

LAW PRACTITIONERS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Law Practitioners Act 1982.

Clause 2 substitutes a new section 165 of the principal Act, relating to the annual amount payable into the Solicitors' Fidelity Guarantee Fund by solicitors engaged in practice on their own account or in partnership. Three changes are made:

- (a) The present fee (which may not be less than \$20 nor more than \$100 in any year) is prescribed by rules made by the Council of the New Zealand Law Society. Those rules do not come into force unless they are approved by the Governor-General in Council. Under the new section, the amount of the fee will be fixed by resolution of the Council of the New Zealand Law Society and the approval of the Governor-General in Council will not be required.
- (b) The minimum amount of the fee is increased from \$20 to \$50.
- (c) The present maximum of \$100 is removed.

Clause 3 substitutes a new section 167 of the principal Act, empowering the Council of the New Zealand Law Society to impose a levy on every solicitor engaged in practice on his or her own account or in partnership if the Council considers that the amount in the Solicitors' Fidelity Guarantee Fund is not sufficient to meet actual or prospective claims. At present, the maximum amount of the levy that may be imposed is \$100. The amendment removes this maximum but makes the imposition of any such levy subject to the approval of the Minister of Justice.

Clause 4 is consequential on clause 2.

LAW PRACTITIONERS AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Law Practitioners Act 1982

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Law Practitioners Amendment Act 1988, and shall be read together with and deemed part of the Law Practitioners Act 1982* (hereinafter referred to as the principal Act).

2. Solicitors in practice to pay fees into fund—(1) The principal Act is hereby amended by repealing section 165, and substituting the following section:

“165. (1) Except as provided in section 166 of this Act, every solicitor to whom this Part of this Act applies, on making application in any year for a practising certificate, shall, in addition to all other fees then payable by the solicitor, pay such fee as may from time to time be fixed by resolution of the Council for the purposes of this Part of this Act, being not less than \$50 in any year; and no such certificate shall be issued until that fee and any levy payable under section 167 of this Act is paid.

“(2) If a solicitor to whom this Part of this Act does not apply at the time of his or her application for a practising certificate thereafter, in the year for which that certificate is issued, commences to practise as a solicitor on his or her own account,

*1982, No. 123

Amendments: 1985, No. 26; 1985, No. 56; 1985, No. 182; 1987, No. 35

whether in partnership or otherwise, the solicitor shall thereupon become liable to pay to the fund the fee fixed under **subsection (1)** of this section.

“(3) If a solicitor who for any year has paid the fee so fixed remains in practice on his or her own account for less than 3 5 months of that year, the Council may, out of the money received by it under **subsection (1)** of this section, refund to the solicitor such part of the fee as it thinks fit.

“(4) If a solicitor commences practice on his or her own account during the last 3 months of any year for which the fee 10 fixed under **subsection (1)** of this section is payable, the Council may accept in full satisfaction of the fee for that year such part of the fee as it thinks fit.

“(5) All fees payable under this section shall be paid in the same manner as practising fees are paid; and the person 15 receiving them shall forthwith pay them into the fund.”

(2) Notwithstanding **subsection (1)** of this section, until a fee is fixed under subsection (1) of section 165 of the principal Act (as substituted by **subsection (1)** of this section), the fee payable 20 under section 165 (1) of the principal Act (as originally enacted) immediately before the commencement of this Act shall continue to be payable as if **subsection (1)** of this section had not been enacted.

3. Solicitors may be required to pay levy—The principal Act is hereby amended by repealing section 167, and 25 substituting the following section:

“167. (1) If at any time the fund is not sufficient, or, in the opinion of the Council having regard to any prospective claims or liabilities likely to be received or incurred, may not be sufficient, to satisfy the liabilities of the New Zealand Law 30 Society in relation to the fund, the Council may by resolution, with the approval of the Minister of Justice, impose on every solicitor to whom this Part of this Act applies, for payment into the fund, a levy of such amount as it thinks fit.

“(2) The amount of every such levy shall become payable on 35 a date and in a manner to be fixed by the Council.”

4. Rules for purposes of this Part—Section 177 (1) (a) of the principal Act is hereby repealed.