

**Reprint  
as at 12 November 2018**



**Lawyers and Conveyancers Act (Conveyancing  
Practitioners: Conduct and Client Care) Rules 2008**  
(SR 2008/244)

Pursuant to sections 94, 95, and 99 of the Lawyers and Conveyancers Act 2006, the New Zealand Society of Conveyancers, with the approval of the Minister of Justice and after consultation in accordance with section 100 of that Act, makes the following rules.

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These rules are administered by the Ministry of Justice.**

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**Rules**

**1 Title**

These rules are the Lawyers and Conveyancers Act (Conveyancing Practitioners: Conduct and Client Care) Rules 2008.

**2 Commencement**

These rules come into force on 1 August 2008.

**3 Application**

These rules bind all conveyancing practitioners and former conveyancing practitioners.

**4 Interpretation**

In these rules, unless the context otherwise requires,—

**Act** means the Lawyers and Conveyancers Act 2006

**independent advice** means advice given by a lawyer who,—

- (a) in respect of the matter on which the advice is given, has no conflicting duty to any other client or person; and
- (b) is not involved in a law practice, whether conducted by 1 lawyer, a partnership of lawyers, or an incorporated law firm, that employs the conveyancing practitioner in respect of whose services the independent advice is required

**informed consent** means consent—

- (a) given by the client after the matter in respect of which the consent is sought and the material risks of, and alternatives to, the proposed course of action have been explained to the client; and
- (b) in respect of which the conveyancing practitioner believes, on reasonable grounds, that the client understands the issues involved

**member**, in relation to a practice, means and includes—

- (a) a conveyancing practitioner who owns the practice solely or with other conveyancing practitioners:
- (b) a conveyancing practitioner who is a partner in the practice or is employed by the practice:
- (c) in the case of an incorporated conveyancing firm, a conveyancing practitioner who is a director, shareholder, or employee of the firm

**practice** means a conveyancing practice, whether conducted by 1 conveyancing practitioner, a partnership of conveyancing practitioners, or an incorporated conveyancing firm

**real estate services** means services that a conveyancing practitioner or incorporated conveyancing firm provides by undertaking the work of a real estate agent

**Society** means the New Zealand Society of Conveyancers.

## Part 1

### Standards of professional competence and conduct

#### 5 Standards of professional competence

- (1) A conveyancing practitioner must exercise reasonable skill, care, competence, and diligence at all times when undertaking regulated services.
- (2) A conveyancing practitioner must not accept instructions to provide regulated services unless the conveyancing practitioner is competent to perform the work required and has the capacity to carry out the work.
- (3) All regulated services must be undertaken in a prompt and timely manner.

#### 6 Standards of professional conduct

- (1) Every conveyancing practitioner must at all times act in good faith and must conduct himself or herself with honesty, fairness, and professionalism in all of his or her dealings, whether with clients, practitioners, or third parties.
- (2) A conveyancing practitioner must use conveyancing processes only for proper purposes and must not use, or knowingly assist in using, the law or conveyancing processes for the purpose of causing unnecessary embarrassment, distress, or inconvenience to another person's reputation, interests, or occupation.
- (3) A conveyancing practitioner must not engage in any conduct likely to bring the profession or the Society into disrepute.
- (4) A conveyancing practitioner must not threaten, expressly or by implication, to make any accusation against a person or to disclose something about any person for any improper purpose.

- (5) A conveyancing practitioner must not engage in any conduct that is misleading or deceptive or likely to mislead or deceive anyone on any aspect of the practitioner's practice, including, but not limited to, the following:
- (a) naming his or her practice in such a way so as to mislead others as to its nature or structure; or
  - (b) misrepresenting the structure of the practice or status of the conveyancing practitioner; or
  - (c) holding himself or herself out in such a way as to suggest knowledge or expertise that he or she does not have; or
  - (d) breaching the provisions of the Fair Trading Act 1986.

## **7 Undertakings**

- (1) A conveyancing practitioner must honour all undertakings, whether written or oral, that he or she gives to any person in the course of practice.
- (2) This rule applies whether the undertaking is given by the conveyancing practitioner personally or by any other member of the conveyancing practitioner's practice.
- (3) This rule applies unless the conveyancing practitioner giving the undertaking makes it clear that the undertaking is given on behalf of a client and that the conveyancing practitioner is not personally responsible for its performance.

