

New Zealand Council of Law Reporting Amendment Bill

Government Bill

Explanatory note

General policy statement

The New Zealand Council of Law Reporting is responsible for producing an official series of reports of the key judgments of the higher courts in New Zealand. The New Zealand Law Reports provide the authoritative set of reports of key judgments of New Zealand's higher courts—the High Court, the Court of Appeal, and, when it was New Zealand's final court of appeal, the Judicial Committee of the Privy Council. The law reports assist judges, lawyers, and the public in gaining access to key court judgments.

This Bill extends the provisions of the New Zealand Council of Law Reporting Act 1938 to include the Supreme Court. It adds the Supreme Court to the list of courts whose judgments the Council has the primary right of reporting in the New Zealand Law Reports. It also clarifies the ability of the New Zealand Law Society, in consultation with the Council, to authorise the publication of judgments of these courts in specialist or other occasional publications. The Bill enables the Chief Justice to authorise the alternative publication of Supreme Court judgments.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. This Bill will come into force on the day after the date on which it receives the Royal assent.

Clause 3 replaces section 12(3) of the New Zealand Council of Law Reporting Act 1938 (“the principal Act”). Section 12(3) currently provides that only the New Zealand Council of Law Reporting (the

Council) may publish reports of decisions of the High Court or Court of Appeal or of the Land Valuation Tribunal. (There is an exception to this rule that enables the New Zealand Law Society (the **Society**) to authorise an alternative person, firm, or company, to publish reports of decisions of those courts if the Council fails to publish its reports within a reasonable time and at a reasonable cost.)

Section 12(3) is replaced with *new section 12(3), (4), (5), and (6)*. The Council continues to have primary responsibility for publishing reports of decisions of the High Court, Court of Appeal, and Land Valuation Tribunal. The substantive changes that are made are:

- the addition, through *new subsection (4)*, of the Supreme Court in the list of courts and tribunals in relation to which the Council has the primary right to publish decisions:
 - the addition, through *new subsection (5)(b)*, of additional grounds on which the Society may authorise an alternative person, firm, or company to publish reports of decisions of the High Court, Court of Appeal, Supreme Court, or Land Valuation Tribunal. Those grounds are if the Society, in consultation with the Council, determines that it is appropriate to grant consent for the publication, in specialist law reports, of a series of decisions that relate to a particular area of law or for the one-off publication of a particular decision:
 - that, through *new subsection (6)*, the Chief Justice of New Zealand may authorise the alternative publication of decisions of the Supreme Court, after consulting the Society.
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Hon Rick Barker

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the New Zealand Council of Law Reporting Amendment Act **2005**.
- (2) In this Act the New Zealand Council of Law Reporting Act 1938¹ is called “the principal Act”.

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¹ 1938 No 2

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Functions of the Council

Section 12 of the principal Act is amended by repealing subsection (3), and substituting the following subsections: 10

- “(3) No person, firm, or company other than the Council may, without the consent of the New Zealand Law Society, commence the publication of, or publish, a new series of reports of decisions of the High Court or Court of Appeal or of the Land Valuation Tribunal (either separately or in conjunction with reports of other judicial decisions). 15
- “(4) After the commencement of the New Zealand Council of Law Reporting Amendment Act **2005**, no person, firm, or company other than the Council may, without the consent of the New Zealand Law Society,— 20

- “(a) commence the publication of, or publish, a new series of reports of decisions of the Supreme Court (either separately or in conjunction with reports of other judicial decisions); or
- “(b) continue the publication of a series of reports of decisions of the Supreme Court (either separately or in conjunction with reports of other judicial decisions) whose publication commenced before the commencement of that Act. 5
- “(5) The New Zealand Law Society may give its consent under **subsection (3) or subsection (4)** if— 10
- “(a) the Council has failed to publish, or has failed to arrange for there to be published, within a reasonable time and at a reasonable cost to purchasers, adequate reports of the decisions of the High Court or Court of Appeal or Supreme Court or of the Land Valuation Tribunal; or 15
- “(b) the New Zealand Law Society, in consultation with the Council, determines that it is appropriate to grant consent for— 20
- “(i) a particular decision to be published in a particular publication; or
- “(ii) a series of decisions that relate to a particular area of law to be published in specialist law reports.
- “(6) Despite **subsection (4)**, the Chief Justice may, after consultation with the New Zealand Law Society, authorise any person, firm, or company other than the Council to publish reports of the decisions of the Supreme Court.” 25

