

Regulatory Systems (Internal Affairs) Amendment Bill

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

22 September 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 (Internal Affairs) Amendment Bill (**Bill**).
- 1.2 This submission has been prepared by the Law Society's Human Rights and Privacy Committee.¹ It gives feedback on a drafting detail in the Bill relating to proposed amendments to the Human Assisted Reproductive Technology Act 2004 (**Act**) in clauses 121–123 of the Bill, recommending that the term “personal representative” should either be defined, or language used that is consistent with other provisions in the Act.
- 1.3 The Law Society does **not wish to be heard** on this submission.

2 “Personal representative”: clause 122

- 2.1 Clause 122 of the Bill proposes to replace section 47(2) of the Act, to provide that (emphasis added):

The provider must, if satisfied that the information is accurate, accept any information that is offered by the donor *or the donor's personal representative* that updates or corrects any of the information about the donor obtained under subsection (1).
- 2.2 However, the phrase “personal representative” is not presently defined, in either the Bill or the Act. This means that it is unclear what would qualify a person as a “personal representative” to enable them to correct information.
- 2.3 By contrast, section 45 of the Act requires the provider or the Registrar-General to be satisfied about the identity of a person, or their agent, who has *requested* information. The Law Society recommends that similar protections to those required by section 45 would be appropriate when seeking to update information — especially because there seems to be no time limit on when the information could be updated. A request could be made decades later. Users of the legislation should have clarity about what safeguards they are expected to meet to be sure that someone who says that they are a personal representative of a donor is in fact their representative.
- 2.4 We also note that different language is used in other provisions of the Act to refer to, potentially, someone who is acting in a role similar to or the same as that envisaged in new subsection 47(2):
 - (a) Section 45(2), noted above, refers to a person's “agent”, requiring that, if an information request is made *by an agent* of the person, a provider or the Registrar-General must “... adopt appropriate procedures to ensure that any information intended for a person is received ... only by that person or his or her agent”.
 - (b) Sections 10C and 10D refer to a “person's representative”. The context of the latter provisions tends to suggest that in that context the meaning may be intended to refer more narrowly to legal representatives or advocates (acting for

¹ More information about the Law Society's law reform sections and committees is available on the Law Society's website: [NZLS | Branches, sections and groups](#).

a person who has been responsible for storage of a gamete or embryo). However, given the lack of clarity about the intended meaning in new subsection 47(2), it is unclear whether something different is intended (potentially something broader — as may be appropriate for correcting personal information, such as a family member acting with permission on behalf of a person, or holder of their power of attorney for personal care).

- 2.5 The Law Society recommends that, if the intention is that “personal representative” should mean the same as in either of the two examples above, the language should be the same (for example, perhaps the term “agent” could be used instead of “personal representative” — and defined).
- 2.6 Otherwise, if the new proposed phrase is retained, it should be defined. If it is not, the resulting lack of clarity for users of the legislation is a risk and leaves potential for confusion and the need for case law to clarify.

3 Recommendations

- 3.1 The Law Society recommends that the definitional point we have raised is clarified by:
- (a) using language consistent with that already in the Act (and potentially defining it), **or**
 - (b) defining “personal representative” for the purposes of new subsection 47(2).
- 3.2 Section 47 should also be amended, to provide identity and permission-checking safeguards when a person or their representative seeks to update information under new subsection 47(2), comparable to those already required in the Act under section 45 for information requests.

Nāku noa, nā



Ata Esera
Vice President