## **8 Obligation to keep records**

A conveyancing practitioner must ensure that written records are kept of all of his or her dealings with a client and with others with whom he or she has professional dealings during the course of any particular transaction, including, but not limited to,—

- (a) confirming verbal instructions in writing;
- (b) keeping written records of all dialogue, phone conversations, inquiries, correspondence (including emails), and other exchanges arising in the context of each transaction;
- (c) complying with all obligations under the Land Transfer Act 2017 concerning electronic registration.

Rule 8(c): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## **9 Certification**

- (1) Every conveyancing practitioner must take all reasonable steps to ensure that any certificate given by him or her under the Land Transfer Act 2017 is correct and complies with all relevant statutory requirements.
- (2) If a conveyancing practitioner subsequently discovers that a certificate given by the conveyancing practitioner was or has become inaccurate or incomplete

to a material extent, he or she must immediately take reasonable steps to correct the certificate.

- (3) No conveyancing practitioner may allow any other person to use his or her digital certificate or its associated password.

Rule 9(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

## **10 Conduct for which conveyancing practitioner may be disciplined**

The kinds of conduct, including criminal offences, for which a conveyancing practitioner or former conveyancing practitioner may be disciplined are as follows:

- (a) misconduct as defined in section 6 of the Act:
- (b) unsatisfactory conduct as defined in section 6 of the Act:
- (c) negligence or incompetence in a conveyancing practitioner's professional capacity of such a degree or so frequent as to reflect on the conveyancing practitioner's fitness to practise, or as to bring the conveyancing profession into disrepute:
- (d) conviction of an offence punishable by imprisonment where the conviction reflects on the conveyancing practitioner's fitness to practise, or tends to bring the conveyancing profession into disrepute.

## **11 Duty to report misconduct or unsatisfactory conduct**

- (1) A conveyancing practitioner who has reasonable grounds to suspect that another conveyancing practitioner has been guilty of misconduct or unsatisfactory conduct must make a confidential report to the Society at the earliest opportunity.
- (2) A conveyancing practitioner must not use, or threaten to use, the complaints or disciplinary process for an improper purpose.

## **12 Unauthorised provision of conveyancing services**

If a conveyancing practitioner learns that a person is committing an offence by—

- (a) providing unauthorised conveyancing services; or
- (b) providing conveyancing services in breach of section 32, 33, 35, or 37 of the Act (which relate to persons, not being conveyancing practitioners, incorporated conveyancing firms, lawyers, or incorporated law firms, engaging in misleading conduct regarding their right or qualifications to provide conveyancing services, providing conveyancing services without being an authorised person, and commencing practice on their own account in breach of the Act),—

the conveyancing practitioner must immediately report the matter to the Society and, unless it is contrary to the interests of the conveyancing practitioner's client, refuse to deal with that person.

**13 Prevention of crime or fraud**

A conveyancing practitioner must take all reasonable steps to prevent any person perpetrating a crime or fraud through the conveyancing practitioner's practice, including taking reasonable steps to ensure the security of and access to electronic systems and passwords.

**14 Assisting in fraud or crime**

A conveyancing practitioner must not—

- (a) advise a client to engage in conduct that the conveyancing practitioner knows to be fraudulent or criminal; or
- (b) assist any person in an activity that the conveyancing practitioner knows is fraudulent or criminal; or
- (c) knowingly assist in the concealment of fraud or crime.

**Part 2**

**Duties in respect of clients**

**15 Relationships with clients**

- (1) A conveyancing practitioner must at all times treat a client with respect and courtesy.
- (2) A conveyancing practitioner must at all times act in accordance with the client's instructions unless to do so would be contrary to law or in conflict with these rules.

**16 Communication**

- (1) A conveyancing practitioner must communicate regularly with the client and keep the client well informed of matters relevant to the client's particular transaction.
- (2) A conveyancing practitioner must disclose all matters concerning the client's affairs to the client unless to do so would be unlawful.
- (3) A conveyancing practitioner must respond to inquiries from the client in a timely manner.
- (4) A conveyancing practitioner must inform the client if there are any material and unexpected delays in a matter.

**17 Provision of information**

All information that a conveyancing practitioner is required to provide to a client under these rules must be provided in a manner that is clear and not mis-

leading given the identity and capabilities of the client and the nature of the information.

