

# MEMBER'S MANUAL

The Law Society  
of British Columbia



## AMENDMENT PAGES

2020: No. 3 December

### Highlights

#### Law Society Rules 2015:\*

- lawyers may enter into consent agreements as a way of resolving complaints without a citation or hearing (definitions of “disciplinary record” and “professional conduct record” and Rules 3-7.1 to 3-7.4 and 4-6(2) and (3): pp. 12, 15, 104-104.2 and 162);
- the Executive Director now has the authority to approve official Law Society forms, rather than various committees (definitions of “articling agreement” and “prescribed form, and Rules 1-51, 2-5(1), 2-8(1), 2-12.1(1), 2-19(3), 2-29(1), 2-34(2), 2-40(1) and (2), 2-42(2), 2-47(2), 2-49(1), 2-54(1), 2-61(2), 2-67(1), 2-70(1), 2-77(1), 2-79(1), 2-81(3), 2-82(1), 2-85(1), 2-110(3), 3-28(1), 3-29(3), 3-38(3), 3-40(2), 3-64.1(1), 3-79(5), 3-90(1), 3-96, 9-2(1), 9-4 and 9-6(1): pp. 11, 15, 39, 42, 44, 48, 52, 55, 58, 60, 62-63, 65, 70, 72, 74, 79-80, 83, 85, 98, 115-116, 120-121, 133, 142, 147, 150 and 205-206);
- rule provisions for non-practising and retired membership fees are moved to the Part 2 division covering fees and assessments (Rules 2-3(2), 2-4(3) and (4), 2-105.1 and 2-108(4) and (5) and Schedule 1 - A.5 and A.7: pp. 41, 96-97 and 217);
- refunds of fees paid but not used, either because of death, incapacity, retirement or judicial appointment, take into account the new instalment payment plan (Rules 2-115(1) and 2-116: p. 99);
- the Benchers may extend the time for new lawyers to be presented in court (Rules 2-84(6): p. 84);
- in-house counsel now have the option to participate in the professional liability indemnification program (Rule 3-43(1), (1.1), (2), (4) and (5): p. 122);
- public attendance at a hearing is clarified, as well as what materials can and cannot be produced following a hearing (Rules 5-8(1), (1.1) and (2), 5-9 and 5-12(2.1), (4), (5) and (5.1): pp. 190-192);
- fees are updated for 2021 (Schedules 1, 2 and 3: pp. 217 to 221).

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

**Indemnification Policy:** Indemnification Policy No. LPL 21-01-01 replaces Policy No. LPL 20-01-01; optional Business Innocent Covered Party (BIC) Endorsement #1 attaches to Policy No. LPL 21-01-01 and replaces the BIC policy. Refer to the upcoming *Program Report* from the Lawyers Indemnity Fund for details of the policy revisions.

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

Manual section	Existing pages to be removed	Amendment pages to be inserted
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Indemnification Policies	Policy No. LPL 20-01-01 (1 – 30) –	Policy No. LPL 21-01-01 (1 – 32) BIC Endorsement #1 (1 – 3)

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

**Updates:** This amendment package updates the *Member's Manual* to **December 15, 2020**. The previous amendment package was 2020: No. 2 October.

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](mailto:communications@lsbc.org).

**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](http://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

2020: No. 3 December

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## RULE 1 – DEFINITIONS

### Definitions

1 In these rules, unless the context indicates otherwise:

“**Act**” means the *Legal Profession Act*, SBC 1998, c. 9;

“**admission program**” means the program for articulated students administered by the Society or its agents, commencing on an articulated student’s enrolment start date and including the period during which the student is

- (a) articulated to a principal, or
- (b) registered in the training course;

“**advertising**” includes letterhead, business cards and the use of paid space or time in a public medium, or the use of a commercial publication such as a brochure or handbill, to communicate with the general public or a group of people, for the purpose of promoting professional services or enhancing the image of the advertiser;

“**agreed statement of facts**” means a written statement of facts signed by discipline counsel and by or on behalf of the respondent;

“**applicant**” means a person who has applied under Part 2 [*Membership and Authority to Practise Law*] for enrolment as an articulated student, for call and admission or for reinstatement;

“**appointed Bencher**” means a person appointed as a Bencher under section 5 [*Appointed benchers*];

“**articled student**” means a person who is enrolled in the admission program;

“**articling agreement**” means a contract in the prescribed form executed by an applicant for enrolment and the applicant’s prospective principal;

“**articling start date**” means the date on which an articulated student begins employment with his or her principal;

“**articling term**” means the 9 month period referred to in Rule 2-59 [*Articling term*];

“**Barreau**” means the Barreau du Québec;

“**Bencher**” does not include the Attorney General unless expressly stated;

