

Regulatory Systems (Courts) Amendment Bill

Submission of the New Zealand Law Society Te Kāhui
Ture o Aotearoa

3 April 2025

1 Introduction

- 1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on the Regulatory Systems (Courts) Amendment Bill (**Bill**), which amends 15 Acts administered by the Ministry of Justice in order to improve the effectiveness and efficiency of the courts.
- 1.2 This submission has been prepared with input from the Law Society's law reform committees and its Family Law Section.¹
- 1.3 The Law Society does not wish to be heard in relation to this submission.

2 Amendments to the Care of Children Act 2004

- 2.1 Clauses 10 and 11 of the Bill amend the Care of Children Act 2004 (**CoCA**):
 - (a) Clause 10 amends section 49C to provide that a Family Court Associate may make a final parenting order with the consent of the parties.
 - (b) Clause 11 inserts new section 128 which clarifies that, in any proceedings under the CoCA, a Family Court Judge or a Family Court Associate may make an order with the consent of all parties to the proceedings.
- 2.2 The Law Society supports these amendments.
- 2.3 We also recommend making further amendments to the CoCA to clarify that a final parenting order can be made with the consent of the parties regardless of:
 - (a) whether the application was made without notice or on notice; and
 - (b) which track the proceeding is on when the order is made.

3 Amendments to the Protection of Personal and Property Rights Act 1988

- 3.1 Clause 20 of the Bill inserts new section 79A of the Protection of Personal and Property Rights Act 1988 (**PPRA**), which provides that Family Court Associates may make orders in certain undefended applications made under the PPPRA. The Law Society supports this amendment.
- 3.2 However, we note the PPPRA does not currently enable Family Court Associates to make directions regarding services, including directions to dispense with service on the subject person. In our view, an application can only be deemed as 'undefended' if service has been completed on all those who must be served, and no steps have been taken by those persons in accordance with the relevant court rules.
- 3.3 In order to enable Family Court Associates to make orders in undefended applications under this Bill, we recommend replacing the words "the court" in sections 63(1)(g) and 63(2) of the PPPRA with "a Family Court Judge or Family Court Associate".

¹ See the Law Society's website for more information about our law reform committees and the Family Law Section: <https://www.lawsociety.org.nz/branches-sections-and-groups/>.

4 Amendments to the Coroners Act 2006

- 4.1 Clause 31 of the Bill inserts new section 65A of the Coroners Act 2006, which would allow a coroner to close an inquiry they previously opened in specified circumstances.
- 4.2 The initial decision to open an inquiry would have been subject to section 63 of the Coroners Act, which requires a coroner to take account of the mandatory factors specified in that section when deciding whether to open and conduct an inquiry. If enacted, new section 65A would allow a coroner to close an inquiry without consideration of the full set of factors which were relevant to the initial decision to open the inquiry.
- 4.3 It is unclear why this is the case. In our view, coroners should be required to take into account the full set of matters in section 63 of the Act when deciding whether to close an inquiry. We therefore recommend amending new section 65A to require a coroner to ensure all the matters specified in section 63 of the Act have been considered when deciding whether to close an inquiry under that section.

5 Amendments to the Courts Security Act 1999

General power to deny entry to, or remove person from, court

- 5.1 Clause 60 of the Bill amends section 18A of the Courts Security Act 1999 (**CSA**), and gives court security officers the power to deny a person entry to, or to remove a person from a court if they fail to comply with a direction or requirement under new section 11A(1) of the CSA (in clause 57 of the Bill). New section 11A(2B) in clause 57 of the Bill permits those who have failed to comply with a direction or requirement under new sections 11A(1)(a) or (b) to enter, re-enter or remain in an area of the court if the presiding judicial officer considers it is in the interests of justice for them to do so.
- 5.2 The reference to subsections 11A(1)(a) and (b) in new section 11A(2B) means the legislation will not permit those who have failed to comply with a direction or requirement under new section 11A(1)(c) to enter, re-enter or remain in the court, even where the presiding judicial officer considers that to be in the interests of justice.
- 5.3 It is unclear why new section 11A(1)(c) has been excluded from new section 11A(2B). We invite the select committee to seek advice from officials on this point, and to consider whether new section 11A(2B) should enable the presiding judicial officer should be able to permit a person to enter, re-enter or remain in the court where it is in the interests of justice for them to do so (regardless of non-compliance with *any* directions or requirements imposed under new section 11A(1)).

Improving the overall clarity and accessibility of the CSA

- 5.4 Sections 12 to 29 of the CSA currently include numerous cross-references to other provisions within the Act, which reduce the overall clarity and accessibility of the CSA. If

passed, the amendments in this Bill would only add to the number of cross-references in the CSA.²

- 5.5 The select committee could seek advice from officials about whether the drafting of these provisions could be simplified (for example, by reducing the number of cross references to other provisions) in order to improve the overall clarity and accessibility of the CSA.



David Campbell
Vice-President

² See, for example, the amendments to section 18A, which now refer to directions and requirements under section 11A(1) and evidence required under section 12(1)(d).