



16 November 2018

Daniel McGivern
Clerk to the Rules Committee
Auckland High Court
Auckland

By email: Daniel.McGivern@justice.govt.nz

Dear Daniel

Re: Rules Committee consultation on Representative Proceedings

The New Zealand Law Society appreciates the opportunity to comment on the proposed High Court Rules 2016 (Representative Proceedings) Amendment Rules 2018, which aim to clarify and formalise the procedure for bringing representative proceedings under rule 4.24 of the High Court Rules.¹

The Law Society sought feedback on the proposed rules from its Law Reform and Civil Litigation and Tribunals committees, and the committees endorse the move to clarify and formalise the current procedure. There are no suggested amendments to the proposed rules.

As the Rules Committee is well aware, the rules revision is an attempt to better manage representative proceedings in the short term, pending the outcome of a first principles review by the Law Commission of the policy and legislative settings. The broader issue is the lack of a legislative framework regulating the bringing of representative proceedings in New Zealand.²

The Law Commission was asked to undertake a Class Actions and Litigation Funding reference in its 2017/18 work programme, and it appears progress had been made: draft terms of reference were prepared, and a Symposium held in March 2018 attracted considerable interest from stakeholders.

Unfortunately, we understand the government has decided to put the reference on hold due to other projects taking priority. In the Law Society's view, it remains a priority for review and it would be desirable to have the Class Actions and Litigation Funding reference reactivated as a priority in the 2018/19 work programme. We have written to the Minister of Justice urging that course.

Yours sincerely

Tim Jones
Vice President

¹ Rules Committee consultation paper, 6 September 2018, at [5].

² Note 1, at [4].

