

INLAND REVENUE DEPARTMENT AMENDMENT BILL

EXPLANATORY NOTE

THE purpose of this Bill is to define the circumstances in which information, books, and documents in the possession of a barrister or solicitor of the Supreme Court and relating to the affairs of his client are privileged from disclosure to the Commissioner of Inland Revenue.

Any information, book, or document is privileged from disclosure if—

- (a) It is a confidential communication passing between a legal practitioner in his professional capacity and his client; and
- (b) It is made or brought into existence for the purpose of obtaining or giving legal advice or assistance; and
- (c) It is not made or brought into existence for the purpose of committing or furthering the commission of an illegal or wrongful act.

The privilege will not extend to any information or book or document consisting of or relating to the receipts, payments, income, expenditure, or financial transactions of any specified person, if it is prepared or kept in connection with a solicitor's trust account.

If a barrister or solicitor refuses to disclose any information or book or document on the ground that it is privileged, either he or the Commissioner of Inland Revenue may apply to a Magistrate for an order determining whether the claim of privilege is valid.

Hon. Mr Nordmeyer

INLAND REVENUE DEPARTMENT AMENDMENT

ANALYSIS

Title	2. Privilege for confidential communication between legal practitioners and their clients
1. Short Title	

A BILL INTITULED

An Act to amend the Inland Revenue Department Act 1952

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. **Short Title**—This Act may be cited as the Inland Revenue Department Amendment Act 1958, and shall be read together with and deemed part of the Inland Revenue Department Act 1952 (hereinafter referred to as the principal
10 Act).

2. **Privilege for confidential communication between legal practitioners and their clients**—The principal Act is hereby amended by inserting, after section sixteen, the following section:

15 “16A. (1) Subject to subsection two of this section, any information or book or document shall, for the purposes of sections thirteen to sixteen of this Act, be privileged from disclosure, if—

- “(a) It is a confidential communication, whether oral or written, passing between a legal practitioner in his professional capacity and his client, whether made directly or indirectly through an agent of either; and 5
- “(b) It is made or brought into existence for the purpose of obtaining or giving legal advice or assistance; and
- “(c) It is not made or brought into existence for the purpose of committing or furthering the commission of some illegal or wrongful act. 10

“(2) Where the information or book or document consists wholly or partly of, or relates wholly or partly to, the receipts, payments, income, expenditure, or financial transactions of a specified person (whether the legal practitioner, his client, or any other person), it shall not be privileged from disclosure if it is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared or kept by the legal practitioner in connection with a trust account of the legal practitioner within the meaning of section seventy of the Law Practitioners Act 1955. 15 20

“(3) Except as provided in subsection one of this section, no information or book or document shall for the purposes of sections thirteen to sixteen of this Act be privileged from disclosure on the ground that it is a communication passing between a legal practitioner and his client. 25

“(4) Where any person refuses to disclose any information or book or document on the ground that it is privileged under this section, the Commissioner or that person may apply to a Magistrate for an order determining whether the claim of privilege is valid; and, for the purposes of determining any such application, the Magistrate may require the information or book or document to be produced to him. An application under this subsection may be made in the course of an inquiry under section fifteen of this Act to the Magistrate who is holding the inquiry. 30 35

“(5) For the purposes of this section the term ‘legal practitioner’ means a barrister or solicitor of the Supreme Court, and references to a legal practitioner include a firm in which he is a partner or is held out to be a partner. 40

“(6) This section shall apply with respect to information, books, and documents made or brought into existence before the commencement of this section as well as to information, books, and documents made or brought into existence after the commencement of this section.” 45