## **18 Prior information to clients**

- (1) Before entering into an arrangement with any new or existing client, a conveyancing practitioner must provide the following information, in writing, to that client:
  - (a) the basis upon which the conveyancing practitioner calculates his or her fee, including, but not limited to,—
    - (i) whether the fee is fixed for specific types of work and, if so, what that fee is:
    - (ii) whether the fee is calculated on a per hour basis and, if so, the range within which the client might reasonably expect the fee to fall:
    - (iii) whether the fee (subject to the authorisation required by rule 42) may be deducted from funds held in trust on behalf of the client:
    - (iv) whether there are likely to be any additional disbursements or other expenses associated with the work and, if so, the range within which the client might reasonably expect those disbursements or expenses to fall:
  - (b) when payment of fees and disbursements is to be made:
  - (c) the maximum amount of cover for any 1 claim available under professional indemnity insurance:
  - (d) that, because the Society has only recently been established and the profession is still small, the Conveyancing Practitioners' Fidelity Fund does not currently provide any meaningful protection for clients who suffer pecuniary loss as a result of theft of money or valuable property by a conveyancing practitioner, an incorporated conveyancing firm, or an agent of the conveyancing practitioner or incorporated conveyancing firm:
  - (e) advice on the existence and availability of the Society's complaints service and how the Society may be contacted in order to make a complaint.
- (2) This rule does not apply in respect of regulated services rendered by a conveyancing practitioner to his or her employer if that employer is a person other than a person described in section 9(2) of the Act.

## **19 Electronic provision of information**

- (1) A requirement in these rules to provide a client with information is satisfied by providing the information—
  - (a) in writing; or

- (b) in an acceptable electronic form.
- (2) Unless a client otherwise instructs, an electronic form is acceptable where the information is readily accessible to the client concerned and is available for subsequent reference.
- (3) This rule applies whether or not a particular rule states that information is to be given in writing.

## **20 Completion of work**

- (1) A conveyancing practitioner must always complete the work in respect of which he or she has accepted instructions unless—
  - (a) the conveyancing practitioner and client otherwise agree; or
  - (b) the client terminates the services of the conveyancing practitioner; or
  - (c) the conveyancing practitioner terminates the services to the client for good cause and after giving reasonable notice to the client specifying the grounds for termination.
- (2) For the purpose of this rule, **good cause** includes—
  - (a) instructions that would or may require the conveyancing practitioner to breach any professional obligation;
  - (b) the inability or failure of the client to pay a fee on the agreed basis or, in the absence of an agreed basis, a reasonable fee at the appropriate time;
  - (c) the client misleading or deceiving the conveyancing practitioner in a material respect;
  - (d) the client failing to provide instructions to the conveyancing practitioner in a sufficiently timely way.

## **21 Transfer of conveyancing work**

- (1) Subject to any statutory provisions to the contrary, upon changing practitioners a client has the right, either in person or through the new practitioner, to uplift all documents, records, funds, or property held by the former conveyancing practitioner on the client's behalf. The former conveyancing practitioner must act upon any written request to uplift the documents without undue delay subject only to any lien that the former conveyancing practitioner may claim.
- (2) If the matter in issue is urgent, a former conveyancing practitioner who holds a lien over documents must make the documents available to the client's new practitioner on receipt of an undertaking from the new practitioner that the former conveyancing practitioner's fee will be paid in priority to the fee of the new practitioner.
- (3) Where a client changes practitioners and funds, documents, or property of the former client are the subject of an undertaking given by the former conveyancing practitioner to a third party, the former conveyancing practitioner may decline to release the funds, documents, or property concerned to the new prac-

tioner or client until the former conveyancing practitioner is discharged from the undertaking to the third party.

- (4) Subject to the former conveyancing practitioner's legal right to a lien, the interests of the client must be foremost in facilitating the transfer of the client's documents and records.
- (5) This rule does not prevent—
  - (a) the inclusion in the arrangement between the conveyancing practitioner and the client of a term authorising the conveyancing practitioner to retain copies of the client's documents and records; or
  - (b) a conveyancing practitioner from retaining copies of the client's documents and records on termination of the arrangement so long as it is reasonably considered that it will or may be necessary to refer to the documents or records for the purpose of defending any complaint or claim by the client or other proceedings against the practice.

