

LAW PRACTITIONERS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Law Practitioners Act 1955.

Clause 1 relates to the Short Title to the Bill.

Clause 2 amends sections 4 and 9 of the principal Act, as from its commencement, so as to make it clear that orders admitting candidates as barristers and solicitors may be made by a Judge sitting either in open Court or in Chambers.

Clause 3 makes it an offence for a person to practise as a solicitor on his own account, whether in partnership or otherwise, in contravention of any order of the Disciplinary Committee of the New Zealand Law Society made under the provisions set out in *clauses 4 and 5* of the Bill.

Clause 4 amends section 34 of the principal Act so as to extend the disciplinary powers of the Disciplinary Committee of the New Zealand Law Society by authorising it to order that a practitioner shall not practise as a solicitor on his own account, whether in partnership or otherwise, until authorised by the Disciplinary Committee to do so.

Clause 5 amends section 39 of the principal Act so as to provide that an order restoring the name of an applicant to the roll of solicitors may impose the condition that the applicant shall not practise as a solicitor on his own account, whether in partnership or otherwise, until authorised by the Disciplinary Committee to do so.

Clause 6: Section 97 empowers the Council of the New Zealand Law Society or a District Council to take possession of the books of account and documents of a solicitor who has defaulted in certain specified ways. A penalty is imposed on a solicitor who refuses or fails to deliver his books or documents. The clause strengthens this provision by providing that in any such case the Council or District Council may apply to a Judge or Magistrate for a writ or warrant to empower any member of the Council or District Council, or any other person on its behalf, to enter upon any premises, by force if necessary, and search for any books of account or other documents of which the Council or District Council is entitled to take possession, and to remove them to such place as he thinks fit. Where any person is empowered by a writ or warrant issued under the subsection to enter upon any premises, he may be accompanied when so entering by a member of the Police.

Clause 7 rewrites section 105 of the principal Act so as to provide that, except where exemption from membership is granted, every person who is the holder of a practising certificate as a barrister or solicitor which is for the time being in force shall be a member of the District Law Society of the district in which the practising certificate is issued.

Clause 8: Section 110 (1) of the principal Act provides that every District Law Society shall have a Council consisting of a President, a Vice-President, and such number of other members, not being less than five nor more than twelve, as is prescribed by the rules of the Society. The clause removes the limits in respect of the numbers of other members, and leaves such a Society an unfettered discretion to fix the number by its rules.

Clause 9 provides that membership of the New Zealand Law Society shall be restricted to members of any District Law Society who hold practising certificates as barristers or solicitors which are for the time being in force.

Clause 10 provides for the election of a Treasurer of the New Zealand Law Society, and for his inclusion as a member of the Council of the Society.

Hon. Mr Hanan

LAW PRACTITIONERS AMENDMENT

ANALYSIS

Title	
1. Short Title	6. Power of Council or District Council to take possession of books and documents of solicitor
2. Admission and enrolment	7. Membership of District Law Societies
3. Offence to practise as solicitor on own account in contravention of order of Disciplinary Committee	8. Officers and Council
4. Functions of Disciplinary Committee	9. New Zealand Law Society
5. Restoration of name to roll	10. Treasurer of New Zealand Law Society

A BILL INTITULED

An Act to amend the Law Practitioners Act 1955

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 Law Practitioners Amendment Act 1967, and shall be read together with and deemed part of the Law Practitioners Act 1955* (hereinafter referred to as the principal Act).
- 10 2. **Admission and enrolment**—The principal Act is hereby amended as from its commencement—
- (a) By inserting in section 4, after the word “Court”, the words “or a Judge”:
- 15 (b) By inserting in subsection (1) of section 9, after the word “Court” where it first appears, the words “or a Judge”.

*1957 Reprint, Vol. 7, p. 749
Amendments: 1961, No. 47; 1962, No. 121; 1963, No. 95; 1964, No. 97;
1965, No. 92

3. Offence to practise as solicitor on own account in contravention of order of Disciplinary Committee—The principal Act is hereby amended by inserting, after section 16, the following section:

“16A. Every person commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars who practises as a solicitor on his own account, whether in partnership or otherwise, in contravention of any order of the Disciplinary Committee under—

- (a) Paragraph (bb) of subsection (2) of section 34 of this Act (as inserted by section 4 of the Law Practitioners Amendment Act 1967):
- (b) Subsection (2A) of section 39 of this Act (as inserted by section 5 of the Law Practitioners Amendment Act 1967).

4. Functions of Disciplinary Committee—Section 34 of the principal Act is hereby amended by inserting in subsection (2), after paragraph (b), the following paragraph:

“(bb) Order that he shall not practise as a solicitor on his own account, whether in partnership or otherwise, until authorised by the Disciplinary Committee to do so:”.

5. Restoration of name to roll—Section 39 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) Without restricting subsection (2) of this section, any such order may impose the condition that the applicant shall not practise as a solicitor on his own account, whether in partnership or otherwise, until authorised by the Disciplinary Committee to do so.”

6. Power of Council or District Council to take possession of books and documents of solicitor—Section 97 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) In any case to which this section applies, the Council or District Council may apply to a Judge or Magistrate for a writ or warrant to empower any member of the Council or District Council, or any other person on its behalf, to enter
5 upon any premises, by force if necessary, and search for any ledgers, books of account, records, deeds, or other documents of which the Council or District Council is entitled to take possession and to remove them to such place as he thinks fit. Where any person is empowered by a writ or warrant issued
10 under this subsection to enter upon any premises, he may be accompanied when so entering by a member of the Police.”

7. Membership of District Law Societies—(1) The principal Act is hereby amended by repealing section 105, and substituting the following section:

15 “105. (1) Every person who is the holder of a practising certificate as a barrister or solicitor which is for the time being in force shall be and be deemed to be a member of the District Law Society of the district in which the practising certificate is issued, whether or not he applies for membership
20 of the Society:

“Provided that the Council of a District Law Society may exempt any such person from membership of the Society, subject to such conditions as that Council may impose; and, while any such exemption continues and all conditions govern-
25 ing the exemption are complied with, the person who is granted the exemption shall not be a member of the District Law Society.

“(2) Every member of a District Law Society who ceases to be the holder of a practising certificate as a barrister or
30 solicitor which is for the time being in force shall thereupon cease to be a member of that District Law Society, unless he retains his membership in accordance with subsection (3) of this section.

“(3) Any person who, not being the holder of a practising
35 certificate as a barrister or solicitor which is for the time being in force, is for the time being enrolled as a barrister or solicitor may, in accordance with the rules of any District Law Society, be retained or admitted as a member of that Society.”

40 (2) Section 3 of the Law Practitioners Amendment Act 1957 is hereby consequentially repealed.

8. Officers and Council—Section 110 of the principal Act is hereby amended by omitting from subsection (1) the words “not being less than five nor more than twelve”.

9. New Zealand Law Society—Section 113 of the principal Act is hereby amended by adding to subsection (1) the words “and hold practising certificates as barristers or solicitors which are for the time being in force”.

10. Treasurer of New Zealand Law Society—(1) Section 116 of the principal Act is hereby amended by adding to subsection (1) the following paragraph:

“(g) The Treasurer of the Society.”

(2) Section 116 of the principal Act is hereby further amended by inserting in subsection (5), after the word “President”, the words “or Treasurer”.

(3) Section 117 of the principal Act is hereby amended by adding to subsection (1) the following paragraph:

“(c) A Treasurer of the Society who shall be elected from the members of the Society.”