

Lawyers and Conveyancers (Employed Lawyers Providing Free Legal Services) Amendment Bill

Member's Bill

Explanatory note

General policy statement

The purpose of this Bill is to amend the Lawyers and Conveyancers Act 2006 (the **Act**) to allow a lawyer who is an employee (for example, of a law practice or an in-house lawyer) to do free legal work other than for the lawyer's employer, on conditions set by the New Zealand Law Society.

Currently, under the Act, an employed lawyer may in some circumstances be guilty of misconduct if he or she does legal work outside of the lawyer's employment. In conjunction with amendments to the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (the **Rules**), this Bill will allow the employed lawyer, with the permission of his or her employer, to do free legal work ("pro bono" work) outside of his or her employment. The aim of this Bill and the associated amendments to the Rules is to improve access to justice without compromising the standards of professional conduct and client care required under the Rules.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Lawyers and Conveyancers Act 2006 (the **principal Act**).

Clause 4 amends section 9, which relates to misconduct in relation to employee lawyers providing regulated services, by making section 9 subject to *new section 10A*.

Clause 5 amends section 10, which relates to exceptions to misconduct as defined in section 9, by inserting a *new subsection (6)*, making section 10 subject to *new section 10A*.

Clause 6 inserts *new section 10A* to allow a lawyer who is an employee to provide free legal services to a person other than his or her employer, with the employer's agreement and in accordance with the practice rules.

Sarah Dowie

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Lawyers and Conveyancers (Employed Lawyers Providing Free Legal Services) Amendment Act **2020**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Lawyers and Conveyancers Act 2006 (the **principal Act**).

4 Section 9 amended (Misconduct defined in relation to provision of regulated services by employees)

In section 9(3), replace “section 10” with “sections 10 and **10A**”.

5 Section 10 amended (Exceptions to section 9)

After subsection (6), insert:

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(7) This section is subject to **section 10A**.

6 New section 10A inserted (Lawyer providing legal services to person other than employer)

Nothing in this Act prevents a lawyer who is an employee from providing free legal services to a person other than his or her employer if the services are provided— 10

- (a) with the agreement of the employer; and
- (b) in accordance with practice rules made under section 94 by the New Zealand Law Society.