



MEMBER'S MANUAL

AMENDMENT PAGES

2020: No. 2 October

Highlights

Law Society Rules 2015:* The voters list in an election will be made available electronically, and can be updated at any time until the close of voting (Rules 1-25(2), 1-26(1) to (4), 1-27(1) and 1-38(3): pp. 30, 31 and 35); changes allow the Credentials Committee more flexibility in setting the offer date and recruitment schedule (Rule 2-58(4) and (6): p. 68); the Executive Director has discretion to grant students a second or third opportunity to complete the Professional Legal Training Course (Rules 2-72(6) and 2-74(1) to (3), (5) to (7) and (9): pp. 77 and 78); the annual practice fee may now be paid in two instalments as is currently done with the annual indemnity fee (Rules 2-105 (2) and (3), 2-108 (1) to (3), 2-108.1, 3-25 (3), 3-41 and 3-81 (8): pp. 95 to 97, 114, 121 and 143); documents may be served by use of an electronic portal to give greater security to the document than service by email or other means (Rule 10-1 (0.1), (1), (7.1) and (8): p. 213).

**Historical notes are published only in the website version of the Rules.*

Filing: File the amended pages in your *Member's Manual* as follows:

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After filing, insert this sheet at the front of the *Manual* for reference.

Updates: This amendment package updates the *Member's Manual* to **September 30, 2020**. The previous amendment package was 2020: No. 1 June.

To check that your copy of the Manual is up to date, consult the contents checklist on the next page. If you have further questions about updating your Manual, contact the Communications department: telephone 604.697.5838 or toll-free 1.800.903.5300 or email communications@lsbc.org.

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Website: The *Legal Profession Act*, Law Society Rules and *Code of Professional Conduct for British Columbia* can be accessed in the Support & Resources for Lawyers section of the Law Society website at www.lawsociety.bc.ca in both HTML (for online use) and PDF (for printout, including printout of *Member's Manual* replacement pages).

Refer to the Law Society website for the most current versions of the Act, Rules and Code.

MEMBER'S MANUAL CONTENTS CHECKLIST

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Regional election of Benchers

- 1-21** (1) Benchers must be elected from electoral districts as follows:
- (a) 13 Benchers from District No. 1, the County of Vancouver;
 - (b) 2 Benchers from District No. 2, the County of Victoria;
 - (c) one Bencher from District No. 3, the County of Nanaimo;
 - (d) 3 Benchers from District No. 4, the County of Westminster;
 - (e) one Bencher from District No. 5, the County of Kootenay;
 - (f) one Bencher from District No. 6, Okanagan, being those parts of the County of Yale
 - (i) east of 120 degrees west longitude and south of the northernmost point of Okanagan Lake, or
 - (ii) west of 120 degrees west longitude and south of 50 degrees north latitude;
 - (g) 2 Benchers from District No. 7, the County of Cariboo;
 - (h) one Bencher from District No. 8, the County of Prince Rupert;
 - (i) one Bencher from District No. 9, Kamloops, being that part of the County of Yale not included in District No. 6, Okanagan.
- (2) The number of Benchers to be elected from each district must be reduced by one for each Bencher from that district who holds office as First Vice-President, Second Vice-President or Second Vice-President-elect.

Qualifications of candidate

- 1-22** (1) To be eligible to be a candidate for election as a Bencher, a member of the Society must
- (a) be in good standing at the time of nomination,
 - (b) [rescinded]
 - (c) if a practising lawyer, maintain his or her chief place of practice or employment in the district in which he or she seeks to be a candidate, and
 - (d) if a retired or non-practising member, reside in the district in which he or she seeks to be a candidate.
- (2) An incumbent Bencher who qualifies under subrule (1) and is not disqualified under Rule 1-2 [*Term limits*] is eligible to be nominated as a candidate for re-election as a Bencher.

Nomination

- 1-23** The nomination of a candidate for election as a Bencher is valid only if
- (a) it is in writing, signed by at least 2 members of the Society in good standing who are eligible to vote in the district in which the nominee seeks to be a candidate,

- (b) the nominee consents in writing to the nomination, and
- (c) the nomination and consent are received by the Executive Director on or before October 15 before the election is to take place.

Acclamation

- 1-24** If the number of candidates nominated does not exceed the number to be elected in a district, the Executive Director must declare that those nominated are elected as Benchers for that district.

Eligibility and entitlement to vote

- 1-25** (1) A member of the Society in good standing is eligible to vote in a Bencher election.
- (1.1) A member of the Society must not cast a vote or attempt to cast a vote that he or she is not entitled to cast.
 - (1.2) A member of the Society must not enable or assist a person
 - (a) to vote in the place of the member, or
 - (b) to cast a vote that the person is not entitled to cast.
 - (2) [rescinded]
 - (3) A non-resident member may vote
 - (a) in the district in which the member was last eligible to vote as a resident member, or
 - (b) if paragraph (a) does not apply, in District No. 1.
 - (4) A resident member of the Society may vote only in the district in which the member maintains his or her
 - (a) chief place of practice or employment, in the case of a practising member, or
 - (b) residence, in the case of a retired or non-practising member.
 - (5) A member of the Society may apply to the Executive Committee to have his or her name placed on the voter list for a District other than the one required by this rule, and the Executive Committee may direct the Executive Director to make the change if it is satisfied that the member has a significantly greater connection to the District the member wishes to vote in.

Voter list

- 1-26** (1) [rescinded]
- (2) In this Division, a “**voter list**” is a list of voters for an electoral district containing, in alphabetical order, the names of all members of the Society eligible to vote in the electoral district.

- (2.1) For the purpose of this rule, an election is in progress from the day that nominations are opened until the last day that members are permitted to vote.
- (3) When an election is in progress, a member of the Society may request a voter list from the Executive Director.
- (3.1) The Executive Director may comply with a request for a voter list by providing the list in electronic form.
- (4) A member of the Society who has reason to believe that a voter list improperly includes or omits a name, or contains an error respecting the district in which a member is entitled to vote may, when an election is in progress, report the error to the Executive Director.
- (5) The Executive Director must promptly investigate a report made under subrule (4) and correct any error that exists.
- (6) A member of the Society who is not satisfied with the action taken by the Executive Director under subrule (5) may apply in writing to the Executive Committee for a review.
- (7) The Executive Committee must promptly review an application made under subrule (6), and must
 - (a) confirm the decision of the Executive Director, or
 - (b) order the Executive Director to correct the voter list as the Committee directs.

