumstances that have occasioned the intervention in the practice of the practitioner or former practitioner if the Standards Committee considers that the giving of notice of that intervention or of those circumstances or of both to the Registrar-General of Land is or may be relevant to the discharge by the Registrar-General of his or her duties under the Land Transfer Act 2017 or any other enactment.

Section 178: amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

179 Notification of practitioner or former practitioner, partner, employer, or director

- (1) A Standards Committee must, on receiving any money or any records or documents or postal articles or email communications under any provision of sections 164, 169, 170, and 172, forthwith serve a notice on—
 - (a) the practitioner or former practitioner or related person or entity concerned; and
 - (b) if the practitioner or former practitioner concerned is a partner in a firm of practitioners, each partner in the firm; and
 - (c) if the practitioner or former practitioner concerned is or was an employee, his or her employer; and
 - (d) if the practitioner or former practitioner concerned is, or has been, providing regulated services to the public in his or her capacity as a shareholder or director of a body corporate, every director of that body corporate.
- (2) The notice must set out,—

- (a) in relation to any money received, the amount of that money and the date of receipt; or
 - (b) in relation to any records, documents, postal articles, and emails received, both particulars of each item and the date of receipt of each item.
- (3) The notice may be served by—
- (a) delivering it personally to the practitioner, former practitioner, related person or entity, partner, employer, or director or, if he or she refuses to accept it, bringing it to his or her attention; or
 - (b) delivering it to any of those persons at his or her usual place of residence or business by any form of prepaid delivery service that requires an acknowledgement of receipt of delivery from the person named in the notice.

Compare: 1982 No 123 s 84(1), (2)

Section 179(1)(b): amended, on 14 November 2018, by section 116(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 179(3): replaced, on 14 November 2018, by section 116(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

180 Application to High Court by practitioner, former practitioner, related person or entity, partner, employer, or director

- (1) If a notice of the kind referred to in section 179 is served on, or posted to, any person, that person may, within 14 days after the date when the notice was so served or posted, apply to the High Court—
- (a) for an order directing the Standards Committee—
 - (i) to repay any money referred to in the notice into the bank account from which it was received; or
 - (ii) to return any records or documents or postal articles or emails referred to in the notice to the person or persons from whom they were received; or
 - (b) for such other order as the High Court thinks fit.
- (2) The High Court may, on hearing any application under subsection (1), make such order as it thinks fit.

Compare: 1982 No 123 s 84(3), (4)

181 Recovery of expenses of Standards Committee

- (1) The reasonable expenses of a Standards Committee in performing or exercising, in respect of a practitioner or former practitioner or an incorporated firm or former incorporated firm or an employee or former employee of a practitioner or an incorporated firm, any of the functions and powers of the Standards Committee under sections 162 to 180 are recoverable from the practitioner or former practitioner or incorporated firm or former incorporated firm as a debt.

- (2) If the functions or powers are performed or exercised in respect of a lawyer or former lawyer or an incorporated law firm or former incorporated law firm or an employee or former employee of a lawyer or an incorporated law firm, the reasonable expenses are recoverable at the suit of the New Zealand Law Society.
- (3) If the functions or powers are performed or exercised in respect of a conveyancing practitioner or former conveyancing practitioner or an incorporated conveyancing firm or former incorporated conveyancing firm or an employee or former employee of a conveyancing practitioner or an incorporated conveyancing firm, the reasonable expenses are recoverable at the suit of the New Zealand Society of Conveyancers.
- (4) In this section, **reasonable expenses**, in relation to the performance of any function or the exercise of any power, includes not only out-of-pocket expenses but also a reasonable sum in respect of salaries of staff and overhead expenses incurred by the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers, as the case may be, and properly attributable to the performance of the function or the exercise of the power.

Compare: 1982 No 123 s 86(1), (6)

182 Application of money in satisfaction of expenses

- (1) Subject to this section, a Standards Committee may apply any money belonging to a practitioner or former practitioner or an incorporated firm or former incorporated firm or to which he or she or it may be entitled, being money that comes into the possession of the Standards Committee, in or towards satisfaction of any reasonable expenses that are recoverable under section 181 from the practitioner or former practitioner or incorporated firm or former incorporated firm; but nothing in this subsection affects any other remedy available to the Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers.
- (2) No money may be applied under subsection (1) until a notice giving particulars of the expenses claimed has been served on—
 - (a) the practitioner or former practitioner or his or her personal representatives; or
 - (b) the incorporated firm or former incorporated firm.
- (3) The notice may be served on a practitioner or former practitioner or his or her representative by—
 - (a) delivering it personally to the practitioner or former practitioner or, if he or she refuses to accept it, bringing it to his or her attention; or
 - (b) delivering it to any of those persons at his or her usual place of residence or business by any form of prepaid delivery service that requires an acknowledgement of receipt of delivery from the person named in the notice.

- (4) A notice under subsection (2)(b) may be served on the incorporated firm or former incorporated firm in accordance with section 387(1) of the Companies Act 1993.
- (5) Within 14 days after a notice has been served or posted in accordance with subsection (3) or subsection (4), the practitioner or former practitioner or his or her personal representatives or the incorporated firm or former incorporated firm may apply to the High Court for a review of the expenses claimed; and on hearing any such application the High Court may make such order as it thinks fit.

Compare: 1982 No 123 s 86(2)–(5)

Section 182(3): replaced, on 14 November 2018, by section 117 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

General provisions in relation to Standards Committees

183 Power to appoint committees

- (1) A Standards Committee may from time to time appoint committees, consisting of 2 or more members of the Standards Committee and such other persons (if any) as the Standards Committee thinks fit,—
 - (a) to inquire into and report to the Standards Committee on such matters within the scope of the functions or powers of the Standards Committee as are referred to them by the Standards Committee; or
 - (b) to exercise on behalf of the Standards Committee any of its functions or powers.
- (2) Every committee appointed under this section is subject in all things to the control of the Standards Committee by which it is appointed, and may from time to time be discharged, altered, or reconstituted by that Standards Committee.

184 Delegation of functions and powers

- (1) A Standards Committee may from time to time delegate to any of its members or to any committee appointed under section 183(1)(b) or to any other person any of its functions and powers, including this power of delegation.
- (2) Every delegation under this section must be in writing.
- (3) No delegation under this section may include—
 - (a) the power to make a decision under section 138; or
 - (b) the power to appoint an investigator under section 144; or
 - (c) the power to make a final determination under section 152; or
 - (d) the power to make an order under section 156 or section 157.
- (4) Subject to any general or special directions given or conditions imposed by the Standards Committee, the person or committee to whom or to which any function or power is delegated under this section may perform or exercise that function or power in the same manner and with the same effect as if it had

been conferred on that person or committee directly by this Act and not by delegation.

- (5) Every person or committee purporting to act pursuant to any delegation under this section is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.
- (6) Every delegation under this section is revocable in writing at will.
- (7) No delegation under this section affects or prevents the performance or exercise of any function or power by the Standards Committee that made the delegation, nor does any such delegation affect the responsibility of that Standards Committee for the actions of any person acting under the delegation.

Compare: 1988 No 20 ss 23, 24(1)

185 Members, investigators, etc, not personally liable

A person who is a member of a Standards Committee or an investigator or an agent, employee, or delegate of a Standards Committee or a member of any committee appointed by a Standards Committee is not under any civil or criminal liability in respect of—

- (a) any act done or omitted to be done in the course of performing or exercising any of that person's functions, duties, or powers under this Act or any rules made under this Act; or
- (b) any words spoken or written at, or for the purpose of, the hearing of any inquiry or other proceedings under this Act or any rules made under this Act; or
- (c) anything contained in any notice given under this Act or any rules made under this Act, —

unless that person has acted in bad faith.

Compare: 1995 No 95 s 135(1); 1996 No 39 s 12(1)

186 Protection and privileges of witnesses

- (1) Every person has the same privileges in relation to—
 - (a) the giving of information to a Standards Committee; and
 - (b) the giving of evidence to, or the answering of questions put by, a Standards Committee; and
 - (c) the production of papers, documents, records, or things to a Standards Committee—

as witnesses have in a court of law.

- (2) In this section, **Standards Committee** includes an investigator and any other person acting on behalf of, or as the delegate of, a Standards Committee.

Compare: 1982 No 123 s 127

187 Privileges and immunities of counsel

Every counsel appearing before a Standards Committee has the same privileges and immunities as counsel in a court of law.

Compare: 1982 No 123 s 127

188 Disclosure of information

- (1) This section applies to—
- (a) any person, being a Standards Committee or a person who holds, or has held, office as a member of a Standards Committee;
 - (b) any person to whom any of the functions and powers of a Standards Committee are, or have been, delegated under this Act;
 - (c) any person who holds, or has held, office as an investigator;
 - (d) any person, being a person or body that is employed or has been employed under section 147(2)(c);
 - (e) any person, being an employee or former employee or officer or former officer of a person or body that is employed or has been employed under section 147(2)(c).
- (2) No person to whom this section applies may communicate any matter that came to the knowledge of that person or the employer of that person in the course of the exercise by that person, or the employer of that person, of powers conferred by this Act on that person, or the employer of that person, in relation to any complaint made, or inquiry or investigation conducted, under this Act except—
- (a) for the purposes of the inquiry or investigation; or
 - (b) in the course of any report to a Standards Committee; or
 - (c) in accordance with a direction for publication given under section 142(2) by a Standards Committee; or
 - (d) in evidence in any proceedings before—
 - (i) a Standards Committee; or
 - (ii) the Legal Complaints Review Officer; or
 - (iii) the Disciplinary Tribunal; or
 - (iv) the Disciplinary Tribunal of the New Zealand Institute of Chartered Accountants or a disciplinary tribunal, committee, or other body of any other accredited body (within the meaning of section 6(1) of the Auditor Regulation Act 2011); or
 - (e) to a Police employee or member of the Serious Fraud Office acting in the performance of his or her duty; or
 - (f) to any person who—

- (i) holds office under section 109 as a person appointed to examine the accounts of lawyers or firms of lawyers or incorporated law firms or as a person appointed to examine the accounts of conveyancing practitioners or firms of conveyancing practitioners or incorporated conveyancing firms; and
- (ii) is acting in the performance of his or her duty under section 109; or
- (g) to the Registrar-General of Land for the purpose of enabling the Registrar-General of Land to discharge his or her duties under the Land Transfer Act 2017 or any other enactment; or
- (h) in evidence in any court.

Compare: 1982 No 123 s 85(6)

Section 188(2)(d)(iv): amended, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Section 188(2)(d)(iv): amended, on 7 July 2010, by section 10 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

Section 188(2)(e): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 188(2)(g): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

189 Enforcement of orders

- (1) If a Standards Committee, acting in accordance with this Act or any rules made under this Act, makes an order or otherwise exercises any power in respect of any person who is or was a practitioner, that order or other exercise of any power has effect whether or not that person remains a practitioner.
- (2) If a Standards Committee, acting in accordance with this Act or any rules made under this Act, orders any person who is or was a practitioner or an incorporated firm or an employee of a practitioner or an incorporated firm to pay a fine, expenses, or other monetary amount to the New Zealand Law Society or the New Zealand Society of Conveyancers, that amount is recoverable from that person by the society to which it is ordered to be paid as a debt due to that society, whether or not that person remains a practitioner or an incorporated firm or an employee of a practitioner or an incorporated firm.

Compare: 1996 No 39 s 13

Legal Complaints Review Officer

190 Legal Complaints Review Officer

- (1) A person who is not a lawyer or a conveyancing practitioner is to be appointed to be the Legal Complaints Review Officer.
- (2) The Legal Complaints Review Officer is to be appointed by the Minister, after consultation with the New Zealand Law Society and the New Zealand Society of Conveyancers.

- (3) No person is deemed to be appointed in the service of the Crown for the purposes of the Public Service Act 2020 or the Government Superannuation Fund Act 1956 by reason of the person's appointment as the Legal Complaints Review Officer.

Section 190(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

191 Criteria for appointment

In appointing any person as the Legal Complaints Review Officer, the Minister must have regard, among other things to—

- (a) the person's personal attributes:
- (b) the person's knowledge of, and experience in, matters relevant to the functions of the Legal Complaints Review Officer, such as—
 - (i) the law of New Zealand:
 - (ii) the provision of legal services:
 - (iii) the issues related to professional conduct:
- (c) the person's ability, by reason of his or her skills or experience or both, to deal with the resolution and management of disputes.

192 Functions of Legal Complaints Review Officer

The functions of the Legal Complaints Review Officer are—

- (a) to exercise the powers of review conferred on the Legal Complaints Review Officer by this Act:
- (b) to promote, in appropriate cases, the resolution, by negotiation, conciliation, or mediation, of—
 - (i) complaints; or
 - (ii) such issues relating to complaints as the Legal Complaints Review Officer specifies:
- (c) to provide advice to the New Zealand Law Society and the New Zealand Society of Conveyancers and the Minister on any issue that the Legal Complaints Review Officer identifies in the course of carrying out reviews (being an issue that relates to the manner in which complaints are received and dealt with under this Act or any rules made under this Act).

192A Orderly and efficient operation

The Legal Complaints Review Officer is responsible for making such arrangements as are practicable to ensure that he or she and any Deputy Legal Complaints Review Officer performs his or her functions—

- (a) in an orderly and efficient manner; and
- (b) in a way that achieves the purposes of this Act.

Section 192A: inserted, on 14 November 2018, by section 118 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

193 Right of review

A person who is specified in any provision of sections 194 to 197 as a person who may apply under this section for a review may apply to the Legal Complaints Review Officer for that review.

194 Applicants in relation to complaints

- (1) This section applies to any determination, requirement, or order made, or direction given, by a Standards Committee (or by any person on its behalf or with its authority)—
 - (a) in relation to a complaint (including a decision to take no action or no further action on a complaint); or
 - (b) on a matter arising from a complaint.
- (2) A person may apply under section 193 for a review of a determination, requirement, order, or direction to which this section applies if that person is—
 - (a) the complainant; or
 - (b) the person in respect of whom the complaint was made; or
 - (c) a person who, or body that, at the time when the complaint was made, was, in relation to the practitioner or former practitioner in respect of whom the complaint was made, a related person or entity; or
 - (d) the New Zealand Law Society (if the person in respect of whom the complaint was made was, or had been, a lawyer or an incorporated law firm or an employee of a lawyer or incorporated law firm); or
 - (e) the New Zealand Society of Conveyancers (if the person in respect of whom the complaint was made was, or had been, a conveyancing practitioner or an incorporated conveyancing firm or an employee of a conveyancing practitioner or incorporated conveyancing firm).

195 Applicants in relation to inquiries

- (1) This section applies to any determination, requirement, or order made, or direction given, by a Standards Committee (or by any person on its behalf or with its authority) in relation to any act, omission, allegation, practice, or other matter that the Standards Committee (or any person on its behalf or with its authority) is inquiring into, of its own motion, under section 130(c).
- (2) A person may apply under section 193 for a review of a determination, requirement, order, or direction to which this section applies if that person is—
 - (a) the person to whom the inquiry relates; or
 - (b) a person or body that is, in relation to the person to whom the inquiry relates, a related person or entity; or

- (c) the New Zealand Law Society (if the person to whom the inquiry relates is or was a lawyer or an incorporated law firm or an employee of a lawyer or incorporated law firm); or
- (d) the New Zealand Society of Conveyancers (if the person to whom the inquiry relates is or was a conveyancing practitioner or an incorporated conveyancing firm or an employee of a conveyancing practitioner or incorporated conveyancing firm).

196 Applicants in relation to power to intervene

In the case of the exercise by a Standards Committee (or by any person on its behalf or with its authority) of any of its powers under section 164, section 169, or section 170, a person may apply under section 193 for a review of the exercise of those powers if that person is—

- (a) a practitioner or former practitioner who is directly affected by the exercise of the power; or
- (b) a person who, or body that, is, in relation to the practitioner or former practitioner who is directly affected by the exercise of the power, a related person or entity; or
- (c) an incorporated firm or former incorporated firm that is directly affected by the exercise of the power; or
- (d) a banker on whom a notice under section 164(1) is served; or
- (e) a person on whom a notice under section 170 is served; or
- (f) the New Zealand Law Society (if the person who is directly affected by the exercise of the power is or was a lawyer or an incorporated law firm); or
- (g) the New Zealand Society of Conveyancers (if the person who is directly affected by the exercise of the power is or was a conveyancing practitioner or an incorporated conveyancing firm).

197 Applicants in other cases

- (1) In the case of the performance or exercise by a Standards Committee (or by any other person on its behalf or with its authority) of any of its functions or powers (not being functions or powers to which sections 194 to 196 apply), a person may apply under section 193 for a review of the performance or exercise of those functions or powers if that person is—
 - (a) the New Zealand Law Society; or
 - (b) the New Zealand Society of Conveyancers; or
 - (c) any other person who has the leave of the New Zealand Law Society or the New Zealand Society of Conveyancers or the Legal Complaints Review Officer to apply.

- (2) Nothing in this section authorises the review of any order of a Standards Committee that any complaint or matter be considered by the Tribunal.
- (3) This section is subject to section 205.

198 Applications for review

Every application for a review under section 193 must—

- (a) be in a form approved by the chief executive of the Ministry of Justice after consultation with the Legal Complaints Review Officer; and
- (b) be lodged with the Legal Complaints Review Officer within 30 working days after a copy or notice of the determination, requirement, or order made, or the direction given, or the performance or exercise of the function or power, by the Standards Committee (or by any person on its behalf or with its authority) is served on, given to, or otherwise brought to the attention of, the applicant for review (which, in the absence of proof to the contrary, is presumed to have occurred on the fifth working day after it is made, given, or performed or exercised); and
- (c) be accompanied by the prescribed fee (if any).

Section 198(a): amended, on 29 October 2019, by section 119 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 198(b): replaced, on 20 November 2012, by section 12(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

199 Obligation to conduct review

- (1) The Legal Complaints Review Officer must, on receiving an application for review that is made in accordance with this Act, conduct that review.
- (2) This section is subject to sections 200, 201, and 205.

200 Avoidance of unnecessary formality

The Legal Complaints Review Officer must conduct any review with as little formality and technicality, and as much expedition, as is permitted by—

- (a) the requirements of this Act; and
- (b) a proper consideration of the review; and
- (c) the rules of natural justice.

Compare: 1997 No 60 s 60

201 Postponement for consideration of negotiation, conciliation, or mediation

- (1) The Legal Complaints Review Officer may, on receiving an application for review,—
 - (a) postpone the conduct of that review for such period as he or she considers reasonable; and
 - (b) direct that, within a time or before a date fixed by the Legal Complaints Review Officer, the parties both—

- (i) explore the possibility of resolving, by negotiation, conciliation, or mediation, the matter to which the review relates or any issue involved in that matter; and
 - (ii) report back to the Legal Complaints Review Officer.
- (2) A Legal Complaints Review Officer must not postpone the conduct of a review and give a direction under subsection (1) if he or she considers that such a direction—
 - (a) would not contribute constructively to resolving the matter or issue; or
 - (b) would not, in all the circumstances, be in the public interest; or
 - (c) would undermine the urgent nature of the matter or issue.
- (3) The Legal Complaints Review Officer may, at any time, end the period of any postponement and proceed with the conduct of the review.
- (4) If the matter to which a review relates involves an issue of misconduct or unsatisfactory conduct, the Legal Complaints Review Officer may conduct the review in relation to that issue despite—
 - (a) any postponement effected or direction given under subsection (1); and
 - (b) any negotiation, conciliation, or mediation in relation to the matter to which the review relates or any issue involved in that matter; and
 - (c) any settlement agreed by the parties to the review.
- (5) If the parties reach an agreed settlement in relation to the matter to which the review relates or any issue involved in that matter, the Legal Complaints Review Officer—
 - (a) may record the terms of the settlement; and
 - (b) may, by consent of the parties, declare all or some of the terms of the settlement to be all or part of a final determination of the issues involved in the matter to which the review relates.
- (6) No evidence is admissible in any court or before any person acting judicially or before a Standards Committee or before the Legal Complaints Review Officer or before the Disciplinary Tribunal of any information, statement, or admission disclosed or made to any person in the course of any negotiation, conciliation, or mediation conducted, pursuant to a direction given under subsection (1), for the purpose of resolving the matter to which the review relates or any issues involved in that matter.
- (7) Nothing in this section prevents the discovery or affects the admissibility of any evidence (being evidence which is otherwise discoverable or admissible and which existed independently of any negotiation, conciliation, or mediation conducted pursuant to a direction given under subsection (1) for the purpose of resolving a complaint or any issue involved in a complaint) merely because the evidence was presented in the course of the negotiation, conciliation, or mediation.

Powers of Legal Complaints Review Officer

202 General powers

The Legal Complaints Review Officer has, in addition to the powers conferred on the Legal Complaints Review Officer by this Act, all such powers as are reasonably necessary or expedient to enable the Legal Complaints Review Officer to carry out his or her functions under this Act.

203 Scope of review of final determination

The Legal Complaints Review Officer may, in reviewing a final determination of a Standards Committee, review all the aspects, or any of the aspects,—

- (a) of any inquiry carried out by or on behalf of a Standards Committee in relation to the complaint or matter to which the final determination relates; and
- (b) of any investigation conducted by or on behalf of the Standards Committee in relation to the complaint or matter to which the final determination relates (including any investigation conducted by an investigator or any other person on behalf of or with the authority of the Standards Committee).

204 Power to obtain information

The Legal Complaints Review Officer may—

- (a) make inquiries of, and request explanations from, a Standards Committee as to—
 - (i) the handling of any inquiry or investigation, or any aspect of any inquiry or investigation, that has been conducted by that Standards Committee or by an investigator on behalf of that Standards Committee; or
 - (ii) the reasons for any final determination of that Standards Committee:
- (b) request a Standards Committee or an investigator to supply to the Legal Complaints Review Officer the originals of, or copies of, any records, reports, documents, or other information relating to a complaint and held by the Standards Committee or investigator:
- (c) make further inquiries or investigations into—
 - (i) any complaint or any aspect of a complaint; or
 - (ii) any aspect of the manner in which a complaint was handled or investigated:
- (d) exercise, for the purpose of any inquiry or investigation conducted under paragraph (c), all the powers of a Standards Committee or an investigator.

205 Legal Complaints Review Officer may strike out, determine, or adjourn application for review

- (1) The Legal Complaints Review Officer may strike out, in whole or in part, an application for review if satisfied that it—
 - (a) discloses no reasonable cause of action; or
 - (b) is likely to cause prejudice or delay; or
 - (c) is frivolous or vexatious; or
 - (d) is otherwise an abuse of process.
- (2) If a party is neither present nor represented at the hearing of an application for review, the Legal Complaints Review Officer may,—
 - (a) if the party is required to be present, strike out the application; or
 - (b) determine the application in the absence of the party; or
 - (c) adjourn the hearing.

Section 205: replaced, on 14 November 2018, by section 120 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

*Procedure***206 Proceedings of Legal Complaints Review Officer**

- (1) Every review conducted by the Legal Complaints Review Officer under this Act must be conducted in private.
- (2) Despite anything in this Act to the contrary, if it appears to the Legal Complaints Review Officer that a review can be adequately determined on the papers, he or she may, without the consent of the parties, do so on the basis of the information available, including any information obtained under section 204(b).
 - (2A) Before doing so, he or she must give the parties a reasonable opportunity to comment on whether the review should be dealt with in that manner.
 - (2B) The hearing of a matter or any part of it may be conducted by telephone, audio-visual link, or other remote access facility if the Legal Complaints Review Officer considers it appropriate and the necessary facilities are available.
- (3) Subject to subsection (2) and to sections 205, 207, and 208, the Legal Complaints Review Officer must perform his or her functions and duties and exercise his or her powers in a way that is consistent with the rules of natural justice.
 - (3A) The Legal Complaints Review Officer's powers to determine a review are not affected by the failure of any party to—
 - (a) make a submission or comment within the time allowed; or
 - (b) give specified information within the time allowed; or

- (c) attend, or participate in, a hearing called by the Legal Complaints Review Officer; or
 - (d) do any other thing the Legal Complaints Review Officer asks for or directs.
- (3B) If any failure of the kind referred to in subsection (3A) occurs in review proceedings, the Legal Complaints Review Officer may—
- (a) draw from the failure any reasonable inferences he or she thinks fit; and
 - (b) determine the review concerned on the basis of the information available to him or her or strike out the application for review under section 205; and
 - (c) give any weight he or she thinks fit to information—
 - (i) that he or she asked for, or directed to be provided; but
 - (ii) that was provided later than requested or directed.
- (4) The Legal Complaints Review Officer may, subject to subsection (3) and section 206A, direct such publication of his or her decisions as he or she considers necessary or desirable in the public interest.
- (5) Subject to this Act, any rules made under this Act, and any practice notes issued under section 215A, the Legal Complaints Review Officer may regulate his or her procedure in such manner as he or she thinks fit.
- (6) Forms for use by the Legal Complaints Review Officer may be approved by the chief executive of the Ministry of Justice after consulting the Legal Complaints Review Officer.

Compare: 1988 No 2 s 23(2), (3)(b), (c), (4)

Section 206(2): replaced, on 14 November 2018, by section 121(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 206(2A): inserted, on 14 November 2018, by section 121(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 206(2B): inserted, on 14 November 2018, by section 121(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 206(3A): inserted, on 14 November 2018, by section 121(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 206(3B): inserted, on 14 November 2018, by section 121(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 206(4): amended, on 14 November 2018, by section 121(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 206(5): amended, on 14 November 2018, by section 121(4) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 206(6): inserted, on 29 October 2019, by section 121(5) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

206A Suppression orders

- (1) The Legal Complaints Review Officer may order that any part of any evidence given or the name of any witness not be published.

- (2) An order may be made subject to any conditions that the Legal Complaints Review Officer considers appropriate.

Section 206A: inserted, on 14 November 2018, by section 122 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

207 Evidence

- (1) In relation to any review of a determination of a Standards Committee, the Legal Complaints Review Officer may, on his or her own initiative, seek and receive such evidence and make such investigations and inquiries as he or she thinks fit.
- (2) The Legal Complaints Review Officer may receive and take into account any relevant evidence or information, whether or not that evidence or information would normally be inadmissible in a court of law.

Compare: 1988 No 110 s 40(2), (4)

208 Disclosure of evidence and information to parties

- (1) Subject to subsection (2), all evidence and information received or ascertained under section 207(1) must be disclosed to every party, and every party must be given an opportunity to comment on it.
- (2) Where, in the opinion of the Legal Complaints Review Officer, there is good reason for not disclosing to every party any evidence or information received or ascertained under section 207(1) or for withholding from a party some of the evidence or information so received or ascertained, the Legal Complaints Review Officer may, as the case requires,—
- (a) refuse to disclose that evidence or information to that party; or
 - (b) give that evidence or information to that party after the Legal Complaints Review Officer has made to it such deletions or alterations as he or she considers necessary.
- (3) If, under subsection (2), the Legal Complaints Review Officer takes, in respect of any party, either of the actions referred to in subsection (2), the Legal Complaints Review Officer must give to that party the reasons for the action taken by the Legal Complaints Review Officer.

Compare: 1988 No 110 s 40(3)

209 Power to direct reconsideration of complaints, matters, or decisions

- (1) The Legal Complaints Review Officer may—
- (a) direct a Standards Committee to reconsider and determine, either generally or in respect of any specified matters, the whole or any part of the complaint, matter, or decision to which any application for review relates;
 - (b) give to a Standards Committee, in any case where the Legal Complaints Review Officer gives a direction under paragraph (a),—

- (i) his or her reasons for the direction; and
 - (ii) such other directions as he or she thinks just as to the reconsideration or otherwise of the whole or any part of the complaint, matter, or decision that is referred back for reconsideration:
- (c) request, in giving a direction under paragraph (a), that the Standards Committee supply a follow-up report to him or her when it has complied with the direction.
- (2) A Standards Committee, in reconsidering any complaint, matter, or decision referred back to it under subsection (1)(a), must have regard to the direction given by the Legal Complaints Review Officer and to his or her reasons for giving the direction.

Compare: 1972 No 130 s 4(5), (6)

210 Order for payment of costs

- (1) The Legal Complaints Review Officer may, after conducting a review under this Act, make such order as to the payment of costs and expenses as the Legal Complaints Review Officer thinks fit.
- (2) In particular, the Legal Complaints Review Officer may order that costs be awarded to any person to whom the proceedings relate, and that those costs be paid—
- (a) by the New Zealand Law Society (if that person is a lawyer or former lawyer or an incorporated law firm or former incorporated law firm or an employee or former employee of a lawyer or an incorporated law firm); or
 - (b) by the New Zealand Society of Conveyancers (if that person is a conveyancing practitioner or former conveyancing practitioner or an incorporated conveyancing firm or former incorporated conveyancing firm or an employee or former employee of a conveyancing practitioner or an incorporated conveyancing firm).
- (3) In particular, without finding that there has been unsatisfactory conduct on the part of a person (being a practitioner or former practitioner or an incorporated firm or former incorporated firm or an employee or former employee of a practitioner or an incorporated firm) to whom the proceedings relate, the Legal Complaints Review Officer may, if he or she considers that the proceedings were justified and that it is just to do so, order that person to pay to the New Zealand Law Society or the New Zealand Society of Conveyancers such sums as the Legal Complaints Review Officer thinks fit in respect of the expenses of and incidental to the proceedings and any investigation of that person's conduct or of that person's affairs or trust account carried out by, or on behalf of, a Standards Committee or the Legal Complaints Review Officer.
- (4) In this section, **expenses** includes not only out-of-pocket expenses but also such amounts in respect of salaries of staff and overhead expenses incurred by

either the New Zealand Law Society or the New Zealand Society of Conveyancers as the Legal Complaints Review Officer considers properly attributable to an investigation.

Compare: 1982 No 123 s 129

211 Powers exercisable on review

- (1) The Legal Complaints Review Officer may, on a review under section 193, do any 1 or more of the following things:
 - (a) confirm, modify, or reverse any decision of a Standards Committee, including any determination, requirement, or order made, or direction given, by the Standards Committee (or by any person on its behalf or with its authority):
 - (b) exercise any of the powers that could have been exercised by the Standards Committee in the proceedings in which the decision was made or the powers were exercised or could have been exercised.
- (2) Section 189 applies, with all necessary modifications, to any order made or power exercised under this section by the Legal Complaints Review Officer as if that order had been made or that power had been exercised by a Standards Committee.
- (3) Nothing in this section limits section 209, section 210, section 212, or section 215.

212 Laying of charge with Disciplinary Tribunal

- (1) The Legal Complaints Review Officer, if he or she decides that any complaint or matter should be considered by the Disciplinary Tribunal, must either—
 - (a) frame an appropriate charge and lay it before the Disciplinary Tribunal; or
 - (b) direct a Standards Committee to lay, under section 154, a specified charge before the Disciplinary Tribunal.
- (2) If the Legal Complaints Review Officer lays before the Disciplinary Tribunal a charge against a practitioner, the Legal Complaints Review Officer may apply to the Disciplinary Tribunal for an order that, pending the determination of the charge, the practitioner be suspended from practice—
 - (a) as a barrister; or
 - (b) as a solicitor; or
 - (c) as a barrister and solicitor; or
 - (d) as a conveyancing practitioner.
- (3) If the Legal Complaints Review Officer directs that a specified charge against a practitioner be laid, under section 154, by a Standards Committee, the Legal Complaints Review Officer may, at the same time, direct the Standards Committee to apply to the Disciplinary Tribunal under section 155 for an order that,

pending the determination of the charge, the practitioner be suspended from practice—

- (a) as a barrister; or
 - (b) as a solicitor; or
 - (c) as a barrister and solicitor; or
 - (d) as a conveyancing practitioner.
- (4) The Legal Complaints Review Officer may not, under section 211, decide that a complaint or matter should be considered by the Disciplinary Tribunal unless he or she has given the person who would be the subject of the charge laid before the Disciplinary Tribunal a reasonable opportunity to be heard.
- (5) If the Legal Complaints Review Officer decides to lay, or directs a Standards Committee to lay, a charge against a person who is a provider under the Legal Services Act 2011, the Legal Complaints Review Officer must give written notice of the decision to the Secretary for Justice.

Section 212(5): added, on 1 July 2011, by section 141 of the Legal Services Act 2011 (2011 No 4).

