

# What should I declare at Practising Certificate Renewal time?

## INTRODUCTION

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*The practising certificate renewal round is approaching with all current practising certificates lapsing on 30 June 2019.*

*You will shortly be emailed a guide for renewal. You will already have completed your CPD declaration which was due on 31 March 2019.*

*You will need to make a “fit and proper person” declaration to renew your practising certificate for the 2019-2020 practising year. There is a range of matters that you are required to inform NZLS about if they have occurred since issue of your last practising certificate, or if there is any “fit and proper person” matter that you have not previously disclosed to the Law Society.*

## DECLARATION

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The declaration is in three parts.

The first is an undertaking to comply with the fundamental obligations of lawyers as set out in s4 of the Lawyers and Conveyancers Act 2006 (Act). In essence you are declaring that you are aware of these and are complying with them.

Section 4 reads as follows:

*Every lawyer who provides regulated services must, in the course of his or her practice, comply with the following fundamental obligations:*

- » to uphold the rule of law and to facilitate the administration of justice in New Zealand;*
- » to be independent in providing regulated services to his or her clients;*
- » to act in accordance with all fiduciary duties and duties of care owed by lawyers to their clients;*
- » to protect, subject to his or her overriding duties as an officer of the High Court and to his or her duties under any enactment, the interests of his or her clients.*

The second part relates to any matter that does or might affect your fitness to be issued with a practising certificate. As regulators of the profession, the Law Society must consider whether there are any grounds under the Act for declining or refusing to issue a practising certificate.<sup>1</sup> In determining whether a person is a “fit and proper person” to hold a practicing certificate the Law Society may take into account any matters it considers relevant, including but not limited to, the matters set out in ss41 and 55 of the Act. Some of these matters that you must declare include:

- » any conviction for any offence (*if not previously brought to the Law Society’s attention*) which has not been “clean slated” under the Criminal Records (Clean Slate) Act 2004. This includes any excess breath/blood alcohol conviction and any traffic offence that resulted in a conviction;
- » any current or pending charge before a Court or Tribunal (in New Zealand or overseas);
- » a mental or physical health condition that might affect your ability to practise law;
- » bankruptcy and/or liquidation/receivership of a company of which you are a director; and
- » disciplinary matters in another occupation or jurisdiction.

This part does not require you to declare any open complaints that are being considered by a Standards Committee, by the Legal Complaints Review Officer, or by the Lawyers and Conveyancers Disciplinary Tribunal that the Law Society is already aware of. However, the Law Society does consider that workplace conduct issues, which have not previously been brought to our attention are relevant fitness issues and should be declared.

Thirdly, you must declare whether you are complying with any orders of a Standards Committee, the Legal Complaints Review Officer or the Lawyers and Conveyancers Disciplinary Tribunal.

If you owe any outstanding costs or fines resulting from a disciplinary matter or have not complied with any other order you must declare this. If you have entered into a time payment arrangement and payments are up to date, there is no need to include this.

## WHAT WILL HAPPEN IF I DECLARE SOMETHING?

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Most matters will probably not be significant enough to prevent your new practising certificate issuing. If any matter needs investigation, you may be requested to provide further information and it may be referred to a Law Society Practice Approval Committee. You will be advised if this is the case. The Law Society may make other inquiries if it considers these are relevant.<sup>2</sup> This process can take some time to complete so please complete your declaration as soon as you are able.

You are required to be open and frank in your declaration. If in doubt please include.

There is no need to wait for the practising certificate renewal round if you have matters of concern to report. There is an ongoing obligation to advise NZLS of any matter that might affect your continuing eligibility to hold a practicing certificate. See regulation 8 of the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008.

<sup>1</sup> Regulation 6 (1) of the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008.

<sup>2</sup> Regulation 6 (2) of the Lawyers and Conveyancers Act (Lawyers: Practice Rules) Regulations 2008.

## PAYING FOR YOUR PRACTISING CERTIFICATE

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Payment must be made by midnight on 30 June 2019, to complete the renewal process. If someone else in your organisation is attending to payment please ensure they do so prior to the due date. On 1 July your practising certificate will have already lapsed and you will then have to apply for a new practising certificate rather than complete the renewal process. If you receive emails that you have not completed the process, please do not disregard these as they are only sent to lawyers who have not fully completed the process.

Your practising certificate will issue electronically. You do not need to print this off unless you would like a hard copy.

## ONLINE DECLARATION

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If you have any issue with making the online declaration or want to discuss any matter please call a member of the Registry Team on 0800 22 30 30 for helpful guidance and assistance.

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Information in the Practice Briefing series is provided by the Law Society as a service to the legal profession. This briefing is intended to provide guidance and information on good practices. Some of the information and requirements may change over time and should be checked before any action is taken.

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