Voting procedure

- 1-27** (1) By November 1 of each year, the Executive Director must make available to each member of the Society entitled to vote in an election
 - (a) a ballot containing, in the order determined under Rule 1-28 [*Order of names on ballot*], the names of all candidates in the district in which the member is entitled to vote and stating the number of Benchers to be elected in that district,
 - (b) instructions on marking of the ballot and returning it to the Society in a way that will preserve the secrecy of the member's vote,
 - (c) a ballot envelope,
 - (d) a declaration,
 - (e) a mailing envelope, and
 - (f) biographical information received from the candidates.
- (2) The accidental omission to make the material referred to in subrule (1) available to any member of the Society or the non-receipt of the material does not invalidate an election.

- (3) For a ballot to be valid, the voter must
 - (a) vote in accordance with the instructions provided with the ballot,
 - (b) not vote for more candidates than the number of Benchers to be elected in the district,
 - (c) place the ballot in the ballot envelope and seal the envelope,
 - (d) complete the declaration and sign it,
 - (e) place the ballot envelope in the mailing envelope and seal the envelope, and
 - (f) deliver, or mail postage prepaid, the mailing envelope to the Executive Director.
- (4) The Executive Director may issue a replacement ballot to a voter who informs the Executive Director in writing that the original ballot has been misplaced or spoiled or was not received.
- (5) The Executive Director may issue a new set of ballot materials to a voter who informs the Executive Director in writing that the original ballot material sent to him or her relates to a district other than the one in which he or she is entitled to vote.

Electronic voting

- 1-27.1**
- (1) The Executive Committee may authorize the Executive Director to conduct a Bencher election partly or entirely by electronic means.
 - (2) The Executive Director
 - (a) may retain a contractor to assist in any part of an election conducted electronically,
 - (b) must ensure that votes cast electronically remain secret, and
 - (c) must take reasonable security measures to ensure that only members entitled to vote can do so.
 - (3) A ballot may be produced electronically and, to cast a valid vote, a member must indicate his or her vote in accordance with instructions accompanying the ballot.
 - (4) Rules 1-20 to 1-44 apply, with the necessary changes and so far as they are applicable, to an election conducted partly or entirely by electronic means.

Order of names on ballot

- 1-28**
- (1) The order of names on a ballot under this division must be determined by lot in accordance with this rule.
 - (2) The Executive Director must notify all candidates as to the date, time and place when the determination is to be made.
 - (3) The procedure for the determination is as follows:
 - (a) the name of each candidate is written on a separate piece of paper, as similar as possible to all other pieces prepared for the determination;

Election record and disclosure of votes received

- 1-35** (1) The Executive Director must ensure that a permanent record is kept of the number of votes received by each candidate, and the candidates who are declared elected.
- (2) The information referred to in subrule (1) is public information.

Review by Executive Committee

- 1-36** (1) A candidate who is not elected in a Bencher election may apply to the Executive Committee for a review of the election.
- (2) An application under subrule (1) can only be made
- (a) in writing, and
 - (b) not more than 10 days after the election date.
- (3) On an application under subrule (1), the Executive Committee must promptly review the election in that district, and must
- (a) confirm the declaration made by the Executive Director under Rule 1-34 [*Declaration of candidates elected*],
 - (b) rescind the declaration made by the Executive Director under Rule 1-34 and declare that the candidate who applied under subrule (1) or another candidate is elected, or
 - (c) order a new election in the district concerned, and give directions for it.
- (4) The decision of the Executive Committee under subrule (3) is final.

Retention of documents

- 1-37** The Executive Director must retain the ballots and other documents of a Bencher election for at least 14 days after the election or, if a review is taken under Rule 1-36 [*Review by Executive Committee*], until that review has been completed.

Bencher by-election

- 1-38** (1) If an elected Bencher ceases to hold office in an even numbered year or before July 1 of an odd numbered year, a by-election must be held to fill the vacancy for the remainder of the term of office.
- (2) When a Bencher by-election is required under subrule (1), the Executive Committee must set a date for the prompt holding of the by-election.
- (3) Rules 1-21 to 1-37 apply to a by-election under subrule (1), except that the Executive Director may change the dates referred to in Rules 1-23 (c) [*Nomination*] and 1-27 (1) [*Voting procedure*].

Appointment of Bencher to represent a district

- 1-39** (1) The Benchers may fill a vacancy by appointment in the following circumstances:
- (a) an elected Bencher ceases to hold office on or after July 1 of an odd-numbered year;
 - (b) an electoral district fails to nominate enough candidates at an election to elect the required number of Benchers;
 - (c) an amendment to Rule 1-21 [*Regional election of Benchers*] increases the number of Benchers to be elected from a district.
- (2) A Bencher appointed under subrule (1) takes office on appointment and continues in office until the end of the current term.
- (3) The Benchers may appoint any member of the Society in good standing eligible to be a candidate for Bencher in the district concerned.
- (4) When the Benchers appoint a Bencher under this rule, they may conduct a non-binding plebiscite of the members of the Society in the district concerned.

Referendum ballots

- 1-40** (1) The Benchers may direct the Executive Director to conduct a referendum ballot of all members of the Society or of all members in one or more districts.
- (2) The rules respecting a Bencher election apply, with the necessary changes and so far as they are applicable, to a referendum under this rule, except that the votes need not be reported by districts.

Election of Executive Committee

- 1-41** (1) The Benchers must elect 4 Benchers to serve as members of the Executive Committee for each calendar year as follows:
- (a) 3 elected Benchers;
 - (b) 1 appointed Bencher.
- (2) A person elected as a Bencher for a term that includes the calendar year for which members of the Executive Committee are to be elected is eligible for election under subrule (1) (a).
- (2.1) A Bencher reappointed as a Bencher, or eligible to be reappointed as a Bencher, for a term that includes the calendar year for which members of the Executive Committee are to be elected is eligible for election under subrule (1) (b).
- (3) A Bencher who is eligible for election under subrule (1) may become a candidate by notifying the Executive Director in writing by November 22.
- (4) If there are more candidates than there are positions to be elected, the Executive Director must conduct a ballot.
- (5) The Executive Director must specify a date no later than December 6 for the return of the ballots, and a ballot returned after that date is not valid.