“**chair**” means a person appointed to preside at meetings of a committee, panel or review board;

“**Chambre**” means the Chambre des notaires du Québec;

“**company**” means a company as defined in the *Business Corporations Act*;

**“complainant”** means a person who has delivered a complaint about a lawyer or a law firm to the Society under Rule 3-2 [*Complaints*];

**“complaint”** means an allegation that a lawyer or a law firm has committed a discipline violation;

**“conduct unbecoming the profession”** includes a matter, conduct or thing that is considered, in the judgment of the Benchers, a panel or a review board,

- (a) to be contrary to the best interest of the public or of the legal profession, or
- (b) to harm the standing of the legal profession;

**“costs”** includes costs assessed under Rule 3-25 [*Costs*] or 3-81 [*Failure to file trust report*] or Part 5 [*Hearings and Appeals*];

**“disbarred lawyer”** means a person to whom section 15 (3) [*Authority to practise law*] applies;

**“disciplinary record”** includes any of the following, unless reversed on appeal or review:

- (a) any action taken by a governing body as a result of
  - (i) professional misconduct,
  - (ii) incompetence,
  - (iii) conduct unbecoming the profession,
  - (iv) lack of physical or mental capacity to engage in the practice of law,
  - (v) any other breach of a lawyer’s professional responsibilities;
- (b) disbarment;
- (c) a lawyer’s resignation or otherwise ceasing to be a member of a governing body as a result of disciplinary proceedings, including resignation as a term of a consent agreement;
- (d) restrictions or limits on a lawyer’s entitlement to practise, other than those imposed as a result of failure to pay fees to a governing body, insolvency or bankruptcy or other administrative matter;
- (e) any interim suspension or restriction or limits on a lawyer’s entitlement to practise imposed pending the outcome of a disciplinary hearing.

**“discipline violation”** means any of the following:

- (a) professional misconduct;
- (b) conduct unbecoming the profession;
- (c) a breach of the Act or these rules;
- (d) incompetent performance of duties undertaken by a lawyer in the capacity of a lawyer;
- (e) conduct that would constitute professional misconduct, conduct unbecoming the profession or a contravention of the Act or these rules if done by a lawyer or law firm;

- “**officer**” means the Executive Director, a Deputy Executive Director or other person appointed as an officer by the Benchers;
- “**Ombudsperson**” means a person appointed by the Executive Director to provide confidential dispute resolution and mediation assistance to lawyers, articulated students, law students and support staff of legal employers, regarding allegations of harassment or discrimination by lawyers on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, marital or family status, disability or age, and includes anyone employed to assist the Ombudsperson in that capacity;
- “**panel**” means a panel established in accordance with Part 5 [*Hearings and Appeals*];
- “**practice management course**” means a course of study designated as such and administered by the Society or its agents and includes any assignment, examination or remedial work taken during or after the course of study;
- “**practice review**” means an investigation into a lawyer’s competence to practise law ordered under Rule 3-17 (3) (d) [*Consideration of complaints*] or 3-18 (1) [*Practice review*];
- “**practice year**” means the period beginning on January 1 and ending on December 31 in a year;
- “**practitioner of foreign law**” means a person qualified to practise law in a foreign jurisdiction who provides foreign legal services in British Columbia respecting the laws of that foreign jurisdiction;
- “**prescribed form**” means a form approved by the Executive Director;
- “**principal**” means a lawyer who is qualified to employ and employs an articulated student;
- “**pro bono legal services**” means the practice of law not performed for or in the expectation of a fee, gain or reward;
- “**professional conduct record**” means a record of all or some of the following information respecting a lawyer:
- (a) an order under Rule 2-57 (5) [*Principals*], prohibiting the lawyer from acting as a principal for an articulated student;
  - (b) any conditions or limitations of practice or articles accepted or imposed under the Act or these rules;
  - (c) a decision by a panel or a review board to reject an application for enrolment, call and admission or reinstatement;
  - (d) a decision by the Credentials Committee to reject an application for an inter-jurisdictional practice permit;
  - (d.1) a consent agreement to resolve a complaint under Rule 3-7.1 [*Resolution by consent agreement*];
  - (e) any suspension or disbarment under the Act or these rules, including resignation requiring consent under Rule 4-6 [*Continuation of membership during investigation or disciplinary proceedings*];

