

Second Reading Speech by the Minister for Justice on the Lawyers (Amendment) Bill 2020

Mr. Speaker and Members of this honourable House, it is with great pleasure that I present to Parliament the *Lawyers (Amendment) Bill 2020*. The Bill sets out the proposed amendments to the *Lawyers Act 1986*.

Mr. Speaker, the Act was last amended in 1997. The legal profession has since grown significantly. The number of registered lawyers has increased from 456 in 1999 to more than 1200 at present. There are more than 350 law firms currently operating in the country.

Mr. Speaker, the expansion of the legal profession gives rise to an increase in issues related to the profession. First is the promotional issue of the profession. Second are the issues related to the regulation of the profession.

Regulatory Issues of the Profession

Mr. Speaker, the regulatory issues of the legal profession include allegations of continuous breaches of lawyers' standards, abuse of the practising certificates and growing concerns in relation to lack of professionalism by lawyers.

First, the allegation of continuous breaches of lawyers' standards is due to lawyers engaging in illegal practices. For example, there are allegations of lawyers charging inflated legal bills. The general public has also raised concerns about the general conduct of lawyers.

Second, allegations of abuse of practising certificates occurs mostly in cases where lawyers who are issued restricted practicing certificates to practice under their employers, carry out work as holders of unrestricted practising certificates. Lawyers get involved in such practices to lure clients and mislead the courts. Due to such illegal practice, the judges usually ask lawyers to present their practising certificates prior to appearing before the courts.

Third, allegations of lack of professionalism displayed by lawyers are made as lawyers fail to provide duty of care to the courts and their clients. The first duty of the lawyers is to assist the court in the dispensation of justice. The courts continue to raise concerns about some lawyers coming to court unprepared thereby, unable to assist the courts.

These allegations are mainly raised by the clients. Further, the judiciary has been vocal in raising the concern on misconduct and professional negligence by lawyers. These allegations paint a bad image of the legal profession in the country.

Promotional issue of the profession

Mr. Speaker, in terms of promotional issues of the profession, lawyers are concerned about the lack of initiative by the Law Society to promote the legal profession in the country. This includes no or few lawyer's conferences, continuing legal education, lack of policies and mechanisms in place to encourage locally owned law firms in the country and lack of presence of the Law Society in the provinces.

The promotional issues of the legal profession can be addressed by utilising the existing legal framework. Sections 7 and 8 of the *Lawyers Act* provide for the Law Society to undertake educational and training programmes for lawyers.

Mr. Speaker, legal reform and effective implementation of the existing systems will address the issues. Hence this proposed Bill.

Issues that the proposed Bill will address

Mr. Speaker, the proposed Bill addresses four key areas. They are:

1. Adjustment to the penalty fees.
2. Correction of grammatical errors, amendment to ambiguous legislative sentence structures in the law and improves clarity of provisions which are generalised.
3. Improvement to admission requirements.
4. Improvement to requirements for issuance of practising certificates.

1) *Adjustment to the penalty fees*

Mr. Speaker, the penalty fees for offences under the law are very low compared to the penalty fees for similar offences in other countries. Further, the penalty fees are very low in comparison with the current market value of the currency, hence, such low penalty fees will not have a deterrent effect on the members of the Law Society and other prospective perpetrators.

2) *Correction of grammatical errors, amendment to ambiguous legislative sentence structure in the law and improves clarity of provisions in the which are generalised*

Mr. Speaker, the grammatical errors, ambiguous legislative sentence structures in the law and provisions affect the effective application of the *Lawyers Act*. The proposed amendment provides more clarity to ensure effective interpretation and application of the Act.

3) *Improvement to admission requirements*

Mr. Speaker, the main reason to improve the admission requirements is to ensure only qualified persons are admitted to the Bar to maintain the high standard of the legal profession. This pertains to not just academic qualifications but the attributes and standing of the persons.

4) *Improvement to requirements for issuance of practising certificates*

Mr. Speaker, one of the main reasons for the proposed amendment is to improve requirements for issuance of practising certificates to ensure individuals with domestic or foreign academic qualifications who intend to practice law in the country must meet the academic and practice qualifications as well as being a fit and proper person. This proposed amendment is aimed at addressing complaints about fake lawyers engaging in activities that only qualified lawyers should do. There are also unreported cases of individuals who are practising as lawyers in the country without being admitted to the Bar, signing the Roll of Lawyers and holding valid and current practising certificates.

Mr. Speaker, finally, I take this opportunity to thank the leadership and management team of the PNG Law Society, in particular Mr. Robert Mellor – Secretary of PNG Law Society and

the Department of Justice and Attorney General, in particular Dr. Eric Kwa – Secretary and Attorney General, and all the hard-working staff of both organisations, for their efforts in making possible this draft Bill.

Mr. Speaker, with that, I humbly submit the Lawyers (Amendment) Bill 2020 to this honourable House.

Hon. Bryan Kramer, MP
Minister of Justice