

**Hon Kiri Allan**  
Minister of Justice

**Proactive release – Documents relating to the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022**

Date of issue: 21 February 2023

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No.	Document	Comments
1	<b>Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022: Approval for Introduction</b> <i>Cabinet Paper</i> Office of the Minister of Justice 8 December 2022	Some information has been withheld in accordance with section (18)(c)(ii) of the Official Information Act 1982 on the basis that making available the information would amount to contempt of the House of Representatives
2	<b>Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022</b> <i>Cabinet Minute</i> Cabinet Office Meeting Date: 8 December 2022	Released in full.

## In Confidence

Office of the Minister of Justice


Chair, Cabinet Legislation Committee

## **LAWYERS AND CONVEYANCERS ACT (LAWYERS: PRACTICE RULES) AMENDMENT REGULATIONS 2022: APPROVAL FOR INTRODUCTION**

### **Proposal**

- 1 This paper seeks authorisation for the *Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022* (the Regulations) to be submitted to the Executive Council on 12 December 2022.
- 2 The Regulations will implement Cabinet's decision [SWC-22-MIN-0002 refers] to allow the New Zealand Law Society (NZLS) to remove a lawyer's work details from the register of lawyers where:
  - a. the personal safety of the lawyer is or could be compromised; or
  - b. the personal safety of persons with whom the lawyer resides is or could be compromised; or
  - c. the privacy rights of the lawyer are or could be compromised.

### **Background**

- 3 Regulation 10 of the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008 provides that NZLS "must establish and maintain a register of lawyers" and ensure that "as far as practicable, the register is available for inspection by the public on an Internet site at all times."
- 4 In 2018, a lawyer complained to the Regulations Review Committee (RRC) that a former client had obtained their work details through the Register and had used this information to harass both them and their employer.
- 5 Section 18(c)(ii) 

### **Policy**

- 6 Cabinet agreed on 9 February 2022 [SWC-22-MIN-0002 refers] to give NZLS the discretion to remove a lawyer's work details from the publicly available register of lawyers in circumstances where:
  - a. the personal safety of the lawyer is or could be compromised; or
  - b. the personal safety of persons with whom the lawyer resides is or could be compromised; or
  - c. the privacy rights of the lawyer are or could be compromised.

## IN CONFIDENCE

7 The Parliamentary Counsel Office has drafted the Regulations (Appendix 1).

8 The Regulations set out the following:

### *Removal or omission of specified information about a lawyer from the publicly available register*

9 Where a lawyer is concerned that their personal safety or privacy, or the personal safety of a person with whom they reside could be compromised, they may request that NZLS remove or omit their work details from the publicly available register of lawyers.

10 NZLS has the discretion to remove or omit the lawyer's work details if public access to that information is likely to result in physical or mental harm to the lawyer or a person the lawyer lives with. The exercise of this discretion will be based on application process to be developed by the NZLS.

11 An application process will be established, setting out the evidence required to support a lawyer's application. This process will include notification of outcomes and procedures for appeal.

12 The information will be removed from the publicly available register but remain on record with NZLS. When a member of the public has genuine reasons to access the work details of a lawyer, which have been removed from the register, NZLS will act as an intermediary between the member of the public and the lawyer. NZLS currently plays this role as needed.

13 If an application is successful, the public restriction of the information on the register will be in place for a period of up to three years. If protection is still required, the lawyer can make a further request.

### *Inclusion of 'omit'*

14 Although the decision put to Cabinet's Social Wellbeing Committee referred only to the 'removal' of work details and was silent on the 'omission' of these details, the intent was that omissions were also included. The Parliamentary Counsel Office agreed that Cabinet's agreement [SWC-22-MIN-0002 refers] was wide enough to cover an amendment that includes both omissions and removal. Drafting commenced on this basis.

## **Commencement**

15 Once the draft Regulations have been approved by the Executive Council, the Regulations will be gazetted for 28-days. However, the amendments will come into force on 1 March 2023 in order to provide NZLS time to develop their application process.

