

# House of Representatives

# Supplementary Order Paper

Tuesday, 29 July 2008

## Lawyers and Conveyancers Amendment Bill (No 2)

---

### *Proposed amendments*

Hon Annette King, in Committee, to move the following amendments:

#### *Clause 2*

To omit “comes into force on the commencement of section 9 of the principal Act” (lines 6 and 7 on page 2) and substitute “is deemed to have come into force on 1 August 2008”.

#### *Clause 6*

*Subclause (2)*: to omit “subsection” (line 15 on page 3) and substitute “subsections”.

*Subclause (2): new section 9(1A)(a)*: to insert the following subparagraph after *new subparagraph (i)* (after line 21 on page 3):

“(ia) legal services to a member of the organisation that are not relevant to his or her or its membership of the organisation; or

*Subclause (2): new section 9(1A)(b)*: to insert the following subparagraph after *new subparagraph (i)* (after line 26 on page 3):

“(ia) legal services to a member of the union that are not relevant to his or her or its membership of the union; or

*Subclause (2)*: to add the following *new subsection* (after line 28 on page 3):

“(1B) For the purposes of **subsection (1A)**, legal services provided to a member of an employer organisation or, as the case requires, a union are relevant to his or her or its membership of the employer organisation or union if the legal services relate to—

- “(a) the member’s rights, obligations, or liabilities in his or her capacity—
  - “(i) as a member of the employer organisation or union; or
  - “(ii) as an employer or employee; or
- “(b) any matter concerning or arising out of any employment relationship (within the meaning of the Employment Relations Act 2000), including any former or prospective relationship of that kind; or
- “(c) any claim or action by or against the member under any enactment specified in section 236(4) of the Employment Relations Act 2000; or
- “(d) compliance with any enactment or other requirement governing the performance of the duties of the member in the conduct of the member’s normal business or profession; or
- “(e) any question or matter concerning the member’s professional liability, entitlement under any contract of insurance relating to professional liability, or compliance with professional standards.”

---

### **Explanatory note**

This Supplementary Order Paper amends the Lawyers and Conveyancers Amendment Bill (No 2) to clarify that a lawyer employed by an employer organisation or by a union may not provide legal services to a member of the organisation or the union if those services are not relevant to the person’s membership of the organisation or union. A *new subsection (1B)* is inserted into section 9 of the principal Act to specify cases of legal services that are relevant to a person’s membership of an employer organisation or a union. These are legal services that relate to—

- the member’s rights, obligations, or liabilities in his or her capacity as a member or as an employer or employee:
- any matter concerning or arising out of an employment relationship, as defined in the Employment Relations Act 2000. That term covers a number of relationships that are relevant in the context of employment law, such as relationships between a union and an employer, between unions bargaining for the same collective agreement, or between employers bargaining for the same collective agreement:
- any claim or action under an enactment specified in section 236 of the Employment Relations Act 2000. That section allows employers and employees to be represented by any person of their choice in claims and actions brought under a number of enactments listed in the section. The right to wider representation applies if the other party is the party’s employer or employee or if the action is taken in the Employment Relations

Authority or the Employment Court. The enactments listed in the section are—

- the Employment Relations Act 2000:
  - the Equal Pay Act 1972:
  - the Holidays Act 2003:
  - the Human Rights Act 1993:
  - Injury Prevention, Rehabilitation, and Compensation Act 2001:
  - the Minimum Wage Act 1983:
  - the Parental Leave and Employment Protection Act 1987:
  - the Police Act 1958:
  - the State Sector Act 1988:
  - the Wages Protection Act 1983:
  - compliance with any enactment or other requirement governing the performance of duties of the member in the conduct of the member's normal business or profession (for example, the statutory duties relating to licensed premises):
  - any question or matter concerning the member's professional liability, entitlement under a contract of insurance, or compliance with professional standards.
-