

REGULATIONS (MISCELLANEOUS PROVISIONS) BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to 3 Acts, the Acts and Regulations Publication Act 1989, the Legal Services Act 1991, and the Regulations (Disallowance) Act 1989. The Bill is drafted so that it can be enacted as separate amendments to those Acts.

PART I

AMENDMENT TO ACTS AND REGULATIONS PUBLICATION ACT 1989

Clause 3 amends section 14 (3) of the Acts and Regulations Publication Act 1989. That provision relates to the printing and publication of instruments that are not regulations (within the meaning of that Act), and provides that certain sections of that Act shall apply with respect to instruments that are so printed and published as if they were regulations.

Section 13 of that Act is not at present one of the sections of that Act that are so applied. That section provides that where any regulations are required by any Act to be published or notified in the *Gazette*, the publication in the *Gazette* of a notice under section 12 of that Act relating to those regulations shall be sufficient compliance with that requirement.

The amendment contained in *clause 3* makes section 13 of the Acts and Regulations Publication Act 1989 applicable with respect to instruments that are printed and published pursuant to section 14 of that Act. The effect of the amendment is that publication in the Statutory Regulations Series of any instrument that is not a regulation, together with notification in the *Gazette* that the instrument has been so published, is sufficient compliance with any statutory requirement that the instrument be published in full in the *Gazette*.

The amendment is to be effective from the date of commencement of the Acts and Regulations Publication Act 1989.

PART II

AMENDMENTS TO LEGAL SERVICES ACT 1991

Clauses 5 and 6 amend sections 97 (6) and 158 (5), respectively, of the Legal Services Act 1991. Those provisions deem certain instructions issued by the Legal Services Board to be regulations for the purposes of the Regulations (Disallowance) Act 1989. The instructions to which those provisions relate are those that provide for guideline fees and rates of remuneration under that Act, and for the operation of the duty solicitor scheme.

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The effect of deeming such instructions to be regulations for the purposes of the Regulations (Disallowance) Act 1989 is to enable such instructions to be disallowed by the House of Representatives. That was always the intention of sections 97 (6) and 158 (5) of the Legal Services Act 1991. However, the effect of those provisions is that such instructions also fall within the definition of a regulation for the purposes of the Acts and Regulations Publication Act 1989. This means that such instructions are required to be printed and published in the Statutory Regulations Series. This latter effect was not intended.

The amendments contained in *clauses 5 and 6* make it clear that such instructions are regulations for the purposes of the Regulations (Disallowance) Act 1989, but are not regulations for the purposes of the Acts and Regulations Publication Act 1989. The amendments are to be effective from the date of commencement of the Legal Services Act 1991.

PART III

AMENDMENTS TO REGULATIONS (DISALLOWANCE) ACT 1989

Clause 8: Subclause (1) repeals section 4 of the Regulations (Disallowance) Act 1989, and substitutes a new section 4. The existing section 4 relates to the laying of regulations before the House of Representatives. However, the section contains an error that occurred when the assent copy of the Act was prepared. The section requires the laying of regulations that are printed and published pursuant to the Regulations (Disallowance) Act 1989. In fact, regulations are printed and published pursuant to the Acts and Regulations Publication Act 1989. The amendment, which corrects that error, and which gives effect to the intention of Parliament, is effective from the date of commencement of the Regulations (Disallowance) Act 1989.

Subclause (2) effects a consequential repeal of a provision in the Constitution Act 1986. The provision was impliedly repealed upon the repeal of the Regulations Act 1936. *Subclause (2)* makes that repeal express.

Clause 9 amends section 6 (1) of the Regulations (Disallowance) Act 1989. Section 6 (1) provides that if, at the expiration of the twenty-first sitting day after the giving in the House of Representatives of notice of a motion to disallow any regulations or any provisions of any regulations (being a notice of motion given by a member of Parliament who, at the time of the giving of the notice, is a member of the Committee of the House of Representatives responsible for the review of regulations),—

(a) The notice has not been withdrawn and the motion has not been moved;
or

(b) The motion has been called on and moved and has not been withdrawn or otherwise disposed of,—

the regulations or provisions specified for disallowance in the motion shall thereupon be deemed to have been disallowed.

