



Consultation on changes to the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008

The New Zealand Law Society | Te Kāhui Ture o Aotearoa is seeking feedback on potential amendments to the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008 (the Regulations). These amendments are proposed by the Ministry of Justice.

The proposed amendments would provide the Law Society with some discretion around the details included on the public register of lawyers, where the health and safety of a lawyer is at risk.

The Law Society has previously consulted lawyers on this issue on two occasions. This consultation is an opportunity to provide feedback on the proposed Parliamentary Council Office draft amendments.

How to provide feedback

Feedback can be emailed to consultation@lawsociety.org.nz by 9 October 2022.

Any feedback you provide will be treated as confidential. A consultation summary will be prepared for the Ministry of Justice, which will not identify individual respondents.

Background

The Regulations¹ currently require the Law Society to maintain a public register of lawyers (the Register). The Register must be available to the public online, at all times. The Register must show the full name, work address, telephone number, and fax number (if any), of each lawyer. The Law Society has no discretion to limit the public availability of all or part this information.

Public, readily accessible information about lawyers is an important part of the regulatory regime. It helps individuals to find lawyers who hold a practising certificate so they can determine that person is a lawyer, or contact a lawyer. However, in some circumstances the availability of this information can pose a risk to the personal safety of lawyers.

In March 2019, the Ministry of Justice reviewed a complaint received by the Regulations Review Committee. The complaint was made by a lawyer who had been harassed by an individual who obtained their contact details from the Register. You can read the information provided to the Regulations Review Committee [here](#).

Previous consultation on this issue

Following consideration of that complaint, the Ministry of Justice sought the Law Society's feedback on a proposed amendment to Regulation 10(3)(b)(i). The Law Society sought input from the profession, and provided feedback in support of amending the Regulations to:

- Clarify the meaning of 'work address', so that verifiable means of contact such as a PO Box or other postal/electronic address are included within the definition.
- Allow omission of a lawyer's work address, on a case by case basis, where publication is likely to prejudice the privacy or safety of a lawyer.
- Include a provision setting out the 'purpose' of the Register.

You can read the Law Society's 2019 feedback to the Ministry of Justice, [here](#).

Current consultation

The Ministry of Justice subsequently obtained Cabinet approval to amend the Regulations, and these have now been drafted for consultation. You can read the Cabinet Paper [here](#).

¹ Regulation 10.

Detail of the proposed changes

The amendment regulations would replace regulation 10 with new regulations 10A to 10D. The full consultation draft is available [here](#). The proposed amendments are also summarised below.

Regulation 10A

New regulation 10A would introduce a new 'purpose provision', specifying that the purpose of the Register is to:

- provide a public record to lawyers and enable the public to determine whether a person is a lawyer, or to contact a suitable lawyer to carry out legal work; and
- assist any person in the exercise of their powers or functions under the Regulations, the Lawyers and Conveyancers Act, or any other secondary legislation made under that Act.

The intention of this provision is to assist the Law Society in carrying out its functions of establishing and maintaining the Register, and ensuring appropriate access to it.

Regulation 10B

New regulation 10B would specify the contents of the Register, and are consistent with the requirements of current regulation 10. The Register would be required to contain the following information about each lawyer (to the extent that it is relevant):

- the lawyer's full name.
- the lawyer's work address.
- the lawyer's phone number at their work address.
- the kind of practising certificate held by the lawyer, and when it was issued.
- where and when the lawyer was admitted.
- if the lawyer is in practice on their own account, whether the lawyers is in sole practice, in practice as a partner in a partnership, a shareholder of an incorporated law firm, a director of an incorporated law firm, or an employee.
- whether the lawyer is an in-house lawyer.
- whether the lawyer is providing or intending to provide real-estate services.
- whether the lawyer's practising certificate is currently suspended and, if so, when the suspension took effect and when it will be lifted (if known).

New regulation 10B(2) would provide that the following information may be placed on the Register with the agreement of the lawyer:

- work email address.
- home address.
- home or other contact number.
- fax number.

There would remain the ability for the Law Society to include any other information about an individual lawyer, where agreed to in writing by that lawyer.

Regulation 10C

New regulation 10C would continue to require the Law Society to make the Register publicly available online.

It would also introduce regulation 10C(3), which would enable the Law Society to restrict public access to 'specified information' about a lawyer, in order to protect the lawyer's privacy or personal safety. 'Specified information' would be defined in regulation 10C(4) as information that is specified in regulation 10B(1)(b) and (c): the lawyer's work address, and their phone number at the work address.

Under regulation 10C(3), access to specified information could be restricted if:

- the lawyer asks the Law Society to restrict access to the information; and
- permitting public access to the specified information is likely to result in physical or mental harm to the lawyer or a person with whom the lawyer resides.

Regulation 10D

New regulation 10D would specify the purposes for which the Register may be searched. This would be a new provision, specifying that the register may be searched in the following circumstances:

- any person may search the Register for the purposes specified in regulation 10A (see above).
- a lawyer, or a person with the consent of the lawyer, may search the Register for the purpose of searching for their own personal information.

Regulation 10D(2) would require any search in breach of the regulation to be treated, for the purposes of Parts 5² and 6³ of the Privacy Act 2020 as having breached an information privacy principle under section 69(2)(a)(i) of that Act.

Purpose provisions of this type, seen in comparable regulatory regimes,⁴ are consistent with the Privacy Commissioner's guidance on public registers⁵.

Provide feedback

We are interested in your feedback on the [draft amendment regulations](#). We'd like to hear whether you support each of the proposed amendments, in particular the key changes:

- Specifying the purpose of the Register.
- Allowing the Law Society to restrict public access to specified information about an individual lawyer, in order to protect the lawyer's privacy or personal safety.
- Specifying the purposes for which the Register may be searched.

Feedback can be sent to:

consultation@lawsociety.org.nz.

Consultation closes 9 October 2022.

² Complaints, investigations, and proceedings.

³ Notifiable privacy breaches and compliance notices.

⁴ Such under the Real Estate Agents Act 2008 and the Immigration Advisers Licensing Act 2007.

⁵ <https://www.privacy.org.nz/assets/Files/Public-registers/Drafting-suggestions-for-Departments-preparing-public-register-provisions-June-2005.pdf>