- (f) recommendations made by the Practice Standards Committee under Rule 3-19 [*Action by Practice Standards Committee*];
- (g) an admission accepted by the Discipline Committee under Rule 4-29 [*Conditional admissions*];
- (h) an admission and consent to disciplinary action accepted by a hearing panel under Rule 4-30 [*Conditional admission and consent to disciplinary action*];
- (i) any Conduct Review Subcommittee report delivered to the Discipline Committee under Rule 4-13 [*Conduct Review Subcommittee report*], and any written dispute of that report considered by the Committee;
- (j) a decision made under section 38 (4) (b) [*Discipline hearings*];
- (k) an action taken under section 38 (5), (6) or (7);
- (l) an action taken by a review board under section 47 [*Review on the record*];
- (m) a payment made from the former special compensation fund on account of misappropriation or wrongful conversion by the lawyer;
- (n) an order for costs made against the lawyer under Part 5 [*Hearings and Appeals*];
- (o) any failure to pay any fine, costs or penalty imposed under the Act or these rules by the time that it is to be paid.
- (p) the outcome of an application made by the lawyer under the *Judicial Review Procedure Act* concerning a decision taken under the Act or these rules, including a predecessor of either;
- (q) the outcome of an appeal under section 48 [*Appeal*];
- (r) any disciplinary or remedial action taken by a governing body or body regulating the legal profession in any other jurisdiction;
- (s) a decision of or action taken by the Benchers on a review of a decision of a hearing panel;

**“professional corporation”** includes a law corporation and means a corporation that is a company, as defined in the *Business Corporations Act*, and that is in good standing under that Act or that is registered under Part 10 of the *Business Corporations Act*, through which a member of a profession, trade or occupation is authorized under a statute governing the profession, trade or occupation to carry on the business of providing services to the public;

**“Protocol”** means the Inter-Jurisdictional Practice Protocol signed on behalf of the Society on February 18, 1994, as amended from time to time;

**“provide foreign legal services”** means give legal advice in British Columbia respecting the laws of a foreign jurisdiction in which the person giving the advice is qualified;

**“qualification examination”** means an examination set by the Executive Director for the purposes of Rule 2-89 [*Returning to practice after an absence*];



## **Executive Committee**

- 1-50** (1) The Executive Committee consists of the following Benchers:
- (a) the President;
  - (b) the First and Second Vice-Presidents;
  - (c) the Second Vice-President-elect, if not elected under paragraph (d);
  - (d) 4 other Benchers elected under Rule 1-41 [*Election of Executive Committee*].
- (2) The President is the chair of the Executive Committee, and the First Vice-President is the vice chair.
- (3) The Executive Committee is accountable and reports directly to the Benchers as a whole.

## **Powers and duties**

- 1-51** The powers and duties of the Executive Committee include the following:
- (a) authorizing appointment of counsel to advise or represent the Society when the Society is a plaintiff, petitioner or intervenor in an action or proceeding;
  - (b) authorizing the execution of documents relating to the business of the Society;
  - (c) appointing persons to affix the seal of the Society to documents;
  - (d) [rescinded]
  - (e) approving agreements relating to the employment, termination or resignation of the Executive Director and the remuneration and benefits paid to him or her;
  - (f) assisting the President and Executive Director in establishing the agenda for Bencher meetings and the annual general meeting;
  - (g) planning of Bencher meetings or retreats held to consider a policy development schedule for the Benchers;
  - (h) assisting the Benchers and the Executive Director on establishing relative priorities for the assignment of Society financial, staff and volunteer resources;
  - (i) providing constructive performance feedback to the President;
  - (j) recommending to the appointing bodies on Law Society appointments to outside bodies;
  - (k) determining the date, time and locations for the annual general meeting;
  - (l) overseeing Bencher elections in accordance with Division 1 of this Part;
  - (m) appointing members of the Board of Governors of the Foundation under section 59 [*Board of Governors*];

- (n) deciding matters referred by the Executive Director under Rule 2-113  
*[Referral to Executive Committee]*;
- (o) declaring that a financial institution is not or ceases to be a savings institution  
under Rule 3-57 *[Removal of designation]*;
- (p) adjudicating claims for unclaimed trust funds under Rule 3-91 *[Adjudication of  
claims]*;
- (q) other functions authorized or assigned by these rules or the Benchers.

### **Division 3 – Law Society Rules**

#### **Act, Rules and Code**

- 1-52** The Executive Director must provide each lawyer and each articulated student with a copy of the *Legal Profession Act*, all rules made by the Benchers, and the *Code of Professional Conduct*.

## PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

### Division 1 – Practice of Law

#### Members

##### Categories of membership

2-1 The following are the categories of members of the Society:

- (a) practising lawyers, as defined in section 1;
- (b) retired members;
- (c) non-practising members;
- (d) Canadian legal advisor.

##### Member in good standing

2-2 Subject to Rules 3-18 (7) [*Practice review*] and 4-6 (2) [*Continuation of membership under investigation or disciplinary proceedings*], a member of the Society is a member in good standing unless suspended under section 38 (5) (d) [*Discipline hearings*] or under these rules.