- (e) withdrawn;
 - (f) refused.
- (3) [rescinded]
- (4) With the consent of the Discipline Committee, the Executive Director may deliver to a law enforcement agency any information or documents obtained under this division that may be evidence of an offence.
- (5) The Executive Director may disclose the existence and nature of a condition or limitation imposed or agreed to under this division if the condition or limitation
- (a) is ordered as a result of a hearing under this division,
 - (b) restricts or prohibits a lawyer’s practice in one or more areas of law, or
 - (c) is imposed by Rule 2-78 [*Law school faculty*], 2-80 [*In-house counsel*] or 2-87 [*Reinstatement of former judge or master*].
- (6) If the Executive Director discloses the existence of a condition or limitation under subrule (5) by means of the Society’s website, the Executive Director must remove the information from the website within a reasonable time after the condition or limitation ceases to be in force.
- (7) Subrule (6) does not apply to a decision of Benchers, a hearing panel or a review board.

Admission program

Enrolment in the admission program

- 2-54** (1) An applicant may apply for enrolment in the admission program at any time by delivering to the Executive Director the following:
- (a) a completed application for enrolment in a form approved by the Credentials Committee, including a written consent for the release of relevant information to the Society;
 - (b) proof of academic qualification under subrule (2);
 - (c) an articling agreement stating a proposed enrolment start date not less than 30 days from the date that the application is received by the Executive Director;
 - (d) other documents or information that the Credentials Committee may reasonably require;
 - (e) the application fee specified in Schedule 1.
- (2) Each of the following constitutes academic qualification under this rule:
- (a) successful completion of the requirements for a bachelor of laws or the equivalent degree from an approved common law faculty of law in a Canadian university;
 - (b) a Certificate of Qualification issued under the authority of the Federation of Law Societies of Canada;

- (c) approval by the Credentials Committee of the qualifications of a full-time lecturer at the faculty of law of a university in British Columbia.
- (3) For the purposes of this rule, a common law faculty of law is approved if it has been approved by the Federation of Law Societies of Canada unless the Benchers adopt a resolution declaring that it is not or has ceased to be an approved faculty of law.
- (4) An official transcript of the applicant's grades at each approved faculty of law at which the applicant studied is proof of academic qualification under subrule (2) (a).
- (5) The Credentials Committee may approve academic qualifications under subrule (2) (c) if the applicant
 - (a) has been a full-time lecturer at a common law faculty of law in a Canadian university for at least 5 of the last 8 years, and
 - (b) has been found by the Credentials Committee to have an adequate knowledge of the common law.

Re-enrolment

- 2-55** (1) This rule applies to a person
- (a) whose application for enrolment has been rejected because he or she has not satisfied a panel that he or she is of good character and repute and fit to become a barrister and solicitor of the Supreme Court,
 - (b) whose enrolment has been set aside by a panel under section 38 (6) (d) [*Discipline hearings*], or
 - (c) who has failed to complete the training course satisfactorily.
- (2) A person referred to in subrule (1) (a) or (b) may not apply for enrolment until the earlier of
- (a) the date set by a panel acting under subrule (1) (a) or (b), or
 - (b) 2 years after the date of the event referred to in subrule (1) (a) or (b).
- (3) A person referred to in subrule (1) (c) may not apply for enrolment for 1 year after the later of
- (a) the date on which the Executive Director issued the transcript of failed standing, or
 - (b) the failed standing is confirmed under Rule 2-74 (7) (a) [*Review of failed standing*].

Consideration of application for enrolment

- 2-56** (1) The Executive Director must consider an application for enrolment by a person meeting the academic qualifications established under Rule 2-54 [*Enrolment in the admission program*], and may conduct or authorize any person to conduct an investigation concerning the application.
- (2) On an application for enrolment as an articled student, the Executive Director may

- (a) enrol the applicant without conditions or limitations effective the enrolment start date proposed in the application, or
 - (b) refer the application to the Credentials Committee.
- (3) When the Executive Director refers an application to the Credentials Committee under subrule (2), the Committee may
- (a) enrol the applicant effective on or after the proposed enrolment start date without conditions or limitations,
 - (b) enrol the applicant effective on or after the proposed enrolment start date with conditions or limitations on the activities of the applicant as an articulated student, if the applicant consents in writing to those conditions or limitations, or
 - (c) order a hearing.

Principals

- 2-57 (1) A lawyer engaged in full-time practice may act as principal to no more than 2 articulated students at one time.

(1.1) In this rule

“associated activities” includes practice management, administration and promotion and voluntary activities associated with the practice of law;

“full-time practice” means the practice of law and associated activities for an average of more than 25 hours per week;

“part-time practice” means the practice of law and associated activities for an average of not more than 25 hours per week.

- (2) Subject to subrules (2.1) and (3), to qualify to act as a principal, a lawyer must have
- (a) engaged in full-time practice in Canada for 5 of the 6 years immediately preceding the articling start date, and
 - (b) spent at least 3 years of the time engaged in the practice of law required under paragraph (a) in
 - (i) British Columbia, or
 - (ii) Yukon while the lawyer was a member of the Society.

(2.1) When a lawyer engages in part-time practice

- (a) any period in which the lawyer engages in part-time practice is counted at a rate of 50 per cent for the purposes of the full-time practice requirement in subrule (2), and
- (b) the 6-year period in subrule (2) (a) is extended by the length of the period in which the lawyer engages in part-time practice, provided that the aggregate time in which the lawyer is not engaged in the practice of law does not exceed 24 months in the entire period.

- (3) In exceptional circumstances, the Credentials Committee may allow a lawyer
 - (a) who does not qualify under subrule (2) to act as principal to an articulated student, or
 - (b) to act as principal to more than 2 articulated students at one time, despite subrule (1).
- (4) On the recommendation of the Discipline Committee or Practice Standards Committee, or on its own motion, the Credentials Committee may inquire into a lawyer's suitability to act or to continue to act as principal to an articulated student and may do any of the following:
 - (a) conduct or authorize any person to conduct an investigation concerning the fitness of the lawyer to act as a principal;
 - (b) require the lawyer to appear before the Credentials Committee and to respond to questions of the Committee;
 - (c) order the lawyer to produce any documents, records or files that the Credentials Committee may reasonably require.
- (5) After allowing the lawyer to make submissions, the Credentials Committee may do any of the following:
 - (a) permit the lawyer to act as a principal to an articulated student;
 - (b) permit the lawyer to act as a principal to an articulated student subject to conditions or limitations;
 - (c) order that the lawyer not act as a principal to an articulated student.
- (6) The onus is on the lawyer to show cause why an order should not be made under subrule (5) (b) or (c).