## **22 Use of confidential information prohibited**

- (1) A conveyancing practitioner must not use information, whether held by the conveyancing practitioner or by the practice, that is confidential to a client (including a former client) for the benefit of any other person or of the conveyancing practitioner.
- (2) For the purposes of this rule, confidential information is presumed to be held by a practice when any conveyancing practitioner who is a member of the practice has been a member of another practice that held the confidential information when that conveyancing practitioner was a member, unless the conveyancing practitioner concerned can demonstrate that he or she is not aware of the relevant confidential information.

## **23 Duration of duty of confidence**

- (1) A conveyancing practitioner's duty of confidence commences from the time a person makes a disclosure to the conveyancing practitioner and continues indefinitely after the person concerned has ceased to be the conveyancing practitioner's client.
- (2) Following the death of a client or former client, the right to confidentiality passes to the client's personal representatives.
- (3) Where an incorporated client goes into receivership, liquidation, or voluntary administration, the duty of confidentiality owed to the corporation under the direction of the receiver, liquidator, or administrator remains but confidentiality relating to the business and affairs of shareholders and directors of the client (if the conveyancing practitioner acted for those parties) remains with those individuals.

## **24 When disclosure is permitted**

- (1) A conveyancing practitioner may disclose confidential information relating to the business or affairs of a client (including a former client) to a third party where—
  - (a) the client expressly or impliedly authorises the disclosure (and where the information is confidential to more than 1 client, all clients have authorised the disclosure); or
  - (b) the information relates to the anticipated commission of a crime or fraud; or
  - (c) it is necessary to protect the interests of the client in circumstances where, due to incapacity, the client is unable effectively to protect his or her own interests; or
  - (d) the conveyancing practitioner reasonably believes that the conveyancing practitioner's services have been used by the client to perpetrate or conceal a crime or fraud and disclosure is required to prevent, mitigate, or rectify substantial injury to the interests, property, or reputation of another person that is reasonably likely to result, or has resulted, from the client's commission of the crime or fraud; or
  - (e) disclosure is necessary for the conveyancing practitioner to seek guidance from a lawyer or from another conveyancing practitioner in respect of a proper course of professional conduct, and in such case that lawyer or other conveyancing practitioner is bound to maintain the confidence of the client; or
  - (f) disclosure is necessary for the effective operation of the conveyancing practitioner's practice, including arranging insurance cover or collection of professional fees; or
  - (g) disclosure is necessary to answer or defend any complaint, claim, allegation, or proceedings against the conveyancing practitioner by the client.
- (2) Where the conveyancing practitioner discloses information under this rule, it should be only to the appropriate person or entity and only to the extent reasonably necessary for the permitted purpose.

## **25 Claims against conveyancing practitioner**

- (1) When a conveyancing practitioner becomes aware that a client has or may have a claim against him or her, the conveyancing practitioner must immediately—
  - (a) advise the client to seek independent advice; and
  - (b) inform the client that he or she may no longer act unless the client, after receiving independent advice, gives informed consent.
- (2) A conveyancing practitioner may resume acting for a former client where the matter in dispute has been resolved.

### Part 3

#### Duties in respect of other practitioners

##### 26 Respect and courtesy

A conveyancing practitioner must treat other practitioners with respect and courtesy.

##### 27 Communicating with another practitioner's client

- (1) A conveyancing practitioner must not communicate directly with a person whom the conveyancing practitioner knows is represented by another practitioner in that matter except as authorised in this rule.
- (2) A conveyancing practitioner may communicate directly with a person whom the conveyancing practitioner knows is represented by another practitioner where the matter is urgent and it is not possible to contact that person's practitioner or an appropriate practitioner working with or for that practitioner. In communicating with the other practitioner's client directly the conveyancing practitioner must act fairly towards the other practitioner's client at all times and must promptly notify the other practitioner of the details of the communication.
- (3) A conveyancing practitioner may communicate directly with a person if the conveyancing practitioner reasonably believes that that person is no longer represented by another practitioner. In that event the other practitioner must be notified in advance of the conveyancing practitioner's intention to communicate directly with that person.
- (4) A conveyancing practitioner may communicate directly with a former client who is represented by a new practitioner for the purpose of confirming the client's instructions and arranging for the orderly transfer of the client's matters to the new practitioner.
- (5) A conveyancing practitioner may recommend to a client that the client make direct contact with any other party.
- (6) A conveyancing practitioner may communicate directly with a person represented by another practitioner where the person consents to the communication and the other practitioner has been given reasonable notice of the intended communication. In communicating with the other practitioner's client directly, the conveyancing practitioner must act fairly toward the other practitioner's client at all times.