213 Obligation to report outcomes and recommendations

- (1) The Legal Complaints Review Officer must—
- (a) report the outcome of each review to—
 - (i) the Standards Committee concerned; and
 - (ii) the applicant; and
 - (iii) each of the other persons who was entitled, under section 193, to apply to the Legal Complaints Review Officer for the review; and
 - (b) report to the New Zealand Law Society or the New Zealand Society of Conveyancers, as the case may require, both the outcome at each review and any recommendations made as a result of the review.
- (2) The report of the outcome of a review must state the reasons for any decision made, as a result of that review, under section 205 or section 211.
- (2A) A duty under subsection (1)(a)(iii) (read with sections 6 and 193 to 197) to report the outcome of a review to each member of a class (of related persons) in column 1 of a row of the following table is performed sufficiently by reporting that outcome only to the individual or smaller class (of related persons) in column 2 of that row:

Column 1	Column 2
Class	Individual or smaller class
1 All persons who practise in partnership with the practitioner	Any 1 of those persons who practise in partnership with the practitioner
2 All directors of an incorporated law firm or incorporated conveyancing firm in which the practitioner practises	Any 1 of those directors of that firm

Column 1 Class	Column 2 Individual or smaller class
3 All shareholders of an incorporated law firm or incorporated conveyancing firm in which the practitioner practises	All shareholders of that firm who are shareholders of that firm in respect of shares that confer voting rights

(3) If the person who is the subject of the review is a provider under the Legal Services Act 2011, the Legal Complaints Review Officer must report both the outcome of the review and any recommendations made as a result of the review to the Secretary for Justice.

Section 213(2A): inserted, on 20 November 2012, by section 14 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 213(3): added, on 1 July 2011, by section 142 of the Legal Services Act 2011 (2011 No 4).

214 Adverse comment

The Legal Complaints Review Officer may not, in any decision, direction, or order made under section 211 or in any report made under section 213, make any comment that is adverse to any person unless that person has been given a reasonable opportunity to be heard.

215 Enforcement of orders for payment of money

- (1) For the purpose of enforcing any order of the Legal Complaints Review Officer for the payment of money (whether compensation, the refund of a fee, a fine, or costs or expenses), a duplicate of the order may be filed by the person to whom the money (whether compensation, the refund of a fee, a fine, or costs or expenses) are payable in the office of the court named in the order and thereupon becomes enforceable in all respects as a final judgment of that court in its civil jurisdiction.
- (2) In every case where an order for money (whether compensation, the refund of a fee, a fine, or costs or expenses) is made by the Legal Complaints Review Officer, the order must name the court in which the order may, if necessary, be enforced.
- (3) The court so named must be—
 - (a) the District Court, if the amount recoverable does not exceed \$350,000 or any higher amount from time to time specified in section 74 of the District Court Act 2016 as the upper limit of the general civil jurisdiction of the District Court; or
 - (b) in every other case, the High Court.

Section 215 heading: amended, on 14 November 2018, by section 123(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 215(1): amended, on 14 November 2018, by section 123(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 215(2): amended, on 14 November 2018, by section 123(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 215(3): replaced, on 14 November 2018, by section 123(4) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Practice notes, procedural information, and publication of decisions

Heading: inserted, on 14 November 2018, by section 124 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

215A Practice notes

- (1) The Legal Complaints Review Officer may issue practice notes as he or she thinks fit.
- (2) The practice notes must not be inconsistent with this Act or any regulations made under it and are for the guidance of Deputy Legal Complaints Review Officers, persons making complaints, persons who are the subject of complaints, and parties before the Legal Complaints Review Officer.

Section 215A: inserted, on 14 November 2018, by section 124 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

215B Online publication of information about procedures, time frames, and progress of decisions

The following information must be published on an Internet site maintained by or on behalf of the chief executive of the Ministry of Justice:

- (a) information about the purpose of the Legal Complaints Review Officer and how to commence a review;
- (b) any requirements that must be met to request a review;
- (c) guidelines on how and when parties may obtain information on the progress of their case and when a decision may be expected.

Section 215B: inserted, on 29 October 2019, by section 125 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Cost recovery

216 Purpose

The purpose of sections 217 to 221 is to provide for the recovery from the New Zealand Law Society and the New Zealand Society of Conveyancers of the cost to the Crown of the performance of the functions of the Legal Complaints Review Officer.

217 Levy

- (1) The New Zealand Law Society, in its regulatory capacity, and the New Zealand Society of Conveyancers, in its regulatory capacity, must, in respect of each financial year, pay to the Ministry of Justice a levy to meet—
 - (a) the actual and anticipated cost to the Crown of the performance, in the financial year to which the levy relates, of the functions of the Legal Complaints Review Officer; and

- (b) any unanticipated cost to the Crown of the performance, in the financial year to which the levy relates, of the functions of the Legal Complaints Review Officer.
- (2) The cost to the Crown of the performance of the functions of the Legal Complaints Review Officer includes—
 - (a) the remuneration and allowances payable under clause 4 of Schedule 3 to the Legal Complaints Review Officer and each Deputy Legal Complaints Review Officer; and
 - (b) the cost of the accommodation and services provided under clause 5 of Schedule 3.
- (3) The amount of the unanticipated cost referred to in subsection (1)(b) is not to exceed 10% of the actual and anticipated cost referred to in subsection (1)(a).
- (4) The rate of the levy—
 - (a) is to be determined in respect of each financial year by the Minister after consultation with the New Zealand Law Society and the New Zealand Society of Conveyancers; and
 - (b) is, in the case of the New Zealand Law Society, to be based on the number of practitioners who hold current practising certificates issued by that society; and
 - (c) is, in the case of the New Zealand Society of Conveyancers, to be based on the number of practitioners who hold current practising certificates issued by that society.
- (5) The Minister must, on determining the rate of the levy, give written notice to each society of both the rate of the levy and the date by which the levy is required to be paid to the Ministry of Justice.

Section 217(2)(a): amended, on 12 December 2012, by section 4 of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

218 Legal Complaints Review Officer Trust Account

- (1) Money paid to the Ministry of Justice by way of levy under section 217 or section 219 is money paid to the Crown in trust for the purpose of meeting the cost to the Crown of the performance of the functions of the Legal Complaints Review Officer and is to be treated as trust money to which section 66 of the Public Finance Act 1989 applies.
- (2) The Ministry of Justice must establish under section 67(1) of the Public Finance Act 1989 a bank account to be known as the Legal Complaints Review Officer Trust Account.
- (3) The Legal Complaints Review Officer Trust Account is to be operated and maintained by the Ministry of Justice.
- (4) The trust money referred to in subsection (1) must be lodged in the Legal Complaints Review Officer Trust Account.

- (5) The Ministry of Justice must from time to time pay into a Departmental Bank Account operated by that Ministry such sums as are required to reimburse that Ministry for the costs incurred by that Ministry, with the approval of the Minister, in meeting the cost to the Crown of the performance of the functions of the Legal Complaints Review Officer.
- (6) The sums paid by way of reimbursement under subsection (5) must be paid from the Legal Complaints Review Officer Trust Account.
- (7) The Ministry of Justice may from time to time invest, in accordance with section 68 of the Public Finance Act 1989, any money held in the Legal Complaints Review Officer Trust Account.
- (8) Subject to the provisions of this Act, Part 7 of the Public Finance Act 1989 applies in relation to both the Legal Complaints Review Officer Trust Account and the trust money held in that account.

219 Special circumstances levy

- (1) If the amount held in the Legal Complaints Review Officer Trust Account is not sufficient to meet the cost to the Crown of the performance of the functions of the Legal Complaints Review Officer, the Minister may, for the purpose of ensuring that the cost is met, impose a special circumstances levy on the New Zealand Law Society and the New Zealand Society of Conveyancers.
- (2) The rate of a special circumstances levy is to be determined by the Minister after consultation with the New Zealand Law Society and the New Zealand Society of Conveyancers; and paragraphs (b) and (c) of section 217(4) apply in relation to the determination of that rate.
- (3) Each society must pay to the Ministry of Justice each special circumstances levy imposed on that society.
- (4) The Minister imposes a special circumstances levy on a society by giving written notice to that society of—
 - (a) the imposition of the levy; and
 - (b) the rate of the levy; and
 - (c) the date by which the levy is required to be paid to the Ministry of Justice.

220 Payment of levies

- (1) Each levy payable under section 217 or section 219 must be paid to the Ministry of Justice by such date as the Minister determines in respect of that levy.
- (2) Money paid to the Ministry of Justice by way of levy under section 217 or section 219 must be lodged in the Legal Complaints Review Officer Trust Account.

- (3) Every levy under section 217 or section 219 is recoverable in any court of competent jurisdiction as a debt due to the Crown.

221 Recovery of levy

- (1) The New Zealand Law Society may, by a levy imposed under section 74(1)(b) on all lawyers, recover from those lawyers the amount of any levy paid by the New Zealand Law Society under section 217 or section 219.
- (2) The New Zealand Society of Conveyancers may, by a levy imposed under section 91(1)(b) on all conveyancing practitioners, recover from those practitioners the amount of any levy paid by the New Zealand Society of Conveyancers under section 217 or section 219.

Annual reports

222 Reports in relation to cost recovery

- (1) The annual report of the Ministry of Justice prepared in accordance with the provisions of the Public Service Act 2020 must include, in relation to the financial year to which the report relates, a statement of—
- (a) the amount received from the New Zealand Law Society by way of levy under section 217; and
 - (b) the amount received from the New Zealand Law Society by way of levy under section 219; and
 - (c) the amount received from the New Zealand Society of Conveyancers by way of levy under section 217; and
 - (d) the amount received from the New Zealand Society of Conveyancers by way of levy under section 219; and
 - (e) the amount paid under section 218(5) into a Departmental Bank Account operated by the Ministry of Justice; and
 - (f) the amount held in the Legal Complaints Review Officer Trust Account at the end of that financial year.
- (2) The annual report of the Ministry of Justice prepared in accordance with the provisions of the Public Service Act 2020 must include a statement of the total amount expended by that Ministry in the financial year to which the report relates in meeting the cost to the Crown of the performance of the functions of the Legal Complaints Review Officer.

Section 222(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 222(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

223 Annual report

- (1) The Legal Complaints Review Officer must, in each year, furnish to the Minister and the New Zealand Law Society and the New Zealand Society of

Conveyancers a report on the performance of his or her functions under this Act.

- (2) The Minister must present a copy of the report to the House of Representatives as soon as practicable after it is furnished to the Minister.

224 Contents of annual report

- (1) The annual report of the Legal Complaints Review Officer must include, among other things, the following information:
 - (a) the number and types of applications for review made in the year:
 - (b) whether the reviews in respect of which the applications have been made have been completed:
 - (c) the timeliness with which reviews have been completed:
 - (d) the outcomes of the reviews:
 - (e) the number of applications for review still outstanding.
- (2) Nothing in subsection (1) requires disclosure of matters that may identify particular individuals or bodies corporate.

225 Further provisions relating to Legal Complaints Review Officer

The provisions of Schedule 3 have effect in relation to the Legal Complaints Review Officer and the proceedings of the Legal Complaints Review Officer.

New Zealand Lawyers and Conveyancers Disciplinary Tribunal

226 New Zealand Lawyers and Conveyancers Disciplinary Tribunal

This section establishes a body to be known as the New Zealand Lawyers and Conveyancers Disciplinary Tribunal.

Compare: 1982 No 123 s 108(1)

227 Functions of Disciplinary Tribunal

The functions of the Disciplinary Tribunal are—

- (a) to hear and determine any application made by a Standards Committee or the Legal Complaints Review Officer for the suspension of a practitioner pending the determination of a charge that the Standards Committee or the Legal Complaints Review Officer has laid against that practitioner:
- (b) to hear and determine any charge against a practitioner or former practitioner or an incorporated firm or former incorporated firm or an employee or former employee of a practitioner or an incorporated firm that is made to it by a Standards Committee or the Legal Complaints Review Officer:

- (c) to hear and determine any application made by a person under section 246 for the restoration of his or her name to the roll or to the register of conveyancers:
- (d) to hear and determine any application made by a person under section 247 for the revocation of an order made under section 242(1)(h):
- (e) to hear and determine any appeal under section 42:
- (f) to hear and determine any application made by a practitioner or an incorporated firm under section 248 for the consent of the Disciplinary Tribunal to the employment by the practitioner or incorporated firm of a person who—
 - (i) is under suspension from practice as a barrister or as a barrister and solicitor or as a conveyancing practitioner; or
 - (ii) has had his or her name struck off the roll otherwise than at his or her own request; or
 - (iii) has had his or her registration as a conveyancing practitioner cancelled by an order made under this Act; or
 - (iv) is disqualified, by an order made under section 242(1)(h), from employment in connection with a practitioner's or incorporated firm's practice:
- (g) to make rules, not inconsistent with this Act, in respect of the making, hearing, and determination of applications, inquiries, appeals, and other proceedings before the Disciplinary Tribunal:
- (h) to perform such other functions as are conferred on it by this Act or any other enactment.

Compare: 1982 No 123 ss 110, 130

228 Membership of Disciplinary Tribunal

The Disciplinary Tribunal consists of—

- (a) 1 member who is to be appointed as the chairperson:
- (b) 1 member who is to be appointed as the deputy chairperson:
- (c) not less than 7 nor more than 15 lay members (being persons whose names are neither on the roll nor on the register of conveyancers):
- (d) not less than 7 nor more than 15 members who are lawyers:
- (e) not less than 3 nor more than 5 members who are conveyancing practitioners.

Compare: 1982 No 123 s 108(2)

229 Disciplinary Tribunal may sit in divisions

- (1) The chairperson may, from time to time, if he or she considers it appropriate in a particular case or class of case, determine, by writing signed by the chairperson, that the Disciplinary Tribunal is to sit in divisions.
- (2) A division of the Disciplinary Tribunal may exercise all the powers of the Disciplinary Tribunal.
- (3) Each division of the Disciplinary Tribunal is to consist of such members as are for the time being assigned to that division by the chairperson of the Disciplinary Tribunal.
- (4) If the members assigned to a division do not include either the chairperson or the deputy chairperson of the Disciplinary Tribunal, the chairperson of the Disciplinary Tribunal must, from time to time, designate the person who is to be the chairperson of that division.
- (5) The chairperson of the Disciplinary Tribunal is to determine in each case which division of the Disciplinary Tribunal is to conduct particular proceedings.
- (6) For the purposes of any proceedings that are before any division of the Disciplinary Tribunal by virtue of any determination under this section, the Disciplinary Tribunal is deemed to consist of that division of the Disciplinary Tribunal, and the powers of that division are not affected by any changes or vacancies in its membership.
- (7) A division of the Disciplinary Tribunal may exercise any powers of the Disciplinary Tribunal even though another division of the Disciplinary Tribunal is exercising powers of the Disciplinary Tribunal at the same time.
- (8) Any determination made by the chairperson of the Disciplinary Tribunal under this section may be revoked or amended by that chairperson by writing signed by that chairperson.

Compare: 1986 No 5 s 16; 1993 No 94 s 101

230 Appointment of chairperson and deputy chairperson

- (1) The chairperson of the Disciplinary Tribunal and the deputy chairperson of the Disciplinary Tribunal must each be a person who, whether or not he or she holds or has held judicial office,—
 - (a) is not a practitioner; but
 - (b) has had not less than 7 years' practice as a lawyer.
- (2) The chairperson of the Disciplinary Tribunal and the deputy chairperson of the Disciplinary Tribunal are to be appointed by the Governor-General on the recommendation of the Minister.

Compare: 1982 No 123 s 108(3)

231 Responsibilities of chairperson

- (1) The chairperson of the Disciplinary Tribunal is responsible for—

- (a) making such arrangements as are practicable to ensure the orderly and expeditious discharge of the functions of the Disciplinary Tribunal:
 - (b) deciding whether the Disciplinary Tribunal is to sit in divisions:
 - (c) designating the times and places at which hearings will be conducted:
 - (d) designating, where necessary, the member who is to be the chairperson of any division of the Disciplinary Tribunal:
 - (e) training members of the Disciplinary Tribunal and making such arrangements for the training of members of the Disciplinary Tribunal as the chairperson considers necessary:
 - (f) furnishing in each year a report under section 259.
- (2) Despite subsection (1)(e), no member of the Disciplinary Tribunal is to be entitled, under the arrangements made under subsection (1)(e), to receive more than 2 days of training in any period of 12 months.

232 Deputy chairperson and acting deputy chairperson

- (1) If—
- (a) the chairperson becomes incapable of acting as chairperson by reason of illness, absence, or other sufficient cause; or
 - (b) there is a vacancy in the office of chairperson; or
 - (c) the chairperson considers it not proper or desirable that he or she adjudicate on any specified matter,—
- the deputy chairperson has and may perform or exercise all the functions, duties, and powers of the chairperson.
- (2) The deputy chairperson is, while acting for the chairperson, deemed to be the chairperson of the Disciplinary Tribunal.
- (3) If, in any case to which subsection (1) applies,—
- (a) the deputy chairperson is incapable of acting as chairperson by reason of illness, absence, or other sufficient cause; or
 - (b) there is a vacancy in the office of deputy chairperson; or
 - (c) the deputy chairperson considers it not proper or desirable that he or she adjudicate on any specified matter,—
- the Minister may appoint a suitable person to act for the deputy chairperson for the period or purpose stated in the appointment.
- (4) No person is qualified for appointment under subsection (3) unless that person is qualified under section 230(1) for appointment as the deputy chairperson of the Disciplinary Tribunal.
- (5) Any person appointed under subsection (3) to act for the deputy chairperson is, while acting as such, deemed to be the deputy chairperson, and has and may

perform or exercise all the functions, duties, and powers of that office for the period or for the purpose stated in the appointment.

- (6) No appointment of a person to act for the deputy chairperson and no act done by the deputy chairperson while acting for the chairperson or by a person acting pursuant to an appointment under subsection (3), and no act done by the Disciplinary Tribunal while the deputy chairperson or any such person is so acting may, in any proceedings, be questioned on the ground that the occasion for the deputy chairperson or any such person to so act had not arisen or had ceased.

233 Appointment of other members

- (1) The members appointed under section 228(c) are to be appointed by the Governor-General on the recommendation of the Minister, after consultation by the Minister with the chairperson of the Disciplinary Tribunal, the Council of the New Zealand Law Society, and the Council of the New Zealand Society of Conveyancers.
- (2) The members appointed under section 228(d) are to be appointed by the Council of the New Zealand Law Society.
- (3) The members appointed under section 228(e) are to be appointed by the Council of the New Zealand Society of Conveyancers.

Compare: 1982 No 123 ss 108(2), 109(1)

233A Appointment of temporary acting member

- (1) If a member of the Disciplinary Tribunal becomes incapable of acting by reason of illness, absence, or other sufficient cause, or if a member considers it is not proper or not desirable that he or she should adjudicate on a specified matter, the Governor-General, on the recommendation of the Minister, may appoint a suitable person as an acting member for the period or purpose stated in the appointment.
- (2) The Minister must not make a recommendation under subsection (1) unless the Minister has consulted—
 - (a) the chairperson of the Disciplinary Tribunal; and
 - (b) the New Zealand Law Society; and
 - (c) the New Zealand Society of Conveyancers.
- (3) No person may be appointed as an acting member unless he or she is eligible for appointment as a member.
- (4) An acting member is, while acting in the position, to be treated as a member of the Tribunal.
- (5) No appointment of an acting member, no act done by an acting member, and no act done by the Tribunal may be questioned in any proceedings on the ground that the occasion for the appointment had not arisen or had ceased.

Section 233A: inserted, on 14 November 2018, by section 126 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

234 Constitution for proceedings

- (1) For the purposes of proceedings before the Disciplinary Tribunal or a division of the Disciplinary Tribunal, the Disciplinary Tribunal or division consists of—
 - (a) a chairperson, being,—
 - (i) in the case of proceedings before the Disciplinary Tribunal, the chairperson of the Disciplinary Tribunal; or
 - (ii) in the case of proceedings before a division of the Disciplinary Tribunal (being a division of which the chairperson of the Disciplinary Tribunal is a member), either the chairperson of the Disciplinary Tribunal or a member of the Disciplinary Tribunal designated by the chairperson of the Disciplinary Tribunal as the chairperson of that division; or
 - (iii) in the case of proceedings before a division of the Disciplinary Tribunal (being a division of which the deputy chairperson of the Disciplinary Tribunal, and not the chairperson of the Disciplinary Tribunal, is a member), either the deputy chairperson of the Disciplinary Tribunal or a member of the Disciplinary Tribunal designated by the chairperson of the Disciplinary Tribunal as the chairperson of that division; and
 - (b) such other members of the Disciplinary Tribunal as are selected in accordance with this section by the chairperson of the Disciplinary Tribunal.
- (2) The number of members of the Disciplinary Tribunal selected under subsection (1)(b) must be an even number that is not less than 4.
- (3) Half of the number of members selected under subsection (1)(b) must be lay members.
- (4) Half of the number of members selected under subsection (1)(b)—
 - (a) must, if the proceedings relate to a lawyer or former lawyer or an incorporated law firm or former incorporated law firm or an employee or former employee of a lawyer or an incorporated law firm, be members who hold office under section 228(d); or
 - (b) must, if the proceedings relate to a conveyancing practitioner or former conveyancing practitioner or an incorporated conveyancing firm or former incorporated conveyancing firm or an employee or former employee of a conveyancing practitioner or incorporated conveyancing firm, be members who hold office under section 228(e).
- (5) *[Repealed]*

Section 234(5): repealed, on 20 November 2012, by section 27(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

235 Quorum

- (1) The quorum at any sitting of the Disciplinary Tribunal or a division of the Disciplinary Tribunal is 5 members of the Disciplinary Tribunal.
- (2) Despite subsection (1), a quorum is not present if—
 - (a) no lay member is present; or
 - (b) the number of lay members present exceeds the number of members present who hold office under section 228(d) or section 228(e).
- (3) Every question before the Disciplinary Tribunal or a division of the Disciplinary Tribunal is to be determined by the opinion of the majority of the members present at a sitting of the Disciplinary Tribunal or division, and, if the members are equally divided in their opinions, that of the chairperson prevails.
- (4) Subsection (1) is subject to subsection (5) (which permits a reduced, specified 3-member quorum for specified purposes) and section 244(2) (which specifies minimum attendance and voting requirements for the making of certain orders).
- (5) For the purposes specified in section 240(4) (which relates to interim name suppression orders), and for the purposes of section 245 (which relates to interim suspension from practice), the quorum at any sitting of the Disciplinary Tribunal or a division of the Disciplinary Tribunal is (not only compliance with subsection (2)(b) of this section, but also) the following 3 members of the Disciplinary Tribunal:
 - (a) the chairperson of the Disciplinary Tribunal; and
 - (b) a lay member of the Disciplinary Tribunal; and
 - (c) either—
 - (i) a member of the Disciplinary Tribunal appointed under section 228(d) (if the practitioner to whom the charge relates is a lawyer); or
 - (ii) a member of the Disciplinary Tribunal appointed under section 228(e) (if the practitioner to whom the charge relates is a conveying practitioner).

Section 235(4): replaced, on 20 November 2012, by section 15 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 235(5): inserted, on 20 November 2012, by section 15 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Procedure

236 Rules of natural justice

The Disciplinary Tribunal must, in performing and exercising its functions and powers, observe the rules of natural justice.

Compare: 1982 No 123 s 124(1); 1996 No 39 s 9

237 Representation before Disciplinary Tribunal

- (1) Every person who makes an application to the Disciplinary Tribunal and every practitioner or other person to whom an application to the Disciplinary Tribunal relates is entitled to appear and be heard at the hearing of that application and to be represented by counsel or otherwise.
- (2) A charge made by a Standards Committee against a practitioner or any other person is, at the hearing, to be prosecuted by that Standards Committee, which, for that purpose, may be represented by counsel or otherwise.
- (3) A charge made by the Legal Complaints Review Officer against a practitioner or any other person is, at the hearing, to be prosecuted by the Legal Complaints Review Officer, who, for that purpose, may be represented by counsel or otherwise.
- (4) The practitioner or other person against whom a charge is made by a Standards Committee or the Legal Complaints Review Officer is entitled to appear and be heard at the hearing of that charge and to be represented by counsel or otherwise.
- (5) If any party to proceedings before the Disciplinary Tribunal is represented by counsel, any other party to those proceedings may be represented by counsel.

238 Hearings to be in public

- (1) Except as provided in subsections (2) and (3) and section 240, every hearing of the Disciplinary Tribunal must be held in public.
- (2) If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including (without limitation) the privacy of the complainant (if any)) and to the public interest, it may hold a hearing or part of a hearing in private.
- (3) The Disciplinary Tribunal may, in any case, deliberate in private as to its decision or as to any question arising in the course of a hearing.

Compare: 1982 No 123 s 111(1), (2)(a), (4)

238A Hearing on papers

- (1) Despite anything in this Act to the contrary, the Disciplinary Tribunal may determine a proceeding on the papers if the Tribunal considers it appropriate.
- (2) Before doing so, the Tribunal must give the parties a reasonable opportunity to comment on whether the proceeding should be dealt with in that manner.

Section 238A: inserted, on 14 November 2018, by section 127 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

239 Evidence

- (1) Subject to section 236, the Disciplinary Tribunal may receive as evidence any statement, document, information, or matter that may, in its opinion, assist it

to deal effectively with the matters before it, whether or not that statement, document, information, or matter would be admissible in a court of law.

- (2) The Disciplinary Tribunal may take evidence on oath, and, for that purpose, any member of the Disciplinary Tribunal may administer an oath.
- (3) The Disciplinary Tribunal may permit a person appearing as a witness before it to give evidence by tendering a written statement and verifying that statement by oath.
- (4) Subject to subsections (1) to (3), the Evidence Act 2006 applies to the Disciplinary Tribunal in the same manner as if the Disciplinary Tribunal were a court within the meaning of that Act.
- (5) A hearing before the Disciplinary Tribunal is a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).

Compare: 1995 No 95 Schedule 1 cl 6; 1996 No 39 s 10

Section 239(4): amended, on 1 August 2007, by section 216 of the Evidence Act 2006 (2006 No 69).

239A Online publication of information about procedures, time frames, and progress of decisions

The following information must be published on an Internet site maintained by or on behalf of the chief executive of the Ministry of Justice:

- (a) information about the purpose of the Disciplinary Tribunal and how to bring proceedings:
- (b) any requirements that must be met to bring proceedings:
- (c) guidelines on how and when parties may obtain information on the progress of their case and when a decision may be expected.

Section 239A: inserted, on 29 October 2019, by section 128 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

239B Online publication of final written decisions

- (1) Every final written decision of the Disciplinary Tribunal must be published on an Internet site as soon as practicable, unless there is good reason not to publish it.
- (2) A final written decision may be published in part if there is good reason for not publishing the full decision.
- (3) Subsections (1) and (2) are subject to section 240.
- (4) Good reason not to publish a decision, or part of it, includes the following:
 - (a) non-publication is necessary because of a suppression order or statutory requirement that affects publication or continued publication:
 - (b) the decision falls into a category of decisions that are of limited public value:
 - (c) taking into account the presumption in subsection (1) in favour of publication, the Disciplinary Tribunal nevertheless determines that the

decision, or any part of it, should not be published because publication or the effect of publication would be contrary to the interests of justice.

- (5) In this section, **final written decision** means a written decision that determines, or substantially determines, the outcome of proceedings in the Disciplinary Tribunal and is any of the following:
- (a) a written reserved decision following an oral hearing:
 - (b) a written decision in any case considered on the papers:
 - (c) an oral decision transcribed by an official transcription service.

Section 239B: inserted, on 29 October 2019, by section 128 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

240 Restrictions on publication

- (1) If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including (without limitation) the privacy of the complainant (if any)) and to the public interest, it may make any 1 or more of the following orders:
- (a) an order prohibiting the publication of any report or account of any part of any proceedings before it, whether held in public or in private:
 - (b) an order prohibiting the publication of the whole or any part of any books, papers, or documents produced at any hearing:
 - (c) an order prohibiting the publication of the name or any particulars of the affairs of the person charged or any other person.
- (2) Unless it is reversed or modified in respect of its currency by the High Court on appeal under section 253, an order made under subsection (1) continues in force until such time as may be specified in the order, or, if no time is specified, until the Disciplinary Tribunal, in its discretion, revokes it on the application of any party to the proceedings in which the order was made or any other person.
- (2A) Subsections (1)(c) and (2) are subject to subsection (4).
- (3) Subsection (1)(c) does not apply to, or in respect of,—
- (a) any communications by or between any or all of the following:
 - (i) the Council of the New Zealand Law Society:
 - (ii) the Council of the New Zealand Society of Conveyancers:
 - (iii) an officer of either of the societies specified in subparagraphs (i) and (ii):
 - (iv) an employee of either of the societies specified in subparagraphs (i) and (ii):
 - (v) a Standards Committee:
 - (vi) an employee of a Standards Committee:
 - (vii) the Legal Complaints Review Officer:

- (viii) the Disciplinary Tribunal:
- (b) the publication pursuant to section 256 of a notice in the *Gazette*.
- (4) For the purposes of exercising the Disciplinary Tribunal's powers under subsections (1)(c) and (2) to make or revoke, before the start of the hearing of the charge, an order prohibiting the publication of the name or any particulars of the affairs of the person charged or any other person, the quorum at any sitting of the Disciplinary Tribunal or a division of the Disciplinary Tribunal is, despite section 235(1), the 3-member quorum specified in section 235(5).

Compare: 1982 No 123 s 111(2)(b)–(d), (3), (6)

Section 240(1)(c): amended, on 20 November 2012, by section 16(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 240(2A): inserted, on 20 November 2012, by section 16(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 240(4): inserted, on 20 November 2012, by section 16(3) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

240A Disciplinary Tribunal may strike out, determine, or adjourn proceeding

- (1) The Disciplinary Tribunal may strike out, in whole or in part, a proceeding if satisfied that it—
 - (a) discloses no reasonable cause of action; or
 - (b) is likely to cause prejudice or delay; or
 - (c) is frivolous or vexatious; or
 - (d) is otherwise an abuse of process.
- (2) If a party is neither present nor represented at the hearing of a proceeding, the Disciplinary Tribunal may,—
 - (a) if the party is required to attend, strike out the proceeding; or
 - (b) determine the proceeding in the absence of the party; or
 - (c) adjourn the hearing.

Section 240A: inserted, on 14 November 2018, by section 129 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

241 Charges that may be brought before Disciplinary Tribunal

If the Disciplinary Tribunal, after hearing any charge against a person who is a practitioner or former practitioner or an employee or former employee of a practitioner or incorporated firm, is satisfied that it has been proved on the balance of probabilities that the person—

- (a) has been guilty of misconduct; or
- (b) has been guilty of unsatisfactory conduct that is not so gross, wilful, or reckless as to amount to misconduct; or
- (c) has been guilty of negligence or incompetence in his or her professional capacity, and that the negligence or incompetence has been of such a

degree or so frequent as to reflect on his or her fitness to practise or as to bring his or her profession into disrepute; or

- (d) has been convicted of an offence punishable by imprisonment and the conviction reflects on his or her fitness to practise, or tends to bring his or her profession into disrepute,—

it may, if it thinks fit, make any 1 or more of the orders authorised by section 242.

Compare: 1982 No 123 s 112(1)

242 Orders that may be made where charge proved

- (1) In any case to which section 241 applies, the Disciplinary Tribunal may make—
 - (a) any order that a Standards Committee has power to make under section 156 on the final determination of a complaint:
 - (b) an order declaring that, in the opinion of the Disciplinary Tribunal, any of the circumstances specified in section 163 exist in respect of the practitioner or former practitioner and directing a Standards Committee to exercise any power under section 164 or section 169:
 - (c) if the person is a lawyer or former lawyer, an order that the person's name be struck off the roll:
 - (d) if the person is a conveyancing practitioner or former conveyancing practitioner, an order that the person's registration as a conveyancer be cancelled:
 - (e) if the person is a lawyer or former lawyer, an order that the person be suspended from practice as a barrister or as a solicitor, or as both, for such period, not exceeding 36 months, as the Disciplinary Tribunal thinks fit:
 - (f) if the person is a conveyancing practitioner or former conveyancing practitioner, an order that the person be suspended from practice as a conveyancing practitioner for such period, not exceeding 36 months, as the Disciplinary Tribunal thinks fit:
 - (g) if the person is a practitioner or former practitioner, an order prohibiting the person from practising on his or her own account, whether in partnership or otherwise, until authorised by the Disciplinary Tribunal to do so:
 - (h) if the person is an employee or a former employee of a practitioner or an incorporated firm,—
 - (i) an order that any present employment of that person by any practitioner or incorporated firm be terminated:

- (ii) an order that no practitioner or incorporated firm employ that person in connection with the practitioner's or incorporated firm's practice so long as the order remains in force:
 - (iii) an order that no practitioner or incorporated firm employ that person in connection with the practitioner's or incorporated firm's practice, otherwise than with the written consent of the Disciplinary Tribunal and subject to such conditions as may be imposed by the Disciplinary Tribunal, so long as the order remains in force:
 - (i) if the person is a lawyer or former lawyer or an employee or former employee of a lawyer or an incorporated firm, an order that the person pay to the New Zealand Law Society in respect of any charge against him or her such sum by way of penalty, not exceeding \$30,000, as the Disciplinary Tribunal thinks fit:
 - (j) if the person is a conveyancing practitioner or former conveyancing practitioner or an employee or former employee of a conveyancing practitioner or an incorporated conveyancing firm, an order that the person pay to the New Zealand Society of Conveyancers in respect of any charge against him or her such sum by way of penalty, not exceeding \$30,000, as the Disciplinary Tribunal thinks fit.
- (2) Paragraphs (c) and (d) of subsection (1) are subject to section 244.