Hiring articulated students

- 2-58** (1) This rule does not apply to temporary articles under Rule 2-70 [*Temporary articles*].
- (2) This rule applies to all lawyers practising in a firm that maintains an office in the city of Vancouver north of False Creek and west of Carrall Street.
 - (3) The Credentials Committee may designate an offer date in each calendar year.
 - (4) A lawyer must not offer articles to a student of any law school unless the offer is to remain open at least until the offer date designated under subrule (3).
 - (5) As an exception to subrule (4), the Credentials Committee may allow a lawyer to withdraw an offer of articles before the offer date designated under subrule (3).
 - (6) If the Credentials Committee designates an offer date that is before September 1, subrule (4) does not apply to a student who has begun the third year of studies at any law school.

- (6) [rescinded]
- (7) An articulated student may apply in writing to the Credentials Committee for exemption from all or a portion of the training course, and the Committee may, in its discretion, grant all or part of the exemption applied for with or without conditions, if the student has
 - (a) successfully completed a bar admission course in another Canadian jurisdiction, or
 - (b) engaged in the active practice of law in a common law jurisdiction outside Canada for at least 5 full years.

Tutorial program

- 2-73 (1) The Executive Director may establish a tutorial program to assist students participating in the training course.
- (2) Priority for access to tutorial assistance must be as follows:
 - (a) first priority to students of aboriginal heritage;
 - (b) second priority to all other students.

Review of failed standing

- 2-74 (1) Subject to subrule (2), an articulated student who has failed the training course may apply in writing to the Executive Director for a review of the student's failed standing, not more than 21 days after the date on which the Executive Director issued the transcript under Rule 2-72 (5) [*Training course*].
- (2) An articulated student may not apply under subrule (1) if the student has failed in 3 attempts to pass the training course, including any of the following:
 - (a) the original attempt;
 - (b) a further attempt to pass examinations, assignments or assessments;
 - (c) any attempt to meet a requirement under subrule (7).
- (3) The Executive Director may consider an application for review received after the period specified in subrule (1).

- (4) An articulated student applying for a review under this rule must state the following in the application:
- (a) any compassionate grounds, supported by medical or other evidence, that relate to the student's performance in the training course;
 - (b) any grounds, based on the student's past performance, that would justify the Credentials Committee granting opportunities for further remedial work;
 - (c) the relief that the student seeks under subrule (7).
- (5) and (6) [rescinded]
- (7) After considering the submissions made under subrule (4), the Executive Director may do one or more of the following:
- (a) confirm the standing, including any failed standing;
 - (b) grant the student an adjudicated pass in a training course examination, assignment or assessment, with or without conditions;
 - (c) require the student to complete further examinations, assignments or assessments, and to pass them at a standard set by the Executive Director;
 - (d) require the student to complete or repeat and pass all, or a portion of, the training course;
 - (e) require the student to complete a specified program of training at an educational institution or under the supervision of a practising lawyer, or both.
- (8) A student who is required to do anything under subrule (7) must pay the fee for the training course, or for each examination, assignment or assessment as specified in Schedule 1.
- (9) The Executive Director must deliver a transcript stating the student's standing and the extent to which any standards or conditions have been met to
- (a) each student whom the Executive Director has required to do anything under subrule (7), and
 - (b) each such student's principal.

Publication of credentials decision

- 2-103** (1) When a hearing panel or review board issues a final or interlocutory decision on an application under this division, the Executive Director must
- (a) publish and circulate to the profession a summary of the circumstances and decision of the hearing panel or review board,
 - (b) publish the full text of the decision on the Law Society website, and
 - (c) publish the final outcome of the hearing or review, including any conditions or limitations of practice or articles imposed or accepted.
- (1.1) When a court issues a decision on a judicial review of or appeal from a credentials decision, the Executive Director must circulate to the profession a summary of the decision.
- (2) and (3) [rescinded]
- (4) This rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

Anonymous publication

- 2-104** (1) Except as required or allowed under this rule, a publication under Rule 2-103 (1) (a) or (b) [*Publication of credentials decision*] must not identify the applicant.
- (2) A publication under Rule 2-103 (1) (a) or (b) may identify the applicant if
- (a) the applicant consents in writing, or
 - (b) the subject matter of the application, including the identity of the applicant, is known to the public.
- (3) to (7) [rescinded]
- (8) A publication under Rule 2-103 (1) (a) or (b) must identify the applicant if the applicant is a disbarred lawyer applying for reinstatement.
- (9) A summary circulated under Rule 2-103 (1.1) may identify an applicant who is identified by the court.

Division 3 – Fees and Assessments

Annual practising and indemnity fee instalments

- 2-105** (1) The annual practising fee and indemnity fee are payable in respect of each calendar year.
- (2) The date for payment of the first instalment of each of the annual practising fee and the indemnity fee is November 30 of the year preceding the year for which they are payable.
- (3) The date for payment of the second instalment of each of the annual practising fee and the indemnity fee is May 31 of the year for which they are payable.

Assessments

- 2-106** (1) The Benchers may, by resolution, set a special assessment of all
- (a) practising lawyers,
 - (b) practising lawyers and applicants,
 - (c) members of the Society, or
 - (d) members of the Society and applicants.
- (2) A resolution under subrule (1) must set a date by which the assessment must be paid.

Application fees

- 2-107** On application from a person who has paid an application fee under these rules, the Executive Director may refund all or part of the fee if, in the view of the Executive Director, it is fair to make the refund in all the circumstances, including the extent to which Society resources have been expended to process the application for which the fee was paid.

