

Reprint
as at 24 February 2017



**Lawyers and Conveyancers Act (Lawyers: Income
Sharing With Patent Attorneys) Regulations 2008**
(SR 2008/220)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 28th day of July 2008

Present:

His Excellency the Governor-General in Council

Pursuant to sections 94 and 108 of the Lawyers and Conveyancers Act 2006, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Justice.

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and Client Care) Rules 2008 4

Regulations

1 Title

These regulations are the Lawyers and Conveyancers Act (Lawyers: Income Sharing with Patent Attorneys) Regulations 2008.

2 Commencement

These regulations come into force on 1 August 2008.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Lawyers and Conveyancers Act 2006

income-sharing arrangement means an agreement, whether in writing or otherwise, to share income in accordance with regulation 4

Law Society means the New Zealand Law Society

mixed practice means a firm conducted by 1 or more patent attorneys and where all the partners in the firm are patent attorneys and 1 or more partners in the firm are lawyers

patent attorney has the same meaning as **registered patent attorney** in Part 6 of the Patents Act 2013

patent attorney firm means either of the following:

- (a) an incorporated patent attorney within the meaning of Part 6 of the Patents Act 2013:
- (b) a partnership (other than a limited partnership) of which at least 1 member is a registered patent attorney within the meaning of that Part

practice means a law practice, whether conducted by 1 lawyer, a partnership of lawyers, or an incorporated law firm

rules of conduct and client care for lawyers are the rules of conduct and client care for lawyers set out in the Schedule of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.

- (2) Any term that is defined in the Act and used, but not defined, in these regulations has the meaning given in the Act.

Section 3(1) **patent attorney**: replaced, on 24 February 2017, by section 8 of the Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89).

Section 3(1) **patent attorney firm**: replaced, on 24 February 2017, by section 8 of the Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89).

4 Income sharing

Income may be shared between the following:

- (a) a practice and a patent attorney firm:
- (b) a mixed practice and a practice:
- (c) a patent attorney firm and a mixed practice:
- (d) lawyers and patent attorneys in the same mixed practice:
- (e) lawyers and patent attorneys in an incorporated patent attorney within the meaning of Part 6 of the Patents Act 2013.

Section 4(e): amended, on 24 February 2017, by section 8 of the Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89).

5 Notice requirements

- (1) A practice or mixed practice that enters into an income-sharing arrangement must give notice in writing to the Law Society of the following:
 - (a) the date the income-sharing arrangement commences:
 - (b) any changes to the parties to the income-sharing arrangement:
 - (c) the date any income-sharing arrangement terminates:
 - (d) the date of creation of a mixed practice:
 - (e) the date of dissolution of a mixed practice:
 - (f) the partnership of a mixed practice and any alteration to that partnership.
- (2) A notice given under this regulation must include the name and address of the relevant patent attorney firm.
- (3) A notice is not required in respect of an income-sharing arrangement that is a one-off instance of income sharing.

6 Transitional provision relating to notice requirements

Every practice or mixed practice that, before or on the commencement of these regulations, entered into an income-sharing arrangement must comply with the regulation 5(1).

7 Requirements for mixed practices relating to communications, advertisements, etc

- (1) Every lawyer in a mixed practice must ensure that all of his or her communications, advertisements, promotional material, or representations concerning the provision of legal services that use any of the terms set out in subclause (2)—
 - (a) identify the lawyer or lawyers providing the legal services; and
 - (b) identify any partner of the mixed practice who is not a lawyer but who is involved in the provision of the legal services.
- (2) The terms referred to in subclause (1) are—

- (a) a lawyer:
- (b) a law practitioner:
- (c) a legal practitioner:
- (d) a barrister:
- (e) a solicitor:
- (f) a barrister and solicitor:
- (g) an attorney-at-law:
- (h) counsel.

8 Application of Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008

- (1) The provision by a lawyer, a lawyer's practice, or an incorporated law firm of patent attorney services pursuant to an income-sharing arrangement is not a breach of rule 5.5.1 of the rules of conduct and client care for lawyers (which restricts the provision of services other than regulated services by a lawyer) set out in the Schedule to the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.
- (2) A lawyer who receives from a third party any reward or inducement in respect of any advice given, referrals made, products or services purchased, or any work done for a client pursuant to an income-sharing arrangement is not in breach of rule 5.9 of the rules of conduct and client care for lawyers (which generally prohibits the receipt of collateral rewards) set out in the Schedule to the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.

Michael Webster,
for Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Lawyers and Conveyancers Act (Lawyers: Income Sharing with Patent Attorneys) Regulations 2008 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Patents (Trans-Tasman Patent Attorneys and Other Matters) Amendment Act 2016 (2016 No 89): section 8