Compare: 1982 No 123 ss 112(2), 114(2)

Section 242(1)(c): replaced, on 20 November 2012, by section 17 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 242(1)(d): replaced, on 20 November 2012, by section 17 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 242(1)(e): replaced, on 20 November 2012, by section 17 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 242(1)(f): replaced, on 20 November 2012, by section 17 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 242(1)(g): replaced, on 20 November 2012, by section 17 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

243 Power to refer bill of costs to Standards Committee

- (1) This section applies in relation to any case that is before the Disciplinary Tribunal and arises wholly or partly out of a complaint of overcharging by a practitioner or former practitioner or an incorporated firm or former incorporated firm.
- (2) If, in any case to which this section applies, the Disciplinary Tribunal considers that the practitioner's or former practitioner's or incorporated firm's or former incorporated firm's bill of costs in respect of any matter to which the complaint relates is unfair or unreasonable, the Disciplinary Tribunal may, whether or not it makes an order under section 242, order that the bill be referred to a Standards Committee.

(3) The Standards Committee must, after considering the bill of costs, make such order or orders under section 156 as it would have made under that section if it had determined a complaint in respect of that bill of costs.

(4) This section does not limit section 242.

Compare: 1982 No 123 s 112(4)

244 Making of order for striking off roll, cancellation of registration, or suspension from practice

(1) The Disciplinary Tribunal may not make an order, under section 242(1)(c), striking the name of a practitioner or former practitioner off the roll or an order, under section 242(1)(d), cancelling the registration of a practitioner or former practitioner unless in its opinion the practitioner or former practitioner is, by reason of his or her conduct, not a fit and proper person to be a practitioner.

(2) Except by consent, the Disciplinary Tribunal may not make—

(a) an order, under section 242(1)(c), striking the name of a practitioner or former practitioner off the roll; or

(b) an order, under section 242(1)(d), cancelling the registration of a practitioner or former practitioner; or

(c) an order, under section 242(1)(e), suspending a practitioner or former practitioner from practice,—

unless at least 5 members of the Disciplinary Tribunal are present and vote in favour of the order and those members are either the only members present and voting at the sitting of the Disciplinary Tribunal or the division of the Disciplinary Tribunal or are a majority of the members present and voting at the sitting of the Disciplinary Tribunal or the division of the Disciplinary Tribunal.

(3) Where the Disciplinary Tribunal makes an order, under section 242(1)(c), striking the name of a practitioner or former practitioner off the roll or an order, under section 242(1)(d), cancelling the registration of a practitioner or former practitioner, the order is, until the expiry of the time allowed for appeal under section 253 or, if an appeal is commenced, until the determination of the appeal, to take effect only as an order that the practitioner or former practitioner be suspended from practice as a barrister or as a solicitor or as both, or from practice as a conveyancing practitioner, as the case may require.

Compare: 1982 No 123 ss 113, 117(3)

Section 244(1): amended, on 20 November 2012, by section 18(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 244(2)(a): amended, on 20 November 2012, by section 18(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 244(2)(b): amended, on 20 November 2012, by section 18(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 244(2)(c): amended, on 20 November 2012, by section 18(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 244(3): amended, on 20 November 2012, by section 18(3) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

245 Interim suspension from practice

- (1) If a charge against a practitioner has been made or referred to the Disciplinary Tribunal, it may,—
 - (a) on the application of the party by whom the charge was laid or of its own motion; and
 - (b) without any prior notice to the practitioner,—

make an order that the practitioner be suspended from practice as a barrister or as a solicitor or as both, or as a conveyancing practitioner, until the charge has been heard and disposed of.
- (2) The Disciplinary Tribunal may make an order under subsection (1) only if it is satisfied that it is necessary or desirable to do so having regard to—
 - (a) the interests of the public; or
 - (b) the financial interests of any person.
- (3) On the making of an order under subsection (1), or at any time while such an order is in force, the Disciplinary Tribunal may direct that, after the expiration of the period of 14 days beginning with the day on which the order is made, a notice stating the date and effect of the order is to be published in such publications as are specified by the Disciplinary Tribunal.
- (4) The practitioner in respect of whom an interim suspension order is made under this section may, at any time, apply to the Disciplinary Tribunal for the revocation of—
 - (a) the order; or
 - (b) any direction given under subsection (3); or
 - (c) both.
- (5) An application under subsection (4) must be heard within 7 days after the day on which it is received by the Disciplinary Tribunal, and the Disciplinary Tribunal may grant or refuse the application as it thinks fit.
- (6) If an order under subsection (1) is made or revoked by the Disciplinary Tribunal, the Disciplinary Tribunal must forthwith give written notice of the making or revocation of the order to the Registrar-General of Land.
- (7) For the purposes of exercising the Disciplinary Tribunal's powers under this section, the quorum at any sitting of the Disciplinary Tribunal or a division of the Disciplinary Tribunal is, despite section 235(1), the 3-member quorum specified in section 235(5).
- (8) Nothing in this section or in section 236 requires the Disciplinary Tribunal to give a practitioner an opportunity to appear or be heard before the Disciplinary

Tribunal makes an order under subsection (1) or gives a direction under subsection (3).

Compare: 1982 No 123 ss 115, 124(2)

Section 245(7): replaced, on 20 November 2012, by section 19 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

246 Restoration of name to roll or register

- (1) Any person whose name has been struck off the roll under this Act or, before the commencement of this Act, under the Law Practitioners Act 1982 or the Law Practitioners Act 1955 may, in accordance with rules made under this Act, apply to the Disciplinary Tribunal for the restoration of his or her name to the roll.
- (2) Any person whose registration as a conveyancer has been cancelled under this Act may, in accordance with rules made under this Act, apply to the Disciplinary Tribunal for the restoration of his or her name to the register.
- (3) On hearing an application under subsection (1) or subsection (2), the Disciplinary Tribunal, if satisfied that the applicant is a fit and proper person to practise as a barrister or as a solicitor or as both, or as a conveyancing practitioner, may order that the applicant's name be restored to the roll or register, as the case may require.
- (4) An order under subsection (3) may impose the condition that the applicant must not practise as a solicitor or as a conveyancing practitioner on his or her own account, whether in partnership or otherwise, until authorised by the Disciplinary Tribunal to do so.
- (5) Subsection (4) does not limit subsection (3).
- (6) No application by a person for the restoration of his or her name to the roll or to the register of conveyancers may be made except under section 60 or under this section.

Compare: 1982 No 123 s 116

247 Revocation of order in respect of employee

- (1) Any person in respect of whom an order has been made under section 242(1)(h) may apply to the Disciplinary Tribunal for the revocation of the order.
- (2) Rules made for the purposes of this Part apply to the application as if it were an application under section 246(1) by a practitioner whose name had been struck off the roll.
- (3) If, on hearing any application under subsection (1), the Disciplinary Tribunal is satisfied that the applicant is a fit and proper person to be employed by a practitioner, it may revoke the order.
- (4) The revocation of the order does not entitle the applicant to be reinstated in the employment that was terminated by the order.

248 Consent to employ

- (1) A practitioner or an incorporated firm may apply to the Disciplinary Tribunal for its consent to the employment by the practitioner or incorporated firm of a person who—
 - (a) is under suspension from practice as a barrister or as a barrister and solicitor or as a conveyancing practitioner; or
 - (b) has had his or her name struck off the roll otherwise than at his or her own request; or
 - (c) has had his or her registration as a conveyancing practitioner cancelled by an order made under this Act; or
 - (d) is disqualified, by an order made under section 242(1)(h), from employment in connection with a practitioner's or incorporated firm's practice.
- (2) The applicant must,—
 - (a) if a lawyer or an incorporated law firm, serve notice of the application on the New Zealand Law Society (which is to be entitled to appear and be heard on the application); or
 - (b) if a conveyancing practitioner or an incorporated conveyancing firm, serve notice of the application on the New Zealand Society of Conveyancers (which is to be entitled to appear and be heard on the application).
- (3) If the Disciplinary Tribunal is satisfied, on the application of a practitioner or an incorporated firm, that there is good reason why the person to whom the application relates should be employed, the Disciplinary Tribunal may, in its discretion, after taking into consideration the matters specified in subsection (4) and such other matters as it considers relevant, grant or refuse its consent to the employment of that person by that practitioner or incorporated firm.
- (4) The matters that the Disciplinary Tribunal must consider in relation to the proposed employment of the person to whom the application relates are as follows:
 - (a) the need to protect both the public and the standing of the profession:
 - (b) the seriousness of the proved offending of that person:
 - (c) any matter relevant to the honesty of that person:
 - (d) the work on which that person will be employed and the extent to which, and the manner in which, the carrying out of that work by that person will be supervised:
 - (e) the previous record, in relation to disciplinary matters, of that person:
 - (f) the relevance of the nature of the penalty imposed on that person by way of suspension, striking off, cancellation of registration, or disqualification.

- (5) Despite subsections (3) and (4), the Disciplinary Tribunal may take into account, but to a minor degree, the personal circumstances of the person to whom the application relates.
- (6) Consideration of the personal circumstances of the person to whom the application relates must always be subordinated to the need to protect both the public and the standing of the profession.
- (7) If the Disciplinary Tribunal grants its consent, it may do so on such terms and conditions as it thinks fit.

249 Order for payment of costs

- (1) The Disciplinary Tribunal may, after the hearing of any proceedings, make such order as to the payment of costs and expenses as it thinks fit.
- (2) In particular, the Disciplinary Tribunal may order that costs be awarded to any person to whom the proceedings relate, and that those costs be paid—
 - (a) by the New Zealand Law Society (if that person is a lawyer or a former lawyer or an incorporated law firm or former incorporated law firm or an employee or former employee of a lawyer or incorporated law firm); or
 - (b) by the New Zealand Society of Conveyancers (if that person is a conveyancing practitioner or a former conveyancing practitioner or an incorporated conveyancing firm or former incorporated conveyancing firm or an employee or former employee of a conveyancing practitioner or incorporated conveyancing firm).
- (3) In particular, without finding the person charged to be guilty, the Disciplinary Tribunal may, if it considers that the proceedings were justified and that it is just to do so, order that person to pay to the New Zealand Law Society or the New Zealand Society of Conveyancers such sums as the Disciplinary Tribunal thinks fit in respect of the expenses of and incidental to the proceedings and any investigation of that person's conduct or of that person's affairs or trust account carried out by, or on behalf of, a Standards Committee or the Legal Complaints Review Officer.
- (4) In this section, **expenses** includes not only out-of-pocket expenses but also such amounts in respect of salaries of staff and overhead expenses incurred by either the New Zealand Law Society or the New Zealand Society of Conveyancers as the Disciplinary Tribunal considers properly attributable to an investigation.

Compare: 1982 No 123 s 129

249A Practice notes

- (1) The chairperson of the Disciplinary Tribunal may issue practice notes as he or she thinks fit.
- (2) The practice notes must not be inconsistent with this Act or any regulations made under it and are for the guidance of other members of the Disciplinary

Tribunal, officers of the Disciplinary Tribunal, and parties before the Disciplinary Tribunal.

Section 249A: inserted, on 14 November 2018, by section 130 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

250 Rules of procedure

- (1) The Disciplinary Tribunal may, from time to time, make rules, not inconsistent with this Act, in respect of the making, hearing, and determination of applications, inquiries, appeals, and other proceedings before it.
- (2) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 s 130

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 250(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

251 Contempt of Disciplinary Tribunal

- (1) Every person commits an offence and is liable on conviction to a fine not exceeding \$5,000 who—
 - (a) threatens, intimidates, or wilfully insults any person, being a member of the Disciplinary Tribunal, an officer of the Disciplinary Tribunal, or any witness, during that person's sitting or attendance in the Disciplinary Tribunal, or in going to or returning from the Disciplinary Tribunal; or
 - (b) wilfully interrupts or obstructs the proceedings of the Disciplinary Tribunal or otherwise misbehaves in the Disciplinary Tribunal; or
 - (c) wilfully and without lawful excuse disobeys any order or direction of the Disciplinary Tribunal in the course of the hearing of any proceedings.
- (2) A member of the Disciplinary Tribunal may order the exclusion from a sitting of the Disciplinary Tribunal of any person whose behaviour, in that member's opinion, constitutes an offence against subsection (1), whether or not that person is charged with the offence; and any constable may take such steps as are reasonably necessary to enforce such an exclusion.

Section 251(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 251(1)(a): amended, on 14 November 2018, by section 131 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 251(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

252 Power of Disciplinary Tribunal to determine procedure

Except as provided by this Act or by rules made under this Act, the Disciplinary Tribunal may determine its own procedure.

Compare: 1982 No 123 s 108(6)

*Appeals***253 Appeal against order or decision of Disciplinary Tribunal**

- (1) Any of the persons specified in subsection (2) may appeal to the High Court against any order or decision made under this Part by the Disciplinary Tribunal.
- (2) The persons who may appeal under subsection (1) are—
 - (a) the practitioner or person to whom the order or decision relates;
 - (b) a Standards Committee, if the proceedings before the Disciplinary Tribunal were brought by that committee;
 - (c) the Legal Complaints Review Officer, if the proceedings before the Disciplinary Tribunal were brought by that officer;
 - (d) in relation to the decision made on an application under section 248(1),—
 - (i) the applicant;
 - (ii) the person to whom the application relates;
 - (iii) the New Zealand Law Society, if the applicant is a lawyer or an incorporated law firm;
 - (iv) the New Zealand Society of Conveyancers, if the applicant is a conveyancing practitioner or an incorporated conveyancing firm.
- (3) Every appeal under subsection (1)—
 - (a) must be by way of rehearing; and
 - (b) must be made within such time and in such form as may be prescribed by rules of court; and
 - (c) must be heard in such manner as may be prescribed by rules of court.
- (4) On hearing an appeal under subsection (1), the High Court may confirm, reverse, or modify the order or decision appealed against.

Compare: 1982 No 123 s 118

254 Appeal to Court of Appeal on question of law

- (1) Any party to an appeal under section 253(1) who is dissatisfied with any determination of the High Court in the proceedings as being erroneous in point of law may, with the leave of that court, or, if the High Court refuses leave, with the leave of the Court of Appeal, appeal to the Court of Appeal against the determination; and section 56 of the Senior Courts Act 2016 applies to any such appeal.

- (2) In determining whether to grant leave to appeal under this section, the Court of Appeal must have regard to whether the question of law involved in the appeal is one that, by reason of its general or public importance or for any other reason, ought to be submitted to the Court of Appeal for its decision.
- (3) The Court of Appeal, in granting leave under this section, may, in its discretion, impose such conditions as it thinks fit, whether as to costs or otherwise.
- (4) The decision of the Court of Appeal on any appeal under this section is final.

Compare: 1987 No 74 s 116

Section 254(1): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

255 Order for striking off, cancellation of registration, restoration, or suspension to be filed in High Court

- (1) Where the Disciplinary Tribunal makes—
 - (a) an order under section 242(1)(c) striking the name of a lawyer or former lawyer off the roll; or
 - (b) an order under section 242(1)(d) cancelling the registration of a person as a conveyancer; or
 - (c) an order under section 242(1)(e) or (f) suspending a practitioner or former practitioner from practice; or
 - (d) an order under section 246(3) that the name of any person be restored to the roll or register,—

the chairperson of the Disciplinary Tribunal must ensure that the order is filed in the office of the High Court at Wellington.

- (2) Subject to subsection (3), on the filing of the order it takes effect as if it were an order of the High Court to the like effect made within the jurisdiction of the High Court.
- (3) If the order filed is an order made under section 242(1)(c) or (d), that order must, until the expiry of the time allowed for appeal under section 253, or, if an appeal is commenced, until the determination of the appeal, take effect only as an order that the practitioner or former practitioner be suspended from practice as a barrister or as a barrister and solicitor or as a conveyancing practitioner, as the case may require.
- (4) An order filed in the High Court under this section may be inspected by any person during office hours without payment of any fee.
- (5) If the person who is the subject of the order is a provider under the Legal Services Act 2011, the chairperson of the Disciplinary Tribunal must give a copy of the order to the Secretary for Justice.

Compare: 1982 No 123 s 117

Section 255(1)(a): amended, on 20 November 2012, by section 20(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 255(1)(c): amended, on 20 November 2012, by section 20(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 255(3): amended, on 20 November 2012, by section 20(3) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 255(5): added, on 1 July 2011, by section 143 of the Legal Services Act 2011 (2011 No 4).

Miscellaneous provisions

256 Notice of order for striking off, cancellation of registration, restoration, or suspension to be published in *Gazette*

- (1) Where—
- (a) the Disciplinary Tribunal makes—
 - (i) an order under section 242(1)(c) striking the name of a lawyer or former lawyer from the roll; or
 - (ii) an order under section 242(1)(d) cancelling the registration of a person as a conveyancer; or
 - (iii) an order under section 242(1)(e) or (f) suspending a practitioner or former practitioner from practice; or
 - (iv) an order under section 242(1)(h)(ii) or (iii) in respect of an employee or former employee of a practitioner or an incorporated firm; and
 - (b) no appeal to the High Court is commenced against the order within the time allowed for appeal,—
- the chairperson of the Disciplinary Tribunal must, forthwith after the expiry of that time, publish in the *Gazette* a notice stating the date and the effect of the order.
- (2) Where—
- (a) an appeal to the High Court against an order of the kind described in subsection (1) results—
 - (i) in the name of a lawyer or former lawyer being ordered to be struck off the roll; or
 - (ii) in the registration of a person as a conveyancer being ordered to be cancelled; or
 - (iii) in the name of a practitioner or former practitioner being ordered to be restored to the roll or the register of conveyancers; or
 - (iv) in a practitioner or former practitioner being suspended from practice; or

- (v) in an employee or former employee of a practitioner or an incorporated firm being made subject to an order of the kind described in section 242(1)(h)(ii) or (iii); and
 - (b) no appeal to the Court of Appeal is commenced against the determination of the High Court within the time allowed,—

the chairperson of the Disciplinary Tribunal must forthwith cause a notice stating the date and effect of the determination to be published in the *Gazette*.
- (3) Where an appeal to the Court of Appeal against any determination of the High Court on an appeal under section 254 results—
 - (a) in the name of a lawyer or former lawyer being ordered to be struck off or restored to the roll; or
 - (b) in the registration of a person as a conveyancer being ordered to be cancelled; or
 - (c) in the name of a person being ordered to be restored to the register of conveyancers; or
 - (d) in a practitioner or former practitioner being suspended from practice; or
 - (e) in an employee or former employee of a practitioner or an incorporated firm being made subject to an order of the kind described in section 242(1)(h)(ii) or (iii),—

the chairperson of the Disciplinary Tribunal must forthwith cause a notice stating the date and effect of the determination to be published in the *Gazette*.
- (4) The expenses incurred in publishing a notice under this section must,—
 - (a) if the notice relates to a lawyer or an employee or a former employee of a lawyer or an incorporated law firm, be paid by the New Zealand Law Society; or
 - (b) if the notice relates to a conveyancing practitioner or an employee or former employee of a conveyancing practitioner or an incorporated conveyancing firm, be paid by the New Zealand Society of Conveyancers.

Compare: 1982 No 123 s 119

Section 256(1)(a)(i): amended, on 20 November 2012, by section 21(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 256(1)(a)(iii): amended, on 20 November 2012, by section 21(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 256(2)(a)(i): amended, on 20 November 2012, by section 21(3) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 256(2)(a)(iii): amended, on 20 November 2012, by section 21(4) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 256(2)(a)(iv): amended, on 20 November 2012, by section 21(4) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 256(3)(a): amended, on 20 November 2012, by section 21(5) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 256(3)(d): amended, on 20 November 2012, by section 21(6) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

257 Reimbursement of costs of hearing

- (1) Except where any regulations made under this Act otherwise provide, where the Disciplinary Tribunal hears a charge against any person,—
 - (a) the New Zealand Law Society must, if that person is a lawyer or a former lawyer or an incorporated law firm or former incorporated law firm or an employee or former employee of a lawyer or incorporated law firm, pay into a Crown Bank Account the amount required to reimburse the Crown for the costs of the hearing; and
 - (b) the New Zealand Society of Conveyancers must, if that person is a conveyancing practitioner or a former conveyancing practitioner or an incorporated conveyancing firm or former incorporated conveyancing firm or an employee or former employee of a conveyancing practitioner or incorporated conveyancing firm, pay into a Crown Bank Account the amount required to reimburse the Crown for the costs of the hearing.
- (2) The costs of the hearing—
 - (a) include not only out-of-pocket expenses in relation to the hearing but also a reasonable sum in respect of—
 - (i) the remuneration and allowances payable under clause 4 of Schedule 4 to the chairperson, deputy chairperson, and lay members of the Disciplinary Tribunal; and
 - (ii) the costs of the accommodation and the administrative and secretarial services provided to the Disciplinary Tribunal by the Ministry of Justice; but
 - (b) do not include any part of the costs of the hearing that are, under any order made by the Disciplinary Tribunal, recovered by the Tribunal from any other person.
- (3) The amount payable under subsection (1)(a) and the amount payable under subsection (1)(b) are to be fixed in each case by the chairperson of the Disciplinary Tribunal.

Section 257(1)(a): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

Section 257(1)(b): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

258 Enforcement of orders of Disciplinary Tribunal

- (1) Where the Disciplinary Tribunal, acting in accordance with this Act or any rules made under this Act, makes an order or otherwise exercises any power in respect of any person who is or was a practitioner, that order or other exercise of any power has effect whether or not that person remains a practitioner.

- (2) If the Disciplinary Tribunal, acting in accordance with this Act or any rules made under this Act, orders any person who is or was a practitioner or an incorporated firm or an employee of a practitioner or an incorporated firm to pay a fine, expenses, or other monetary amount to the New Zealand Law Society or the New Zealand Society of Conveyancers, that amount is recoverable from that person by the society to which it is ordered to be paid as a debt due to that society, whether or not that person remains a practitioner or an incorporated firm or an employee of a practitioner or an incorporated firm.
- (2A) If the Disciplinary Tribunal, acting in accordance with this Act or any rules made under this Act, orders the New Zealand Law Society or the New Zealand Society of Conveyancers or any person to pay a fine, expenses, or other monetary amount to any other person, that amount is recoverable in any court of competent jurisdiction from that society or person by that other person as a debt due to that person.
- (3) If the Disciplinary Tribunal makes an order under this Part, not being an order to which section 255 applies, the order may be filed in an office of the High Court or, in the case of an order to pay any amount referred to in subsection (2) or (2A), in the office of any court of competent jurisdiction.
- (4) On the filing of the order it takes effect as if it were an order of the court in which it was filed to the like effect made within its jurisdiction.

Compare: 1982 No 123 s 132; 1996 No 39 s 13

Section 258(2A): inserted, on 14 November 2018, by section 132(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 258(3): amended, on 14 November 2018, by section 132(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Section 258(4): amended, on 14 November 2018, by section 132(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

259 Annual report

- (1) The chairperson of the Disciplinary Tribunal must, in each year, furnish to the Minister and the New Zealand Law Society and the New Zealand Society of Conveyancers a report on the performance of his or her functions under this Act.
- (2) The report must include details of both the number of determinations and the nature of the determinations made by the Disciplinary Tribunal in the period to which the report relates.
- (3) The Minister of Justice must present a copy of the report to the House of Representatives as soon as practicable after it is furnished to the Minister.

260 Further provisions relating to Disciplinary Tribunal

The provisions of Schedule 4 have effect in relation to the Disciplinary Tribunal and its proceedings.

*Offences***261 Failure to comply with summons**

- (1) Every person summoned under clause 6 of Schedule 4 to attend a hearing of the Disciplinary Tribunal commits an offence if he or she, without sufficient cause, does any or all of the following:
 - (a) fails to attend in accordance with the summons:
 - (b) does not give evidence when required to do so:
 - (c) does not give evidence under oath when required to do so:
 - (d) does not answer any question that is lawfully asked by the Disciplinary Tribunal:
 - (e) does not provide any documents, things, or information the summons requires the person to provide.
- (2) A person summoned to attend a hearing of the Disciplinary Tribunal is not to be convicted of an offence against subsection (1) unless witnesses' expenses are paid or tendered to that person in accordance with clause 7(4) of Schedule 4.
- (3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$25,000.

Compare: 1996 No 39 s 16

Section 261(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

262 Obstruction

- (1) Every person commits an offence who wilfully obstructs, hinders, resists, or deceives any Standards Committee, investigator, or other person in the execution of any powers conferred on that Standards Committee, investigator, or other person by section 147 or section 164 or section 169 or section 170 or section 172 or section 173.
- (2) Every person commits an offence who wilfully obstructs, hinders, resists, or deceives the Legal Complaints Review Officer, or any person to whom any of the functions and powers of the Legal Complaints Review Officer have been delegated under this Act, in the performance of any of the functions, or the exercise of any of the powers, conferred on the Legal Complaints Review Officer or any such delegate by this Act.
- (3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$25,000.

Section 262(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

262A Offence of breaching suppression order

A person who breaches an order made under section 206A is liable on conviction to a fine not exceeding \$3,000.

Section 262A: inserted, on 14 November 2018, by section 133 of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

263 Publication

- (1) Every person commits an offence who, without lawful excuse, acts in contravention of any order made by the Disciplinary Tribunal under any of paragraphs (a) to (c) of section 240(1).
- (2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$25,000.

Compare: 1982 No 123 s 111(5)

Section 263(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

264 Liability of principal for acts of agent, etc

- (1) Where an offence is committed against any provision of sections 261 to 263 by any person acting as the agent or employee of another person, or being otherwise subject to the supervision or instructions of another person for the purposes of any employment in the course of which the offence was committed, that other person is, without prejudice to the liability of the first-mentioned person, liable under that provision in the same manner and to the same extent as if he or she had committed the offence if it is proved that the act that constituted the offence was committed with his or her authority, permission, or consent or that it was attributable to any neglect on his or her part.
- (2) Where any body corporate is convicted of an offence against any provision of sections 261 to 263, every director and every person concerned in the management of the company is guilty of a like offence if it is proved that the act that constituted the offence was committed with his or her authority, permission, or consent or that it was attributable to neglect on his or her part.

Compare: 1975 No 116 s 17

265 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against any provision of sections 261 to 263 ends on the date that is 2 years after the date on which the offence was committed.

Section 265: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

*Jurisdiction of High Court and Court of Appeal***266 Lawyer's name may be struck off on application to High Court**

On application to the High Court in that behalf, the name of a person enrolled as a barrister and solicitor of the High Court under or by virtue of this Act may be struck off the roll for reasonable cause, whenever and wherever it arises, in accordance with section 267.

Compare: 1982 No 123 s 92

Section 266: amended, on 20 November 2012, by section 22 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

267 High Court may dismiss application, or reserve case for Court of Appeal

- (1) When an application is made to the High Court for an order that the name of a person enrolled as a barrister and solicitor of the High Court under or by virtue of this Act be struck off the roll,—
 - (a) the High Court may, if it thinks fit, dismiss the application; or
 - (b) if the High Court is of the opinion that the application ought to be granted, or that it is doubtful whether the application ought to be dismissed or granted, the High Court must reserve the case for the consideration of the Court of Appeal.
- (2) The High Court, if it reserves the case under subsection (1)(b),—
 - (a) must cause the application and all affidavits made in support of the application, and all other proceedings, to be sent forthwith to the Registrar of the Court of Appeal; and
 - (b) may order that the person enrolled be suspended from practice as a barrister or as a solicitor or as both until the decision of the Court of Appeal on the application is given.
- (3) If a case is reserved for the consideration of the Court of Appeal, that court—
 - (a) must, as soon as practicable, consider the application and grant or dismiss it; and
 - (b) may make such other order in respect of the application as it thinks fit.

Compare: 1982 No 123 s 93

Section 267(1): amended, on 20 November 2012, by section 23(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 267(2)(b): amended, on 20 November 2012, by section 23(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

268 Inherent jurisdiction of High Court

- (1) Nothing in this Act (other than sections 266 and 267) affects the inherent jurisdiction and powers of the High Court over a person enrolled under or by virtue of this Act as a barrister and solicitor of the High Court (whether or not

the person is practising as a barrister and solicitor, or as a barrister but not also as a solicitor).

- (2) Despite section 245, the High Court has, in the exercise of its summary jurisdiction, full power, on reasonable cause being shown, to suspend from practice a person enrolled under or by virtue of this Act as a barrister and solicitor of the High Court (whether or not the person is practising as a barrister and solicitor, or as a barrister but not also as a solicitor).

Compare: 1982 No 123 s 94(1)

Section 268(1): amended, on 20 November 2012, by section 24(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Section 268(2): amended, on 20 November 2012, by section 24(2) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

269 Notice of order for striking off or suspension to be published in *Gazette*

- (1) This section applies if the Court of Appeal or the High Court makes—
- (a) an order that the name of a person enrolled as a barrister and solicitor of the High Court under or by virtue of this Act be struck off the roll; or
 - (b) an order that a person enrolled as a barrister and solicitor of the High Court under or by virtue of this Act be suspended from practice.
- (2) The Registrar of the court in which the order is made must forthwith cause a notice stating the date and effect of the order to be published in the *Gazette*.

Section 269: replaced, on 20 November 2012, by section 25 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

270 Jurisdiction of High Court not limited

Except as provided in this Part, nothing in this Part limits the jurisdiction of the High Court.

Compare: 1982 No 123 s 138

General provisions

271 Legal professional privilege

Nothing in this Part limits or affects legal professional privilege.

272 Protection of New Zealand Law Society and New Zealand Society of Conveyancers and other persons

Neither the New Zealand Law Society nor the New Zealand Society of Conveyancers, nor any member, officer, or employee of either of those bodies, is to be under any criminal or civil liability in respect of anything done or omitted to be done, or in respect of words spoken or written,—

- (a) at, or for the purposes of, any inquiry or the hearing of, or otherwise dealing with, any proceedings under this Part; or

- (b) in connection with any investigation of a practitioner's conduct or affairs or accounts for the purposes of this Part; or
- (c) in the publication of any report or statement relating to any proceedings before a Standards Committee or the Legal Complaints Review Officer or the Disciplinary Tribunal under this Part, in the exercise or purported exercise of any power conferred by this Act or any rules made under this Act to publish any such report or statement,—

unless it is proved to the satisfaction of the court before which any proceedings are taken that the defendant in those proceedings acted in bad faith.

Compare: 1982 No 123 s 137

Part 8

New Zealand Council of Legal Education

273 Continuation and renaming of Council

- (1) This section continues in being the council continued in being by section 31(1) of the Law Practitioners Act 1982 and existing, immediately before the commencement of this section, under the name of the Council of Legal Education.
- (2) On the commencement of this section, the council continued in being by subsection (1) is renamed the New Zealand Council of Legal Education.
- (3) The Council is a body corporate, with perpetual succession and a common seal, and, except as provided in this Act, has and may exercise—
 - (a) all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity; and
 - (b) the power to do any other thing it is authorised to do—
 - (i) by this Act; or
 - (ii) by any other enactment; or
 - (iii) by any rule of law.
- (4) The Council may not exercise any of its rights, powers, or privileges, except for the purpose of performing its functions.
- (5) Sections 153 to 156 of the Crown Entities Act 2004 apply to the Council as if it were a Crown entity within the meaning of that Act.