##### 28 Payments

- (1) A conveyancing practitioner must not—
  - (a) stop a trust account cheque drawn on the trust account of the practice of which the conveyancing practitioner is a member, or a bank cheque, that

in either case is payable to another practice, a lawyer, or an incorporated law firm; or

- (b) cancel, reverse, or amend an order for payment made to another practice, a lawyer, or an incorporated law firm by way of electronic transfer from the trust account of the practice of which the conveyancing practitioner is a member,—

once the cheque or printed verification of the electronic transfer instructions has been handed or dispatched to the payee.

- (2) Subclause (1) does not apply where the payment—
  - (a) is induced by fraud; or
  - (b) arises from a mistake in the identity of the payee or the payee’s client; or
  - (c) is made in other circumstances that are of an exceptional nature.
- (3) Where a conveyancing practitioner stops a payment or cancels, reverses, or amends an order for payment, the conveyancing practitioner must immediately advise the payee of the action that has been taken.

## **Part 4**

### **Duties in respect of third parties**

#### **29 Respect and courtesy**

A conveyancing practitioner must treat any third party with whom he or she deals with respect and courtesy.

#### **30 Fees**

- (1) Where a conveyancing practitioner instructs another person on behalf of a client to render services in the absence of an arrangement to the contrary, the conveyancing practitioner is personally responsible for payment of that person’s fees, costs, and expenses.
- (2) A conveyancing practitioner must ensure that all persons engaged by him or her on his or her client’s behalf are paid in a prompt and timely manner.

## **Part 5**

### **Supervision and management**

#### **31 Direct supervision**

For the purposes of section 6 of the Act, **direct supervision** means—

- (a) the regular review by the supervising conveyancing practitioner of the regulated services that the person concerned is providing on behalf of the supervising conveyancing practitioner or the supervising conveyancing practitioner’s practice; and

- (b) the taking of appropriate steps by the supervising conveyancing practitioner to ensure that all regulated services are provided—
  - (i) in accordance with the requirements of the Act and all rules and regulations made under the Act; and
  - (ii) competently and in accordance with proper professional standards.

### **32 Supervision of practice**

A conveyancing practitioner in practice on his or her own account must ensure that the conduct of the practice (including separate places of business) and the conduct of employees is at all times competently supervised and managed by a conveyancing practitioner who has been approved by the Society or granted leave by the High Court to practise on his or her own account.

## **Part 6 Conflicts of interest**

### **33 Conflicting duties**

- (1) A conveyancing practitioner must not act for more than 1 client on a matter in any circumstances where there is more than a negligible risk that the conveyancing practitioner may be unable to discharge the obligations owed to 1 or more of the clients.
- (2) Subject to subclause (1), a conveyancing practitioner may act for more than 1 party in respect of the same transaction or matter where the prior informed consent of all parties concerned is obtained.
- (3) Despite subclause (2), if a conveyancing practitioner is acting for more than 1 client in respect of a matter and it becomes apparent that the conveyancing practitioner will no longer be able to discharge the obligations owed to all of the clients for whom the conveyancing practitioner acts, the conveyancing practitioner must immediately inform each of the clients of this fact and cease acting for all clients.
- (4) Despite subclause (3), a conveyancing practitioner may continue to act for 1 client provided that any other client concerned, after receiving independent advice, gives informed consent to the conveyancing practitioner continuing to act for the client and no duties to any consenting client have been or will be breached.

### **34 Members of same practice**

Rule 33 applies, with any necessary modifications, whenever conveyancing practitioners who are members of the same practice act for more than 1 party.

