

17 March 2017

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### **New Zealand Institute of Forestry, draft exemption regulations**

Thank you for your email of 3 March 2017. The New Zealand Law Society appreciates the opportunity to comment on the draft regulations for the New Zealand Institute of Forestry (NZIF) exemption from the licensing requirements of the Real Estate Agents Act 2008.

The Law Society's Property Law Section has considered the draft regulations, focusing in particular on the terms and conditions of the exemption set out in clause 4. The Law Society recommends that the word "primary" is deleted from the requirement that a registered NZIF member may not "take primary responsibility for preparing an agreement for sale and purchase" (clause 4(2)(c)). As noted in the Law Society's submission of 29 June 2016 in relation to NZIF's exemption application:<sup>1</sup>

Agreements for the sale of land or businesses may be prepared only by lawyers, conveyancing practitioners and real estate agents: see section 35 Lawyers and Conveyancers Act (LCA), also the definition of 'conveyancing' in section 6 and the real estate agents' exemption in section 36(2). These provisions recognise the degree of expertise required in the preparation of agreements of this kind.

There is a limited exception in section 36(4) LCA permitting others to fill in a printed form if the form was prepared by a lawyer or conveyancing practitioner. However, this exception would not extend to the drafting of additional clauses for inclusion in the form.

RMs [registered members] will need to be aware of the limitation on their ability to prepare agreements, and to comply with this restriction.

The concern would be addressed by amending clause 4(2)(c) to state that registered members may not "take responsibility for preparing an agreement for sale and purchase".

If you wish to discuss this submission, please do not hesitate to contact the Manager of the Law Society's Property Law Section, Katrina Thomas (04 463 2963 / [katrina.thomas@lawsociety.org.nz](mailto:katrina.thomas@lawsociety.org.nz)).

Yours faithfully



Kathryn Beck  
**President**

<sup>1</sup> [http://www.lawsociety.org.nz/\\_data/assets/pdf\\_file/0005/102857/I-MOJ-NZIF-REAA-application-29-6-16.pdf](http://www.lawsociety.org.nz/_data/assets/pdf_file/0005/102857/I-MOJ-NZIF-REAA-application-29-6-16.pdf), at paragraphs 5.1 – 5.3.