Compare: 1982 No 123 ss 31(1), 31A

274 Functions

The functions of the Council are,—

- (a) subject to this Act, to set the qualification and educational requirements for candidates for admission as barristers and solicitors of the High Court:

- (b) subject to this Act, to define, prescribe, and approve, from time to time and as it thinks fit, the courses of study required to be undertaken by candidates for admission as barristers and solicitors:
- (c) to arrange for the delivery of the courses of study referred to in paragraph (b) or to provide those courses where necessary:
- (d) to deliver courses of study in practical legal training for candidates for admission as barristers and solicitors or to license other persons to deliver those courses:
- (e) to arrange for the courses of study referred to in paragraph (b) to be monitored and assessed:
- (f) to prescribe, in relation to the admission of barristers and solicitors, mechanisms and criteria for—
 - (i) the recognition of foreign qualifications, registration, and experience; and
 - (ii) the recognition of qualifications for the purposes of the principle set out in section 15 of the Trans-Tasman Mutual Recognition Act 1997:
- (g) to tender advice to the council of any university on any matter relating to legal education:
- (h) to inquire into, consider, and report to the Minister on any matter relating to legal education as the Minister may, from time to time, require.

Compare: 1982 No 123 s 38(1)(a)–(c), (e), (f)

275 Powers

- (1) The Council has all such rights, powers, and authorities as are necessary or expedient for, or conducive to, the performance of its functions.
- (2) Without limiting the generality of subsection (1), the Council has, in addition to the powers conferred on it by this or any other Act, the following powers:
 - (a) subject to this Act, to grant to any candidate for admission as a barrister and solicitor such credits (whether *ad eundem* or otherwise) or exemptions as it thinks fit, and on such conditions as it thinks fit, for the purposes of any course of study:
 - (b) to encourage and, where the Council thinks it necessary or appropriate, to arrange provision for research and postgraduate study:
 - (c) to charge any person or organisation any reasonable fees it thinks fit in respect of—
 - (i) any matter the person or organisation submits to the Council for its consideration:
 - (ii) any work or services the Council has done or performed for the person or organisation:

- (iii) enrolling for or sitting any examination conducted or proposed to be conducted by, or on behalf of, the Council.
- (3) The Council may, in exercising its powers under subsection (2)(a),—
 - (a) require that a candidate credited or exempted under subsection (2)(a) must pass an examination in the law of New Zealand or in the practice of law in New Zealand or in both; and
 - (b) set and conduct, or arrange for the setting and conducting of, any examination required for the purposes of paragraph (a).

Compare: 1982 No 123 s 38(1)(c), (d), (2), (3)

276 Consultation with New Zealand Law Society

The Council must consult the Council of the New Zealand Law Society—

- (a) in prescribing under section 274(f) the mechanisms and criteria that will apply in relation to the admission as barristers and solicitors of the High Court of New Zealand of persons who are barristers or solicitors of a senior court of any country other than New Zealand; and
- (b) in preparing the annual budget of the Council.

Section 276(a): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

277 Levies

- (1) For the purpose of providing funds for the Council in accordance with its annual budget, the Council of the New Zealand Law Society must, in each year, by resolution, impose a levy or levies on all lawyers.
- (2) Subject to subsection (4), the levy or levies imposed under subsection (1) may not exceed in the aggregate, in any year in respect of any lawyer, an amount equal to 5% of the maximum practising fee payable by any lawyer for that year.
- (3) Any levy imposed under subsection (1) on any lawyer in any year is in addition to levies imposed on that lawyer in that year under section 74.
- (4) The limitation imposed by subsection (2) does not apply in relation to any year if—
 - (a) that limitation would prevent the levies being sufficient to provide the amount of funding sought by the Council in respect of that year; and
 - (b) the Minister determines that, instead of that limitation, the levy or levies imposed under subsection (1) in respect of that year are not to exceed in the aggregate in respect of any lawyer an amount equal to such percentage as the Minister determines of the maximum practising fee payable by any lawyer for that year.
- (5) The proceeds of any levy imposed under subsection (1) must be paid by the New Zealand Law Society to the Council.

- (6) The amount of any levy imposed under subsection (1) is payable in such manner as the resolution prescribes or authorises and is recoverable on behalf of the New Zealand Law Society as a debt due to it.
- (7) A resolution under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 277(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

278 Power of Council to make regulations

- (1) Subject to this Act, the Council may, from time to time, by resolution, make, alter, or revoke any regulations not inconsistent with this Act that are necessary or expedient in respect of—
- (a) any course of study and the practical training and experience of candidates for admission as barristers and solicitors of the court:
 - (b) any matters that by this Act are required or permitted to be prescribed, or with respect to which regulations are necessary or expedient for giving effect to the provisions of this Act, in relation to legal education.
- (2) Without limiting subsection (1), regulations made under that subsection may—
- (a) provide for the granting of credits or exemptions in special circumstances or in order to avoid hardship to any student:
 - (b) provide for the licensing of persons to provide practical legal training for candidates for admission as barristers and solicitors of the High Court:
 - (c) prescribe the terms and conditions on which persons may be licensed to provide practical legal training of the kind referred to in paragraph (b):
 - (d) prescribe the standards to be observed, and the course prescriptions to be followed, in the provision of practical legal training of the kind referred to in paragraph (b):
 - (e) provide for the courses of training provided by persons licensed to provide practical legal training of the kind referred to in paragraph (b) to be monitored and assessed:
 - (f) provide for the expiry, cancellation, or withdrawal of licences issued under the regulations.
- (3) The Council may not make regulations under this section unless the Minister has approved the proposed regulations.

- (4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- (5) *[Repealed]*
- (6) *[Repealed]*

Compare: 1982 No 123 s 39

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 278(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 278(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 278(5): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 278(6): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

279 Power of Council to make rules

The Council may, from time to time, by resolution, make, alter, or rescind any rules not inconsistent with this Act, for all or any of the following purposes:

- (a) prescribing the procedure to be followed at any meeting of the Council, or at any committee of the Council;
- (b) providing for the custody of its property and the use of its common seal;
- (c) prescribing the duties of its officers and other employees;
- (d) such other purposes as may be deemed necessary or expedient for duly carrying out the work of the Council or of any committee thereof.

280 Power to appoint committees

- (1) The Council may, from time to time, appoint standing or special committees, and may refer to any such committee any matters for consideration or inquiry or management.
- (2) The Council may, from time to time, either generally or particularly, delegate any of its powers and functions (including any powers and functions delegated to the Council by any other body or person) to any such committee or to any person.
- (3) Every delegation under this section must be in writing.
- (4) No delegation under this section may include—
 - (a) the power to delegate under subsection (2):

- (b) the power to impose levies under section 277:
 - (c) the power to make regulations under section 278:
 - (d) the power to make rules under section 279.
- (5) Subject to any general or special directions given or conditions imposed by the Council, the committee to which, or the person to whom, any delegation is made under this section may, without confirmation by the Council, exercise or perform the delegated powers or functions in the same manner and with the same effect as the Council could itself have exercised or performed them.
- (6) It is not necessary for any person who is appointed to be a member of any such committee or to whom any delegation is made to be a member of the Council.
- (7) Despite paragraph (a) of subsection (4), but subject to paragraphs (b) to (d) of that subsection, the Council may, with the consent of the council of any university in New Zealand, delegate to the council of that university any of the powers and functions of the Council, together with power to subdelegate any of the powers and functions so delegated.
- (8) Every delegation under this section is revocable at will; and no such delegation prevents the exercise or performance of any power or function by the maker of the delegation.
- (9) Until any such delegation is revoked, it continues in force according to its tenor.

Compare: 1982 No 123 s 40

281 Institute of Professional Legal Studies

- (1) Subject to subsection (2), the Council—
- (a) must continue to maintain, as a committee of the Council, the committee known as the Institute of Professional Legal Studies (which committee is, at the commencement of this section, established under that name under section 40 of the Law Practitioners Act 1982); and
 - (b) must ensure that the Institute of Professional Legal Studies continues to provide practical legal training for candidates for admission as barristers and solicitors of the High Court.
- (2) The Council may, with the consent of the Minister,—
- (a) proceed to disestablish the Institute of Professional Legal Studies and any branches of that institute if the Council is satisfied that satisfactory arrangements can be made for the provision by other persons of the practical legal training required by candidates for admission as barristers and solicitors of the High Court; or
 - (b) proceed—
 - (i) to disestablish the Institute of Professional Legal Studies and any branches of that institute; and

- (ii) to establish or incorporate, or to join in establishing or incorporating, a body, whether corporate or not, that has, among other things, the capacity to carry out functions and activities comparable to those that, at the commencement of this section, are being discharged and carried out by the Institute of Professional Legal Studies; and
 - (iii) to transfer to any body corporate of the kind referred to in subparagraph (ii), on such terms and conditions as the Council thinks fit, such of the funds of the Council and such of the other property of the Council as the Council considers appropriate, having regard to the manner in which the Council may be required to discharge its own functions; or
- (c) proceed—
- (i) to disestablish the Institute of Professional Legal Studies and any branches of that institute; and
 - (ii) to sell, on such terms and conditions as the Council thinks fit, the business conducted by the Institute of Professional Legal Studies and its branches (if any), and all or any of the property of the Council used in that business, if the Council is satisfied that the purchaser has the capacity to provide the practical legal training required by candidates for admission as barristers and solicitors of the High Court.

282 Membership

- (1) The Council comprises—
- (a) 2 Judges of the High Court nominated by the Chief Justice:
 - (b) a District Court Judge, nominated by the Chief District Court Judge:
 - (c) 5 members nominated by the Council of the New Zealand Law Society:
 - (d) the Dean of the Faculty or School of Law of each of the following universities, namely, the University of Auckland, the Auckland University of Technology, the University of Waikato, the Victoria University of Wellington, the University of Canterbury, and the University of Otago:
 - (e) 2 members nominated by the Council of the New Zealand Law Students' Association Incorporated:
 - (f) 1 member (not being a practitioner or a law student) nominated by the Minister of Justice:
 - (g) not more than 1 member nominated by the Council.
- (2) All members of the Council other than those referred to in subsection (1)(d) are appointed by the Governor-General, on the advice of the Attorney-General.

Compare: 1982 No 123 s 31(2), (3)

Section 282(1)(d): amended, on 20 November 2012, by section 26 of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

283 Term of office

- (1) Subject to section 284, every appointed member of the Council holds office for such term not exceeding 3 years as the Governor-General on the advice of the Attorney-General specifies in the instrument appointing the member.
- (2) Every appointed member is eligible for reappointment from time to time.
- (3) Where the term for which an appointed member has been appointed expires, that member, unless he or she sooner vacates office under section 284, continues to hold office, by virtue of the appointment for the term that has expired, until—
 - (a) that member is reappointed; or
 - (b) a successor to that member is appointed; or
 - (c) that member is informed in writing by the Attorney-General that the member is not to be reappointed and is not to hold office until a successor is appointed.

Compare: 1982 No 123 s 32(1), (3)

284 Extraordinary vacancies

- (1) An appointed member of the Council may, at any time, be removed from office by the Governor-General for inability to perform the functions of the office, neglect of duty, or misconduct, proved to the satisfaction of the Governor-General.
- (2) An appointed member is deemed to have vacated his or her office if he or she is, under the Insolvency Act 2006, adjudged bankrupt.
- (3) Despite subsection (1), if at any time an appointed member holds judicial office, he or she may not be removed from the office of appointed member, except for inability to perform the functions of the office, unless he or she is removed or suspended from his or her judicial office.
- (4) An appointed member may, at any time, resign his or her office by giving notice in writing to that effect to the Attorney-General.
- (5) If an appointed member dies or resigns or is removed from office, or is deemed to have vacated his or her office, the vacancy so created is deemed to be an extraordinary vacancy and must be filled in the manner in which the appointment to the vacant office was originally made.
- (6) Every person appointed to fill an extraordinary vacancy in the office of an appointed member must be appointed for the residue of the term for which the vacating member was appointed.

Compare: 1982 No 123 s 33

Section 284(2): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

285 Proceedings not affected by vacancies

No act or proceeding of the Council, or of any committee of the Council, or of any person acting as a member of the Council or any such committee, is invalidated merely because of a vacancy in the number of the Council or committee at the time of the act or proceeding, or of the subsequent discovery that there was some defect in the appointment of any person so acting, or that he or she was incapable of being or had ceased to be such a member.

Compare: 1982 No 123 s 34

286 Chairperson

- (1) Subject to subsection (2), the Council may, from time to time, appoint one of its members to be the chairperson of the Council.
- (2) If the Chief Justice is a member, the Chief Justice is to be the chairperson unless he or she otherwise determines.
- (3) If the chairperson is an appointed member (other than the Chief Justice), he or she holds the office of chairperson while he or she remains in office as an appointed member, unless he or she sooner resigns the office of chairperson or is removed from that office by resolution of the Council.
- (4) If the Chief Justice is the chairperson, he or she vacates that office if he or she ceases to be a member of the Council or decides to cease being the chairperson of the Council.
- (5) If the chairperson is not an appointed member, he or she holds that office for such period as the Council determines or until he or she sooner ceases to be a member or resigns the office of chairperson or is removed from that office by resolution of the Council.

Compare: 1982 No 123 s 35

287 Further provisions applying to Council

The provisions set out in Schedule 5 apply in relation to the Council and its proceedings.

288 Annual report

- (1) The Council must, in each year, give the Minister a report on the operation of this Part.
- (2) The Council must include in every annual report the financial statements prepared by the Council, in accordance with Part 4 of the Crown Entities Act 2004, in respect of the financial year to which the report relates, together with the audit report and the statement of responsibility relating to those financial statements.
- (3) The Minister must present a copy of the report to the House of Representatives in accordance with section 150(3) of the Crown Entities Act 2004.

Compare: 1982 No 123 s 42K

Part 9

Lawyers and Conveyancers Special Fund

289 Lawyers and Conveyancers Special Fund

- (1) The New Zealand Law Society Special Fund, which was established by section 91B of the Law Practitioners Act 1982, continues in existence but is, as from the commencement of this Act, to be known as the Lawyers and Conveyancers Special Fund.
- (2) Subject to subsection (3), the Special Fund is, by this Act, vested in the New Zealand Law Society and the New Zealand Society of Conveyancers jointly and is to be held by those societies in trust for the purposes specified in this Part.
- (3) Until the whole of Part 5 comes into force, the Special Fund remains the property of the New Zealand Law Society and is to be held in trust for the purposes specified in this Part.

Compare: 1982 No 123 s 91B

290 Money payable into Fund

The Special Fund consists of—

- (a) all sums paid to, or on account of, the Special Fund by banks in accordance with section 302; and
- (b) any interest earned on any money from time to time in the Special Fund pending its application in accordance with this Part.

Compare: 1982 No 123 s 91D

291 Separate bank account

All money belonging to the Special Fund must, pending its application or investment in accordance with this Part, be paid into a bank to the credit of a separate account to be called the Lawyers and Conveyancers Special Fund Account.

Compare: 1982 No 123 s 91C

292 Management Committee

- (1) This section establishes a Management Committee for the Special Fund.
- (2) The Management Committee has the function of managing the Special Fund on behalf of the New Zealand Law Society and the New Zealand Society of Conveyancers.

Compare: 1982 No 123 s 91H

293 Membership of Management Committee

- (1) Subject to subsection (2), the Management Committee consists of—
 - (a) 2 persons appointed by the New Zealand Law Society; and

- (b) 1 person appointed by the New Zealand Society of Conveyancers.
- (2) Until the whole of Part 5 comes into force, the Management Committee consists of 3 persons appointed by the New Zealand Law Society.
- (3) One of the members appointed by the New Zealand Law Society must be appointed by the New Zealand Law Society as the chairperson of the Management Committee.
- (4) Each member of the Management Committee holds office at the pleasure of the society by which the member was appointed.

Compare: 1982 No 123 s 91I(1)

294 Meetings of Management Committee

- (1) Meetings of the Management Committee are to be held at such times and places as the Management Committee or its chairperson appoints.
- (2) At every meeting of the Management Committee, the quorum necessary for the transaction of business is a majority of the total membership.
- (3) At all meetings of the Management Committee, the presiding member must be the chairperson if he or she is present. If he or she is not present, the members present must elect one of their number to preside at that meeting, and the member presiding has all the powers of the chairperson for the purpose of that meeting.
- (4) Every question before the Management Committee must be determined by a majority of the votes cast by the members present at the meeting.
- (5) The presiding member has a deliberative vote and, in the case of an equality of votes, also has a casting vote.
- (6) Subject to this Act and to any regulations made under this Act, the Management Committee may regulate its procedure in such manner as it thinks fit.

295 Bank accounts

- (1) The Management Committee must open and maintain at a bank or banks such accounts as are necessary for the performance and exercise of its functions and powers.
- (2) The withdrawal of money from any such accounts must be authorised in such manner as the Management Committee thinks fit.

296 Investment of money

Any money belonging to the Special Fund may, pending its application in accordance with this Part, be kept in an interest-bearing account at a bank, but may not otherwise be invested.

Compare: 1982 No 123 s 91E

297 Audit of accounts

- (1) The accounts of the Special Fund must be audited annually by a qualified auditor appointed for the purpose by the Management Committee.
- (2) No person is qualified for appointment as an auditor of the accounts unless the person is a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).

Compare: 1982 No 123 s 91G(1)

Section 297(1): amended, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 297(2): inserted, on 1 April 2014, by section 126 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

298 Distribution of Special Fund

- (1) On the last working day of every month, all money standing to the credit of the Special Fund at the close of the previous day (other than any money required to meet the costs of administering the Special Fund) must be paid to the Secretary for Justice for the purpose of funding community law centres.
- (2) The Management Committee may pay out of the Special Fund the costs of administering the Special Fund.
- (3) Those costs include the costs of—
 - (a) auditing the accounts of the Special Fund; and
 - (b) paying any reasonable travelling expenses incurred by members of the Management Committee in connection with the management of the Special Fund.

Compare: 1982 No 123 s 91F(2), (3)

Section 298(1): amended, on 1 July 2011, by section 144 of the Legal Services Act 2011 (2011 No 4).

299 Nominated trust accounts

- (1) Where a practitioner or incorporated firm is required by this Act to have trust accounts, those trust accounts must include at least 1 account nominated for the purposes of this Part.
- (2) A trust account nominated for the purposes of this Part is known as a nominated trust account.
- (3) A practitioner to whom, and an incorporated firm to which, subsection (1) applies must nominate 1 or more of the practitioner's or incorporated firm's trust accounts as a nominated trust account and must give notice of each such nomination to the bank at which the account is kept.
- (4) All the provisions of this Act, and all rules and regulations for the time being in force, relating to trust accounts and their audit apply to nominated trust accounts.

Compare: 1982 No 123 s 91J

300 Money required to be held in nominated trust account

- (1) A practitioner to whom, and an incorporated firm to which, section 299(1) applies must hold in a nominated trust account any money that—
 - (a) is held by the practitioner or incorporated firm on behalf of any person; and
 - (b) is money that the practitioner or incorporated firm is required to hold in a trust account; and
 - (c) is money that it is not reasonable or practicable, for any of the reasons referred to in section 114(b), for the practitioner or incorporated firm to invest so that interest is payable on it for the benefit of the person for whom the money is held.
- (2) Subsection (1) does not limit the circumstances in which money that is not money to which that subsection applies may be held in a nominated trust account.

Compare: 1982 No 123 s 91K

301 Interest to be payable on nominated trust account

- (1) A bank at which a nominated trust account is kept must pay interest on the sums held in that account at the rate determined in accordance with subsection (2).
- (2) The rate of interest payable under subsection (1) by a bank in respect of a nominated trust account of a practitioner or incorporated firm must be—
 - (a) the rate of interest paid by that bank, during the month immediately preceding the date on which the interest payable on that nominated trust account is to be calculated, in respect of funds deposited, at call, with that bank, on behalf of that practitioner's or incorporated firm's clients, in an interest-bearing account in that practitioner's or incorporated firm's name; or
 - (b) if the bank held no such interest-bearing deposit account in that practitioner's or incorporated firm's name during that month, the rate of interest that would have been paid by that bank, during that month, in respect of the money in that nominated trust account if that money had been deposited, at call, in an interest-bearing deposit account at that bank.
- (3) Interest payable on a nominated trust account is payable on the daily balance of that account (as that account stands at the close of business of each day or, where the bank is not open for business on any day, at the close of that day), and must be calculated monthly.
- (4) Where the rate of interest required to be applied for the purposes of subsection (1) varies during any month, the rate of interest to be applied is to be the

average rate of interest for that month (as determined in accordance with subsection (2)).

- (5) In lieu of all banking charges and fees that would otherwise be payable to it in respect of any nominated trust account, a bank is entitled to retain for its own use 40% of all interest payable by it on a nominated trust account.

Compare: 1982 No 123 s 91L

302 Banks to pay interest on nominated trust accounts to Special Fund

- (1) Subject to section 301(5), a bank must, as soon as practicable after the date on which it has calculated the interest on a nominated trust account kept at that bank, pay into the Lawyers and Conveyancers Special Fund Bank Account, in such manner as the Management Committee may approve, the monthly interest payable by that bank on that account.

- (2) Where any bank makes any payment into the Lawyers and Conveyancers Special Fund Bank Account in accordance with subsection (1), that bank must forthwith provide to the Management Committee a return, in such form as the Management Committee may, from time to time, require, specifying—

- (a) the amount of the payment; and
- (b) in respect of each nominated trust account on which any interest comprised in the payment has been calculated,—
 - (i) the amount of the money in that account on which that interest has been calculated; and
 - (ii) the amount of the interest so calculated; and
 - (iii) the method by which that interest was calculated, including the rate of interest.

Compare: 1982 No 123 s 91M

303 Practitioners, incorporated firms, and banks not liable to account to client for interest payable on nominated trust account

No practitioner who, or incorporated firm that, deposits in a nominated trust account of that practitioner or incorporated firm any money received for, or on behalf of, any person, and no bank that holds any such money in any nominated trust account kept at that bank, is liable to account to any person other than the New Zealand Law Society or the New Zealand Society of Conveyancers or the Management Committee for any interest payable in respect of that money while it is held in any such account.

Compare: 1982 No 123 s 91N

Part 10

Fidelity Funds

304 Purpose

The purpose of this Part is—

- (a) to require the New Zealand Law Society to establish and maintain, by practice rules, a fidelity fund to provide for the compensation, in whole or in part, of persons who suffer pecuniary loss as a result of a claim event arising from the action of a person who is—
 - (i) a lawyer to whom, or an incorporated law firm to which, this Part applies; or
 - (ii) the agent of a lawyer to whom, or an incorporated law firm to which, this Part applies; and
- (b) to require the New Zealand Society of Conveyancers to establish and maintain, by practice rules, a fidelity fund to provide for the compensation, in whole or in part, of persons who suffer pecuniary loss as a result of a claim event arising from the action of a person who is—
 - (i) a conveyancing practitioner to whom, or an incorporated conveyancing firm to which, this Part applies; or
 - (ii) the agent of a conveyancing practitioner to whom, or an incorporated conveyancing firm to which, this Part applies.

305 Interpretation

In this Part, unless the context otherwise requires,—

agent means any of the following classes of persons:

- (a) in relation to a lawyer,—
 - (i) any person who is, in relation to the lawyer, a related person or entity;
 - (ii) any agent, employer, or employee of the lawyer (whether or not that agent, employer, or employee is a lawyer);
 - (iii) any agent or employee of a person who is, in relation to the lawyer, a related person or entity (whether or not that agent or employee is a lawyer);
 - (iv) any partner or director or other person who controls or manages a body that is, in relation to the lawyer, a related entity;
- (b) in relation to a conveyancing practitioner,—
 - (i) any person who is, in relation to the conveyancing practitioner, a related person or entity;

- (ii) any agent, employer, or employee of the conveyancing practitioner (whether or not that agent, employer, or employee is also a conveyancing practitioner):
 - (iii) any agent or employee of a person who is, in relation to the conveyancing practitioner, a related person or entity (whether or not that agent or employee is also a conveyancing practitioner):
 - (iv) any partner, director, or other person who controls or manages a body that is, in relation to the conveyancing practitioner, a related entity:
- (c) in relation to an incorporated firm,—
- (i) any director or shareholder of the incorporated firm:
 - (ii) any person who is, in relation to a practitioner who is a director or shareholder in the incorporated firm, a related person or entity:
 - (iii) any agent or employee of the incorporated firm (whether or not that agent or employee is a practitioner):
 - (iv) any agent or employee of a person who is, in relation to a practitioner who is a director or shareholder of the incorporated firm, a related person or entity (whether or not that agent or employee is a practitioner)

claim event has the meaning given to it by section 306

de facto partner has the meaning given to it by section 2C of the Property (Relationships) Act 1976; and includes a former de facto partner

pecuniary loss, in relation to a claim event, does not include consequential loss resulting from the claim event

regulatory society means—

- (a) the New Zealand Law Society; or
- (b) the New Zealand Society of Conveyancers

theft means any crime described in sections 217, 218, 219, 220, and 222 of the Crimes Act 1961.

Compare: 1982 No 123 s 171(2)

306 Claim event

- (1) For the purposes of section 304(a), a claim event occurs where a person suffers pecuniary loss by reason of the theft, by a person of the kind described in section 304(a)(i) or (ii), of—
- (a) any money or other valuable property entrusted to that person in the course of the provision, or the purported provision, by that person of regulated services to the public; or
 - (b) any money or other valuable property entrusted to any person of the kind described in section 304(a)(i) in his or her capacity as a solicitor-trustee.

- (2) For the purposes of section 304(b), a claim event occurs where a person suffers pecuniary loss by reason of the theft, by a person of the kind described in section 304(b)(i) or (ii), of any money or other valuable property entrusted to that person in the course of the provision, or the purported provision, by that person of regulated services to the public.

Compare: 1982 No 123 s 169(1)

307 Lawyers to whom, and incorporated law firms to which, this Part applies

- (1) This Part applies to—
- (a) every lawyer who—
 - (i) is in practice on his or her own account; and
 - (ii) provides regulated services to the public; and
 - (iii) is a lawyer who is obliged by section 112(1) to keep records in respect of trust accounts and valuable property:
 - (b) every incorporated law firm that—
 - (i) provides regulated services to the public; and
 - (ii) is an incorporated law firm that is obliged by section 112(1) to keep records in respect of trust accounts and valuable property:
 - (c) every lawyer who is a director or shareholder of an incorporated law firm that, in the course of providing to the public services that are, in relation to a lawyer, regulated services,—
 - (i) receives or holds in trust money or other valuable property on behalf of any person; or
 - (ii) invests money for any other person; or
 - (iii) receives money by way of fees or disbursements in advance of an invoice being issued.
- (2) Except as provided in subsection (3), this Part applies only to lawyers and incorporated law firms of the kind described in subsection (1).
- (3) Every lawyer who is in fact employed by a lawyer who provides regulated services to the public or by a firm of lawyers that provides regulated services to the public but who is held out as a partner of the lawyer or as a partner in the firm is deemed, for the purposes of this Part, to be providing regulated services to the public on his or her own account.
- (4) For the purposes of this Part, a lawyer is not to be treated as being a lawyer of the kind described in subsection (1) merely because he or she,—
- (a) in the course of his or her employment by a community law centre, provides to the public—
 - (i) community legal services within the meaning of section 4(1) of the Legal Services Act 2011; or

- (ii) legal services within the meaning of section 4(1) of the Legal Services Act 2011; or
- (b) acts as an employee of the Ministry of Justice; or
- (c) provides to the public legal services within the meaning of the Legal Services Act 2011; or
- (d) provides to the public, in his or her capacity as an employee of Public Trust or of the Maori Trustee or of a trustee company, regulated services that his or her employer is entitled to provide to the public; or
- (e) provides, in his or her capacity as an employee of an employer organisation, regulated services to that organisation or to a member of that organisation; or
- (f) provides, in his or her capacity as an employee of a union, regulated services to that union or to a member of that union.

Compare: 1982 No 123 s 157

Section 307(4)(a): substituted, on 1 July 2011, by section 144 of the Legal Services Act 2011 (2011 No 4).

Section 307(4)(b): substituted, on 1 July 2011, by section 144 of the Legal Services Act 2011 (2011 No 4).

Section 307(4)(c): substituted, on 1 July 2011, by section 144 of the Legal Services Act 2011 (2011 No 4).

Section 307(4)(d): amended (with effect from 1 August 2008), on 4 August 2008, by section 9 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 307(4)(e): added (with effect from 1 August 2008), on 4 August 2008, by section 9 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

Section 307(4)(f): added (with effect from 1 August 2008), on 4 August 2008, by section 9 of the Lawyers and Conveyancers Amendment Act 2008 (2008 No 54).

308 Conveyancing practitioners to whom, and incorporated conveyancing firms to which, this Part applies

- (1) This Part applies to—
 - (a) every conveyancing practitioner who—
 - (i) is in practice on his or her own account; and
 - (ii) provides regulated services to the public; and
 - (iii) is a conveyancing practitioner who is obliged by section 112(1) to keep records in respect of trust accounts and valuable property:
 - (b) every incorporated conveyancing firm that—
 - (i) provides regulated services to the public; and
 - (ii) is an incorporated conveyancing firm that is obliged by section 112(1) to keep records in respect of trust accounts and valuable property:

- (c) every conveyancing practitioner who is a director or shareholder of an incorporated conveyancing firm that, in the course of providing to the public services that are, in relation to a conveyancing practitioner, regulated services,—
- (i) receives or holds in trust money or other valuable property on behalf of any person; or
 - (ii) invests money for any other person; or
 - (iii) receives money by way of fees or disbursements in advance of an invoice being issued.
- (2) Except as provided in subsection (3), this Part applies only to conveyancing practitioners and incorporated conveyancing firms of the kind described in subsection (1).
- (3) Every conveyancing practitioner who is in fact employed by a conveyancing practitioner who provides regulated services to the public or by a firm of conveyancing practitioners that provides regulated services to the public but who is held out as a partner of the conveyancing practitioner or as a partner in the firm is deemed, for the purposes of this Part, to be providing regulated services to the public on his or her own account.
- (4) For the purposes of this Part, a conveyancing practitioner is not to be treated as being a conveyancing practitioner of the kind described in subsection (1) merely because he or she provides to the public, in his or her capacity as an employee of Public Trust or of the Maori Trustee or of a trustee company, regulated services that his or her employer is entitled to provide to the public.

309 Lawyers' Fidelity Fund

- (1) Subject to this Part, the New Zealand Law Society must make practice rules for the establishment, maintenance, and management of a fidelity fund to be known as the Lawyers' Fidelity Fund.
- (2) The rules must provide for the accounts of the Lawyers' Fidelity Fund to be audited annually by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013) appointed for the purpose by the Council of the New Zealand Law Society.
- (3) The Lawyers' Fidelity Fund is to be the property of the New Zealand Law Society and is to be held in trust for the purposes specified in this Part.
- (4) Practice rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 ss 158(2), 162(1)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116
This note is not part of the Act.