Late payment

- 2-108** (1) If a lawyer fails to pay the instalment of fees by the date required under Rule 2-105 (2) [*Annual practising and indemnity fee instalments*] but pays all of those fees before December 31 of the year preceding the year for which they are payable, together with the late payment fee under this rule, the lawyer continues to be a member of the Society.
- (1.1) If a lawyer fails to pay the instalment of fees by the date required under Rule 2-105 (3) [*Annual practising and indemnity fee instalments*] but pays all of those fees before June 30 of the year for which they are payable, together with the late payment fee under this rule, the lawyer continues to be a member of the Society and is not suspended for non-payment of fees.
- (2) The Executive Director may extend the time for a lawyer or class of lawyers to pay an instalment of fees or a special assessment and, if the lawyer pays
- (a) the instalment of fees or special assessment by the date to which the time is extended, and
 - (b) the late payment fee under this rule,
- the lawyer is deemed to be a member of the Society in good standing and to have been in good standing during the period of time that the lawyer's instalment of fees or special assessment was unpaid.
- (3) A lawyer, other than a retired or non-practising member, who has failed to pay an instalment of fees in accordance with Rule 2-105 (2) or (3) [*Annual practising and indemnity fee instalments*], is required to pay the late payment fee for practising lawyers specified in Schedule 1.

- (4) A retired member who has failed to pay the annual fee for retired members in accordance with Rule 2-4 [*Retired members*] is required to pay the late payment fee for retired members specified in Schedule 1.
- (5) A non-practising member who has failed to pay the annual fee for non-practising members in accordance with Rule 2-3 [*Non-practising members*] is required to pay the late payment fee for non-practising members specified in Schedule 1.
- (6) A lawyer who does not pay a special assessment by the date specified under Rule 2-106 (2) [*Assessments*] or extended under subrule (2) must pay a late payment fee of 20 per cent of the amount of the assessment.
- (7) When there are special circumstances, the Executive Director may, in his or her discretion, waive or reduce a late payment fee payable under this rule.

Failure to pay fees

- 2-108.1** (1) If a lawyer fails to pay the first instalment of the annual practising fee by December 31 of the year preceding the year for which it is payable, together with the late payment fee if required, the lawyer ceases to be a member of the Society.
- (2) If a lawyer fails to pay the second instalment of the annual practising fee by June 30 of the year for which it is payable, together with the late payment fee if required, the lawyer is suspended.
- (3) If a lawyer who is not exempt under Rule 3-43 [*Exemption from professional liability indemnification*] fails to pay the second instalment of the indemnity fee by June 30 of the year for which it is payable, together with the late payment fee if required, the lawyer must immediately cease the practice of law in accordance with section 30 (7) [*Indemnification*] and surrender to the Executive Director the lawyer's practising certificate and any proof of professional liability indemnity coverage issued by the Society.

Definition and application

- 2-109** (1) In Rules 2-109 to 2-113, “**client matter**” means any distinct matter on which a lawyer is retained to represent or advise a client, including but not limited to the following:
- (a) a transaction of any kind;
 - (b) a claim or potential claim by or against the lawyer's client;
 - (c) a proceeding.
- (2) Rules 2-109 to 2-113 apply to client matters in connection with which a lawyer receives trust funds on or after March 1, 2005.

Trust administration fee

- 2-110** (1) A lawyer must pay to the Society the trust administration fee specified in Schedule 1 for each client matter undertaken by the lawyer in connection with which the lawyer receives any money in trust, not including fees and retainers.
- (2) Only one trust administration fee is payable in respect of a single client matter in which
- (a) a lawyer represents joint clients, or
 - (b) more than one lawyer in a law firm acts.
- (3) For each quarter year ending on the last day of March, June, September or December, a lawyer must remit the following to the Society within 30 days of the end of the quarter year to which they apply:
- (a) trust administration fees that have become payable under subrule (1) during the quarter year;
 - (b) a completed trust administration report in a form approved by the Executive Committee.

Late payment of trust administration fee

- 2-111** A lawyer who fails to remit the trust administration fee and report by the time required under this rule must pay a late payment fee of 5 per cent of the amount due for each month or part of a month from the date the lawyer is required to remit the fee and report under Rule 2-110 (3) [*Trust administration fee*] until the fee, including the late payment fee, and the report are received by the Society.

Executive Director's discretion

- 2-112** The Executive Director may
- (a) decide what constitutes a client matter under Rule 2-109 [*Definition and application*], in individual cases, and
 - (b) extend or vary the time for remitting the trust administration fee and report under Rule 2-110 (3) [*Trust administration fee*].

Referral to Executive Committee

- 2-113** (1) The Executive Director may refer any matter for decision under Rule 2-112 [*Executive Director's discretion*] to the Executive Committee, and the Committee may make any decision open to the Executive Director under that rule.
- (2) At the written request of a lawyer affected by a decision made by the Executive Director under Rule 2-112 [*Executive Director's discretion*] the Executive Director must refer the matter to the Executive Committee, and the Committee may
- (a) confirm the decision of the Executive Director, or
 - (b) substitute its decision for that of the Executive Director.

Remedial program

- 3-22** (1) A remedial program under this Division may include any program intended to improve the lawyer's knowledge and skill in the practice of law, including, but not limited to, one or more of the following:
- (a) a continuing legal education course;
 - (b) a remedial course;
 - (c) a course offered by an educational institution;
 - (d) a program of mentoring or supervision by a practising lawyer approved by the Practice Standards Committee.
- (2) To form part of a remedial program, a course or program must be approved by the Practice Standards Committee or its designate.

Confidentiality of Practice Standards Committee deliberations

- 3-23** (1) Subject to subrules (2) to (6) and Rule 3-24 [*Report to complainant*], the following must be treated as confidential and must not be disclosed except for the purpose of complying with the objects of the Act:
- (a) all of the information and documents that form part of the Practice Standards Committee's consideration of a complaint;
 - (b) any action taken or decision made by the Committee;
 - (c) any report prepared for or on behalf of the Committee.
- (2) If a matter referred to or considered by the Practice Standards Committee has become known to the public, the Executive Director may disclose
- (a) the fact that the matter is or has been before the Committee,
 - (b) the status of the matter, including, if the matter is concluded, the general basis on which it was concluded, and
 - (c) any additional information necessary to correct inaccurate information.
- (2.1) The Executive Director may disclose information about Practice Standards Committee deliberations to a designated representative of a law firm in which the lawyer who is the subject of the deliberations engages in the practice of law.
- (2.2) The Executive Director may disclose information about Practice Standards Committee deliberations to a governing body under Rule 2-27.1 [*Sharing information with a governing body*].
- (3) Despite subrule (1), with the consent of the Discipline Committee, the Executive Director may deliver to a law enforcement agency any information or documents obtained under this division that may be evidence of an offence.
- (4) With the consent of the lawyer concerned, the Executive Director may disclose the matters referred to in subrule (1) in responding to an enquiry made for the purpose of a potential judicial appointment.