### **35 Conflicting interests**

- (1) A conveyancing practitioner must not act or continue to act if there is a conflict, or a risk of a conflict, between the interests of the conveyancing practitioner and the interests of a client for whom the conveyancing practitioner is acting or proposing to act.
- (2) Where a conveyancing practitioner has an interest that touches on the matter in respect of which regulated services are required, the existence of that interest must be disclosed to the client or prospective client irrespective of whether a conflict exists.
- (3) A conveyancing practitioner must not act for a client in any transaction in which the conveyancing practitioner has an interest unless the matter is not contentious and the interests of the conveyancing practitioner and the client correspond in all respects.
- (4) A conveyancing practitioner must not enter into any financial, business, or property transaction or relationship with a client if there is a possibility of the relationship of confidence and trust between conveyancing practitioner and client being compromised.
- (5) A conveyancing practitioner who enters into any financial, business, or property transaction or relationship with a client must advise the client of the right to receive independent advice in respect of the matter and explain to the client that the conveyancing practitioner must cease to act for the client should a conflict of interest arise.
- (6) Subclause (5) does not apply where—
  - (a) the client and the conveyancing practitioner are relatives; or
  - (b) the transaction is a contract for the supply by the client of goods or services in the normal course of the client's business; or
  - (c) a conveyancing practitioner subscribes for or otherwise acquires shares in a listed company for which the conveyancing practitioner's practice acts.
- (7) In this rule, a conveyancing practitioner is deemed to be a party to a transaction if the transaction is between entities that are related to the conveyancing practitioner by control (including a trusteeship, directorship, or the holding of a power of attorney) or ownership (including a shareholding), or between parties to whom the conveyancing practitioner or client is related.

### **36 Conflicting business interests**

- (1) A conveyancing practitioner must not engage in a business or professional activity other than the practice of conveyancing where the business or professional activity would or could reasonably be expected to compromise the discharge of the conveyancing practitioner's professional obligations.

- (2) Where a conveyancing practitioner provides, or intends to provide, services to clients other than regulated services, the services must—
  - (a) be associated with the provision of regulated services; and
  - (b) be provided by the conveyancing practitioner's practice or by an entity in which the conveyancing practitioner or the conveyancing practitioner's practice has a controlling interest.

### **37 Third party conflicts of interest**

- (1) A conveyancing practitioner must not act if there is a conflict of interest or an appearance of a conflict of interest between a client and a third party to whom the conveyancing practitioner is related.
- (2) Where a person who is a relative of the conveyancing practitioner has an interest in the matter being dealt with or proposed to be dealt with on behalf of the client, the existence of that relationship and the nature of the interest must be disclosed to the client or prospective client irrespective of whether an actual conflict of interest exists.
- (3) A conveyancing practitioner is not precluded from acting for a client solely because another member of the conveyancing practitioner's practice is a relative of a person whose interests conflict with the interests of the conveyancing practitioner's client.
- (4) Where conveyancing practitioners are relatives of each other they must not act for different parties in a matter unless the clients of both conveyancing practitioners give their informed consent to their respective conveyancing practitioners acting. Where conveyancing practitioners who are relatives of each other are engaged by their respective clients before the relationship is established, then, in the absence of both clients' consent to their respective conveyancing practitioners continuing to act, the conveyancing practitioner engaged later in time must cease to act.
- (5) A conveyancing practitioner is not precluded from acting for a client because another member of his or her practice is related to the conveyancing practitioner acting for another party to the transaction.

### **38 Personal relationships**

A conveyancing practitioner must not enter into an intimate personal relationship with a client where to do so would or could be inconsistent with the trust and confidence reposed in the conveyancing practitioner by the client.

### **39 Gifts**

A conveyancing practitioner must not accept a gift from a client if there is a possibility of the gift being, or appearing to be, inconsistent with the trust and confidence reposed in the conveyancing practitioner by the client.

**40 Collateral rewards**

Except in respect of arrangements under which a third party has agreed to pay or contribute to normal fees payable by a client with the knowledge and consent of that client, a conveyancing practitioner must not directly or indirectly offer to, or receive from, a third party any reward or inducement in respect of any advice given, referral made, product or service purchased, or work done for a client.

**Part 7**

**Fees charged by conveyancing practitioners**

**41 Reasonableness of fee**

- (1) A conveyancing practitioner must not charge a client more than a fee that is fair and reasonable for the services provided, having regard to the interests of both client and conveyancing practitioner and having regard also to the factors set out in subclause (2).
- (2) The factors to be taken into account in determining the reasonableness of a fee in respect of any service provided by a conveyancing practitioner to a client include the following:
  - (a) the time and labour expended:
  - (b) the skill, specialised knowledge, and responsibility required to perform the services properly:
  - (c) the importance of the matter to the client and the results achieved:
  - (d) the urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by the client:
  - (e) the degree of risk assumed by the conveyancing practitioner in undertaking the services, including the amount or value of any property involved:
  - (f) the complexity of the matter and the difficulty or novelty of the questions involved:
  - (g) the experience, reputation, and ability of the conveyancing practitioner:
  - (h) the possibility that the acceptance of the particular arrangement will preclude engagement of the conveyancing practitioner by other clients:
  - (i) any quote or estimate of fees given by the conveyancing practitioner:
  - (j) the reasonable costs of running a practice:
  - (k) the fee customarily charged in the market and locality for similar regulated services.