The proposed amendment creates an exception to the deemed disallowance provided for in that section.

Disallowance will not be deemed to have occurred if, before the expiration of that twenty-first sitting day, Parliament is prorogued or is dissolved or expires.

In such a case, it would be possible for a member of the Committee of the House of Representatives responsible for the review of regulations to give another notice of motion to disallow the regulations in the new Parliament or the new session, as the case may be.

Hon. D. A. M. Graham

REGULATIONS (MISCELLANEOUS PROVISIONS)

ANALYSIS

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A BILL INTITULED

An Act to make various amendments to the law relating to statutory regulations

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

- 5 **1. Short Title**—This Act may be cited as the Regulations (Miscellaneous Provisions) Act 1992.

PART I

AMENDMENT TO ACTS AND REGULATIONS PUBLICATION ACT 1989

- 10 **2. Part to be read with Acts and Regulations Publication Act 1989**—(1) This Part of this Act shall be read together with and deemed part of the Acts and Regulations Publication Act 1989*.

- 15 (2) This Part of this Act shall be deemed to have come into force on the 19th day of December 1989.

*1989, No. 142

3. Printing and publication of instruments other than regulations—Section 14 (3) of the Acts and Regulations Publication Act 1989 is hereby amended by inserting, after the expression “sections 7, 8, 11, 12,”, the expression “13,”.

PART II

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AMENDMENTS TO LEGAL SERVICES ACT 1991

4. Part to be read with Legal Services Act 1991—(1) This Part of this Act shall be read together with and deemed part of the Legal Services Act 1991* (hereafter in this Part of this Act referred to as the principal Act). 10

(2) This Part of this Act shall be deemed to have come into force on the 1st day of February 1992.

5. Guideline fees and rates of remuneration—Section 97 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection: 15

“(6) All instructions issued pursuant to this section shall be deemed to be regulations for the purposes of the Regulations (Disallowance) Act 1989, but shall not be regulations for the purposes of the Acts and Regulations Publication Act 1989.”

6. Board may issue instructions on operation of duty solicitor scheme—Section 158 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection: 20

“(5) All instructions issued under this section shall be deemed to be regulations for the purposes of the Regulations (Disallowance) Act 1989, but shall not be regulations for the purposes of the Acts and Regulations Publication Act 1989.” 25

PART III

AMENDMENTS TO REGULATIONS (DISALLOWANCE) ACT 1989

7. Part to be read with Regulations (Disallowance) Act 1989—(1) This Part of this Act shall be read together with and deemed part of the Regulations (Disallowance) Act 1989† (hereafter in this Part of this Act referred to as the principal Act). 30

(2) Except as provided in **subsection (3)** of this section, this Part of this Act shall come into force on the day after the date on which this Act receives the Royal assent. 35

(3) **Section 8** of this Act shall be deemed to have come into force on the 19th day of December 1989.

*1991, No. 71

†1989, No. 143

8. Regulations to be laid before House of Representatives—(1) The principal Act is hereby amended by repealing section 4, and substituting the following section:

5 “4. All regulations made after the commencement of this Act and printed and published pursuant to the Acts and Regulations Publication Act 1989 shall be laid before the House of Representatives not later than the sixteenth sitting day of the House of Representatives after the day on which they are made.”

10 (2) The Constitution Act 1986 is hereby amended by repealing so much of the First Schedule as relates to the Regulations Act 1936.

9. Disallowance of regulations where motion to disallow not disposed of—Section 6 (1) of the principal Act is
15 hereby amended by adding the words “unless, before the expiration of that twenty-first sitting day, Parliament is prorogued or is dissolved or expires”.