- (5) Subrules (6) and (7) apply to
- (a) an undertaking under this division that restricts, limits or prohibits the lawyer's practice of law, and
 - (b) a condition or limitation of a lawyer's practice imposed under Rule 3-20 [*Conditions or limitations on practice*].
- (6) The Executive Director may disclose the fact that a lawyer has given an undertaking or that the Practice Standards Committee has imposed a condition or limitation and the effect on the lawyer's practice.
- (7) If the Executive Director discloses the existence of an undertaking, condition or limitation under subrule (6) by means of the Society's website, the Executive Director must remove the information from the website within a reasonable time when the undertaking, condition or limitation is no longer in force.

Report to complainant

- 3-24** The Executive Director must notify the complainant in writing of the Practice Standards Committee's decision under Rule 3-17 [*Consideration of complaints*], but must not deliver to the complainant a copy of any report or the Committee's recommendations about the lawyer's practice.

Costs

- 3-25** (1) The Practice Standards Committee may order that a lawyer pay to the Society the cost of a practice review, action or remedial program ordered or allowed under this Division, and may set and extend the date for payment.
- (2) A lawyer who is ordered by the Practice Standards Committee, under subrule (1), to pay costs must pay those costs in full by the date set or extended by the Committee.
- (3) If any part of the amount owing under subrule (1) remains unpaid by the date set in Rule 2-105 (2) or (3) [*Annual practising and indemnity fee instalments*], the lawyer concerned must not engage in the practice of law unless the Benchers order otherwise.

Division 3 – Education

Definitions

- 3-26** In this division
- “continuing education”** means activities approved by the Executive Director for credit as professional development;
- “credit as a mentor”** means a credit of a specified maximum number of hours of continuing education for participation in a mentoring relationship under Rule 3-30 [*Mentoring*];

- (2) A lawyer is bound by and must comply with the terms and conditions of trust protection indemnity coverage maintained under subrule (1).

Annual indemnity fee

- 3-40** (1) The indemnity fee to be paid under section 23 (1) (c) [*Annual fees and practising certificate*] is calculated as follows:
- (a) the appropriate base assessment as specified in Schedule 1; plus
 - (b) any surcharge for which the lawyer is liable under Rule 3-44 [*Deductible, surcharge and reimbursement*]; minus
 - (c) any credit to which the lawyer is entitled under Rule 3-42 [*Indemnity fee credit*].
- (2) If a lawyer undertakes, in a form approved by the Executive Committee, to engage in the practice of law and associated activities for an average of 25 hours or less per week, the applicable base assessment is the part-time indemnity fee specified in Schedule 1.
 - (3) Subject to subrule (6), a lawyer is not eligible to pay the part-time indemnity fee under subrule (2) for 5 years in practice after the Society pays an indemnity claim in respect of the lawyer.
 - (4) For a lawyer who does not give the undertaking referred to in subrule (2), the appropriate base assessment is the full-time indemnity fee specified in Schedule 1.
 - (5) For the purpose of this rule,
 - (a) the average number of hours per week that a lawyer engages in the practice of law and associated activities is calculated over successive 6 months periods, beginning on the effective date of the undertaking referred to in subrule (2), and
 - (b) “**associated activities**” includes practice management, administration and promotion and voluntary activities associated with the practice of law.
 - (6) The Executive Director may, in the Executive Director’s discretion, reduce the time that a lawyer is not eligible under subrule (3) to pay the part-time indemnity fee or, in extraordinary circumstances, allow the lawyer to pay the part-time indemnity fee despite subrule (3).

3-41 [rescinded 09/2020]

Indemnity fee credit

- 3-42** (1) The Benchers may approve an annual indemnity fee credit and set the conditions that a lawyer must meet to be entitled to the credit.
- (2) When a lawyer is entitled to an annual indemnity fee credit, the first instalment of the indemnity fee payable by the lawyer is reduced by the amount of the credit.

Exemption from professional liability indemnification

- 3-43** (1) A lawyer is exempt from the requirement to maintain professional liability indemnity coverage and pay the indemnity fee if the lawyer is
- (a) not engaged in the practice of law, other than pro bono legal services, anywhere in his or her capacity as a member of the Society, or
 - (b) employed by one of the following and is not engaged in the practice of law, other than pro bono legal services, except in the course of that employment:
 - (i) a government department;
 - (ii) a corporation other than a law corporation;
 - (iii) a society, trade union or a similar organization.
- (2) A lawyer is not exempt under subrule (1) (b) if the lawyer engages in the practice of law, other than pro bono legal services, in any way other than as described in those provisions.
- (3) Subrule (4) applies to a lawyer who is entitled to practise law in the jurisdiction of a governing body of which the lawyer is a member.
- (4) A lawyer may apply to the Executive Director for exemption from the requirement to maintain professional liability indemnity coverage and pay the indemnity fee, if, in another Canadian jurisdiction in which the governing body allows a similar exemption for members of the Society, the lawyer
- (a) is resident or is deemed resident under the National Mobility Agreement, and
 - (b) maintains the full mandatory professional liability insurance coverage required in the other jurisdiction that is reasonably comparable in coverage and limits to the indemnity coverage required of lawyers in British Columbia and extends to the lawyer's practice in British Columbia.
- (5) A Canadian legal advisor may apply to the Executive Director for exemption from the requirement to maintain professional liability indemnity coverage and pay the indemnity fee.
- (6) On an application under subrule (5), the Executive Director must grant the exemption, provided the Canadian legal advisor maintains the full mandatory professional liability insurance coverage required by the Chambre that extends to the Canadian legal advisor's practice in British Columbia.

- (3) When there are special circumstances, the Discipline Committee may, in its discretion, order that
 - (a) a lawyer not be suspended under subrule (1), or
 - (b) a suspension under subrule (1) be delayed for a specified period of time.
- (4) At least 30 days before a suspension under subrule (1) can take effect, the Executive Director must deliver to the lawyer notice of the following:
 - (a) the date on which the suspension will take effect;
 - (b) the reasons for the suspension;
 - (c) the means by which the lawyer may apply to the Discipline Committee for an order under subrule (3) and the deadline for making such an application before the suspension is to take effect.
- (5) If a lawyer has not delivered a trust report after it is required, the Executive Director may do either or both of the following:
 - (a) engage or assign a qualified CPA to complete the trust report;
 - (b) order an examination of the lawyer's books, records and accounts under Rule 3-85 [*Compliance audit of books, records and accounts*].
- (6) The Discipline Committee may order that a lawyer pay to the Society all or part of the costs associated with the trust report referred to in subrule (5) (a).
- (7) A lawyer who is ordered by the Discipline Committee, under subrule (6), to pay costs must pay those costs in full by the date set or extended by the Committee.
- (8) If any part of the amount owing under subrule (6) remains unpaid by the date set in Rule 2-105 (2) or (3) [*Annual practising and indemnity fee instalments*], the lawyer concerned must not engage in the practice of law unless the Benchers order otherwise.