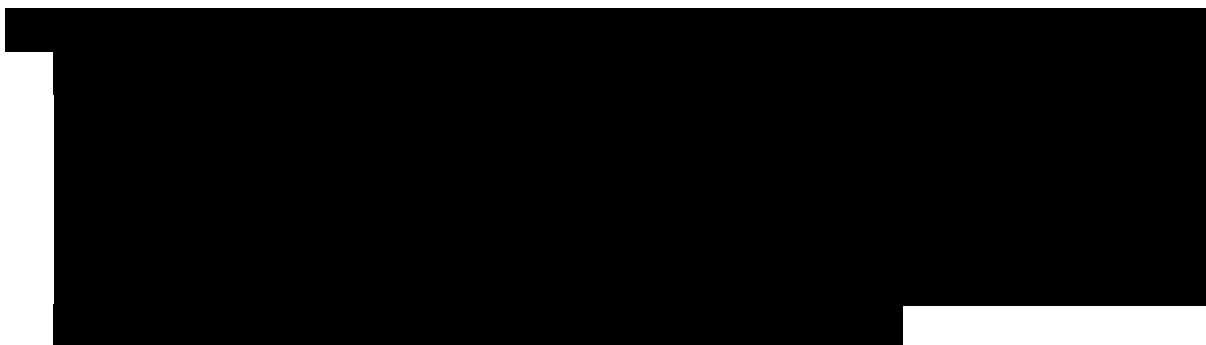
## **Compliance**

16 The Regulations comply with each of the following:

- a. Principles of the Treaty of Waitangi;
- b. Rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
- c. Principles and guidelines set out in the Privacy Act 1993;
- d. Relevant international standards and obligations; and
- e. LAC Guidelines: Guidelines on Process and Content of Legislation, a publication by the Legislation Advisory Committee.

### **Regulations Review Committee**

17 Section 18(c)(ii)



I do not consider that there are grounds for the Regulations Review Committee to draw the Regulations to the attention of the House under Standing Order 319.

### **Certification by Parliamentary Counsel**

20 The draft regulations have been certified by Parliamentary Counsel as being in order for submission to Cabinet.

### **Regulatory Impact Statement**

21 The Regulatory Quality Team at the Treasury has determined that the regulatory proposal in this paper is exempt from the requirement to provide a Regulatory Impact Statement on the basis that it has no or minor impacts on businesses, individuals or not for profit entities.

### **Publicity and Proactive Release**

22 I proactively released the prior Cabinet Paper on 29 August 2022. This meant the wider membership of NZLS was able to be informed by the paper when consultation was undertaken.

23 I intend to proactively release this paper with appropriate redactions within 30 business days of Cabinet's decision.

### **Consultation**

## IN CONFIDENCE

24 The following agencies were consulted on the draft Bill:

- a. NZLS; and
- b. Office of the Privacy Commissioner.

25 Consultation was also undertaken with the broad membership of NZLS.

26 The key changes to the draft regulations resulting from consultation included:

- a. in order to mitigate the tension between the privacy that lawyers are already relinquishing by being required to present their details online and the proposed privacy ground for having work details removed from the public register, the draft Regulations now also refer to the consequences of their details being on the register i.e., the NZLS may prevent or restrict public access to a lawyer's work details in order to protect the lawyer's privacy or personal safety, if permitting access is likely to result in physical or mental harm to the lawyer or a person they live with.
- b. including a provision which sets a renewable time limit of up to the three years on the public restriction of information; and
- c. express reference to Post Office Boxes as valid work addresses.

27 Other minor amendments were made which included deletion of unnecessary provisions and wording changes.

### Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **Note** that on 9 February 2022, Cabinet agreed [SWC-22-MIN-0002 refers] to amend the *Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008* to give the New Zealand Law Society the discretion to remove a lawyer's personal information from the register of lawyers in circumstances where:
  - a. The personal safety of the lawyers is or could be compromised, or
  - b. The personal safety of persons with whom the lawyer resides is or could be compromised; or
  - c. The privacy rights of the lawyer are or could be compromised;
- 2 **Note** that the *Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022* will give effect to the decision referred to in recommendation 1 above and includes the ability to both omit and remove a lawyer's work details from the register of lawyers;
- 3 **Authorise** that the *Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022* be submitted to the Executive Council on 12 December 2022; and

**I N C O N F I D E N C E**

- 4 **Note** that the *Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022* come into force on 1 March 2023.

Authorised for lodgement

Hon Kiri Allan

Minister of Justice



# Cabinet Legislation Committee

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022

Portfolio                      Justice

On 8 December 2022, the Cabinet Legislation Committee:

- 1        **noted** that in February 2022, the Cabinet Social Wellbeing Committee agreed to amend the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008 to give the New Zealand Law Society the discretion to remove a lawyer's personal information from the register of lawyers in circumstances where:
  - 1.1      the personal safety of the lawyers is or could be compromised, or
  - 1.2      the personal safety of persons with whom the lawyer resides is or could be compromised; or
  - 1.3      the privacy rights of the lawyer are or could be compromised;[SWC-22-MIN-0002]
- 2        **noted** that the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022 give effect to the decision referred to above, and includes the ability to both omit and remove a lawyer's work details from the register of lawyers;
- 3        **authorised** the submission to the Executive Council of the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations [PCO 24719/13.0];
- 4        **noted** that the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Amendment Regulations 2022 come into force on 1 March 2023.

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon David Parker  
Hon Michael Wood  
Hon Dr David Clark  
Hon Dr Ayesha Verrall  
Dr Duncan Webb, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG