

House of Representatives

Supplementary Order Paper

Tuesday, 29 March 2005

Lawyers and Conveyancers Bill

Proposed amendments

Richard Worth, in committee, to move the following amendments:

Clause 1

To omit the words “and Conveyancers”.

Clause 3

To omit from subclause (1)(a) and(b) the words “and conveyancing services”.

To omit from subclause (1)(c) the words “and to establish the new profession of conveyancing practitioner”.

To omit from subclause (2)(b) the words “and conveyancers”.

To omit subclause (2)(c), and substitute the following paragraph:

- (c) restricts conveyancing to be carried out by lawyers.

To omit from subclause (2)(d) the words “and all conveyancing practitioners”.

Clause 5

To omit this clause.

Clause 6

To omit from clause 6 the definitions of **conveyancer**, **Conveyancers Society inspectorate**, **conveyancing practitioner**, **Conveyancing Practitioners’ Fidelity Fund**, **Conveyancing Practitioners Standards Committee**, **incorporated conveyancing firm**, **New Zealand Society of Conveyancers**, and **registered conveyancer**.

To omit paragraph (a)(ii) of the definition of **course of study**.

To omit paragraph (b) of the definition of **direct supervision**.

To omit the words “and conveyancers” from the definition of **Disciplinary Tribunal**.

To omit paragraph (b) of the definition of **fundamental obligations**.

To omit the words “incorporated conveyancing firm or an” from the definition of **incorporated firm**.

To omit from the definition of **Lawyers and Conveyancers Disciplinary Tribunal** the words “and conveyancers” in both places they appear.

To omit paragraphs (c), (d), and (f) of the definition of **misconduct**.

To omit paragraph (b) of the definition of **practising certificate**.

To omit the words “or a conveyancing practitioner, as the case may be” from the definition of **practitioner**.

To omit paragraph (b) of the definition of **regulated services**.

To omit paragraph (b) of the definition of **related entity**.

To omit the words “or incorporated conveyancing firm” from paragraph (c)(ii) of the definition of **related person or entity**.

To omit the words “and conveyancers” from the definition of **Special Fund**.

To omit the words “or a Conveyancers Standards Committee” from the definition of **Standards Committee**.

To omit paragraphs (c) and (d) of the definition of **unsatisfactory conduct**.

Clause 7

To omit from subclause (2)(a) the words “or as a conveyancing practitioner”.

To omit subclause (2)(c).

Clause 7A

To omit this clause.

Clause 7B

To omit subclause (2).

To omit subclause (3)(b).

Clause 8

To omit from paragraph (a) the words “or to have his or her registration as a conveyancing practitioner cancelled”.

Clause 9A

To omit this clause.

Clause 10A

To omit from subclause (1) the words “or conveyancing practitioner”.

To omit from subclause (1)(b) the words “or one other conveyancing practitioner, as the case may require,”.

Clause 10B

To omit the words “or conveyancing practitioner” in each place they appear.

Clause 13

To omit this clause.

Part 2 heading

To omit from the heading to Part 2 the words “and conveyancing services”.

Clause 26

To omit from subclause (1) the words “or a conveyancing practitioner or an incorporated conveyancing firm”.

Clause 27

To omit from subclause (1) the words “or a conveyancing practitioner or an incorporated conveyancing firm”.

Clause 28

To omit from subclause (1)(a) the expression “; or”.

To omit subclause (1)(b).

To omit from subclause (1)(c) the words “or the Council of the New Zealand Society of Conveyancers”.

To omit subclause (2)(b).

To omit from subclause (3) the words “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”.

Clause 29

To omit subclause (2)(c).

To omit subclause (2)(d).

To omit from subclause (2)(e) the words “or conveyancing practitioner”.

Clauses 31 and 32

To omit these clauses.

Clause 33

To omit subclauses (2) and (3).

To omit from subclause (4) the expression “**and (2)**”.

Clause 34A

To omit from subclause (1) the words “A regulatory society”, and substitute the words “The New Zealand Law Society”.

To omit from subclause (2) the words “the regulatory society”, and substitute the words “the New Zealand Law Society”.

To omit subclause (2)(b).

To omit from subclause (2)(h)(ii) the words “or the Conveyancing Practitioners’ Fidelity Fund”.

To omit from subclause (3) the words “the regulatory society”, and substitute the words “the New Zealand Law Society”.

To omit subclause (4)(b).

To omit subclause (6)(b).

Clause 34B

To omit from subclause (1) the words “or the New Zealand Society of Conveyancers”.

Clause 35

To omit from the chapeau the words “or the New Zealand Society of Conveyancers”.

To omit from paragraph (a) the expression “**26, 27, 29, and 31(6)**”.

Clause 36

To omit subclause (1)(b) and (c).

Part 5

To omit this Part.

Clause 83

To omit the words “and the New Zealand Society of Conveyancers must each have”, and substitute the words “must have”.

To omit from paragraph (ea) the words “in the case of the New Zealand Law Society,”.

To omit paragraph (eb).

To omit from paragraph (ec) the words “in the case of the New Zealand Law Society,”

Clause 83A

To omit from the chapeau the words “and the New Zealand Society of Conveyancers”.

To omit from paragraph (a) the words “in the case of lawyers”.

To omit paragraph (b).

To omit from paragraph (c) the words “in the case of both lawyers and conveyancing practitioners,”.

Clause 85

To omit this clause.

Clause 86

To omit from subclause (1) the words “and the New Zealand Society of Conveyancers must each have”, and substitute the words “must have”.

To omit from subclause (2)(a) the words “or the New Zealand Society of Conveyancers or both”.

To omit from subclause (2)(b) the words “or the New Zealand Society of Conveyancers or both”.

To omit from subclause (2)(d) the words “or the New Zealand Society of Conveyancers, as the case may require”.

To omit from subclause (3)(c) the words “or the New Zealand Society of Conveyancers”.

To omit from subclause (3)(f) the words “or the New Zealand Society of Conveyancers or both”.

To omit from subclause (4) the words “and the New Zealand Society of Conveyancers each have”, and substitute the word “has”.

Clause 87

To omit subclause (1)(a).

To omit from subclause (1)(b) the words “or the Council of the New Zealand Society of Conveyancers, as the case may be”.

To omit from subclause (2)(a) the words “or conveyancers, as the case may be”.

Clause 89

To omit subclause (2).

Clause 90

To omit the words “or the Council of the New Zealand Society of Conveyancers”.

Clause 92

To omit from subclause (1) the words “or the Council of the New Zealand Society of Conveyancers”.

Clause 94

To omit subclause (1), and substitute the following subclause:

- (1) The practice rules of the New Zealand Law Society are binding on all members of the New Zealand Law Society, but are not binding on other persons.

To omit subclause (2).

Clause 96

To omit subclause (2).

To omit from subclauses (3) and (4) the expression “or subsection (2)”.

To omit subclause (3)(d).

Clause 102

To omit from paragraph (j) the words “or the New Zealand Society of Conveyancers or by both”.

To omit from paragraph (k) the words “or the Conveyancers Society inspectorate or both”.

To omit from paragraph (l) the words “or the Conveyancers Society inspectorate”.

To omit paragraph (n).

To omit from paragraph (o) the words “or the Conveyancers Society inspectorate”.

To omit paragraph (o)(iii) and (iv).

To omit paragraph (r).

To omit from paragraph (s) the words “, and the Conveyancers Society inspectorate”.

To omit from paragraph (t) the words “or the Conveyancers Society inspectorate” wherever they appear.

To omit from paragraph (w) the words “the Conveyancers Society inspectorate,” and “or the New Zealand Society of Conveyancers”.

Clause 103

To omit from subclause (4)(d) the words “or any conveyancing practitioner or class of conveyancing practitioner”.

Clause 107

To omit subclause (2)(a)(iv), (v), and (vi).

To omit subclause (5).

Clause 108

To omit subclause (2).

Clause 109

To omit from subclause (1) the words “and the New Zealand Society of Conveyancers must each”, and substitute the word “must”.

Clause 112

To omit this clause.

Clause 114

To omit this clause.

Clause 115

To omit from subclause (1) the words “or the New Zealand Society of Conveyancers”.

Clause 117

To omit subclause (2)(b).

Clause 118

To omit from paragraph (f) the words “or the New Zealand Society of Conveyancers”.

Clause 122

To omit subclause (2).

Clause 123

To omit from the heading the words “or Society of Conveyancers”.

To omit paragraph (b).

Clause 126

To omit subclause (1)(c)(ii).

Clause 131

To omit from subclause (1) the words “or the New Zealand Society of Conveyancers”.

To omit from subclause (1) the words “either of those societies”, and substitute the words “that society”.

To omit from subclause (3) the words “or the New Zealand Society of Conveyancers, as the case may require”.

To omit from subclause (4) the words “or the New Zealand Society of Conveyancers, as the case may require”.

Clause 132

To omit subclause (2)(b).

Clause 134

To omit from subclause (3) the words “or the New Zealand Society of Conveyancers, as the case may require”.

Clause 137

To omit from paragraph (c) the words “or the Conveyancers Society inspectorate, as the case may require”.

To omit from paragraph (e) the words “or the Council of the New Zealand Society of Conveyancers, as the case may require”.

Clause 140

To omit subclause (3)(e).

To omit subclause (4)(d).

Clause 142

To omit paragraph (d).

Clause 143

To omit from subclause (1)(d) the words “or the New Zealand Society of Conveyancers”.

To omit from subclause (1)(i) the words “or the New Zealand Society of Conveyancers, as the case may require”.

To omit from subclause (1)(n) the words “or the New Zealand Society of Conveyancers”.

Clause 143A

To omit subclause (1)(b).

To omit from subclause (2) the words “or the New Zealand Society of Conveyancers”.

To omit from subclause (3) the words “either the New Zealand Law Society or the New Zealand Society of Conveyancers” and substitute the words “the New Zealand Law Society”.

Clause 149

To omit from subclause (1) the words “or the New Zealand Society of Conveyancers”.

To omit from subclause (2) the words “or the New Zealand Society of Conveyancers” in both places they appear.

Clause 150

To omit from subclause (1) the words “or the New Zealand Society of Conveyancers” in both places they appear.

To omit from subclause (2) the words “or the New Zealand Society of Conveyancers” in both places they appear.

Clause 151

To omit the words “or the New Zealand Society of Conveyancers” in both places they appear.

Clause 152

To omit from subclause (1) the words “or the New Zealand Society of Conveyancers” in both places they appear.

Clause 153

To omit the words “or the New Zealand Society of Conveyancers”.

Clause 163A

To omit subclause (3).

To omit from subclause (4) the words “or the New Zealand Society of Conveyancers”.

Clause 163B

To omit from subclause (1) the words “or the New Zealand Society of Conveyancers”.

Clause 169

To omit from subclause (2)(da)(i) the words “or as a person appointed to examine the accounts of conveyancing practitioners or firms of conveyancing practitioners or incorporated conveyancing firms”.

Clause 170

To omit from subclause (2) the words “or the New Zealand Society of Conveyancers”.

Clause 171

To omit from subclause (1) the words “or a conveyancing practitioner”.

To omit from subclause (2) the words “and the New Zealand Society of Conveyancers”.

Clause 173

To omit from paragraph (c) the words “and the New Zealand Society of Conveyancers”.

Clause 175

To omit subclause (2)(e).

Clause 176

To omit subclause (2)(d).

Clause 177

To omit paragraph (g).

Clause 178

To omit subclause (1)(b)

To omit from subclause (1)(c) the words “or the New Zealand Society of Conveyancers”.

Clause 191

To omit subclause (2)(b).

To omit from subclause (3) the words “or the New Zealand Society of Conveyancers”.

To omit from subclause (4) the words “or the New Zealand Society of Conveyancers”.

Clause 193

To omit subclause (2)(d).

Clause 194

To omit from subclause (1)(b) the words “or the New Zealand Society of Conveyancers, as the case may require,”.

Clause 196

To omit the words “and the New Zealand Society of Conveyancers”.

Clause 197

To omit from subclause (1) the words “and the New Zealand Society of Conveyancers, in its regulatory capacity,”.

To omit from subclause (4)(a) the words “and the New Zealand Society of Conveyancers”.

To omit subclause (4)(c).

Clause 199

To omit from subclause (1) the words “and the New Zealand Society of Conveyancers”.

To omit from subclause (2) the words “and the New Zealand Society of Conveyancers”.

Clause 201

To omit subclause (2).

Clause 202

To omit subclause (1)(c) and (d).

Clause 203

To omit from subclause (1) the words “and the New Zealand Society of Conveyancers”.

Clause 207

To omit paragraph (db)(iii).

Clause 208

To omit from paragraph (c) the words “neither on the roll nor on the register of conveyancers”, and substitute the words “not on the roll”.

To omit paragraph (e).