Section 309(2): amended, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Section 309(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

310 Conveyancing Practitioners' Fidelity Fund

- (1) Subject to this Part, the New Zealand Society of Conveyancers must make practice rules for the establishment, maintenance, and management of a fidelity fund to be known as the Conveyancing Practitioners' Fidelity Fund.
- (2) The rules must provide for the accounts of the Conveyancing Practitioners' Fidelity Fund to be audited annually by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013) appointed for the purpose by the Council of the New Zealand Society of Conveyancers.
- (3) The Conveyancing Practitioners' Fidelity Fund is to be the property of the New Zealand Society of Conveyancers and is to be held in trust for the purposes specified in this Part.
- (4) Practice rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 ss 158(2), 162(1)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 310(2): amended, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Section 310(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

311 Rules

- (1) Practice rules made by a regulatory society for the establishment, maintenance, and management of a fund may be made for all or any of the following purposes:
 - (a) establishing, maintaining, and managing the fund:
 - (b) establishing a committee to manage the fund on behalf of the regulatory society:
 - (c) appointing, or providing for the appointment of, an independent body to manage the fund on behalf of the regulatory society:

- (d) prescribing the functions and powers of any committee or body that is required under the rules to manage the fund on behalf of the regulatory society:
- (e) providing for the payment out of the fund of the costs of establishing, maintaining, managing, and administering that fund:
- (f) providing for the making of insurance arrangements in relation to the fund:
- (g) providing for the minimum size at which the fund is to be maintained if it is to be held out as a protection to clients of lawyers or conveyancing practitioners:
- (h) providing for the investment of money held in the fund:
- (i) subject to sections 320 and 321, prescribing the terms and conditions on which compensation to any claimant against the fund will be payable:
- (j) fixing the maximum amount that may be paid out of the fund to an individual claimant by way of compensation, which amount may be an amount prescribed by the rules or an amount determined in accordance with a formula prescribed by the rules:
- (k) fixing the maximum amount of compensation that may, over a period of time specified in the rules, be paid out of the fund to all claimants, which amount may be an amount prescribed by the rules or an amount determined in accordance with a formula prescribed by the rules:
- (l) fixing both a maximum amount for the purposes of paragraph (j) and a maximum amount for the purposes of paragraph (k):
- (m) prescribing circumstances in which a claimant's right to compensation from the fund may be excluded or modified:
- (n) if the New Zealand Law Society is the regulatory society, exempting lawyers who practise in a class of organisation specified in the rules, or in an organisation named in the rules, from liability to pay contributions or levies to the Lawyers' Fidelity Fund:
- (o) if the New Zealand Society of Conveyancers is the regulatory society, exempting conveyancing practitioners who practise in a class of organisation specified in the rules, or in an organisation named in the rules, from liability to pay contributions or levies to the Conveyancing Practitioners' Fidelity Fund:
- (p) providing, if the New Zealand Law Society is the regulatory society, that no action of a lawyer exempted by rules made under paragraph (n) is to give rise to a claim to compensation from the Lawyers' Fidelity Fund:
- (q) providing, if the New Zealand Society of Conveyancers is the regulatory society, that no action of a conveyancing practitioner exempted by rules made under paragraph (o) is to give rise to a claim to compensation from the Conveyancing Practitioners' Fidelity Fund:

- (r) providing for any matter incidental to the matters specified in paragraphs (a) to (q) for which it is expedient to make rules to facilitate, assist, or further the purposes of this Part.
- (2) In this section, **fund** means,—
 - (a) in relation to a regulatory society that is the New Zealand Law Society, the Lawyers' Fidelity Fund; and
 - (b) in relation to a regulatory society that is the New Zealand Society of Conveyancers, the Conveyancing Practitioners' Fidelity Fund.
- (3) Nothing in subsection (1) limits the generality of sections 309(1) and 310(1).

312 Contributions to Lawyers' Fidelity Fund

- (1) Every lawyer to whom, and every incorporated law firm to which, this Part applies must pay into the Lawyers' Fidelity Fund contributions of such amounts as are from time to time prescribed by a resolution made by the Council of the New Zealand Law Society (*see* subsections (6) and (7)).
- (2) A resolution under subsection (1) may provide for the amounts of the contributions to differ in all or any of the following ways:
 - (a) as between lawyers and incorporated law firms; and
 - (b) as between different classes of lawyers; and
 - (c) as between different classes of incorporated law firms.
- (3) The amount of every contribution payable under a resolution made under subsection (1)—
 - (a) is payable on such date or dates and in such manner as is fixed by the resolution; and
 - (b) is recoverable on behalf of the Lawyers' Fidelity Fund by the New Zealand Law Society as a debt due to that Society.
- (4) This section is subject to sections 314 and 317.
- (5) Nothing in this section limits sections 311(1)(n) and 316.
- (6) The Council may not prescribe amounts under subsection (1) unless the Minister has approved the proposed amounts.
- (7) A resolution under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 312(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 312(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 312(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

313 Contributions to Conveyancing Practitioners' Fidelity Fund

- (1) Every conveyancing practitioner to whom, and every incorporated conveyancing firm to which, this Part applies must pay into the Conveyancing Practitioners' Fidelity Fund contributions of such amounts as are from time to time prescribed by a resolution made by the Council of the New Zealand Society of Conveyancers (*see* subsections (6) and (7)).
- (2) A resolution under subsection (1) may provide for the amounts of the contributions to differ in all or any of the following ways:
 - (a) as between conveyancing practitioners and incorporated conveyancing firms;
 - (b) as between different classes of conveyancing practitioners;
 - (c) as between different classes of incorporated conveyancing firms.
- (3) The amount of every contribution payable under a resolution made under subsection (1)—
 - (a) is payable on such date or dates and in such manner as is fixed by the resolution; and
 - (b) is recoverable, on behalf of the Conveyancing Practitioners' Fidelity Fund, by the New Zealand Society of Conveyancers as a debt due to that Society.
- (4) This section is subject to sections 315 and 317.
- (5) Nothing in this section limits sections 311(1)(o) and 316.
- (6) The Council may not prescribe amounts under subsection (1) unless the Minister has approved the proposed amounts.
- (7) A resolution under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 313(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 313(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 313(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

314 Power of New Zealand Law Society to impose extraordinary levy

- (1) The Council of the New Zealand Law Society may, by resolution, impose on lawyers to whom, or incorporated law firms to which, this Part applies an extraordinary levy, for payment into the Lawyers' Fidelity Fund, if, at any time,—
 - (a) the Lawyers' Fidelity Fund is not sufficient, or, in the opinion of the Council of the New Zealand Law Society, having regard to any prospective claims or liabilities likely to be received or incurred, may not be sufficient, to satisfy the liabilities of the New Zealand Law Society in relation to the fund or to meet the costs of establishing, maintaining, managing, and administering the fund; and
 - (b) the Minister approves both the imposition of an extraordinary levy by that resolution and the amount of that levy.
- (2) A resolution under subsection (1) may provide for the amounts of the extraordinary levy to differ in all or any of the following ways:
 - (a) as between lawyers and incorporated law firms:
 - (b) as between different classes of lawyers:
 - (c) as between different classes of incorporated law firms.
- (3) The amount of every extraordinary levy imposed by a resolution made under subsection (1)—
 - (a) is payable on a date or dates and in a manner to be fixed by the resolution; and
 - (b) is recoverable on behalf of the Lawyers' Fidelity Fund by the New Zealand Law Society as a debt due to that Society.
- (4) This section is subject to section 317.
- (5) Nothing in this section limits sections 311(1)(n) and 316.
- (6) A resolution under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1982 No 123 s 167(1), (2)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 314(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

315 Power of New Zealand Society of Conveyancers to impose extraordinary levy

- (1) The Council of the New Zealand Society of Conveyancers may, by resolution, impose on conveyancing practitioners to whom, or incorporated conveyancing firms to which, this Part applies an extraordinary levy, for payment into the Conveyancing Practitioners' Fidelity Fund, if, at any time,—
 - (a) the Conveyancing Practitioners' Fidelity Fund is not sufficient, or, in the opinion of the Council of the New Zealand Society of Conveyancers, having regard to any prospective claims or liabilities likely to be received or incurred, may not be sufficient, to satisfy the liabilities of the New Zealand Society of Conveyancers in relation to the fund or to meet the costs of establishing, maintaining, managing, and administering the fund; and
 - (b) the Minister approves both the imposition of an extraordinary levy by the resolution and the amount of that levy.
- (2) A resolution under subsection (1) may provide for the amounts of the levy to differ in all or any of the following ways:
 - (a) as between conveyancing practitioners and incorporated conveyancing firms:
 - (b) as between different classes of conveyancing practitioners:
 - (c) as between different classes of incorporated conveyancing firms.
- (3) The amount of every extraordinary levy imposed by a resolution made under subsection (1)—
 - (a) is payable on a date or dates and in a manner to be fixed by the resolution; and
 - (b) is recoverable on behalf of the Conveyancing Practitioners' Fidelity Fund by the New Zealand Society of Conveyancers as a debt due to that Society.
- (4) This section is subject to section 317.
- (5) Nothing in this section limits sections 311(1)(o) and 316.
- (6) A resolution under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 315(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

316 Contributions and levies

Contributions required, by a resolution made under section 312(1) or section 313(1) to be paid by any practitioner or class of practitioners or any incorporated firm or class of incorporated firms and extraordinary levies imposed, by a resolution made under section 314(1) or section 315(1), on any practitioner or class of practitioners or any incorporated firm or class of incorporated firms may be determined by reference to—

- (a) the total number of practitioners engaged in the practice in providing regulated services to the public; and
- (b) other relevant matters.

317 Election not to receive money or other valuable property in trust

- (1) No resolution made under any of the provisions of sections 312 to 315 may require a practitioner or incorporated firm to pay to the Lawyers' Fidelity Fund or the Conveyancing Practitioners' Fidelity Fund any contribution or extraordinary levy that would otherwise become payable by that practitioner or incorporated firm to either fund in respect of any period if that practitioner or incorporated firm has elected, in respect of that period, not to receive, in the course of providing regulated services to the public during that period, any money or other valuable property in trust for any other person.
- (2) A practitioner or incorporated law firm may not make an election under subsection (1) if he or she or it provides regulated services to the public and is a practitioner who, or an incorporated firm that, is obliged by section 112(1) to keep records of trust accounts and valuable property.

318 Making, expiration, and revocation of election under section 317

- (1) A practitioner who, or an incorporated firm which, makes an election under section 317(1)—
 - (a) must make that election in writing; and
 - (b) must, as soon as practicable after making the election, deliver the election to the society by which his or her practising certificate is issued.
- (2) An election made under section 317(1) by an incorporated firm must be signed by all the directors and shareholders of the incorporated firm.

- (3) An election made under section 317(1) by a practitioner ceases to be in force if—
 - (a) his or her practising certificate expires or otherwise ceases to be in force; or
 - (b) the election is revoked by the practitioner.
- (4) A practitioner who makes an election under section 317(1) may revoke the election by signing a written revocation of the election and delivering that written revocation to the society to which the election was delivered.
- (5) An election made under section 317(1) by an incorporated firm ceases to be in force if—
 - (a) all of the persons who signed the election cease to hold practising certificates; or
 - (b) the election is revoked.
- (6) A revocation of an election made under section 317(1) by an incorporated firm is effected by the delivery to the society to which the election was delivered of a written revocation signed by all the directors and shareholders of the incorporated firm.

319 Offence

A practitioner commits an offence and is liable on conviction to a fine not exceeding \$25,000 who, at a time when both an election made by that practitioner under section 317(1) and the practising certificate to which that election relates are in force, receives, in the course of providing regulated services to the public, any money or other valuable property in trust for another person.

Section 319: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

320 Application of Lawyers' Fidelity Fund

- (1) Subject to this Part, the Lawyers' Fidelity Fund must be held and applied for the purpose of reimbursing persons who suffer pecuniary loss by reason of a claim event arising from the action of a person who is—
 - (a) a lawyer to whom this Part applies; or
 - (b) the agent of a lawyer to whom this Part applies.
- (2) No person is entitled to recover from the Lawyers' Fidelity Fund an amount greater than the balance of the loss suffered by that person after deducting from the total amount of that person's loss the amount or value of all money or other benefits received or receivable by that person from any source other than the fund in reduction of that person's loss, including any benefits received by reason of professional services rendered or disbursements paid by the defaulting lawyer or agent.

- (3) No money may be paid out of the Lawyers' Fidelity Fund as interest on the amount of any judgment obtained or of any claim admitted against the fund.
- (4) This section is subject to any rules made under paragraphs (j) to (l) of section 311(1).

Compare: 1982 No 123 ss 169(1), 171(2), (3)

321 Application of Conveyancing Practitioners' Fidelity Fund

- (1) Subject to this Part, the Conveyancing Practitioners' Fidelity Fund must be held and applied for the purpose of reimbursing persons who suffer pecuniary loss by reason of a claim event arising from the action of a person who is—
 - (a) a conveyancing practitioner to whom this Part applies; or
 - (b) the agent of a conveyancing practitioner to whom this Part applies.
- (2) No person is entitled to recover from the Conveyancing Practitioners' Fidelity Fund an amount greater than the balance of the loss suffered by that person after deducting from the total amount of that person's loss the amount or value of all money or other benefits received or receivable by that person from any source other than the fund in reduction of that person's loss, including any benefits received by reason of professional services rendered or disbursements paid by the defaulting conveyancing practitioner or agent.
- (3) No money may be paid out of the Conveyancing Practitioners' Fidelity Fund as interest on the amount of any judgment obtained or of any claim admitted against the fund.
- (4) This section is subject to any rules made under paragraphs (j) to (l) of section 311(1).

Compare: 1982 No 123 ss 169(1), 171(2), (3)

322 No compensation in respect of money instructed to be invested

- (1) Neither the Lawyers' Fidelity Fund nor the Conveyancing Practitioners' Fidelity Fund is to be applied in paying compensation to any person for any loss relating to money that a practitioner or incorporated firm has been instructed to invest on behalf of that person.
- (2) Subject to subsection (3), for the purposes of this section, a practitioner or incorporated firm is instructed to invest money where a person—
 - (a) who entrusts money to the practitioner or incorporated firm; or
 - (b) for whom the practitioner or incorporated firm holds money,—instructs the practitioner or incorporated firm to invest all or some of the money in a specified investment or in an investment of the practitioner's or incorporated firm's choice.
- (3) A practitioner or incorporated firm is not instructed to invest money only because that practitioner or incorporated firm is instructed by a person—
 - (a) to pay the money into an account with a bank in New Zealand:

- (b) to apply money on behalf of that person to give effect to a loan agreement where—
 - (i) that person, being the lender, specifies the borrower to whom the money is to be lent; and
 - (ii) that person, being the lender, has not been introduced to the borrower by the practitioner or incorporated firm for the purpose of making that loan, other than, where that person is a financial institution within the meaning of the Banking (Prudential Supervision) Act 1989, by an application for loan finance; and
 - (iii) the practitioner or incorporated firm has not made or participated in the decision to approve the making of the loan other than by advising in respect of the terms and conditions of the loan agreement:
 - (c) to apply money to give effect to any term of a conveyance to which that person is a party, other than a conveyance that is or gives effect to a loan agreement that does not come within the terms of paragraph (b).
- (4) If the practitioner is a lawyer, nothing in this section applies to money that the lawyer is authorised to invest in any case where the only authority for investing the money is given or is capable of being given by the lawyer pursuant to a power under—
- (a) the Protection of Personal and Property Rights Act 1988;
 - (b) a trust arising out of a deceased estate;
 - (c) a trust created by a court order;
 - (d) a trust for the benefit of 1 or more persons suffering from physical or mental disability.
- (5) In this section, a reference to a practitioner includes a reference to—
- (a) any agent of the practitioner;
 - (b) any nominee of the practitioner;
 - (c) any company—
 - (i) of which the practitioner is a director within the meaning of the Companies Act 1993; or
 - (ii) of which the principal financial benefit or effective control is directly or indirectly vested in the practitioner or any spouse or civil union partner or de facto partner or child or children of the practitioner;
 - (d) any other incorporated or unincorporated body (other than a listed issuer)—
 - (i) in relation to which the practitioner occupies a position comparable to that of a director within the meaning of the Companies Act 1993; or

- (ii) of which the principal financial benefit or effective control is directly or indirectly vested in the practitioner or any spouse or civil union partner or de facto partner or child or children of the practitioner.
- (6) In this section,—
- company**—
- (a) means a company registered under the Companies Act 1993; and
 - (b) includes a company so registered in which the practitioner holds shares as a bare trustee, notwithstanding that he or she is entitled as a trustee to be remunerated out of the income or property of the trust; but
 - (c) does not include a company so registered that is a listed issuer
- conveyance** means—
- (a) a deed or agreement in writing—
 - (i) for the sale and purchase of, or relating to, any interest in land or buildings, including a company lease within the meaning of section 2(1) of the Resource Management Act 1991;
 - (ii) for the granting, in relation to any land or buildings, of a lease, tenancy, or licence to occupy, or for the sale and purchase or transfer or assignment of any such lease, tenancy, or licence;
 - (iii) for the sale and purchase of a business (including its shares and securities) and for any leases, licences, or rights connected with the business;
 - (iv) for the sale and purchase or lease of chattels, either separately or as part of an agreement to which subparagraph (i) or subparagraph (ii) or subparagraph (iii) applies;
 - (b) any other assignment or settlement by deed.

listed issuer has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013.

Compare: 1982 No 123 s 169A

Section 322(3)(b)(ii): amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 322(5)(c)(i): amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 322(5)(d): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 322(5)(d)(i): amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 322(6) **company** paragraph (a): replaced, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 322(6) **company** paragraph (c): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 322(6) **conveyance** paragraph (a)(i): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 322(6) **listed issuer**: inserted, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

323 Advances from fidelity fund for purposes of this Part

Without limiting the generality of sections 311(1)(e) and 320 to 322, a regulatory society may, from time to time, in its discretion, for the purpose of meeting any deficit in a practitioner's trust account, or reimbursing any client of the practitioner, or protecting the fund, or otherwise for the purpose of giving full effect to the intent of this Part, make advances from the fidelity fund held by it under this Part to any person or persons, on and subject to such terms and conditions, whether as to the method of repayment or the payment of interest or the giving of any securities, as it thinks fit.

Compare: 1982 No 123 s 170

324 Claims against fidelity fund

- (1) A regulatory society may receive and settle any claim against a fidelity fund held by that regulatory society under this Part.
- (2) Such a claim may be received and settled at any time after the commission of the claim event in respect of which the claim arose.
- (3) No person may bring a claim against a fidelity fund held under this Part by a regulatory society unless notice of the claim is given in writing to the regulatory society or the fund's management committee within 12 months after the claimant has become aware of the claim event, or within such further time as the regulatory society or committee may in its discretion allow.

Compare: 1982 No 123 ss 169(2), 171(1)

325 Defences to claims against fund

In any action brought against the New Zealand Law Society in relation to the Lawyers' Fidelity Fund or against the New Zealand Society of Conveyancers in relation to the Conveyancing Practitioners' Fidelity Fund, all defences that would have been available to the defaulting practitioner or agent are available to the society that holds the fund.

Compare: 1982 No 123 s 172

326 Rights of subrogation

- (1) On payment out of the Lawyers' Fidelity Fund or the Conveyancing Practitioners' Fidelity Fund of any money in settlement in whole or in part of any claim under this Part, the society by which the money is paid is subrogated, to the extent of the payment, to all rights and remedies of the claimant against the practitioner or the agent of the practitioner in respect of whom the claim arose or, in the event of the death or insolvency or other disability of the practitioner

or the agent of the practitioner, against his or her personal representatives or other persons having authority to administer his or her estate, and to all other rights and remedies.

- (2) A society to which subsection (1) applies may, by virtue of the rights conferred by that subsection,—
- (a) exercise, in its own name, all relevant rights of action and other legal remedies available against the defaulting practitioner or any other person in respect of the loss suffered by the claimant; and
 - (b) if successful in any proceedings commenced pursuant to paragraph (a), be entitled to recover from the defaulting practitioner or any other person against whom the proceedings are successfully taken the costs incurred by the society in taking those proceedings.

Compare: 1982 No 123 s 173

327 Money recovered by claimants to be held in trust if rights of subrogation apply

- (1) If a claimant against the Lawyers' Fidelity Fund recovers (other than from that fund) any amount by way of compensation for a loss in respect of which compensation (in whole or in part) is being claimed or has been claimed or received from that fund, the claimant must hold that amount in trust for the New Zealand Law Society for reimbursement of the fund and the costs incurred by that society.
- (2) If a claimant against the Conveyancing Practitioners' Fidelity Fund recovers (other than from that fund) any amount by way of compensation for a loss in respect of which compensation (in whole or in part) is being claimed or has been claimed or received from that fund, the claimant must hold that amount in trust for the New Zealand Society of Conveyancers for reimbursement of the fund and the costs incurred by that society.

328 Provisions applicable if fund insufficient to satisfy claims

- (1) No money or other property belonging to a regulatory society other than the fund held by it under this Part is available for the satisfaction of any judgment obtained against the society in relation to the fund, or for the payment of any claim allowed by the society.
- (2) Subject to section 329, if at any time the fund held by a regulatory society under this Part is not sufficient to provide for the satisfaction of all judgments obtained against the society in relation to the fund and for the payment of any claims allowed by the society, or for any other payments authorised under this Part or rules made under this Part, those judgments, claims, or payments must, to the extent to which they are not so satisfied, be charged against future accumulations of the fund.
- (3) A regulatory society may, in its absolute discretion, having regard to subsection (4), determine the order in which the judgments and claims so charged against

the fund are to be satisfied, and may, if the amount accumulated is not sufficient to satisfy all such judgments and claims in full, satisfy any of them in whole or in part.

- (4) Without limiting the discretion of a regulatory society, in applying the fund towards the settlement of any such judgments and claims, it must have regard to the following rules:
 - (a) it must take into consideration the relative degrees of hardship suffered or likely to be suffered by the several claimants in the event of their claims against the fund not being satisfied in whole or in part:
 - (b) except in special circumstances, claims for amounts not exceeding \$1,000 must be satisfied in full before claims for amounts exceeding \$1,000 are satisfied to a greater extent than \$1,000:
 - (c) where all other considerations are equal, claimants are to have priority as between themselves according to the dates of the judgments or the dates when the claims were admitted by the society, as the case may be.
- (5) In this section, **fund** means,—
 - (a) in relation to a regulatory society that is the New Zealand Law Society, the Lawyers' Fidelity Fund; and
 - (b) in relation to a regulatory society that is the New Zealand Society of Conveyancers, the Conveyancing Practitioners' Fidelity Fund.

Compare: 1982 No 123 s 174(1), (2), (3), (4)

329 Power to rule off fund

- (1) The Governor-General may, by Order in Council, made on the recommendation of the Minister, rule off, from time to time, either the Lawyers' Fidelity Fund or the Conveyancing Practitioners' Fidelity Fund, and the fund to which the Order in Council applies will accordingly be ruled off on the date on which the Order in Council comes into force.
- (2) The Minister may not recommend the making of an Order in Council under subsection (1) in relation to a fidelity fund unless—
 - (a) the regulatory society that holds that fidelity fund requests the Minister to recommend the making of an Order in Council under this section in relation to that fidelity fund; and
 - (b) the Minister is satisfied, on the basis of a report provided under subsection (3), that the fidelity fund is not sufficient to meet—
 - (i) all judgments obtained and claims allowed against the fidelity fund; and
 - (ii) all other payments authorised under this Part, or rules made under this Part, to be made from the fund.
- (3) Any request made under subsection (2) by a regulatory society must be accompanied by a report from the council of the society.

- (4) The report under subsection (3)—
 - (a) must state the reasons why the council making the report is of the opinion that rule off is desirable; and
 - (b) must be accompanied by a report from an independent auditor outlining the basis for the opinion that rule off is desirable.
- (5) The Minister must, within 1 month after receiving a report under subsection (3), decide whether to recommend the making, under subsection (1), of an Order in Council in relation to the fidelity fund to which the report relates.
- (6) Subject to subsections (2) to (5), the Minister, on receiving a report made under subsection (3), has an absolute discretion to decide whether to recommend the making, under subsection (1), of an Order in Council in relation to the fidelity fund to which the report relates.
- (7) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 329(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

330 Consequences of rule off

- (1) If a fidelity fund is ruled off by an Order in Council made under section 329(1), the society by which that fund is held—
 - (a) must distribute the total amount of the fund at the time of rule off in accordance with subsection (2); and
 - (b) must make all reasonable efforts to recover any amount owing to the fund at the time of rule off; and
 - (c) must distribute, in accordance with subsection (2), any amounts recovered.
- (2) Any amount to be distributed under subsection (1) must be distributed as follows:
 - (a) first, by paying all liabilities and administrative costs properly payable from the fund at the time of rule off; and
 - (b) second, by distributing any residue that remains (after any amounts payable under paragraph (a) have been deducted) by paying, on a pro rata basis, all claimants who have, under subsection (3), payable claims.

- (3) Claims that are subject to pro rata distribution under subsection (2)(b) are claims that, on the date the fund is ruled off,—
 - (a) are claims that have been approved for payment by the regulatory society that holds the fund; or
 - (b) are claims in respect of which judgment has been entered.
- (4) An Order in Council made under section 329(1) in relation to a fidelity fund does not affect claims made against that fund after the date on which that fund is ruled off by the Order in Council.

331 Regulatory society may enter into contracts of insurance

- (1) Despite anything to the contrary in this Part, a regulatory society may, in its discretion, enter into any contract or contracts of insurance with any person or company carrying on fidelity insurance business in New Zealand, whereby the society will be indemnified to the extent and in the manner provided by the contract or contracts against liability to pay claims under this Part.
- (2) Any such contract of insurance may be entered into in relation to practitioners and incorporated firms generally or in relation to any practitioner or practitioners or incorporated firm or incorporated firms named in the contract.
- (3) No action lies against a regulatory society, or against any member or employee of a regulatory society or of the governing body of a regulatory society, or against any member of the management committee of a fidelity fund held by a regulatory society, for injury alleged to have been suffered by any practitioner or incorporated firm by reason of the publication in accordance with fact of a statement that a contract of insurance entered into under this section does or does not apply to that practitioner or incorporated firm.
- (4) If any contract of insurance is entered into by a regulatory society in respect of any specified practitioner or incorporated firm, the regulatory society must, on the application of any other practitioner or practitioners or incorporated firm or incorporated firms, enter into a like contract of insurance in respect of the last-mentioned practitioners or incorporated firms if the insurer signifies his or her or its willingness to enter into such a contract on like terms and conditions.

Compare: 1982 No 123 s 175

332 Application of insurance money

- (1) No claimant against the Lawyers' Fidelity Fund or the Conveyancing Practitioners' Fidelity Fund has any right of action against any insurance company or other person with whom a contract of insurance is made under this Part in respect of that contract, or has any right to claim any money paid by the insurer in accordance with the contract.
- (2) All money so paid by the insurer must be paid into the fund and must be applied in or towards the settlement of relevant claims.

Compare: 1982 No 123 s 176

Part 11 Miscellaneous provisions

Conditional fee agreements

333 Definitions

For the purposes of this section and sections 334 and 335,—

conditional fee agreement means an agreement under which a lawyer agrees with a client that some or all of the lawyer's fees and expenses for the provision to that client of advocacy or litigation services in respect of a matter are payable only if the outcome of that matter is successful

normal fee, in relation to a conditional fee agreement, is the amount of the remuneration that would be payable for the services provided by the lawyer under the agreement if that amount were not contingent on the outcome of the matter to which the remuneration relates

premium, in relation to a conditional fee agreement, means remuneration that a lawyer may become entitled to under the agreement in addition to a normal fee, being remuneration by way of premium that—

- (a) is payable only if the outcome of the matter to which the agreement relates is successful; and
- (b) is expressly provided for in the agreement; and
- (c) compensates the lawyer—
 - (i) for the risk of not being paid at all; and
 - (ii) for the disadvantages of not receiving payments on account; and
- (d) is not calculated as a proportion of the amount recovered.

334 Conditional fee agreements

- (1) A conditional fee agreement is not an illegal contract or an unenforceable contract by reason only of the fact that the remuneration the lawyer may receive under it is dependent on the outcome of the matter to which the remuneration relates if—
 - (a) that remuneration is either—
 - (i) a normal fee; or
 - (ii) a normal fee plus a premium; and
 - (b) the application of this section is not excluded by section 335; and
 - (c) the agreement complies with such requirements (if any) as are prescribed by the practice rules.
- (2) If a conditional fee agreement is, by virtue of subsection (1), not an illegal contract or an unenforceable contract, a lawyer does not by entering into that

agreement make himself or herself liable to proceedings founded on the tort of maintenance or the tort of champerty.

335 Exclusions

Section 334 does not apply to any conditional fee agreement that relates to—

- (a) criminal proceedings; or
- (b) proceedings under the Immigration Act 2009; or
- (c) review proceedings in respect of a statutory power of decision arising out of or under the Immigration Act 2009; or
- (d) proceedings in respect of which the Family Court has jurisdiction; or
- (e) appeals from, or applications for judicial review made in relation to, decisions made in any of the proceedings described in paragraphs (a) to (d).

Section 335(b): amended, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 335(c): amended, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Section 335(d): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

336 Practice rules in relation to conditional fee agreements

- (1) Practice rules made by the New Zealand Law Society may prescribe requirements for the purposes of section 334(1)(c).
- (2) The requirements prescribed pursuant to subsection (1)—
 - (a) may, among other things, require the lawyer who is to provide the advocacy or litigation services to which the conditional fee agreement relates to provide information to the client before the agreement is made; and
 - (b) may be different for different descriptions of conditional fee agreements (and, in particular, may be different for those that provide a success fee and those that do not).

Compare: Courts and Legal Services Act 1990 s 58A(3) (UK)

Unclaimed money in trust account

337 Unclaimed money in trust account

- (1) This section applies to—
 - (a) money that is held in a regulated trust account by a lawyer or incorporated law firm;
 - (b) money that—

- (i) has been paid, under section 164(2), to a Standards Committee or the New Zealand Law Society or the New Zealand Society of Conveyancers; and
 - (ii) is still held by the committee or society to which it was so paid.
- (2) Where any money to which this section applies is held on behalf of a person who cannot be found and has no known agent with the authority to receive the money, the person by whom the money is held may, if that person thinks fit, pay the money to the Commissioner of Inland Revenue and send to the Commissioner particulars of the payment and of the person on whose behalf the money was held; and the person by whom the money was held is thereupon relieved from all further liability in respect of the money so paid.
- (3) All money paid to the Commissioner of Inland Revenue under this section is to be deemed to have been so paid as unclaimed money, and section 11 of the Unclaimed Money Act 1971 is to apply to it.
- (4) Where a person has paid any money to the Commissioner of Inland Revenue under this section, the Commissioner may at any time require that person or any other person to give to the Commissioner all such information as the Commissioner may require in relation to the ownership of the money, including information as to the steps taken to trace the person on whose behalf the money was held.
- (5) Every person commits an offence against this Act and is liable on conviction to a fine not exceeding \$25,000 who refuses or wilfully neglects to give any such information that is in that person's possession or control when so required, or wilfully gives any false information in answer to any such requisition.

Compare: 1982 No 123 s 90

Section 337(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Protection of Councils of New Zealand Law Society and New Zealand Society of Conveyancers and other persons

338 Councils and members, etc, not personally liable

- (1) Neither the Council of the New Zealand Law Society nor the Council of the New Zealand Society of Conveyancers nor any committee appointed by either Council, nor any member, officer, agent, or employee of either of those bodies is to be under any criminal or civil liability in respect of any act done or omitted to be done in the course of the performance or exercise or intended performance or exercise of any of their functions, duties, or powers under this Act or any regulations or rules made under this Act unless the Council or the committee or person has acted in bad faith.
- (2) Nothing in this section limits section 272.

Compare: 1982 No 123 s 189

*Regulations***339 Regulations**

- (1) The Governor-General may, from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) prescribing forms for the purposes of this Act:
 - (b) prescribing the duties of officers of the Disciplinary Tribunal, of the Registrar of the High Court, and of any other officers or persons acting in execution of this Act:
 - (c) prescribing any act or thing necessary to supplement or render more effectual the provisions of this Act as to the conduct of proceedings before the Disciplinary Tribunal or the High Court:
 - (d) prescribing the procedure in relation to the conduct of matters before the Disciplinary Tribunal:
 - (e) prescribing procedures in relation to the issue of summonses to witnesses and to the hearing of evidence on oath:
 - (f) prescribing charges or fees in relation to the functions of the Disciplinary Tribunal:
 - (g) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.
- (2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 339(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

*Amendments to Real Estate Agents Act 1976***340 Meaning of real estate agent**

Amendment(s) incorporated in the Act(s).

341 Repeal

Amendment(s) incorporated in the Act(s).

Amendments to Land Transfer Act 1952

342 Interpretation

Amendment(s) incorporated in the Act(s).

343 Correctness of instrument to be certified

Amendment(s) incorporated in the Act(s).

344 Who may give certification

Amendment(s) incorporated in the Act(s).

345 Recovery of compensation paid and costs in case of fraud

Amendment(s) incorporated in the Act(s).

Amendments to Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002

346 Interpretation

Amendment(s) incorporated in the Act(s).

347 Power to make electronic lodgement compulsory

Amendment(s) incorporated in the Act(s).

Amendments to other enactments

348 Amendments to other enactments

The enactments specified in Schedule 6 are amended in the manner indicated in that schedule.

Repeals

349 Repeals

The enactments specified in Schedule 7 are repealed.

Transitional provisions in respect of complaints and disciplinary proceedings

350 Prohibition on complaints and investigations under Law Practitioners Act 1982

After the commencement of this section,—

- (a) no complaint may be made under section 98(1) of the Law Practitioners Act 1982; and
- (b) no complaint (other than a complaint received before the commencement of this section) may be referred, under section 98(2) of the Law Practitioners Act 1982, to a District Law Society; and

- (c) no investigation into any matter may be commenced under section 99 of the Law Practitioners Act 1982.