Accountant's report

- 3-82** (1) The Executive Director may require a lawyer who is required to deliver a trust report under Rule 3-79 [*Trust report*] or a lawyer or former lawyer who is required to deliver a trust report under Rule 3-84 [*Former lawyers*] to deliver as part of the report required under the relevant rule, an accountant's report completed and signed by a qualified CPA.
- (2) The Executive Director must specify the matters to be included in the accountant's report referred to in subrule (1) and the time within which it must be delivered to the Executive Director.
- (3) Despite subrule (1), an accountant's report must not be completed and signed by any person determined by the Executive Director to be ineligible to do so.

- (4) Despite subrule (1), on application by the lawyer, the Executive Director may allow a person without the credentials referred to in subrule (1) to complete and sign an accountant's report if the Executive Director is satisfied that
 - (a) the person has adequate accounting credentials, and
 - (b) no person qualified under subrule (1) is reasonably available to the lawyer.
- (5) The Executive Director may at any time require a lawyer to deliver a new accountant's report completed and signed by a person who has the qualifications specified by the Executive Director if the lawyer's accountant's report was completed and signed by a person
 - (a) without the credentials referred to in subrule (1), or
 - (b) ineligible under subrule (3).
- (6) If the Executive Director requires a new accountant's report under subrule (5), the lawyer must deliver the report within 3 months of notice of the requirement being sent by the Executive Director.

Exceptions and qualifications

- 3-83** (1) The trust report of a lawyer who has not complied with this division must state the exceptions and qualifications, together with an explanation of the circumstances of and reasons for them.
- (2) The Executive Director may, following a review of a trust report with exceptions and qualifications, accept the lawyer's explanation and reasons
 - (a) without condition, in which case the lawyer is deemed to have complied with Rule 3-79 [*Trust report*], or
 - (b) subject to the lawyer fulfilling accounting conditions specified by the Executive Director, in which case, on fulfillment of those conditions, the lawyer is deemed to have complied with Rule 3-79.

Former lawyers

- 3-84** (1) A former lawyer must deliver a trust report as required under Rule 3-79 [*Trust report*] for any period during which the former lawyer was a member of the Society.
- (2) If a former lawyer does not deliver a trust report as required under subrule (1), an assessment under Rule 3-80 [*Late filing of trust report*] applies.

Compliance audit of books, records and accounts

- 3-85** (1) The Executive Director may at any time order a compliance audit of the books, records and accounts of a lawyer for the purpose of determining whether the lawyer meets standards of financial responsibility established under this Part, including but not limited to maintaining books, records and accounts in accordance with this division.

PART 10 – GENERAL

Service and notice

10-1 (0.1) In this rule, “**recipient**” means a lawyer, former lawyer, law firm, articled student or applicant.

- (1) A recipient may be served with a notice or other document by
 - (a) leaving it at the place of business of the recipient,
 - (b) sending it by
 - (i) registered mail, ordinary mail or courier to the last known business or residential address of the recipient,
 - (ii) electronic facsimile to the last known electronic facsimile number of the recipient,
 - (iii) electronic mail to the last known electronic mail address of the recipient, or
 - (iv) any of the means referred to in paragraphs (a) to (c) to the place of business of the counsel or personal representative of the recipient or to an address given to discipline counsel by a respondent for delivery of documents relating to a citation, or
 - (c) posting it to an electronic portal operated by the Society to which the recipient has been given access and notifying the recipient of the posting by a method enumerated in paragraph (b) (ii) or (iii).
- (2) If it is impractical for any reason to serve a notice or other document as set out in subrule (1), the President may order substituted service, whether or not there is evidence that
 - (a) the notice or other document will probably
 - (i) reach the intended recipient, or
 - (ii) come to the intended recipient’s attention, or
 - (b) the intended recipient is evading service.
- (3) The President may designate another Bencher to make a determination under subrule (2).
- (4) A document may be served on the Society or on the Benchers by
 - (a) leaving it at or sending it by registered mail or courier to the principal offices of the Society, or
 - (b) personally serving it on an officer of the Society.
- (4.1) A document required under the Act or these rules to be delivered to the President or the Executive Director must be left at or sent by registered mail or courier to the principal offices of the Society.
- (5) A document sent by ordinary mail is deemed to be served 7 days after it is sent.

- (6) A document that is left at a place of business or sent by registered mail or courier is deemed to be served on the next business day after it is left or delivered.
- (7) A document sent by electronic facsimile or electronic mail is deemed to be served on the next business day after it is sent.
- (7.1) A document that is posted to an electronic portal operated by the Society is deemed to be served the next business day after the document is posted and notification is sent to the recipient.
- (8) Any person may be notified of any matter by ordinary mail, registered mail, courier, electronic facsimile or electronic mail to the person's last known address.

Duty not to disclose

- 10-2** A person performing any duty or fulfilling any function under the Act or these rules who receives or becomes privy to any confidential information, including privileged information,
- (a) has the same duty that a lawyer has to a client not to disclose that information, and
 - (b) must not disclose and cannot be required to disclose that information except as authorized by the Act, these rules or an order of a court.