Clause 213

To omit from subclause (1) the words “and the Council of the New Zealand Society of Conveyancers”.

To omit subclause (3).

Clause 213A

To omit subclause (4)(b).

Clause 219

To omit subclause (3)(a)(ii).

To omit subclause (3)(a)(iii) and substitute the following subparagraph:

(iii) an officer of the New Zealand Law Society:.

To omit subclause (3)(a)(iv) and substitute the following subparagraph:

(iv) an employee of any New Zealand Law Society:.

Clause 221

To omit subclause (1)(d), (f), and (j).

Clause 225

To omit subclause (2).

To omit from subclause (3) the words “or as a conveyancing practitioner”.

To omit from subclause (4) the words “or as a conveyancing practitioner”.

To omit from subclause (6) the words “or to the register of conveyancers”.

Clause 226A

To omit subclause (1)(c).

To omit subclause (2)(b).

Clause 227

To omit subclause (2)(b).

To omit from subclause (3) the words “or the New Zealand Society of Conveyancers”.

To omit from subclause (4) the words “or the New Zealand Society of Conveyancers”.

Clause 231

To omit subclause (2)(d)(iv).

Clause 232A

To omit subclause (1)(b).

To omit from subclause (3) the words “or as a conveyancing practitioner”.

Clause 233

To omit subclause (1)(a)(ii).

To omit subclause (2)(ii).

To omit from subclause (2)(a)(iii) the words “or the register of conveyancers”.

To omit subclause (3)(b) and (c).

To omit subclause (4)(b).

Clause 234

To omit subclause (1)(b).

Clause 235

To omit from subclause (2) the words “or the New Zealand Society of Conveyancers”.

Clause 236

To omit from subclause (1) the words “and the New Zealand Society of Conveyancers”.

Clause 249

To omit from the heading the words “**and New Zealand Society of Conveyancers**”.

To omit the words “nor the New Zealand Society of Conveyancers.”.

To omit the words “of either of those bodies”.

Part 9 heading

To omit from the heading to Part 9 the words “**and Conveyancers**”.

Clause 264

To omit from the heading the words “**and conveyancers**”.

To omit from subclause (1) the words “and conveyancers”.

To omit from subclause (2) the words “and the New Zealand Society of Conveyancers”.

Clause 266

To omit the words “and conveyancers”.

Clause 267

To omit from subclause (2) the words “and the New Zealand Society of Conveyancers”.

Clause 268

To omit subclause (1)(b).

Clause 277

To omit from subclause (1) the words “and conveyancers”.

To omit from subclause (2) the words “and conveyancers”.

Clause 278

To omit the words “or the New Zealand Society of Conveyancers”.

Clause 279

To omit paragraph (b).

Clause 280

To omit paragraph (b) of the definition of **agent**.

To omit paragraph (b) of the definition of **regulatory society**.

Clause 283

To omit this clause.

Clause 285

To omit this clause.

Clause 286

To omit from subclause (1)(ia) the words “or conveyancing practitioners”.

To omit from subclause (1)(p) the words “if the New Zealand Law Society is the regulatory society,”.

To omit subclause (1)(q).

To omit from subclause (1)(r) the words “, if the New Zealand Law Society is the regulatory society,”.

To omit subclause (1)(s).

To omit subclause (2)(a) and substitute the following paragraph:

- (a) the fund set up by the New Zealand Law Society.

To omit subclause (2)(b).

Clause 286B

To omit this clause.

Clause 287

To omit from the heading the words “of New Zealand Law Society”.

Clause 287A

To omit this clause.

Clause 289

To omit from subclause (1) the words “or the Conveyancing Practitioners’ Fidelity Fund”.

Clause 293

To omit this clause.

Clause 294

To omit from subclause (1) the words “neither the Lawyers’ Fidelity Fund nor the Conveyancing Practitioners’ Fidelity Fund is”, and substitute the words “the Lawyers’ Fidelity Fund is not”.

Clause 297

To omit the words “or against the New Zealand Society of Conveyancers in relation to the Conveyancing Practitioners’ Fidelity Fund”.

Clause 298

To omit from subclause (1) the words “or the Conveyancing Practitioners’ Fidelity Fund”.

Clause 299

To omit subclause (2).

Clause 300

To omit subclause (5)(a), and substitute the following paragraph:

- (a) the Lawyers’ Fidelity Fund.

To omit subclause (5)(b).

