

**Lawyers and Conveyancers
Amendment Bill (No 2)**

Government Bill

As reported from the committee of the whole
House

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Bill (No 2)**

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Annette King

Lawyers and Conveyancers Amendment Bill (No 2)

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Lawyers and Conveyancers Amendment Act (No 2) **2008**.

2 Commencement

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This Act ~~comes into force on the commencement of section 9 of the principal Act~~ is deemed to have come into force on 1 August 2008.

Part 1**Preliminary provisions**

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3 Principal Act amended

This Act amends the Lawyers and Conveyancers Act 2006.

4 Purpose

The purpose of this Act is to enable lawyers who are employed by employer organisations or unions to provide legal services to persons who are members of their respective employers.

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Part 2**Amendments to principal Act****5 Interpretation**

Section 6 is amended by inserting the following definitions in their appropriate alphabetical order:

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“**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

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“**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—

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“(i) the professional standards of its members; and

“(ii) the interests of its members in their capacity as health practitioners

“**union**—

“(a) has the same meaning as in section 5 of the Employment Relations Act 2000; and 5

“(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”. 10

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

(1) Section 9(1) is amended by adding “; or” and also by adding the following paragraphs:

“(i) by an employer organisation; or 15

“(j) by a union.”

(2) Section 9 is amended by inserting the following ~~subsection~~ subsections after subsection (1):

“(1A) Despite subsection (1), a lawyer is guilty of misconduct if, in the course of his or her employment— 20

“(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

“(ia) legal services to a member of the organisation that are not relevant to his or her or its membership of the organisation; or 25

“(ii) 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 30

“(ia) legal services to a member of the union that are not relevant to his or her or its membership of the union; or

“(ii) regulated services that are not legal services to any person. 35

“(1B) For the purposes of **subsection (1A)**, legal services provided to a member of an employer organisation or, as the case re-

quires, 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— 5

“(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 10

“(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 15

“(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.” 20

7 Exceptions to section 9

Section 10(1)(a), (1)(c), and (4) are amended by omitting “(a) to (h)” and substituting in each case “(a) to **(j)**”.

8 Reserved areas of work for lawyers and incorporated law firms

Section 24 is amended by inserting the following subsection after subsection (1): 30

“(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: 35

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“(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.”

9 Lawyers to whom, and incorporated law firms to which, this Part applies 5

Section 307(4) is amended by adding “; or” and also by adding the following paragraphs:

- “(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 10
- “(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.”

10 Effect of practice rules of the New Zealand Law Society 15

Section 107(1) is amended by inserting after “members of the New Zealand Law Society,” the following “and on all incorporated law firms and former incorporated law firms.”.

Legislative history

18 June 2008	Introduction (Bill 222–1)
25 June 2008	First reading and referral to Justice and Electoral Committee
7 July 2008	Reported from Justice and Electoral Committee as Bill 222–2
24 July 2008	Second reading
29 July 2008	Committee of the whole House (Bill 222–3)