**42 Fees in advance**

A conveyancing practitioner who wishes to debit fees from funds held in trust or to receive funds to cover fees in advance must comply with the requirements of regulations 9 and 10 of the Lawyers and Conveyancers Act (Trust Account) Regulations 2008.

**43 Final account**

A conveyancing practitioner must render a final account, including sufficient information to identify the work undertaken and disbursements incurred, to the client or person charged within a reasonable time of concluding the agreed regulated services.

## **Part 8**

### **Real estate services**

**44 Conveyancing practitioners undertaking work of real estate agents**

A conveyancing practitioner who undertakes the work of a real estate agent must comply with the rules set out in this Part.

**45 Notification to Society**

- (1) A conveyancing practitioner who intends to provide real estate services on a regular or systematic basis must, before commencing those services, notify the Society in writing of his or her intention to do so and the address from which the real estate services are to be provided.
- (2) A conveyancing practitioner must notify the Society in writing of any change in the address from which real estate services are provided.
- (3) If a conveyancing practitioner ceases to provide real estate services, the conveyancing practitioner must give notice in writing of this to the Society.

**46 Prohibition against acting for another party**

- (1) Where a conveyancing practitioner provides real estate services for a prospective vendor of a property, the conveyancing practitioner must not provide conveyancing services to any purchaser or prospective purchaser in relation to the acquisition of the property concerned.
- (2) Where a conveyancing practitioner provides real estate services for a prospective lessor of a property, the conveyancing practitioner must not provide conveyancing services to any lessee or prospective lessee in relation to the leasing of the property concerned.
- (3) Where the circumstances set out in this rule apply, no other member of the conveyancing practitioner's practice may provide conveyancing services to a purchaser, prospective purchaser, lessee, or prospective lessee, as the case may be, in relation to the acquisition or leasing of the property concerned.

**47 Fees**

- (1) Subject to this rule, all fees that a conveyancing practitioner charges in relation to the provision of real estate services must be set in accordance with, and comply with, the provisions relating to fees in Part 7 of these rules.
- (2) A conveyancing practitioner may, in settling a fee in relation to the provision of real estate services, take into particular account the following factors:
  - (a) the importance of the matter to the client and the results achieved; and
  - (b) the degree of risk assumed by the conveyancing practitioner in undertaking the work, including the amount or value of any property involved; and
  - (c) any quote or estimate of fees given by the conveyancing practitioner.
- (3) A conveyancing practitioner may charge a fixed success-based fee for the provision of real estate services provided that the fee—
  - (a) is agreed upon with the client in advance of the sale or lease of the property involved; and
  - (b) is, in all the circumstances, fair and reasonable having regard to the interests of both the client and the conveyancing practitioner.
- (4) This rule is subject to any relevant provisions in the Real Estate Agents Act 1976 or any Act passed in substitution for that Act. While the prohibition against conveyancing practitioners charging by way of commission contained in section 3(7) of the Real Estate Agents Act 1976 remains in force, no part of a conveyancing practitioner's fee for the provision of real estate services may be calculated as a percentage of, or be based solely on, the price or rental achieved.

**Part 9**

**Miscellaneous**

*Fees payable to Society*

**48 Method of payment**

Any fee, subscription, contribution, or levy required by the Act, regulations, these rules or a resolution of the Society to be paid to the Society must be paid by—

- (a) deposit into the bank account nominated by the Society for this purpose; or
- (b) cheque submitted to the Society's main office; or
- (c) any other method of payment agreed in advance with the Society.

Dated at Christchurch this 1st day of August 2008.

The Common Seal of the New Zealand Society of Conveyancers was affixed in the presence of:

[Seal]

Lester Dempster,  
President.

Kim Matheson,  
Councillor.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 7 August 2008.

## **Reprints notes**

### **1    *General***

This is a reprint of the Lawyers and Conveyancers Act (Conveyancing Practitioners: Conduct and Client Care) Rules 2008 that incorporates all the amendments to those rules as at the date of the last amendment to them.

### **2    *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3    *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4    *Amendments incorporated in this reprint***

Land Transfer Act 2017 (2018 No 30): section 250