Records

- 10-3** (1) In this rule, “**storage provider**” means any entity storing or processing records outside of a lawyer's office, whether or not for payment.
- (2) When required under the Act or these rules, a lawyer must, on demand, promptly produce records in any or all of the following forms:
- (a) printed in a comprehensible format;
 - (b) accessed on a read-only basis;
 - (c) exported to an electronic format that allows access to the records in a comprehensible format.
- (3) A lawyer who is required to produce records under the Act or these rules must not alter, delete, destroy, remove or otherwise interfere with any record that the lawyer is required to produce, except with the written consent of the Executive Director.
- (4) A lawyer must not maintain records, including electronic records, with a storage provider unless the lawyer
- (a) retains custody and control of the records,
 - (b) ensures that ownership of the records does not pass to another party,
 - (c) is capable of complying with a demand under the Act or these rules to produce the records and provide access to them,

- (d) ensures that the storage provider maintains the records securely without
 - (i) accessing or copying them except as is necessary to provide the service obtained by the lawyer,
 - (ii) allowing unauthorized access to or copying or acquisition of the records, or
 - (iii) failing to destroy the records completely and permanently on instructions from the lawyer, and
 - (e) enters into a written agreement with the storage provider that is consistent with the lawyer's obligations under the Act and these rules.
- (5) If the Executive Committee declares, by resolution, that a specific entity is not a permitted storage provider for the purpose of compliance with this rule, no lawyer is permitted to maintain records of any kind with that entity.

Security of records

- 10-4** (1) A lawyer must protect his or her records and the information contained in them by making reasonable security arrangements against all risks of loss, destruction and unauthorized access, use or disclosure.
- (2) A lawyer must immediately notify the Executive Director in writing of all the relevant circumstances if the lawyer has reason to believe that
- (a) he or she has lost custody or control of any of the lawyer's records for any reason,
 - (b) anyone has improperly accessed or copied any of the lawyer's records, or
 - (c) a third party has failed to destroy records completely and permanently despite instructions from the lawyer to do so.

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SCHEDULE 1 – 2020 LAW SOCIETY FEES AND ASSESSMENTS

A. Annual fee	\$
1. Practice fee (Rule 2-105 [<i>Annual practising and indemnity fee instalments</i>]) ..	2,289.12
2. Indemnity fee base assessment (which may be increased or decreased in individual cases in accordance with Rule 3-40 (1) [<i>Annual indemnity fee</i>]):	
(a) full-time practice	1,800.00
(b) part-time practice	900.00
3. Indemnity surcharge (Rule 3-44 (2) [<i>Deductible, surcharge and reimbursement</i>])	1,000.00
4. Late payment fee for practising lawyers (Rule 2-108 (3) [<i>Late payment</i>])	150.00
5. Retired member fee (Rule 2-4 (3) [<i>Retired members</i>])	125.00
6. Late payment fee for retired members (Rule 2-108 (4)).....	nil
7. Non-practising member fee (Rule 2-3 (2) [<i>Non-practising members</i>])	325.00
8. Late payment fee for non-practising members (Rule 2-108 (5))	40.00
9. Administration fee (R. 2-116 (3) [<i>Refund on exemption during practice year</i>])	70.00
 B. Trust administration fee	
1. Each client matter subject to fee (Rule 2-110 (1) [<i>Trust administration fee</i>]) ..	15.00
 C. Special assessments	
 D. Articled student fees	
1. Application fee for enrolment in admission program (Rules 2-54 (1) (e) [<i>Enrolment in the admission program</i>] and 2-62 (1) (b) [<i>Part-time articles</i>]) .	275.00
2. Application fee for temporary articles (R. 2-70 (1) (c) [<i>Temporary articles</i>]) ..	150.00
3. Application fee for temporary articles (legal clinic) (Rule 2-70 (1) (c))	50.00
4. Training course registration (Rule 2-72 (4) (a) [<i>Training course</i>])	2,600.00
5. Remedial work (Rule 2-74 (8) [<i>Review of failed standing</i>]):	
(a) for each piece of work	100.00
(b) for repeating the training course	4,000.00
 E. Transfer fees	
1. Application fee for transfer from another Canadian province or territory – investigation fee (Rule 2-79 (1) (f) [<i>Transfer from another Canadian jurisdiction</i>])	1,150.00
2. Transfer or qualification examination (Rules 2-79 (6) and 2-89 (6) [<i>Returning to practice after an absence</i>])	325.00
 F. Call and admission fees	
1. After enrolment in admission program (Rule 2-77 (1) (c) [<i>First call and admission</i>])	250.00
2. After transfer from another Canadian province or territory (Rule 2-79 (1) (f) [<i>Transfer from another Canadian jurisdiction</i>])	250.00

G. Reinstatement fees	\$
1. Application fee following disbarment, resignation or other cessation of membership as a result of disciplinary proceedings (Rule 2-85 (1)(b) [<i>Reinstatement of former lawyer</i>])	700.00
2. Application fee following 3 years or more as a former member (Rule 2-85 (1) (b))	550.00
3. Application fee in all other cases (Rule 2-85 (1) (b))	450.00
H. Change of status fees	
1. Application fee to become retired member (Rule 2-4 (2) (b) [<i>Retired members</i>])	35.00
2. Application fee to become non-practising member (Rule 2-3 (1) (b) [<i>Non-practising members</i>])	70.00
3. Application fee for non-practising or retired member applying for practising certificate (Rule 2-5 (1) (b)) [<i>Release from undertaking</i>]	70.00
I. Inter-jurisdictional practice fees	
1. Application fee (Rule 2-19 (3) (b) [<i>Inter-jurisdictional practice permit</i>])	500.00
2. Renewal of permit (Rule 2-19 (3) (b))	100.00
J. Corporation and limited liability partnership fees	
1. Permit fee for law corporation (Rule 9-4 (c) [<i>Law corporation permit</i>])	400.00
2. New permit on change of name fee (Rule 9-6 (4) (c) [<i>Change of corporate name</i>])	100.00
3. LLP registration fee (Rule 9-15 (1) [<i>Notice of application for registration</i>])	400.00
K. Practitioners of foreign law	
1. Application fee for practitioners of foreign law (Rule 2-29 (1) (b) [<i>Practitioners of foreign law</i>])	700.00
2. Permit renewal fee for practitioners of foreign law (Rules 2-29 (1) (b) and 2-34 (2) (c) [<i>Renewal of permit</i>])	150.00
3. Late payment fee (Rule 2-34 (6))	100.00
L. Late fees	
1. Trust report late filing fee (Rule 3-80 (2) (b) [<i>Late filing of trust report</i>])	200.00
2. Professional development late completion fee (Rule 3-31 (1) (c) [<i>Late completion of professional development</i>])	500.00
3. Professional development late reporting fee (Rule 3-31 (3) (b))	200.00
4. Late registration delivery fee (Rule 2-12.4)	200.00
5. Late self-assessment delivery fee (Rule 2-12.4)	500.00