351 Complaints about conduct before commencement of section

- (1) If a lawyer or former lawyer or employee or former employee of a lawyer is alleged to have been guilty, before the commencement of this section, of conduct in respect of which proceedings of a disciplinary nature could have been commenced under the Law Practitioners Act 1982, a complaint about that conduct may be made, after the commencement of this section, to the complaints service established under section 121(1) by the New Zealand Law Society.
- (2) Despite subsection (1), no person is entitled to make under this Act—
 - (a) a complaint that has been disposed of under the Law Practitioners Act 1982; or
 - (b) a complaint in respect of—
 - (i) conduct that occurred more than 6 years before the commencement of this section; or
 - (ii) regulated services that were delivered more than 6 years before the commencement of this section; or
 - (iii) a bill of costs that was rendered more than 6 years before the commencement of this section.
- (3) For the purposes of subsection (2), a complaint is treated as having been disposed of under the Law Practitioners Act 1982—
 - (a) if a District Law Society, after considering the complaint, decided that the Society would not take any further steps or action on it and the complainant did not, within 3 months after the date on which the complainant was notified of the decision, refer to a Lay Observer, for examination, a written allegation concerning the District Law Society's treatment of the complaint; or
 - (b) if a Lay Observer, after examining a written allegation made by the complainant concerning the District Law Society's treatment of the complaint, has not indicated in his or her report that he or she would be taking further steps or making further inquiries with regard to the allegation; or
 - (c) if the New Zealand Law Society, after reviewing—
 - (i) the consideration given by the District Law Society to the report or recommendation of the Lay Observer; and
 - (ii) the action (if any) taken by the District Law Society in consequence of the report or recommendation of the Lay Observer,—decided not to refer the report or recommendation back to the District Law Society for further consideration; or

- (d) if any charge laid against a barrister and solicitor before either a District Law Practitioners Disciplinary Tribunal or the New Zealand Law Practitioners Disciplinary Tribunal as a result of the complaint has been finally determined.

352 Penalty

- (1) If a complaint is made under this Act about conduct that occurred before the commencement of this section, any penalty imposed in respect of that conduct must be a penalty that could have been imposed in respect of that conduct at the time when that conduct occurred.
- (2) Despite subsection (1), the penalties that may be imposed in respect of conduct that occurred before the commencement of this section may, with the consent of the person on whom 1 or more of those penalties may be imposed, include (either in substitution for, or in addition to, any of the penalties that could have been imposed in respect of that conduct at the time when the conduct occurred) any of the penalties that could have been imposed under this Act in respect of that conduct if it had occurred after the commencement of this section.

353 Continuation of disciplinary proceedings and certain other proceedings

- (1) This section applies to the following proceedings:
 - (a) all proceedings in relation to all investigations, inquiries, applications, appeals, and other proceedings of a disciplinary nature under the Law Practitioners Act 1982 which have been commenced before the commencement of this section and which have not been determined or completed before the commencement of this section:
 - (b) all proceedings in relation to applications by practitioners for the restoration of their names to the roll which have been made before the commencement of this section under section 116 of the Law Practitioners Act 1982 and which have not been determined before the commencement of this section:
 - (c) all proceedings which relate to the revision of bills of costs and which have been commenced but not completed under Part 8 of the Law Practitioners Act 1982 before the commencement of this section.
- (2) The proceedings to which this section applies are, subject to sections 354 to 361 of this Act, to be continued and completed as if the Law Practitioners Act 1982 had not been repealed.

354 Continuation of Lay Observers

- (1) Despite the repeals effected by this Act, every person who, immediately before the commencement of this section, holds office under section 96 of the Law Practitioners Act 1982 as a Lay Observer is, unless he or she sooner vacates office under section 120(4) of that Act, to continue to hold office until the close of the period of 6 months beginning with the date of the commencement of

this section for the purpose of discharging his or her functions or exercising his or her powers in relation to any complaints made or proceedings commenced before the commencement of this section.

- (2) For the purposes of subsection (1), each Lay Observer to whom that subsection applies has all necessary powers and may exercise, despite the repeals effected by this Act, the powers conferred on a Lay Observer by the repealed enactments, which apply accordingly with all necessary modifications.
- (3) Sections 120 to 122 of the Law Practitioners Act 1982 continue, despite the repeal of that Act, to have effect, until the close of the period of 6 months beginning with the date of the commencement of this section, in relation to any person continued in office by subsection (1).

355 Exercise by Legal Complaints Review Officer of role of Lay Observer

- (1) If any proceedings to which section 353 applies have not been determined by the close of the period of 6 months beginning with the date of the commencement of this section or cannot be determined before the end of that period because a Lay Observer continued in office by section 354 has, before the end of that period, vacated office, then, from the end of that period or from any earlier date on which the Lay Observer vacates office, the Legal Complaints Review Officer has, despite the repeals effected by this Act, the duties and powers that a Lay Observer would have, under the Law Practitioners Act 1982, in relation to those proceedings if that Act had not been repealed.
- (2) Despite subsection (1), sections 97(5), 97(6), 97(9), and 97A of the Law Practitioners Act 1982 are to have effect, for the purposes of that subsection, as if, for the words “District Law Society” wherever they occur, there were substituted in each case the words “complaints service established under section 121(1) of the Lawyers and Conveyancers Act 2006 by the New Zealand Law Society”.

356 Exercise by Lawyers Standards Committee of role of complaints committee

If any proceedings to which section 353 applies have not been determined by the close of the period of 6 months beginning with the date of the commencement of this section, the New Zealand Law Society must, despite the repeals effected by this Act, appoint a Lawyers Standards Committee (not being a Lawyers Standards Committee that has under section 357 the powers of a District Disciplinary Tribunal in relation to those proceedings) to carry out the duties and exercise the powers that a complaints committee appointed pursuant to section 100 of the Law Practitioners Act 1982 would have had, under that Act, in relation to those proceedings if that Act had not been repealed and the relevant complaint or matter had been referred to it.

357 Exercise by Lawyers Standards Committee of role of District Disciplinary Tribunal

- (1) If any proceedings to which section 353 applies have not been determined by the close of the period of 6 months beginning with the date of the commencement of this section, the New Zealand Law Society must, despite the repeals effected by this Act, appoint a Lawyers Standards Committee (not being a Lawyers Standards Committee that has, under section 356, the powers of a complaints committee in relation to those proceedings) to carry out the duties and exercise the powers that a District Disciplinary Tribunal within the meaning of the Law Practitioners Act 1982 would have had, under that Act, in relation to those proceedings if that Act had not been repealed.
- (2) Section 106(4) of the Law Practitioners Act 1982 has effect, for the purposes of subsection (1) of this section, as if, for the words “District Law Society” in both places where they appear, there were substituted in each case the words “New Zealand Law Society”.

358 Exercise by New Zealand Lawyers and Conveyancers Disciplinary Tribunal of role of New Zealand Law Practitioners Disciplinary Tribunal

- (1) If any proceedings to which section 353 applies have not been determined by the close of the period of 6 months beginning with the date of the commencement of this section, then, from the close of that period, the New Zealand Lawyers and Conveyancers Disciplinary Tribunal has, despite the repeals effected by this Act, the duties and powers that the New Zealand Law Practitioners Disciplinary Tribunal established under the Law Practitioners Act 1982 would have had, under that Act, in relation to those proceedings if that Act had not been repealed.
- (2) Despite subsection (1), no conveyancer may sit as a member of the New Zealand Lawyers and Conveyancers Disciplinary Tribunal when it is carrying out the duties or exercising the powers of the New Zealand Law Practitioners Disciplinary Tribunal.

359 Appeal from decision of District Disciplinary Tribunal or Lawyers Standards Committee exercising powers of District Disciplinary Tribunal

- (1) Despite the repeals effected by this Act, an appeal to the New Zealand Lawyers and Conveyancers Disciplinary Tribunal may be brought under section 107 of the Law Practitioners Act 1982 against any order or decision made under Part 7 of the Law Practitioners Act 1982 by a District Disciplinary Tribunal or by the Lawyers Standards Committee appointed under section 357 of this Act to carry out the duties and exercise the powers of a District Disciplinary Tribunal, not being a decision to refer a case to the New Zealand Law Practitioners Disciplinary Tribunal or the New Zealand Lawyers and Conveyancers Disciplinary Tribunal.

- (2) An appeal under section 107 of the Law Practitioners Act 1982 (as applied and modified by sections 356 and 357 of this Act and this section) may be brought only by—
 - (a) the practitioner to whom the order or decision relates; or
 - (b) the Standards Committee referred to in section 361(2) of this Act.
- (3) Section 107(3) of the Law Practitioners Act 1982 has effect, for the purposes of subsection (1) of this section, as if, for the words “New Zealand Disciplinary Tribunal”, there were substituted the words “New Zealand Lawyers and Conveyancers Disciplinary Tribunal”.
- (4) The Law Practitioners Act 1982 is (subject to the modifications made to it by this Act) to have effect in relation to any appeal under section 107 of the Law Practitioners Act 1982 as if that Act had not been repealed.

360 Appeal from decision of New Zealand Law Practitioners Disciplinary Tribunal or New Zealand Lawyers and Conveyancers Disciplinary Tribunal

- (1) Despite the repeals effected by this Act, an appeal to the High Court may be brought under section 118 of the Law Practitioners Act 1982 against any order or decision made under Part 7 of the Law Practitioners Act 1982 or under section 58 of that Act by the New Zealand Law Practitioners Disciplinary Tribunal or by the New Zealand Lawyers and Conveyancers Disciplinary Tribunal.
- (2) An appeal under section 118 of the Law Practitioners Act 1982 (as applied and modified by section 358 of this Act and this section) may be brought only by—
 - (a) the practitioner or person to whom the order or decision relates;
 - (b) the Standards Committee referred to in section 361(2) of this Act, where the proceedings before the New Zealand Law Practitioners Disciplinary Tribunal or the New Zealand Lawyers and Conveyancers Disciplinary Tribunal were—
 - (i) brought by a District Council (within the meaning of the Law Practitioners Act 1982) or a committee appointed under section 100 of that Act; or
 - (ii) commenced by the referral of a charge to the New Zealand Law Practitioners Disciplinary Tribunal or the New Zealand Lawyers and Conveyancers Disciplinary Tribunal by a District Disciplinary Tribunal within the meaning of the Law Practitioners Act 1982 or a Lawyers Standards Committee appointed under section 357 of this Act to carry out the duties and exercise the powers of such a District Disciplinary Tribunal; or
 - (iii) by way of appeal against an order or decision of a District Disciplinary Tribunal (within the meaning of the Law Practitioners Act 1982) or a Lawyers Standards Committee appointed under section

357 of this Act to carry out the duties and exercise the powers of such a District Disciplinary Tribunal:

- (c) the Standards Committee referred to in section 361(2) of this Act, where the proceedings before the New Zealand Law Practitioners Disciplinary Tribunal or the New Zealand Lawyers and Conveyancers Disciplinary Tribunal were commenced by the referral to the Tribunal of a matter concerning the issue of a practising certificate under section 58 of the Law Practitioners Act 1982.
- (3) The Law Practitioners Act 1982 is (subject to the modifications made to it by this Act) to have effect in relation to any appeal under section 118 of the Law Practitioners Act 1982 as if that Act had not been repealed.

361 Revision of practitioner's bill of costs

- (1) If a District Council within the meaning of the Law Practitioners Act 1982 has not completed, before the close of the period of 6 months beginning with the date of the commencement of this section, the revision under Part 8 of that Act of a practitioner's bill of costs, that revision must be undertaken by the Lawyers Standards Committee appointed under section 356 of this Act to carry out the duties and exercise the powers of a complaints committee appointed pursuant to section 100 of the Law Practitioners Act 1982.
- (2) Section 143 of the Law Practitioners Act 1982 has effect, for the purposes of subsection (1) of this section, as if, for the words "A District Law Society", there were substituted the words "The Lawyers Standards Committee appointed under section 356 of the Lawyers and Conveyancers Act 2006 to carry out the duties and exercise the powers of a complaints committee appointed pursuant to section 100 of the Law Practitioners Act 1982".
- (3) Despite the repeals effected by this Act, an appeal to the Registrar (within the meaning of the Law Practitioners Act 1982) may be brought under section 148 of the Law Practitioners Act 1982 against the decision of the Lawyers Standards Committee referred to in subsection (2) of this section if the decision could have been the subject of an appeal under section 148 of that Act if it had been made before the commencement of this section by a District Council.
- (4) Section 148 of the Law Practitioners Act 1982 has effect, for the purposes of an appeal of the kind described in subsection (3) of this section, as if, for the words "a District Council" in both places where they occur, there were substituted in each case the words "the Standards Committee referred to in section 361(2) of the Lawyers and Conveyancers Act 2006".
- (5) An appeal to the High Court against any decision of the Registrar under section 148 of the Law Practitioners Act 1982 (as applied and modified by this section) may be brought under section 149 of that Act as if that Act had not been repealed.

*Transitional provision relating to Law Society inspectorate***362 Law Society inspectorate**

- (1) Despite the repeal of the Law Practitioners Act 1982 by this Act, every person who, by virtue of an appointment under section 88A(2)(a) of that Act as an inspector, is, at the commencement of this section, a member of the Law Society inspectorate both—
 - (a) continues to be, subject to his or her terms and conditions of employment and to subsection (6) of this section, a member of that inspectorate; and
 - (b) is deemed to be, subject to his or her terms and conditions of employment and to subsection (6), a member of the Law Society inspectorate established by the New Zealand Law Society pursuant to regulations made under section 115 of this Act.
- (2) An inspector continued in office by subsection (1)(a) may, in relation to any complaints made or proceedings commenced or reviews or investigations begun before the commencement of this Act, discharge his or her functions and duties under the Law Practitioners Act 1982 and any regulations made under section 91 of that Act.
- (3) For the purposes of subsection (2), each inspector to whom that subsection applies has all necessary powers and may exercise, despite the repeals effected by this Act, the rights and powers conferred on the Law Society inspectorate by any regulations made, before the commencement of this section, under section 91 of the Law Practitioners Act 1982.
- (4) Subsections (4) to (6) of section 88A of the Law Practitioners Act 1982 continue, despite the repeal of that Act, to have effect in relation to any person continued in office by subsection (1) of this section.
- (5) The Law Society inspectorate continued in office by subsection (1) must report on its operations to the Council of the New Zealand Law Society at such times and in such form as may from time to time be required by that Council.
- (6) The New Zealand Law Society may remove from the office to which subsection (1)(a) relates or from the office to which subsection (1)(b) relates or from both any inspector continued in office by subsection (1).
- (7) The repeal of the Law Practitioners Act 1982 does not affect the liability of any person to pay any fee that, at the commencement of this section, is payable by that person pursuant to a resolution made under section 88A(7) of that Act.

*Transitional provisions relating to Solicitors' Fidelity Guarantee Fund***363 Continuation of Part 9 of Law Practitioners Act 1982***[Repealed]*

Section 363: repealed, on 12 February 2026, by section 370(1).

364 Money payable into Solicitors' Fidelity Guarantee Fund

[Repealed]

Section 364: repealed, on 12 February 2026, by section 370(1).

365 Claims in relation to Solicitors' Fidelity Guarantee Fund

[Repealed]

Section 365: repealed, on 12 February 2026, by section 370(1).

366 Public notice of last day for making claims

[Repealed]

Section 366: repealed, on 12 February 2026, by section 370(1).

367 Winding up of Solicitors' Fidelity Guarantee Fund

[Repealed]

Section 367: repealed, on 12 February 2026, by section 370(1).

368 Completion of determination of claim

[Repealed]

Section 368: repealed, on 12 February 2026, by section 370(1).

369 Application of Solicitors' Fidelity Guarantee Fund on winding up

[Repealed]

Section 369: repealed, on 12 February 2026, by section 370(1).

370 Repeal of provisions relating to Solicitors' Fidelity Guarantee Fund

- (1) Sections 363 to 369 are repealed.
- (2) This section comes into force on a date to be appointed by the Governor-General by Order in Council.

Provisions commenced by Order in Council

Provisions	Commencement date	Order in Council
Section 370	12 February 2026	Clause 2 of the Lawyers and Conveyancers Act (Repeal of Provisions Relating to Solicitors' Fidelity Guarantee Fund) Commencement Order 2025

This note is not part of the Act.

- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116
This note is not part of the Act.

Section 370(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Transitional provisions relating to barristers and solicitors

371 Persons deemed to have been admitted as barristers and solicitors

Despite the repeal of the Law Practitioners Act 1982 by this Act, where any person deemed by that Act to have been admitted as a barrister and solicitor is, at the commencement of this section, a person who is entitled, while his or her qualification continues, to practise in or before any court or tribunal, that person is deemed to have been admitted as a barrister and solicitor under this Act.

Transitional provisions relating to dissolution of District Law Societies

372 Continuation and dissolution of District Law Societies

Despite the repeal of the Law Practitioners Act 1982, every District Law Society constituted under that Act and existing at the commencement of this section—

- (a) continues in being under its current rules until the close of the period of 6 months beginning with the date of the commencement of this section; but
- (b) is dissolved as from the close of the period of 6 months beginning with the date of the commencement of this section.

373 Assets and liabilities of District Law Societies

- (1) If the members of any District Law Society to which section 372 applies resolve, before the close of the period of 6 months beginning with the date of the commencement of this section, that the assets and liabilities of the society become those of a society which is incorporated under the Incorporated Societies Act 1908 and which is named in the resolution, those assets and liabilities become, as from the close of that period, assets and liabilities of that incorporated society if, as at the close of that period, the assets of the District Law Society exceed its liabilities.
- (2) If the assets and liabilities of a District Law Society to which section 372 applies do not, under subsection (1) of this section, become, as from the close of the period of 6 months beginning with the date of the commencement of this section, those of an incorporated society, those assets and liabilities become, as from the close of that period, assets and liabilities of the New Zealand Law Society.
- (3) The assets vested by subsection (1) in an incorporated society do not include any records of the kind referred to in section 379(1).

374 Power to transfer assets of District Law Society library

- (1) A District Law Society to which section 372 applies may, before the close of the period of 6 months specified in section 373(1), transfer to any body specified in subsection (2) of this section any assets of the law library provided and maintained by that District Law Society under section 26(2) of the Law Practitioners Act 1982.
- (2) The bodies to which assets may be transferred under subsection (1) are as follows:
 - (a) a District Law Society to which section 372 applies:
 - (b) an incorporated society named in a resolution passed under section 373(1)—
 - (i) by the members of the District Law Society by which the transfer is made; or
 - (ii) by the members of any other District Law Society to which section 372 applies:
 - (c) the New Zealand Law Society.
- (3) Subject to subsections (4) and (5), a transfer made under subsection (1) by a District Law Society may be made—
 - (a) with or without consideration or for an inadequate consideration, and upon such terms and conditions as may be agreed upon between the District Law Society and the body to which the assets are being transferred; and
 - (b) whether or not the members of the District Law Society have passed a resolution under section 373(1).
- (4) A transfer may be made under subsection (1) by a District Law Society only if its assets—
 - (a) exceed its liabilities; and
 - (b) will, at the time when the transfer takes effect, exceed its liabilities.
- (5) A transfer made under subsection (1) does not operate to affect the rights existing at the time of the transfer of any creditor of the District Law Society, whether secured or unsecured, and such rights are, if necessary, to enure against the transferee.

375 Power of incorporated society to provide law library

- (1) If the assets of a District Law Society that become, under section 373(1), the assets of an incorporated society named in a resolution made under section 373(1) include the assets of a law library provided and maintained by a District Law Society under section 26(2) of the Law Practitioners Act 1982, the incorporated society so named may continue to provide and maintain law libraries in

such towns in New Zealand as the governing body of that incorporated society directs.

- (2) Every library provided and maintained under subsection (1) is to be for the use of the High Court and such other courts as the governing body of the incorporated society so named directs, and of lawyers, and must be managed as that governing body directs.

Compare: 1982 No 123 s 26(2), (3)

376 Power to contribute to funding of law libraries

- (1) The New Zealand Law Society may from time to time, in the period of 5 years beginning with the close of the period of 6 months referred to in section 373(1), contribute to the funding of law libraries provided and maintained under section 375(1).
- (2) For the purposes of sections 67, 73(3), and 74, the exercise by the New Zealand Law Society in the period referred to in subsection (1) of the power conferred on that Society by that subsection is deemed to be the exercise by that Society of a regulatory power.

377 Members to have no right to property on dissolution of incorporated society

- (1) If, under section 373(1), assets and liabilities of a District Law Society become assets and liabilities of an incorporated society, the members of that incorporated society may not divide between them, on the dissolution of that incorporated society, all or any of its property.
- (2) Nothing in the Incorporated Societies Act 1908 or the rules of an incorporated society limits subsection (1).

378 Consequential provisions in relation to assets, money, and property

- (1) Where, under section 373, assets of a District Law Society become assets of an incorporated society or the New Zealand Law Society,—
 - (a) any real and personal property of that District Law Society that becomes, as from the close of the period of 6 months beginning with the date of the commencement of section 373, an asset of an incorporated society or the New Zealand Law Society, vests, as from the close of that period, in the incorporated society or the New Zealand Law Society, as the case may require, subject to all liabilities, charges, obligations, and trusts affecting that property; and
 - (b) all money payable to the District Law Society becomes, as from the close of the period of 6 months beginning with the date of the commencement of section 373, payable to the incorporated society or the New Zealand Law Society, as the case may require; and
 - (c) all proceedings pending by or against the District Law Society may, as from the close of the period of 6 months beginning with the date of the

commencement of section 373, be carried on, completed, or enforced by or against the incorporated society or the New Zealand Law Society, as the case may require.

- (2) The property vested by subsection (1) in an incorporated society does not include any records of the kind referred to in section 379(1).

379 Records relating to regulatory activities

- (1) Every District Law Society to which section 372 applies must, before it is dissolved by section 372(b), transfer to the New Zealand Law Society all records that are held by the District Law Society and relate to the regulatory activities of the District Law Society under the Law Practitioners Act 1982 or any corresponding former Act, including, in particular, all documents relating to—
- (a) the admission and enrolment of barristers and solicitors:
 - (b) the striking off the roll, or the restoration to the roll, of the names of practitioners:
 - (c) the removal of the name of any practitioner from the roll of barristers and solicitors:
 - (d) the issue and currency of practising certificates as barristers, or as barristers and solicitors:
 - (e) the withholding of practising certificates as barristers, or as barristers and solicitors:
 - (f) the suspension from practice of practitioners practising within the District Law Society's district:
 - (g) the payment of practising fees:
 - (h) the commission of offences against the Law Practitioners Act 1982 or any corresponding former Act:
 - (i) the exercise under sections 70 to 78 of the Law Practitioners Act 1982, or the corresponding provisions of any former Act, of the powers of the Council of the District Law Society:
 - (j) the operation of Part 5 of the Law Practitioners Act 1982 (which relates to intervention in solicitor's practice) or the corresponding provisions of any former Act:
 - (k) the operation of Part 6 of the Law Practitioners Act 1982 (which relates to solicitors' trust accounts), or the corresponding provisions of any former Act:
 - (l) the operation of Part 7 of the Law Practitioners Act 1982 (which relates to discipline within the legal profession) or the corresponding provisions of any former Act:

- (m) the operation of Part 8 of the Law Practitioners Act 1982 (which relates to practitioners' costs) or the corresponding provisions of any former Act:
 - (n) the operation of Part 9 of the Law Practitioners Act 1982 (which relates to the Solicitors' Fidelity Guarantee Fund).
- (2) Where any records of the kind referred to in subsection (1) are the property of a District Law Society, those records become the property of the New Zealand Law Society as from—
- (a) the date on which they are transferred to the New Zealand Law Society pursuant to subsection (1); or
 - (b) if they are not transferred to the New Zealand Law Society before the dissolution of the District Law Society, as from the close of the period of 6 months beginning with the date of the commencement of section 372.
- (3) In this section, **document** means a document in any form, whether signed or initialled or otherwise authenticated by its maker or not, and includes—
- (a) any writing on any material:
 - (b) any information recorded or stored by means of any tape-recorder, computer, or other device, and any material subsequently derived from information so recorded or stored:
 - (c) any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means:
 - (d) any book, map, plan, graph, or drawing:
 - (e) any photograph, film, negative, tape, or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced.

380 Administration of solicitor's trust account

- (1) If a District Law Society to which section 372 applies holds, on the commencement of that section, any money received by that Society as the result of the exercise of its powers under section 82 of the Law Practitioners Act 1982, or receives, after the commencement of that section, any money paid to it as the result of the service, before or after the commencement of that section, of a notice under section 82(1) of that Act, that District Law Society, before it is dissolved under section 372(b), must, subject to any order of the High Court, pay that money to the New Zealand Law Society.
- (2) Any money paid to the New Zealand Law Society under subsection (1) is to be held by that Society on the same basis as it was held by the District Law Society, and sections 82 and 84 of the Law Practitioners Act 1982 are to continue to apply, with all necessary modifications, to any such money.

381 Solicitor's records and documents

- (1) If a District Law Society to which section 372 applies has in its possession, on the commencement of that section, any records, documents, or postal articles that have come into its possession through the exercise of its powers under section 83 of the Law Practitioners Act 1982, or if a District Law Society, to which section 372 applies, takes possession, after the commencement of that section, of any records, documents, or postal articles in the exercise of its powers under section 83 of the Law Practitioners Act 1982, that District Law Society, before it is dissolved under section 372(b), must, subject to subsections (5) and (6) of section 83 of the Law Practitioners Act 1982 and to any order of the High Court, transfer all of those records, documents, and postal articles to the New Zealand Law Society.
- (2) Any records, documents, or postal articles transferred to the New Zealand Law Society under subsection (1) are to be held by that Society on the same basis as they were held by the District Law Society, and sections 83 and 84 of the Law Practitioners Act 1982 are to continue to apply with all necessary modifications to any such records, documents, or postal articles.

382 Certain matters not affected by transfer of assets and liabilities

Nothing effected or authorised by this Act—

- (a) is to be regarded as placing a District Law Society, or an incorporated society, or the New Zealand Law Society, or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- (b) is to be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
- (c) is to be regarded as placing the District Law Society, or an incorporated society, or the New Zealand Law Society, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
- (d) is to release any surety wholly or in part from any obligation; or
- (e) is to invalidate or discharge any contract or security.

383 Employees

Where, under section 373, assets and liabilities of a District Law Society become assets and liabilities of an incorporated society or the New Zealand Law Society, then, despite any other provision of this Act,—

- (a) as from the close of the period of 6 months beginning with the date of the commencement of section 373, each employee of the District Law Society ceases to be an employee of the District Law Society and

becomes an employee of the incorporated society or the New Zealand Law Society, as the case may require, but, for the purposes of every enactment, law, determination, contract, and agreement relating to the employment of each such employee, his or her contract of employment is to be treated as unbroken and the period of his or her service with the District Law Society is to be treated as a period of service with the incorporated society or the New Zealand Law Society, as the case may require; and

- (b) the terms and conditions of the employment of each transferred employee with the incorporated society or the New Zealand Law Society, as the case may require,—
 - (i) are, as from the close of the period of 6 months beginning with the date of the commencement of section 373 (and thereafter until varied), to be identical with the terms and conditions of his or her employment with the District Law Society immediately before the close of that period and to be capable of variation in the same manner; and
 - (ii) are, subject to any enactment, law, or determination relating to those terms and conditions, also to be capable of variation in the same manner as the general terms and conditions of employment of other persons employed by the incorporated society or the New Zealand Law Society, as the case may require, are capable of variation; and
- (c) a transferred employee is not entitled to receive any payment or other benefit by reason only of his or her ceasing by virtue of this Act to be an employee of the District Law Society; and
- (d) nothing in this Act, other than paragraph (c), affects any rights or liabilities under any provident, benefit, superannuation, or retirement fund or scheme relating to employees of the District Law Society.

384 Final accounts of District Law Societies

- (1) Where the assets and liabilities of a District Law Society become, by virtue of section 373, assets and liabilities of another body, that body must, as soon as practicable, after the close of the period of 6 months beginning with the date of the commencement of section 373, cause to be prepared final accounts of that District Law Society as at the close of that period.
- (2) If that body is an incorporated society, it must send a copy of the final accounts, together with a copy of the report of the auditor on those accounts, to the Minister and the New Zealand Law Society.
- (3) If that body is the New Zealand Law Society, it must send a copy of the final accounts, together with a copy of the report of the auditor on those accounts, to the Minister.

385 References to President of District Law Society

Unless the context otherwise requires, and subject to the provisions of this Act, every reference in any other enactment or in any deed or other document to the President of a District Law Society must, after the dissolution of that District Law Society, be read as if it were a reference to the President of the New Zealand Law Society.

Transitional provisions relating to New Zealand Law Society

386 Members of New Zealand Law Society

Despite the repeal of the Law Practitioners Act 1982 by this Act, every person who, by virtue of section 3(2) of that Act, is, at the commencement of this section, a member of the New Zealand Law Society continues to be, subject to this Act and the constitution of that society, a member of that society.

387 Officers of New Zealand Law Society

Every person who, at the commencement of this section, holds office as President, Vice-President, President-elect, or Treasurer of the New Zealand Law Society, or as a member of the Council of the Society or as a member of any committee of the Council of the Society, continues, unless he or she sooner vacates office otherwise than by effluxion of time, to hold that office until his or her successor comes into office in accordance with the Society's constitution.

Transitional provisions relating to landbrokers

388 Rights of landbrokers

- (1) This section applies to every person who, immediately before the date on which this Act received the Royal assent, held a licence as a landbroker under section 229 of the Land Transfer Act 1952.
- (2) A person to whom this section applies is entitled to be registered as a conveyancer if, within the period of 12 months beginning with the date of the coming into force of the rules that, as required by section 82, provide for the registration of conveyancers, he or she makes an application under those rules for registration as a conveyancer and satisfies the person or body charged under those rules with considering that application that the applicant is both—
 - (a) a person to whom this section applies; and
 - (b) a fit and proper person to be registered as a conveyancer.
- (3) Every licence as a landbroker that is held under section 229 of the Land Transfer Act 1952 by a person to whom this section applies is, unless sooner revoked under section 232 of that Act, cancelled as from the earlier of—
 - (a) the registration of that person as a conveyancer; or
 - (b) the close of the period of 12 months referred to in subsection (2).

- (4) Nothing in this Act prevents a person to whom this section applies from acting as a landbroker in the period beginning with the date on which this Act received the Royal assent and ending with the earlier of—
 - (a) the registration of that person as a conveyancer; or
 - (b) the close of the period of 12 months referred to in subsection (2).
- (5) Nothing in sections 32, 33, and 35 prevents a person to whom this section applies from carrying out, in the period beginning with the date on which this Act received the Royal assent and ending with the close of the period of 12 months referred to in subsection (2), any of the following actions:
 - (a) providing conveyancing services in New Zealand and describing himself or herself as a conveyancing practitioner, conveyancer, or landbroker:
 - (b) using, in connection with his or her business, employment, or profession, any words, initials, abbreviations of words, symbols, or representations intended or likely to cause any other person to believe that the person is qualified to undertake conveyancing:
 - (c) providing conveyancing services to any other person for gain or reward.
- (6) A person to whom this section applies ceases to be such a person if his or her licence as a landbroker is revoked under section 232 of the Land Transfer Act 1952.

389 Repeal

- (1) Section 67 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002 is repealed as from the close of the period of 12 months referred to in section 388(2).
- (2) Sections 229 to 234 of the Land Transfer Act 1952 cease to apply to a person to whom they were applied by section 67(2) of the Land Transfer (Computer Registers and Lodgement) Amendment Act 2002 on the earlier of—
 - (a) the registration of that person as a conveyancer under this Act; or
 - (b) the close of the period of 12 months referred to in section 388(2).

Transitional provision relating to New Zealand Society of Conveyancers

390 Exercise of regulatory functions of New Zealand Society of Conveyancers

- (1) The Governor-General may, in any Order in Council that appoints a date for the commencement of the provisions of sections 79, 81, and 82, provide that, for such period as is specified in the order, the New Zealand Law Society must, as if it were the New Zealand Society of Conveyancers, carry out the functions conferred on the New Zealand Society of Conveyancers by or under section 79.
- (2) For the purpose of performing the functions conferred on it by an order made under subsection (1), the New Zealand Law Society may, at any time in the period specified in the order, exercise any of the regulatory powers conferred

on the New Zealand Society of Conveyancers by this Act (including, in particular, the powers conferred on that society by sections 81 and 82).