Clause 301

To omit from subclause (1) the words “either the Lawyers’ Fidelity Fund or the Conveyancing Practitioners’ Fidelity Fund and the fund to which the Order in Council applies”, and substitute the words “the Lawyers’ Fidelity Fund and the fund”.

Clause 304

To omit from subclause (1) the words “or the Conveyancing Practitioners’ Fidelity Fund”.

Clause 308A

To omit from subclause (1)(b)(i) the words “or the New Zealand Society of Conveyancers”.

Heading above clause 309

To omit from the heading above clause 309 the words “*and New Zealand Society of Conveyancers*”.

Clause 309

To omit from subclause (1) the words “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” , and substitute the words “Neither the Council of the New Zealand Law Society, nor any committee appointed by the Council, nor any member, officer, agent, or employee of the Council”.

Clause 311

To omit from subclause (2) the proposed section 3(7)(b) of the Real Estate Agents Act 1976, and the words “or conveyancing practitioner” from the proposed section 3(7).

To omit from subclause (2) the proposed section 3(8)(c)(iii) and (iv) of the Real Estate Agents Act 1976.

Clause 347

To omit this clause.

Schedule 1, Clause 1

To omit paragraph (b) of the definition of **appropriate society**.

To omit paragraph (b) of the definition of **donee**.

Clause 3

To omit this clause.

Clause 3A

To omit this clause.

Clause 4

To omit subclause (2).

Clause 5

To omit paragraphs (f) and (h).

Clause 5A

To omit paragraphs (f) and (h).

Clause 7

To omit from the heading the words “**and New Zealand Society of Conveyancers**”.

Clause 11

To omit from paragraph (b) the words “or conveyancing practitioner”.

Clause 19

To omit from subclause (1) the words “or the Conveyancing Practitioners’ Fidelity Fund”.

To omit from subclause (1) the words “or conveyancing practitioner” in each place they appear.

Schedule 2, Clause 1

To omit paragraph (b).

Clause 2

To omit subclause (2).

Clause 3

To omit subclause (2).

Clause 4

To omit from paragraph (b) the words “or the New Zealand Society of Conveyancers”.

Clause 5

To omit from the heading the words “**and New Zealand Society of Conveyancers**”.

To omit from subclause (1) the words “or the New Zealand Society of Conveyancers”.

To omit from subclause (2) the words “or of the governing body of the New Zealand Society of Conveyancers or for any officer or either society”, and substitute the words “or for any officer of that society”.

Clause 6

To omit from the chapeau the words “or the New Zealand Society of Conveyancers”.

To omit from paragraph (a) the words “or conveyancing practitioner” in each place they appear, and to omit the words “or conveyancing practitioners”.

To omit from paragraph (b) the words “or incorporated conveyancing firms”.

To omit from paragraph (c) the words “or conveyancing practitioner”.

Clause 7

To omit the words “or the New Zealand Society of Conveyancers” and also the words “or of a conveyancing practitioner or firm of conveyancing practitioners or of an incorporated conveyancing firm”.

Schedule 4 Clause 3

To omit subclause (4)(c).

Clause 8

To omit subclause (2)(b).

Schedule 6

To omit from the item relating to the Financial Transactions Reporting Act 1996 the definitions of “conveyancing practitioner”; “incorporated conveyancing firm”; paragraphs (c) and (d) of the definition of “real estate transaction”; and the proposed section 3(1)(la).

To omit the proposed amendment to the Unclaimed Money Act 1971.

Explanatory note

This Supplementary Order Paper removes those aspects of the Bill that establishes a regulatory structure for conveyancers.

The Justice and Electoral Select Committee heard evidence from the New Zealand Law Society that there might five or six persons who would be qualified to join the NZ Society of Conveyancers and the faint possibility that Australian conveyancers might seek to join the society. The likelihood that there might be in total seven or eight such people clearly raises the justification for a highly prescriptive statutory regime and the impossibility of funding a realistic fidelity fund for such a limited occupational grouping.

The practice of conveyancing has substantially changed with the move away from scale fees and the current pricing structures are fiercely competitive.

Conveyancing requires high levels of skill and expertise and it is appropriate that such work be done by lawyers or competent staff under the supervision of lawyers. The consequences of flawed work are often serious both for the users of the service and third parties who rely on either the Land Transfer Register or the integrity and accuracy of the conveyancing documentation.