- (3) The period specified in the order made under subsection (1)—
 - (a) is to begin on the date appointed by that order for the commencement of sections 79, 81, and 82; and
 - (b) subject to subsection (4), is to end on such date as is specified in that order as the date on which that period is to end.
- (4) The Governor-General may, from time to time, alter any period specified in the Order in Council made under subsection (1) by appointing an earlier date or a later date for the end of that period.
- (5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 390(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Transitional provisions relating to Disciplinary Tribunal

[Repealed]

Heading: repealed, on 20 November 2012, by section 27(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

391 Appointment of members of Disciplinary Tribunal

[Repealed]

Section 391: repealed, on 20 November 2012, by section 27(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

392 Quorum

[Repealed]

Section 392: repealed, on 20 November 2012, by section 27(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

393 Power to alter period

[Repealed]

Section 393: repealed, on 20 November 2012, by section 27(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

Schedule 1
**Provisions requiring appointment of agent to conduct sole practice
or act as board of incorporated firm**

s 44

*Appointment of agent to conduct sole practice or act as board of incorporated
firm*

1 Interpretation

In this schedule,—

appropriate society means,—

- (a) in relation to a lawyer or incorporated law firm, the New Zealand Law Society; and
- (b) in relation to a conveyancing practitioner or incorporated conveyancing firm, the New Zealand Society of Conveyancers

donee means,—

- (a) in relation to a power of attorney given by a lawyer, the lawyer or alternate to whom the power of attorney is given; and, if the power of attorney is given to 2 or more lawyers or alternates, includes all or any of those lawyers or alternates acting jointly or severally; and
- (b) in relation to a power of attorney given by a conveyancing practitioner, means the conveyancing practitioner or alternate to whom the power of attorney is given; and, if the power of attorney is given to 2 or more conveyancing practitioners or alternates, includes all or any of those conveyancing practitioners or alternates acting jointly or severally

donor means, in relation to a power of attorney given by a practitioner, the practitioner by whom or on whose behalf the power of attorney is given

power of attorney means, in clauses 19 to 25, a power of attorney given under clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1).

Compare: 1982 No 123 s 69

2 Appointment of agent to conduct sole practice of lawyer

- (1) Every lawyer to whom this schedule applies by virtue of section 44(1)(a) must, within 3 months after the date of the commencement of this clause or, as the case may require, the date of his or her commencing to be in practice in the way described in section 44(1)(a), give to some other barrister and solicitor or barristers and solicitors entitled to practise on his or her or their own account a power of attorney, in a form approved by the Council of the New Zealand Law Society, authorising him or her or them jointly or severally to exercise and perform in the donor's name, during the periods specified in clause 7, the powers and duties specified in clause 9.

- (2) Before a power of attorney is given under subclause (1), the written consent of the intended donee must be obtained.
- (3) A power of attorney given before the date of the commencement of this clause under section 70 of the Law Practitioners Act 1982 by a solicitor practising on his or her own account without partners must, if it is in force at that date and otherwise conforms to the provisions of this clause and of clauses 6 to 9 (other than those of clause 7(c)), be deemed—
 - (a) to have been duly given under subclause (1) of this clause; and
 - (b) to extend and apply in respect of the periods specified in clause 7 and the powers and duties specified in clause 9.

Compare: 1982 No 123 s 70(1), (5), (7)

3 Appointment of person or persons to act as board of incorporated law firm

- (1) Every lawyer to whom this schedule applies by virtue of section 44(1)(b) must, within 3 months after the date on which he or she becomes the only director of an incorporated law firm, give to some other barrister and solicitor or barristers and solicitors entitled to practise on his or her or their own account a power of attorney, in a form approved by the Council of the New Zealand Law Society, authorising him or her or them to exercise and perform, during the periods specified in clause 8, the powers and duties specified in clause 10.
- (2) Before a power of attorney is given under subclause (1), the written consent of the intended donee must be obtained.

4 Appointment of agent to conduct sole practice of conveyancing practitioner

- (1) Every conveyancing practitioner to whom this schedule applies by virtue of section 44(1)(c) must, within 3 months after the date of the commencement of this clause or, as the case may require, the date of his or her commencing to be in practice in the way described in section 44(1)(c), give to some other conveyancing practitioner or conveyancing practitioners entitled to practise on his or her or their own account a power of attorney, in a form approved by the Council of the New Zealand Society of Conveyancers, authorising him or her or them jointly or severally to exercise and perform in the donor's name, during the periods specified in clause 7, the powers and duties specified in clause 9.
- (2) Before a power of attorney is given under subclause (1), the written consent of the intended donee must be obtained.

5 Appointment of person or persons to act as board of incorporated conveyancing firm

- (1) Every conveyancing practitioner to whom this schedule applies by virtue of section 44(1)(d) must, within 3 months after the date on which he or she

becomes the only director of an incorporated conveyancing firm, give to some other conveyancing practitioner or conveyancing practitioners entitled to practise on his or her or their own account a power of attorney, in a form approved by the Council of the New Zealand Society of Conveyancers, authorising him or her or them to exercise and perform, during the periods specified in clause 8, the powers and duties specified in clause 10.

- (2) Before a power of attorney is given under subsection (1), the written consent of the intended donee must be obtained.

6 Appointment of alternates

- (1) A power of attorney given under clause 2(1) or clause 3(1) must also appoint a barrister and solicitor or barristers and solicitors entitled to practise on his, her, or their own account as an alternate or alternates, who must exercise the powers and duties of the donee in any case where the donee is for the time being unable or unwilling to act.
- (2) A power of attorney given under clause 4(1) or clause 5(1) must also appoint a conveyancing practitioner or conveyancing practitioners entitled to practise on his, her, or their own account as an alternate or alternates, who must exercise the powers and duties of the donee in any case where the donee is for the time being unable or unwilling to act.

Compare: 1982 No 123 s 70(2)

7 Periods for which power of attorney under clause 2(1) or clause 4(1) are given

The periods for which the power of attorney (referred to in clause 2(1) or clause 4(1)) must be given are—

- (a) any current or future period or periods during which the donor is wholly or partially incapacitated and unable, by reason of his or her mental or physical condition, to conduct his or her practice; and
- (b) any current or future period or periods during which the donor is absent from his or her practice; and
- (ba) any current or future period or periods during which the donor is an undischarged bankrupt; and
- (c) any current or future period or periods during which the donor is prohibited by an order of the Disciplinary Tribunal from practising on his or her own account; and
- (d) the period from the date of the donor's death until his or her administrator (within the meaning of the Administration Act 1969) either lawfully disposes of the practice or revokes the power of attorney; and
- (e) if the donor, being a lawyer, is suspended from practice, then, subject to the consent of the Council of the New Zealand Law Society being

obtained at that time to the operation of the power of attorney, any period during which he or she is so suspended; and

- (f) if the donor, being a conveyancing practitioner, is suspended from practice, then, subject to the consent of the Council of the New Zealand Society of Conveyancers being obtained at that time to the operation of the power of attorney, any period during which he or she is so suspended; and
- (g) if the donor, being a lawyer, has his or her name struck off the roll, then, subject to the consent of the Council of the New Zealand Law Society being obtained at that time to the operation of the power of attorney, the period from the date on which the name is so struck off until the practice is lawfully disposed of; and
- (h) if the donor, being a conveyancing practitioner, has his or her registration cancelled, then, subject to the consent of the Council of the New Zealand Society of Conveyancers being obtained at that time to the operation of the power of attorney, the period from the date on which the registration is cancelled until the practice is lawfully disposed of.

Compare: 1982 No 123 s 70(3)

Schedule 1 clause 7(ba): inserted, on 20 November 2012, by section 9(1) of the Lawyers and Conveyancers Amendment Act 2012 (2012 No 92).

8 Periods for which power of attorney under clause 3(1) or clause 5(1) are given

The periods for which the power of attorney (referred to in clause 3(1) or clause 5(1)) must be given are—

- (a) any current or future period or periods during which the donor is wholly or partially incapacitated and unable, by reason of his or her mental or physical condition, to be actively involved in the provision of regulated services by an incorporated firm of which the donor is the only director; and
- (b) any current or future period or periods during which the donor is, by reason of his or her absence, unable to be actively involved in the provision of regulated services by an incorporated firm of which the donor is the only director; and
- (c) any current or future period or periods during which the donor is prohibited by an order of the Disciplinary Tribunal from practising on his or her own account; and
- (d) the period from the date of the donor's death until his or her administrator (within the meaning of the Administration Act 1969) either lawfully disposes of the donor's shares in the incorporated firm or revokes the power of attorney; and

- (e) if the donor, being a lawyer, is suspended from practice, then, subject to the consent of the Council of the New Zealand Law Society being obtained at that time to the operation of the power of attorney, any period during which he or she is so suspended; and
- (f) if the donor, being a conveyancing practitioner, is suspended from practice, then, subject to the consent of the Council of the New Zealand Society of Conveyancers being obtained at that time to the operation of the power of attorney, any period during which he or she is so suspended; and
- (g) if the donor, being a lawyer, has his or her name struck off the roll, then, subject to the consent of the Council of the New Zealand Law Society being obtained at that time to the operation of the power of attorney, the period from the date on which the name is so struck off until the donor's shares in the incorporated firm are lawfully disposed of; and
- (h) if the donor, being a conveyancing practitioner, has his or her registration cancelled, then, subject to the consent of the Council of the New Zealand Society of Conveyancers being obtained at that time to the operation of the power of attorney, the period from the date on which the registration is cancelled until the donor's shares in the incorporated firm are lawfully disposed of.

9 Powers and duties under power of attorney given by sole practitioner

- (1) The powers and duties authorised to be exercised and performed by the donee of a power of attorney referred to in clause 2(1) or clause 4(1) are—
 - (a) to conduct the donor's practice; and
 - (b) to operate the donor's trust account or accounts; and
 - (c) if the case is one to which clause 7(g) or clause 7(h) applies, to dispose of the donor's practice; and
 - (d) to do all things necessary for, or incidental to, the exercise of those powers—

in accordance with, and subject to, this Act and all rules and regulations made under this Act.

- (2) This clause is subject to clause 21.

Compare: 1982 No 123 s 70(4)

10 Powers and duties under power of attorney given by only director of incorporated firm

- (1) The powers and duties authorised to be exercised and performed by the donee of a power of attorney referred to in clause 3(1) or clause 5(1) are—
 - (a) to act as the board of the incorporated firm; and

- (b) to become actively involved in the provision by the incorporated firm of regulated services; and
- (c) to perform the duties of the donor in respect of the incorporated firm's trust account or accounts; and
- (d) if the case is one to which clause 8(g) or clause 8(h) applies, to dispose of the donor's shares in the incorporated firm; and
- (e) to do all things necessary for, or incidental to, the exercise of those powers—

in accordance with, and subject to, this Act and all rules and regulations made under this Act.

- (2) This clause is subject to clause 21.

Compare: 1982 No 123 s 70(4)

11 Expenses and remuneration of donee

All costs, charges, and expenses incurred by the donee of a power of attorney referred to in clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1), or an alternate of such a donee, in the exercise of the donee's powers under the power of attorney (including such reasonable remuneration as may be approved by the Council of the appropriate society) are payable, unless the High Court otherwise directs, out of the property of the practitioner or incorporated firm by whom or on whose behalf the power of attorney was given.

12 Powers of New Zealand Law Society and New Zealand Society of Conveyancers

If a practitioner to whom this schedule applies fails or refuses to give a power of attorney within the time and in the manner prescribed in respect of that practitioner by clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1), or if during any period specified in clause 7 or clause 8 (as the case may require) the donee of a power of attorney in force under clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1) is not exercising or performing his or her powers or duties under it to the satisfaction of the Council of the appropriate society, the President of that society may, of his or her own motion or pursuant to a resolution of the Council of that society, execute on behalf of the practitioner a power of attorney in accordance with clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1), as the case may require; and any such power of attorney has effect as if it had been given by the practitioner under clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1), as the case may require.

Compare: 1982 No 123 s 70(6)

13 Power to revoke power of attorney

- (1) A power of attorney given under clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1) may, at any time, be revoked—
- (a) by the donor; or

- (b) by the President of the Council of the appropriate society.
- (2) A power of attorney may be revoked under subclause (1)(b) only if, in relation to the donee under the power of attorney, incapacity, bankruptcy, neglect of duty, or misconduct, is proved to the satisfaction of the President of the Council of the appropriate society.
- (3) This clause is subject to clause 14.

14 Restrictions on revocation of power of attorney

While the donor continues to be a practitioner to whom this schedule applies, neither the donor nor the President of the appropriate society may revoke the power of attorney unless, at the time of revocation, the donor or the President gives a power of attorney to the same or any other practitioner or practitioners in accordance with clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1).

Compare: 1982 No 123 s 70(8)

15 Termination of powers of donee

The powers of the donee of any power of attorney given under clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1) terminate—

- (a) if the power of attorney is revoked under this Act; or
- (b) if the donee is released under clause 22(2),—

but do not terminate by reason only of the death of the donor or the donor becoming of unsound mind.

Compare: 1982 No 123 s 70(9)

16 Restriction on exercise of powers of donee

The powers of the donee of any power of attorney given under clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1) may not be exercised after the expiration of 1 year from the date of the grant in New Zealand of administration in the estate of the donor, except during such further period or periods as may be approved by the Council of the appropriate society.

Compare: 1982 No 123 s 70(10)

17 Certain matters not affected

Nothing in this Act prevents—

- (a) the lawful disposal of—
- (i) the practice of the donor; or
- (ii) the practice of the incorporated firm; or
- (iii) the shares of the donor in the incorporated firm; or
- (b) the grant by a lawyer or conveyancing practitioner of a power of attorney otherwise than under this Act.

Compare: 1982 No 123 s 70(11)

18 Property Law Act 2007 and Companies Act 1993 overridden

Clauses 2 to 17 apply despite anything to the contrary in the Property Law Act 2007 or the Companies Act 1993 or any rule of law.

Compare: 1982 No 123 s 70(12)

Schedule 1 clause 18 heading: amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

Schedule 1 clause 18: amended, on 1 January 2008, by section 364(1) of the Property Law Act 2007 (2007 No 91).

19 Powers of manager or administrator of estate of mentally disordered or deceased practitioner

- (1) While under the Protection of Personal and Property Rights Act 1988 there is a manager of the estate of the donor, the manager may, at any time, and from time to time, suspend the powers of the donee of a power of attorney, and may, at any time, revoke any such suspension.
- (2) Any such manager may, at any time, with the prior consent of the Council of the appropriate society, and subject to the provisions of this Act applicable to the donor, revoke any power of attorney and give to any other practitioner or practitioners entitled to practise on his, her, or their own account a power of attorney for the same purposes and for the same period as the donor was required to do.
- (3) The administrator (within the meaning of the Administration Act 1969) of the estate of a deceased donor may, with the prior consent of the Council of the appropriate society, and subject to the provisions of this Act applicable to the donor, revoke a power of attorney and give to any other practitioner or practitioners entitled to practise on his, her, or their own account a power of attorney for the same purposes as the donor was required to do and for the balance remaining of the period specified in clause 7(d) or clause 8(d), as the case may be.
- (4) Clauses 2 to 18 and 20 to 25, so far as they are applicable and with all necessary modifications, apply to a power of attorney given under this clause as if it were given by the practitioner to whose practice the power of attorney relates or by the practitioner who is the only director of the incorporated firm to which the power of attorney relates.

Compare: 1982 No 123 s 71

20 Notice of giving of power of attorney

Whenever a power of attorney is given in respect of the practice of any practitioner to whom this schedule applies or in respect of any incorporated firm of which a practitioner to whom this schedule applies is the only director, the person giving it must forthwith give notice of the fact that it has been given,

the date of it, and the name and business address of the donee, to the chief executive of the appropriate society.

Compare: 1982 No 123 s 72

21 Conditions affecting donee of power of attorney

- (1) This section applies whenever a power of attorney is given under clause 2(1) or clause 3(1) or clause 4(1) or clause 5(1) or clause 19 in respect of the practice of any practitioner or in respect of any incorporated firm of which a practitioner to whom this schedule applies is the only director.
- (2) The donee must not begin to act under the power of attorney until he or she has—
 - (a) produced it for the inspection of the chief executive of the appropriate society; and
 - (b) given a certified copy of it to the chief executive of the appropriate society; and
 - (c) given notice of it to any auditor of the practitioner's or incorporated firm's trust account and to the bank where the trust account is kept.
- (3) All rules and regulations for the time being in force relating to practitioners' trust accounts and their audit apply and are required to be observed in the name and on behalf of the practitioner as if he or she were personally conducting his or her practice.
- (4) All rules and regulations for the time being in force relating to incorporated firms' trust accounts and their audit apply and are required to be observed in the name and on behalf of the incorporated firm as if the donor of the power of attorney were personally acting as the board of the incorporated firm.

22 Termination of agency

- (1) If a power of attorney is revoked or suspended, or if for any reason the donee of a power of attorney ceases to act under it, written notice of that fact must forthwith be given, to the chief executive of the appropriate society, by—
 - (a) the donor if he or she is capable of doing so; and
 - (b) the donee if he or she is capable of doing so; and
 - (c) any other person who revokes or suspends the power of attorney.
- (2) If the donee of any power of attorney ceases to act under it while he or she is capable of so acting, he or she must continue to observe and comply with the requirements of the Council of the appropriate society, and is personally responsible for the observance of this Act and of all rules and regulations made under this Act, until the power of attorney is revoked or suspended or the donee is released by resolution passed by the Council of the appropriate society.

- (3) When the Council of the appropriate society passes any such resolution, its chief executive must forthwith give notice of it to—
 - (a) any auditor of the practitioner's or incorporated firm's trust account; and
 - (b) the bank where the trust account is kept.
- (4) No such release may be given by the Council of the appropriate society until it is satisfied by such proof as it requires that it is proper in all the circumstances to do so.
- (5) A power of attorney given by a practitioner to whom this schedule applies by virtue of section 44(1)(a) or section 44(1)(c) is revoked by operation of law when the practitioner to whose practice it relates commences practice in partnership with any other practitioner or practitioners.

Compare: 1982 No 123 s 74

23 Bank to notify closing of trust account

Where—

- (a) under clause 21(2)(c) the donee of a power of attorney has given notice of it to any bank in which a practitioner's or incorporated firm's trust account is kept; and
- (b) that notice has not been followed by a notice under clause 22(3)(b) of the release of the donee; and
- (c) the bank is requested to close any such trust account, or any such account is closed,—

the bank must forthwith notify the chief executive of the appropriate society of the request or closure.

Compare: 1982 No 123 s 75

24 Agent to be authorised to appoint substitute

- (1) A power of attorney must include provision authorising the donee of the power of attorney to appoint a substitute.
- (2) Clauses 2 to 18 and 21 to 23 and 25 apply to a substitute appointed under such a provision as if he or she had been appointed as donee by the original power of attorney.

Compare: 1982 No 123 s 76

25 Practising certificates, etc

- (1) A donee acting under a power of attorney must, out of the funds of the donor available to the donee, pay all practising fees, all contributions and levies to the Lawyers' Fidelity Fund or the Conveyancing Practitioners' Fidelity Fund, and all other amounts for which the donor would, as a lawyer or conveyancing practitioner, have been liable under this Act if he or she had continued to practise as a lawyer or conveyancing practitioner.

- (2) While the donor is alive, the donee of the power of attorney must apply for and obtain in each year the practising certificate of—
- (a) the practitioner to whose practice the power of attorney relates; or
 - (b) the practitioner who is the only director of the incorporated firm to which the power of attorney relates.
- (3) The chief executive of the appropriate society is empowered, subject to this Act, to issue such a certificate with the approval of the Council of the appropriate society.
- (4) No practising certificate may be issued in respect of a practitioner who has died; but, while the practising fees, contributions, levies, and amounts for which he or she would have been liable are being paid in respect of a practitioner who has died, this Act and all rules and regulations made under this Act apply in respect of that practitioner as if he or she were living and the holder of a current practising certificate.

Compare: 1982 No 123 s 77

26 Part 7 not affected

Nothing in clauses 2 to 25 or in section 45 in any way affects the operation of Part 7.

Compare: 1982 No 123 s 79

Schedule 2

Provisions applying in relation to investigations under section 109

s 109(5)

1 Power to examine accounts

Any person for the time being holding an appointment under section 109 may, at any time and without further authority than this clause, examine,—

- (a) if he or she was appointed under section 109(1), the accounts of any lawyer or firm of lawyers or incorporated law firm; or
- (b) if he or she was appointed under section 109(2), the accounts of any conveyancing practitioner or firm of conveyancing practitioners or incorporated conveyancing firm.

Compare: 1982 No 123 s 85(3)

2 Powers of societies to direct examination of accounts

- (1) Without limiting the generality of clause 1, if the New Zealand Law Society has reasonable cause to believe—

- (a) that any money entrusted to a lawyer or an incorporated law firm has been stolen by that lawyer or by an employee or agent of that lawyer or firm; or
- (b) that any trust account of a lawyer or firm of lawyers or incorporated law firm is not being kept or operated in accordance with any rules or regulations made under this Act and for the time being in force in relation to trust accounts and the audit of trust accounts; or
- (c) that any lawyer is, owing to physical or mental disability, unable to administer properly his or her trust account,—

any person for the time being holding an appointment under section 109(1) may, at any time, acting under the general or special directions of the society, examine the accounts of that lawyer or firm or incorporated law firm.

- (2) Without limiting the generality of clause 1, if the New Zealand Society of Conveyancers has reasonable cause to believe—

- (a) that any money entrusted to a conveyancing practitioner or an incorporated conveyancing firm has been stolen by that conveyancing practitioner or by an employee or agent of that conveyancing practitioner or firm; or
- (b) that any trust account of a conveyancing practitioner or firm of conveyancing practitioners or incorporated conveyancing firm is not being kept or operated in accordance with any rules or regulations made under this Act and for the time being in force in relation to trust accounts and the audit of trust accounts; or

- (c) that any conveyancing practitioner is, owing to physical or mental disability, unable to administer properly his or her trust account,—

any person for the time being holding an appointment under section 109(2) may, at any time, acting under the general or special directions of the society, examine the accounts of that conveyancing practitioner or firm or incorporated conveyancing firm.

Compare: 1982 No 123 s 85(4)

3 Power to obtain records, documents, and information

- (1) On production by any person appointed under section 109(1) of the instrument of his or her appointment, that person may, at any time,—
- (a) require any lawyer or firm of lawyers or incorporated law firm, or any employee, agent, or banker of any lawyer or firm of lawyers or incorporated law firm, to produce to that person all records or documents relating to the business or accounts of any lawyer or firm of lawyers or incorporated law firm, and to give, in relation to those records or documents, all information that may be reasonably required by that person; and
- (b) inspect all records and documents relating to any money received by any lawyer or firm of lawyers or incorporated law firm, or any employee, agent, or banker of any lawyer or firm of lawyers or incorporated law firm, whether the money has been paid into a private account or a trust account at a bank or has not been paid to any such account, and make copies of them or of any entries in them.
- (2) On production by any person appointed under section 109(2) of the instrument of his or her appointment, that person may, at any time,—
- (a) require any conveyancing practitioner or firm of conveyancing practitioners or incorporated conveyancing firm, or any employee, agent, or banker of any conveyancing practitioner or firm of conveyancing practitioners or incorporated conveyancing firm, to produce to that person all records or documents relating to the business or accounts of any conveyancing practitioner or firm of conveyancing practitioners or incorporated conveyancing firm, and to give, in relation to those records or documents, all information that may be reasonably required by that person; and
- (b) inspect all records and documents relating to any money received by any conveyancing practitioner or firm of conveyancing practitioners or incorporated conveyancing firm, or any employee, agent, or banker of any conveyancing practitioner or firm of conveyancing practitioners or incorporated conveyancing firm, whether the money has been paid into a private account or a trust account at a bank or has not been paid to any such account, and make copies of them or of any entries in them.

Compare: 1982 No 123 s 85(5)

4 Restrictions on communication of certain matters

A person appointed under section 109 must not communicate any matter that may come to that person's knowledge in the exercise of any of that person's powers under this schedule, except—

- (a) for the purposes of that person's investigation; or
- (b) in the course of any report to the New Zealand Law Society or the New Zealand Society of Conveyancers; or
- (c) to a Standards Committee; or
- (d) to an investigator appointed under section 144; or
- (e) in evidence in proceedings before a Standards Committee or the Disciplinary Tribunal; or
- (f) to the Legal Complaints Review Officer; or
- (g) to a constable or member of the Serious Fraud Office acting in the performance of his or her duty; or
- (h) to the Registrar-General of Land for the purpose of enabling the Registrar-General of Land to discharge his or her duties under the Land Transfer Act 2017 or any other enactment; or
- (i) in evidence in any court.

Compare: 1982 No 123 s 85(6)

Schedule 2 clause 4(g): amended, on 1 October 2008, pursuant to section 116(a)(iii) of the Policing Act 2008 (2008 No 72).

Schedule 2 clause 4(h): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

5 Restrictions on publication by New Zealand Law Society and New Zealand Society of Conveyancers

- (1) Where the New Zealand Law Society or the New Zealand Society of Conveyancers receives a report from a person appointed under section 109, the society must consider that report in private and not otherwise.
- (2) It is not lawful for any member of the Council of the New Zealand Law Society or of the Council of the New Zealand Society of Conveyancers or for any officer of either society to publish to any person any information disclosed in a report made to the society by a person appointed under section 109 except pursuant to clause 4 or clause 6 or in the performance of the duty of that member or officer.

Compare: 1982 No 123 s 85(7)

6 Power of society to communicate contents of report

Where the New Zealand Law Society or the New Zealand Society of Conveyancers receives a report from a person appointed under section 109, the society

may, in its discretion, communicate the contents of the report, or any part of the contents of the report,—

- (a) to any lawyer or conveyancing practitioner to whom the report relates, or any lawyer representing that lawyer or conveyancing practitioner, or, if that lawyer or conveyancing practitioner is a partner in a firm of lawyers or conveyancing practitioners, to any partner in the firm:
- (b) to any incorporated law firm or incorporated conveyancing firm to which the report relates, or to any lawyer representing that firm or practice:
- (c) to any auditor of the trust account of the lawyer or conveyancing practitioner or firm or practice:
- (d) to the Council of the New Zealand Institute of Chartered Accountants or to the governing body of any other accredited body (which in this schedule has the same meaning as in section 6(1) of the Auditor Regulation Act 2011):
- (e) to a constable or member of the Serious Fraud Office acting in the performance of his or her duty:
- (f) to the Registrar-General of Land if the society considers that the communication of the contents of the report, or of part of the contents of the report, to the Registrar-General of Land is relevant to the discharge by the Registrar-General of Land of his or her duties under the Land Transfer Act 2017 or any other enactment.

Compare: 1982 No 123 s 85(8)

Schedule 2 clause 6(d): amended, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Schedule 2 clause 6(d): amended, on 7 July 2010, by section 10 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

Schedule 2 clause 6(e): amended, on 1 October 2008, pursuant to section 116(a)(iii) of the Policing Act 2008 (2008 No 72).

Schedule 2 clause 6(f): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

7 Power to give information to client

Nothing in this schedule prevents the New Zealand Law Society or the New Zealand Society of Conveyancers, in its discretion, from giving to any client of a lawyer or firm of lawyers or of an incorporated law firm or of a conveyancing practitioner or firm of conveyancing practitioners or of an incorporated conveyancing firm any information disclosed in a report made to the society by a person appointed under section 109 so far as that report relates to the client's affairs and is required by that client.

Compare: 1982 No 123 s 85(9)

8 Restrictions on publication by Council of New Zealand Institute of Chartered Accountants or other accredited body

- (1) If any disclosure is made under clause 6(d), the Council or governing body referred to in that paragraph must consider the information given in private and not otherwise.
- (2) It is not lawful for any member of the Council or governing body or for any officer of the New Zealand Institute of Chartered Accountants or the accredited body to publish to any person any information so disclosed except in evidence in disciplinary proceedings under the New Zealand Institute of Chartered Accountants Act 1996 or under the rules of the accredited body.

Schedule 2 clause 8: replaced, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Schedule 3

Provisions applying in relation to Legal Complaints Review Officer

s 225

1 Term of office of Legal Complaints Review Officer

- (1) A person appointed as the Legal Complaints Review Officer must be appointed for a term of up to 5 years and may be reappointed.
- (2) Every person appointed as the Legal Complaints Review Officer, unless he or she sooner vacates office under clause 2, is to continue to hold office, despite the expiry of that person's term of appointment, until—
 - (a) the person's reappointment as the Legal Complaints Review Officer; or
 - (b) the appointment of a successor; or
 - (c) the person is informed in writing by the Minister that the person is not to be reappointed and is not to hold office until a successor is appointed.
- (3) A person who continues in office for any period under subclause (2) may act as the Legal Complaints Review Officer during that period for the purpose of—
 - (a) completing any proceedings partly or wholly heard by him or her before the expiry of his or her term of office:
 - (b) hearing any other proceedings.
- (4) A person who has resigned, or whose successor is appointed or who will not be replaced (unless he or she was removed from office), may continue in office for the purpose of completing any proceedings that are partly or wholly heard.

Schedule 3 clause 1(1): replaced, on 14 November 2018, by section 134(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 3 clause 1(3): inserted, on 14 November 2018, by section 134(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 3 clause 1(4): inserted, on 14 November 2018, by section 134(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

2 Vacation of office

- (1) The person appointed as the Legal Complaints Review Officer may, at any time, be removed from office by the Minister for inability to perform the functions of the office, neglect of duty, or misconduct, proved to the satisfaction of the Minister.
- (2) The person appointed as the Legal Complaints Review Officer is deemed to have vacated his or her office if he or she is, under the Insolvency Act 2006, adjudged bankrupt.
- (3) The person appointed as the Legal Complaints Review Officer may, at any time, resign his or her office by giving notice in writing to that effect to the Minister.

Schedule 3 clause 2(2): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

3 Deputy Legal Complaints Review Officers

- (1) Deputies to the person appointed as the Legal Complaints Review Officer may be appointed from time to time.
- (2) Subject to the control of the Legal Complaints Review Officer, a Deputy Legal Complaints Review Officer has and may exercise and perform all the powers, duties, and functions of the Legal Complaints Review Officer under this Act (including the power of delegation conferred by clause 6).
- (3) Each Deputy Legal Complaints Review Officer is to be appointed in the same manner as the Legal Complaints Review Officer, and sections 190 and 191 and clauses 1 and 2 apply to a Deputy Legal Complaints Review Officer in the same manner as they apply to the Legal Complaints Review Officer.
- (4) On the occurrence from any cause of a vacancy in the office of the Legal Complaints Review Officer, and in the case of the absence from duty of the person appointed as the Legal Complaints Review Officer (from whatever cause arising), and for so long as any such vacancy or absence continues, each Deputy Legal Complaints Review Officer has and may exercise and perform all the powers, duties, and functions of the Legal Complaints Review Officer.
- (5) The fact that a Deputy Legal Complaints Review Officer exercises or performs any power, duty, or function of the Legal Complaints Review Officer is conclusive evidence of his or her authority to do so.

Compare: 1988 No 2 s 8

Schedule 3 clause 3 heading: amended, on 12 December 2012, by section 6(1) of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

Schedule 3 clause 3(1): replaced, on 14 November 2018, by section 134(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 3 clause 3(2): amended, on 12 December 2012, by section 6(3) of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

Schedule 3 clause 3(3): replaced, on 12 December 2012, by section 6(4) of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

Schedule 3 clause 3(4): amended, on 12 December 2012, by section 6(5) of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

Schedule 3 clause 3(5): amended, on 12 December 2012, by section 6(6) of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

4 Remuneration and allowances

There is to be paid to the Legal Complaints Review Officer and each Deputy Legal Complaints Review Officer out of public money remuneration by way of fees, salary, or allowances and travelling allowances and travelling expenses in accordance with the provisions of the Fees and Travelling Allowances Act 1951, and the provisions of that Act are to apply accordingly as if the Legal Complaints Review Officer and each Deputy Legal Complaints Review Officer

were each a member of a statutory board and the travelling were in the service of a statutory board.

Schedule 3 clause 4: amended, on 12 December 2012, by section 7 of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

5 Accommodation and services

- (1) The Ministry of Justice is responsible for ensuring that the Legal Complaints Review Officer and each Deputy Legal Complaints Review Officer are provided with such accommodation and such administrative and secretarial services as are approved from time to time by the Minister of Justice.
- (2) If the Ministry of Justice considers that there is a need to incur, in providing the Legal Complaints Review Officer or a Deputy Legal Complaints Review Officer with accommodation or services, costs that have not been anticipated, that Ministry must obtain the approval of the Minister of Justice before incurring those costs.

Schedule 3 clause 5(1): amended, on 12 December 2012, by section 8(1) of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

Schedule 3 clause 5(2): amended, on 12 December 2012, by section 8(2) of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

6 Delegation of powers by Legal Complaints Review Officer

- (1) With the prior approval of the Minister of Justice, the Legal Complaints Review Officer may, from time to time, delegate to any person holding office under the Legal Complaints Review Officer any of the functions or powers of the Legal Complaints Review Officer under this Act (including this power of delegation).
- (2) Every delegation under this clause must be in writing.
- (3) No delegation under this clause may include—
 - (a) the power to make a final determination under this Act in respect of any complaint or matter; or
 - (b) the power to appoint an investigator; or
 - (c) the power to lay a charge before the Disciplinary Tribunal.
- (4) Subject to any general or special directions given or conditions imposed by the Legal Complaints Review Officer, the person to whom any functions or powers are delegated under this clause may perform or exercise those functions or powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation.
- (5) Every person purporting to act pursuant to any delegation under this clause is, in the absence of proof to the contrary, to be presumed to be acting in accordance with the terms of the delegation.

- (6) Any delegation under this clause may be made to a specified person or to the holder for the time being of a specified office or to the holders of offices of a specified class.
- (7) No such delegation affects or prevents the exercise of any power by the Legal Complaints Review Officer, nor does any such delegation affect the responsibility of the Legal Complaints Review Officer for the actions of any person acting under the delegation.
- (8) Any such delegation may be made subject to such restrictions and conditions as the Legal Complaints Review Officer thinks fit, and may be made generally or in relation to any particular case or class of cases.
- (9) Any person purporting to exercise any power of the Legal Complaints Review Officer by virtue of a delegation under this clause must, when required to do so, produce evidence of that person's authority to exercise the power.

7 Revocation of delegations

- (1) Every delegation under clause 6 is revocable in writing at will.
- (2) Any such delegation, until it is revoked, continues in force according to its tenor.
- (3) If the Legal Complaints Review Officer ceases to hold office, the delegation continues to have effect as if made by the successor in office to the Legal Complaints Review Officer.

8 Protection and privileges of witnesses

- (1) Every person has the same privileges in relation to—
 - (a) the giving of information to the Legal Complaints Review Officer; and
 - (b) the giving of evidence to, or the answering of questions put by, the Legal Complaints Review Officer; and
 - (c) the production of papers, documents, records, or things to the Legal Complaints Review Officer—as witnesses have in a court of law.
- (2) In this section, **Legal Complaints Review Officer** includes an investigator and any other person acting on behalf of, or as the delegate of, the Legal Complaints Review Officer.

Compare: 1982 No 123 s 127

9 Privileges and immunities of counsel

Every counsel appearing before the Legal Complaints Review Officer has the same privileges and immunities as counsel in a court of law.

Compare: 1982 No 123 s 127

10 Disclosure of information

- (1) This clause applies to—
- (a) any person who holds, or has held, office as the Legal Complaints Review Officer or a Deputy Legal Complaints Review Officer;
 - (b) any person to whom any of the functions and powers of the Legal Complaints Review Officer are, or have been, delegated under this Act.
- (2) No person to whom this clause applies may communicate any matter that came to the knowledge of that person or the employer of that person in the course of the exercise by that person, or the employer of that person, of powers conferred by this Act on that person, or the employer of that person, in relation to any complaint made, or inquiry or investigation conducted, under this Act except—
- (a) for the purposes of the inquiry or investigation; or
 - (b) in evidence in any proceedings before—
 - (i) a Standards Committee; or
 - (ii) the Legal Complaints Review Officer; or
 - (iii) the Disciplinary Tribunal; or
 - (iv) the Disciplinary Tribunal of the New Zealand Institute of Chartered Accountants or a disciplinary tribunal, committee, or other body of any other accredited body (within the meaning of section 6(1) of the Auditor Regulation Act 2011); or
 - (c) to a constable or member of the Serious Fraud Office acting in the performance of his or her duty; or
 - (d) to the Registrar-General of Land for the purpose of enabling the Registrar-General of Land to discharge his or her duties under the Land Transfer Act 2017 or any other enactment; or
 - (e) in evidence in any court.

Compare: 1982 No 123 s 85(6)

Schedule 3 clause 10(1)(a): amended, on 12 December 2012, by section 9 of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

Schedule 3 clause 10(2)(b)(iv): amended, on 1 July 2015, by section 17 of the Financial Reporting Amendment Act 2014 (2014 No 64).

Schedule 3 clause 10(2)(b)(iv): amended, on 7 July 2010, by section 10 of the New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74).

Schedule 3 clause 10(2)(c): amended, on 1 October 2008, pursuant to section 116(a)(iii) of the Policing Act 2008 (2008 No 72).

Schedule 3 clause 10(2)(d): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

11 Legal Complaints Review Officer not personally liable

A person who is the Legal Complaints Review Officer or a Deputy Legal Complaints Review Officer or an agent, employee, or delegate of the Legal

Complaints Review Officer is not under any civil or criminal liability in respect of—

- (a) any act done or omitted to be done in the course of performing or exercising any of that person's functions, duties, or powers under this Act or any rules made under this Act; or
- (b) any words spoken or written at, or for the purpose of, the hearing of any inquiry or other proceedings under this Act or any rules made under this Act; or
- (c) anything contained in any notice given under this Act or any rules made under this Act,—

unless that person has acted in bad faith.

Compare: 1995 No 95 s 135(1); 1996 No 39 s 12(1)

Schedule 3 clause 11: amended, on 12 December 2012, by section 10 of the Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105).

Schedule 4

Provisions applying in relation to Disciplinary Tribunal

s 260

1 Oath of office

Each member of the Disciplinary Tribunal must, before entering on the performance of his or her functions as a member of the Disciplinary Tribunal, swear or affirm before a Judge of the High Court that the member of the Disciplinary Tribunal will faithfully and impartially perform his or her duties as a member of the Disciplinary Tribunal.

2 Term of office

- (1) Every member of the Disciplinary Tribunal is to be appointed for a term of up to 5 years.
- (2) A member of the Disciplinary Tribunal is eligible for reappointment from time to time.
- (3) Where the term of office of a member of the Disciplinary Tribunal has expired, that member, unless he or she sooner dies or vacates office under clause 3, continues to hold office, by virtue of the appointment for the term that has expired, until—
 - (a) that member is reappointed; or
 - (b) a successor to that member is appointed; or
 - (c) that member is informed in writing by the Minister or the council that appointed that member that he or she is not to be reappointed and is not to hold office until a successor is appointed.
- (4) A member who continues in office for any period under subclause (3) may act as a member during that period for the purpose of—
 - (a) completing any proceedings partly or wholly heard by the Tribunal before the expiry of his or her term of office;
 - (b) hearing any other proceedings.
- (5) A member who has resigned, or whose successor is appointed or who will not be replaced (unless he or she was removed from office), may continue in office for the purpose of completing any proceedings that are partly or wholly heard.

Compare: 1982 No 123 s 120(1)–(3)

Schedule 4 clause 2(1): amended, on 14 November 2018, by section 135(1) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 4 clause 2(4): inserted, on 14 November 2018, by section 135(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 4 clause 2(5): inserted, on 14 November 2018, by section 135(2) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

3 Vacation of office

- (1) A member of the Disciplinary Tribunal who holds office under section 228(a) or (b) or (c) and who was, in accordance with section 230(2) or section 233(1) appointed by the Governor-General, may, at any time, be removed from office by the Governor-General for inability to perform the functions of the office, neglect of duty, or misconduct proved to the satisfaction of the Governor-General.
- (2) A member of the Disciplinary Tribunal who holds office under section 228(d) or (e) and who was, in accordance with section 233(2) or (3) appointed by a council, may, at any time, be removed from office by that council for inability to perform the functions of the office, neglect of duty, or misconduct, proved to the satisfaction of that council.
- (3) A member of the Disciplinary Tribunal is deemed to have vacated his or her office if he or she is, under the Insolvency Act 2006, adjudged bankrupt.
- (4) A member of the Disciplinary Tribunal may, at any time, resign his or her office by giving notice in writing to that effect—
 - (a) to the Minister; and
 - (b) to the Council of the New Zealand Law Society (if the member was appointed by that Council); and
 - (c) to the Council of the New Zealand Society of Conveyancers (if the member was appointed by that Council).
- (5) If a member of the Disciplinary Tribunal dies or resigns or is removed from office, or is deemed to have vacated his or her office, the vacancy so created must be filled in the manner in which the appointment to the vacant office was originally made.
- (6) Despite subclause (1), if at any time the chairperson or deputy chairperson of the Disciplinary Tribunal holds any other judicial office, he or she may not be removed from office as chairperson or deputy chairperson, except for inability to perform the functions of the office, unless he or she is removed or suspended from his or her other judicial office.
- (7) The powers of the Disciplinary Tribunal are not affected by any vacancy in its membership.

Compare: 1982 No 123 ss 109(2), 120(4), (5)

Schedule 4 clause 3(3): amended, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

4 Remuneration of chairperson, deputy chairperson, and lay members

The chairperson of the Disciplinary Tribunal, the deputy chairperson of the Disciplinary Tribunal, and every lay member of the Disciplinary Tribunal are to be paid, out of public money, remuneration by way of fees, salary, or allowances and travelling allowances and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that

Act apply accordingly as if the chairperson or deputy chairperson or member were a member of a statutory board within the meaning of that Act.

Compare: 1982 No 123 s 121

5 Chairperson, deputy chairperson, and lay members not in service of Crown

No person holding office as the chairperson or deputy chairperson of the Disciplinary Tribunal or as a lay member of the Disciplinary Tribunal is deemed by reason of his or her holding of that office to be employed in the Government service for the purposes of the Government Superannuation Fund Act 1956 or in the State services for the purposes of the Public Service Act 2020.

Compare: 1982 No 123 s 122

Schedule 4 clause 5: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

6 Power to summon witnesses

- (1) For the purposes of its proceedings, the Disciplinary Tribunal may, on its own initiative or at the request of a party, issue in writing a summons requiring any person—
 - (a) to attend at the time and place specified in the summons and to give evidence; and
 - (b) to produce any papers, documents, records, or things in that person's possession or under that person's control that are relevant to the proceedings.
- (2) The Tribunal may require a person producing any of the things listed in subclause (1)(b) to do so under oath or affirmation, by statutory declaration, or by other means.
- (3) The power to issue a witness summons may be exercised by the Tribunal, the chairperson, the deputy chairperson, the chairperson of a division, or any officer of the Tribunal purporting to act at the direction or with the authority of the Tribunal or any of those persons.
- (3A) A witness summons must be in a form approved by the chief executive of the Ministry of Justice after consulting the Tribunal.
- (4) The Tribunal may—
 - (a) require a copy of anything that is produced to be provided to any person appearing at the hearing; and
 - (b) impose any terms and conditions on the provision of copies and the use that can be made of them.
- (5) For the purposes of subclause (1), **writing** includes—
 - (a) the recording of words in a permanent and legible form; and

- (b) the recording of words by electronic means that can be retrieved and read; and
- (c) the display of words by any form of electronic or other means of communication that is subsequently recorded by electronic means and that can, by any means, be retrieved and read.

Schedule 4 clause 6: replaced, on 14 November 2018, by section 135(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 4 clause 6(3A): inserted, on 29 October 2019, by section 135(4) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

7 Service of summons

- (1) A summons issued under clause 6 may be served—
 - (a) by delivering it to the person summoned; or
 - (b) by posting it to the person summoned at that person's usual place of residence.
- (2) A summons must,—
 - (a) if it is to be served under subclause (1)(a), be served at least 24 hours before the attendance of the witness is required;
 - (b) if it is to be served under subclause (1)(b), be served at least 10 days before the attendance of the witness is required.
- (3) A summons that is posted is to be treated as having been served when it would have been served in the ordinary course of post.
- (4) The person requiring attendance of the witness must pay or tender to the witness at the time the summons is served, or at some other reasonable time before the hearing, the sum estimated to be payable to that witness for fees, allowances, and expenses in accordance with the scale prescribed by regulations made under the Criminal Procedure Act 2011.

Compare: 1996 No 39 s 11(6)–(9)

Schedule 4 clause 7(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

8 Witnesses' expenses

- (1) Every witness giving evidence or attending to give evidence at the hearing of any proceedings before the Disciplinary Tribunal is entitled, at the direction of the Disciplinary Tribunal, to such sum for his or her expenses and loss of time as the Disciplinary Tribunal may determine.
- (2) Subject to any order made by the Disciplinary Tribunal as to the payment of costs and expenses, all such witnesses' expenses must be paid—
 - (a) by the New Zealand Law Society (if the proceedings relate to a lawyer or former lawyer or an incorporated law firm or former incorporated law firm or an employee or former employee of a lawyer or an incorporated law firm); and

- (b) by the New Zealand Society of Conveyancers (if the proceedings relate to a conveyancing practitioner or former conveyancing practitioner or an incorporated conveyancing firm or former incorporated conveyancing firm or an employee or former employee of a conveyancing practitioner or an incorporated conveyancing firm).

Compare: 1982 No 123 s 128

9 Protection and privileges of witnesses

Every person has the same privileges in relation to—

- (a) the giving of information to the Disciplinary Tribunal; and
- (b) the giving of evidence to, or the answering of questions put by, the Disciplinary Tribunal; and
- (c) the production of papers, documents, records, or things to the Disciplinary Tribunal,—

as witnesses have in a court of law.

Compare: 1982 No 123 s 127

10 Privileges and immunities of counsel

Every counsel appearing before the Disciplinary Tribunal has the same privileges and immunities as counsel in a court of law.

Compare: 1982 No 123 s 127

11 Disciplinary Tribunal and members, etc, not personally liable

Neither the Disciplinary Tribunal, nor any member, officer, agent, or employee of the Disciplinary Tribunal, is under any criminal or civil liability in respect of—

- (a) any act done or omitted to be done in the course of performing or exercising any of their functions, duties, or powers under this Act or any rules made under this Act; or
- (b) any words spoken or written at, or for the purposes of, the hearing of any inquiry or other proceedings under this Act or any rules made under this Act; or
- (c) anything contained in any notice given under this Act or any rules made under this Act,—

unless the Disciplinary Tribunal or person has acted in bad faith.

Compare: 1995 No 95 s 135(1)

12 Decisions to be in writing and state reasons

- (1) Every decision of the Disciplinary Tribunal must be in writing and must state the reasons for the decision.
- (2) Despite subclause (1), the Tribunal—

- (a) may give interim decisions on matters requiring urgent decisions, without stating the reasons for the decision; but
- (b) must subsequently set out the reasons for the decision in a written decision.

Schedule 4 clause 12: inserted, on 14 November 2018, by section 135(5) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Schedule 5

Provisions applying in relation to New Zealand Council of Legal Education

s 287

1 Meetings

- (1) Meetings of the Council must be held at least once in each year and at such times and places as the chairperson or the Council determines.
- (2) At any meeting of the Council, a quorum consists of any 8 members of the Council.
- (3) Any member who is unable to be present at a meeting of the Council or any committee of the Council may, by instrument in writing signed by that member and supplied to the chief executive, appoint some other person to attend in his or her place.
- (4) The fact that any person so attends is sufficient evidence of his or her authority to do so; and, while attending, he or she is deemed to be a member of the Council.
- (5) The chairperson presides at every meeting of the Council at which he or she is present.
- (6) If at any meeting the chairperson is not present or there is no chairperson, the Council may appoint some member present to act as chairperson for that meeting; and the person so appointed has, in respect of that meeting, all the powers of the chairperson.
- (7) At any meeting of the Council, the person presiding has a deliberative vote, and, in the case of an equality of votes, also has a casting vote.
- (8) Every question before the Council is to be decided by a majority of the valid votes recorded on the question.
- (9) A resolution in writing signed, or assented to by letter, facsimile, electronic mail, telegram, cable, or telex message, by all the members of the Council for the time being present in New Zealand is as valid and effectual as if it had been passed at a duly constituted meeting of the Council; but the chairperson must report to the Council every resolution so signed since its previous meeting, and lay before it a copy of every such resolution.
- (10) Except as expressly provided in this Act, the Council may determine its own procedure.

Compare: 1982 No 123 s 36

2 Special meetings

- (1) The chairperson of the Council must call a special meeting of the Council on the requisition in writing of any 3 members.

- (2) Notice of the meeting must be posted to each member at his or her usual address at least 7 clear days before the date of the meeting.

Compare: 1982 No 123 s 37

3 Teleconference meeting

A resolution is as valid and effectual as if it had been passed at a meeting of the Council duly called and constituted if—

- (a) a telephone or video conference of at least 8 members of the Council is held; and
- (b) all reasonable efforts have been made to enable every member to participate in the conference; and
- (c) each member who participates in the conference is able to express individually his or her consensus with, or vote on, any question arising during the meeting; and
- (d) the resolution is assented to by consensus or by a majority of at least 75% of the members participating in the conference.

4 Power to adjourn

- (1) The chairperson may, with the consent of any meeting of the Council at which a quorum is present (other than a special meeting or a teleconference meeting), and must if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- (2) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (3) An adjourned meeting must be held in the same place unless another place is specified in the resolution for the adjournment.
- (4) If the meeting is adjourned for 10 days or more,—
 - (a) notice of the adjourned meeting must be given as in the case of an original meeting; but
 - (b) it is not necessary in any other case to give any notice of adjournment or of the business to be transacted at an adjourned meeting.

5 Remuneration and travelling allowances

The members of the Council, and the members of any committee appointed by the Council, are to be paid such fees, salaries, and allowances, and such travelling allowances and expenses, as are, from time to time, determined by the Attorney-General after consultation with the Council.

Compare: 1982 No 123 s 41

6 Employees

- (1) The Council may appoint a chief executive and any other employees it thinks necessary for the efficient performance of its functions.

- (2) Subject to the employee's terms and conditions of employment, the Council may, at any time, terminate or suspend the employment of any employee.
- (3) Subject to subclause (4), employees appointed under subclause (1) are to be employed on such terms and conditions of employment, and are to be paid such salaries and allowances, as the Council from time to time determines.
- (4) The terms and conditions of employment of the chief executive and the salary and allowances paid to the chief executive are to be determined by the Council after consultation with the Public Service Commission.
- (5) Any determination under subclause (3) or subclause (4) takes effect on a day (whether the day it is made or any earlier or later day) specified in it.
- (6) If no day is specified, the determination takes effect on the date on which it is made.

Compare: 1982 No 123 s 42

Schedule 5 clause 6(4): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

7 Personnel policy

- (1) The Council must operate a personnel policy that complies with the principle of being a good employer.
- (2) For the purposes of this clause, a **good employer** is an employer that operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—
 - (a) good and safe working conditions; and
 - (b) an equal employment opportunities programme; and
 - (c) the impartial selection of suitably qualified people for appointment; and
 - (d) recognition of—
 - (i) the aims and aspirations of Māori; and
 - (ii) the employment requirements of Māori; and
 - (iii) the need for involvement of Māori as employees of the employer operating the policy; and
 - (e) opportunities for the enhancement of the abilities of individual employees; and
 - (f) recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
 - (g) recognition of the employment requirements of women; and
 - (h) recognition of the employment requirements of people with disabilities.

Compare: 1982 No 123 s 42A

8 Equal employment opportunities programme

- (1) The Council—
 - (a) must, each year, develop and publish an equal employment opportunities programme:
 - (b) must, each year, ensure that the equal employment opportunities programme for that year is complied with.
- (2) For the purposes of this clause and clause 7, an equal employment opportunities programme is a programme aimed at identifying and eliminating all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any people or group of people.
- (3) The Council must include in every annual report a statement of the extent to which its equal employment opportunities programme for the year to which the report relates was complied with.

Compare: 1982 No 123 s 42B

9 Superannuation or retiring allowances

- (1) For the purpose of providing a superannuation fund or retiring allowance for any of the employees of the Council, sums by way of subsidy may, from time to time, be paid into a retirement scheme (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013).
- (2) Despite anything in this Act, any person who, immediately before becoming an employee of the Council, was a contributor to the Government Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 is, for the purposes of that Act, to be treated as employed in the Government service so long as that person continues to be an employee of the Council; and that Act applies to that person in all respects as if that person's service as such an employee of the Council were Government service.
- (3) Subject to the Government Superannuation Fund Act 1956, nothing in subclause (2) entitles any person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.
- (4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2), to a person who is in the service of the Council as an employee and is a contributor to the Government Superannuation Fund, **controlling authority**, in relation to that person, means the Council.

Compare: 1982 No 123 s 42C

Schedule 5 clause 9(1): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

10 Application of certain Acts to members and employees

No person is to be treated as being employed in the service of the Crown for the purposes of the Public Service Act 2020 or the Government Super-

annuation Fund Act 1956 by reason only of that person's membership of the Council or by reason only of that person's employment under clause 6.

Compare: 1982 No 123 s 42E

Schedule 5 clause 10: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

11 Crown may provide services for Council

The Crown, acting through any department of State, may, from time to time, at the request of the Council, execute any work or enter into any arrangements for the execution or provision by the department for the Council of any work or service, or for the supply to the Council of any goods, stores, or equipment, on and subject to any terms and conditions agreed between the Council and the department's chief executive.

Compare: 1982 No 123 s 42D

12 Funds of Council

The Council's funds comprise—

- (a) all money appropriated by Parliament for the purposes of the Council and paid to the Council for the purposes of the Council:
- (b) all other money lawfully received by the Council for the purposes of the Council:
- (c) all accumulations of income derived from any such money.

Compare: 1982 No 123 s 42F

13 Bank accounts

- (1) The Council may open at such bank or banks as may be determined, from time to time, by the Council such accounts as are necessary for the exercise of its functions and powers.
- (2) All money received by the Council, or by any employee of the Council, must, as soon as practicable after it has been received, be paid into bank accounts of the Council from time to time determined by the Council.
- (3) The withdrawal or payment of money from any such account may be authorised in any manner the Council thinks fit.

Compare: 1982 No 123 s 42G

14 Investment of money

Any money which belongs to the Council and which is not immediately required for expenditure by the Council may be invested subject to the restrictions in section 161 of the Crown Entities Act 2004.

Compare: 1982 No 123 s 42H

15 Seal

- (1) The common seal of the Council must be held in the custody of such officer of the Council as the Council, from time to time, appoints.
- (2) The common seal must not be affixed to any document except under a resolution of the Council, or of a committee of the Council acting with the authority of the Council.
- (3) The execution of any document so sealed must be attested to—
 - (a) by the chairperson of the Council or the chief executive of the Council; and
 - (b) by 2 members of the Council.
- (4) The common seal of the Council must be judicially noticed in all courts and for all purposes.

Compare: 1982 No 123 s 42I

16 Exemption from income tax

The income of the Council is exempt from income tax.

Compare: 1982 No 123 s 42J

17 Council and members, etc, not personally liable

Neither the Council, nor a committee appointed under section 280, nor any member, officer, agent, or employee of either of those bodies, is under any criminal or civil liability in respect of—

- (a) any act done or omitted to be done in the course of the performance or exercise or intended performance or exercise of any of their functions, duties, or powers under this Act or any regulations or rules made under this Act; or
- (b) any words spoken or written at, or for the purposes of, the hearing of any inquiry or other proceedings under this Act or any regulations or rules made under this Act; or
- (c) anything contained in any notice given under this Act or any regulations or rules made under this Act,—

unless the Council or the committee or person has acted in bad faith.

Compare: 1982 No 123 s 31B

Schedule 6

Enactments amended

s 348

Care of Children Act 2004 (2004 No 90)*Amendment(s) incorporated in the Act(s).***Companies Act 1993 (1993 No 105)***Amendment(s) incorporated in the Act(s).***Copyright Act 1994 (1994 No 143)***Amendment(s) incorporated in the Act(s).***Corrections Act 2004 (2004 No 50)***Amendment(s) incorporated in the Act(s).***Credit Contracts and Consumer Finance Act 2003 (2003 No 52)***Amendment(s) incorporated in the Act(s).***Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55)***Amendment(s) incorporated in the Act(s).***Customs and Excise Act 1996 (1996 No 27)***Amendment(s) incorporated in the Act(s).***Domestic Violence Act 1995 (1995 No 86)***Amendment(s) incorporated in the Act(s).***Evidence Amendment Act (No 2) 1980 (1980 No 27)***Amendment(s) incorporated in the Act(s).***Financial Transactions Reporting Act 1996 (1996 No 9)***Amendment(s) incorporated in the Act(s).***Gambling Act 2003 (2003 No 51)***Amendment(s) incorporated in the Act(s).***Housing Corporation Act 1974 (1974 No 19)***Amendment(s) incorporated in the Act(s).***Income Tax Act 2004 (2004 No 35)***Amendment(s) incorporated in the Act(s).*

Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (2003 No 116)

Amendment(s) incorporated in the Act(s).

Juries Act 1981 (1981 No 23)

Amendment(s) incorporated in the Act(s).

Legal Services Act 2000 (2000 No 42)

Amendment(s) incorporated in the Act(s).

Patents Act 1953 (1953 No 64)

Amendment(s) incorporated in the Act(s).

Police Act 1958 (1958 No 109)

Amendment(s) incorporated in the Act(s).

Proceeds of Crime Act 1991 (1991 No 120)

Amendment(s) incorporated in the Act(s).

Property (Relationships) Act 1976 (1976 No 166)

Amendment(s) incorporated in the Act(s).

Retirement Villages Act 2003 (2003 No 112)

Amendment(s) incorporated in the Act(s).

Securities Transfer Act 1991 (1991 No 119)

Amendment(s) incorporated in the Act(s).

Serious Fraud Office Act 1990 (1990 No 51)

Amendment(s) incorporated in the Act(s).

Social Security Act 1964 (1964 No 136)

Amendment(s) incorporated in the Act(s).

Summary Proceedings Act 1957 (1957 No 87)

Amendment(s) incorporated in the Act(s).

Tax Administration Act 1994 (1994 No 166)

Amendment(s) incorporated in the Act(s).

Terrorism Suppression Act 2002 (2002 No 34)

Amendment(s) incorporated in the Act(s).

Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)

Amendment(s) incorporated in the Act(s).

Unclaimed Money Act 1971 (1971 No 28)

Amendment(s) incorporated in the Act(s).

Victims' Rights Act 2002 (2002 No 39)

Amendment(s) incorporated in the Act(s).

Schedule 7 Enactments repealed

s 349

Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16)

Amendment(s) incorporated in the Act(s).

Criminal Investigations (Bodily Samples) Amendment Act 2003 (2003 No 113)

Amendment(s) incorporated in the Act(s).

Department of Justice (Restructuring) Act 1995 (1995 No 39)

Amendment(s) incorporated in the Act(s).

Education Amendment Act 1990 (1990 No 60)

Amendment(s) incorporated in the Act(s).

Estate Duty Repeal Act 1999 (1999 No 64)

Amendment(s) incorporated in the Act(s).

Institute of Chartered Accountants of New Zealand Act 1996 (1996 No 39)

Amendment(s) incorporated in the Act(s).

Law Practitioners Act 1982 (1982 No 123)

Legal Services Act 2000 (2000 No 42)

Amendment(s) incorporated in the Act(s).

New Zealand Council of Law Reporting Act 1938 (1938 No 2)

Amendment(s) incorporated in the Act(s).

Postal Services Act 1998 (1998 No 2)

Amendment(s) incorporated in the Act(s).

Private Savings Bank (Transfer of Undertakings) Act 1992 (1992 No 21)

Amendment(s) incorporated in the Act(s).

Public Finance Amendment Act 1992 (1992 No 142)

Amendment(s) incorporated in the Act(s).

Public Finance Amendment Act 2004 (2004 No 113)

Amendment(s) incorporated in the Act(s).

Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)

Amendment(s) incorporated in the Act(s).

Lawyers and Conveyancers Amendment Act 2012

Public Act	2012 No 92
Date of assent	19 November 2012
Commencement	see section 2

1 Title

This Act is the Lawyers and Conveyancers Amendment Act 2012.

2 Commencement

- (1) Part 1 comes into force on 3 December 2012.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Lawyers and Conveyancers Act 2006.

Part 2

Amendments relating to other matters

7 Purpose of this Part

The purpose of this Part is to amend the principal Act to—

- (a) enable (but not require) a conveyancing practitioner to hold non-voting shares of an incorporated conveyancing firm, and a lawyer to hold non-voting shares of an incorporated law firm, as a trustee of a trust in which—
 - (i) each beneficiary is a relative of 1 or more of the trustees; and
 - (ii) each trustee is (for an incorporated conveyancing firm) a conveyancing practitioner, or (for an incorporated law firm) a lawyer, who is actively involved in the provision by the body corporate of regulated services:
- (b) enable grandchildren of a conveyancing practitioner or, as the case may be, a lawyer to be non-voting shareholders of an incorporated conveyancing firm or, as the case may be, an incorporated law firm:
- (c) require the power of attorney that a lawyer or conveyancing practitioner in sole practice must give to authorise the donee of that power to conduct that practice as an agent to be given for any periods during which the lawyer or conveyancer is an undischarged bankrupt:
- (d) ensure applications for a review by the Legal Complaints Review Officer of a specified decision or action by (or on behalf of, or with the authority of) a Standards Committee must be lodged within a 30-work-

ing-day period commencing on the day after a copy or notice of the decision or action is brought to the applicant's attention (which is presumed to have occurred on the fifth working day after the decision or action):

- (e) make clear the Disciplinary Tribunal's and the High Court's powers in respect of a person enrolled as a barrister and solicitor but not practising as a barrister, a barrister and solicitor, or a solicitor:
- (f) reduce requirements to notify and report to certain related persons:
- (g) reduce the quorum for the making of interim name suppression orders (to align it with the quorum for the making of interim suspension from practice orders) by the Disciplinary Tribunal:
- (h) make clear the Disciplinary Tribunal's jurisdiction over former lawyers and former conveyancing practitioners:
- (i) make the Dean of the Law School at the Auckland University of Technology a member of the New Zealand Council of Legal Education:
- (j) repeal spent transitional provisions relating to the Disciplinary Tribunal.

Appointment of agent to conduct sole practice of lawyer or conveyancing practitioner

9 Schedule 1 amended

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) Clause 7(ba) of Schedule 1 of the principal Act (as inserted by subsection (1))—
 - (a) applies to a power of attorney that was required by clause 2(1) or 4(1) of that schedule to be given before the commencement of this section; and
 - (b) requires a power of that kind to be amended or replaced within 3 months after the date on which this section comes into force so that, as so amended or replaced, it is given for periods that include the period or periods specified in clause 7(ba) of Schedule 1 of the principal Act (as so inserted).

Legal Complaints Review Officer

12 Applications for review

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) Section 198(b) of the principal Act (as substituted by subsection (1)) applies only to applications for review under section 193 of the principal Act—
 - (a) made, and not withdrawn or finally determined, before the commencement of this section; or
 - (b) made after that commencement.

Notes

1 *General*

This is a consolidation of the Lawyers and Conveyancers Act 2006 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(1)

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Contempt of Court Act 2019 (2019 No 44): section 29

Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51): Part 1 subpart 10

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): section 149

Land Transfer Act 2017 (2017 No 30): section 250

Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89): section 8

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(b)

Financial Reporting Amendment Act 2014 (2014 No 64): section 17

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 126

Companies Amendment Act 2013 (2013 No 111): section 14

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Lawyers and Conveyancers Amendment Act (No 2) 2012 (2012 No 105)

Lawyers and Conveyancers Amendment Act 2012 (2012 No 92)

Criminal Procedure Act 2011 (2011 No 81): section 413

Legal Services Act 2011 (2011 No 4): sections 139, 140, 141, 142, 143, 144
New Zealand Institute of Chartered Accountants Amendment Act 2010 (2010 No 74): section 10
Immigration Act 2009 (2009 No 51): section 406(1)
Policing Act 2008 (2008 No 72): sections 116(a)(ii), (iii), 130(1)
Real Estate Agents Act 2008 (2008 No 66): section 173
Lawyers and Conveyancers Amendment Act 2008 (2008 No 54)
Lawyers and Conveyancers Act Commencement Order 2008 (SR 2008/182)
Court Martial Act 2007 (2007 No 101): section 87
Property Law Act 2007 (2007 No 91): section 364(1)
Lawyers and Conveyancers Amendment Act 2007 (2007 No 67)
Evidence Act 2006 (2006 No 69): section 216
Insolvency Act 2006 (2006 No 55): section 445
Lawyers and Conveyancers Act 2006 (2006 No 1): section 370
Public Finance Act 1989 (1989 No 44): section 65R(3)