##### Non-practising members

2-3 Any member of the Society in good standing may become a non-practising member by

- (a) undertaking in writing to the Executive Director not to engage in the practice of law until released from the undertaking, and
- (b) paying the application fee specified in Schedule 1 and a prorated annual fee for non-practising members as provided in Schedule 3.

(2) [rescinded]

##### Retired members

2-4 (1) A member of the Society in good standing who has done one of the following qualifies to become a retired member:

- (a) reached the age of 55 years;
- (b) been a member of the Society in good standing for 20 of the previous 25 years;
- (c) engaged in the full-time active practice of law for 20 of the previous 25 years.

(2) A lawyer who qualifies under subrule (1) may become a retired member by

- (a) undertaking in writing to the Executive Director not to engage in the practice of law until released from the undertaking, and
- (b) paying the application fee specified in Schedule 1 and the prorated annual fee for retired members as provided in Schedule 3.

(3) and (4) [rescinded]

### Release from undertaking

- 2-5** (1) A retired or non-practising member may apply for release from an undertaking given under Rule 2-3 [*Non-practising members*] or 2-4 [*Retired members*] by delivering to the Executive Director
- (a) an application in the prescribed form, including written consent for the release of relevant information to the Society, and
  - (b) the application fee specified in Schedule 1.
- (2) The Executive Director must not grant a release from undertaking under this rule unless satisfied that the lawyer is not prohibited from practising law under Rule 2-89 [*Returning to practice of law after an absence*].

### Legal services by non-practising and retired members

- 2-6** Despite an undertaking given under Rule 2-3 (1) (a) [*Non-practising members*] or 2-4 (2) (a) [*Retired members*], a non-practising or retired member may
- (a) provide pro bono legal services, or
  - (b) act as a designated paralegal under Rule 2-13 [*Paralegals*].

### Certificates and permits

- 2-7** The Executive Director may approve the form of
- (a) practising certificate issued under section 23 [*Annual fees and practising certificate*],
  - (b) retired membership certificate issued under Rule 2-4 [*Retired members*],
  - (c) non-practising membership certificate issued under Rule 2-3 [*Non-practising members*],
  - (d) practitioner of foreign law permit issued under Rule 2-29 [*Practitioners of foreign law*],
  - (e) inter-jurisdictional practice permit issued under Rule 2-20 [*Application for inter-jurisdictional practice permit*], and
  - (f) Canadian legal advisor certificate issued under Rule 2-84 [*Barristers and solicitors' roll and oath*].

## Member information

### Annual practice declaration

- 2-8** (1) In this rule, “**declaration**” means the Annual Practice Declaration in the prescribed form.
- (2) A practising lawyer must complete and deliver a declaration to the Executive Director in each calendar year.

- (3) A declaration is not delivered under this rule unless it is
  - (a) complete to the satisfaction of the Executive Director,
  - (b) received by the Executive Director by the date set by the Executive Director, and
  - (c) signed by the practising lawyer.
- (4) The Executive Director must not issue a practising certificate to a lawyer who fails to deliver a declaration as required under this rule, unless the Credentials Committee directs otherwise.

### Definitions

**2-9** In Rules 2-10 [*Business address*] and 2-11 [*Residential address*], “**address**” includes

- (a) the name under which a lawyer carries on business, and
- (b) street address, including suite number if applicable, and mailing address, if that is different from the street address;

“**contact information**” includes the following for the purpose of a lawyer receiving communication from the Society, including confidential communication:

- (a) a telephone number;
- (b) an email address;

“**place of practice**” includes

- (a) a lawyer’s chief place of practice or employment, including the residence of a lawyer who carries on a law practice from the lawyer’s residence, and
- (b) any other location from which a lawyer conducts the practice of law or is held out to conduct the practice of law.

### Business address

**2-10** A lawyer must advise the Executive Director of the address and contact information of all of the lawyer’s places of practice and inform the Executive Director immediately of a change of address or contact information of any of the lawyer’s places of practice.

### Residential address

**2-11** A lawyer who does not carry on the practice of law must advise the Executive Director of the address and contact information of the lawyer’s residence and any change in the address and contact information of the lawyer’s residence.

## Practice history

- 2-12** (1) In this rule, “**practice history**” means a record of
- (a) the dates and places that a lawyer or former lawyer has practised law or been enrolled in the admission program, including the name of the firms through which the lawyer or former lawyer practised law, and
  - (b) dates of any periods since call and admission during which the lawyer or former lawyer has been a non-practising or retired member or a former member.
- (2) At the request of any person, the Executive Director may disclose all or part of the practice history of any member or former member of the Society.

## Law firms

### Definitions and application

- 2-12.1** (1) In Rules 2-12.1 to 2-12.5
- “**deliver**” means to deliver to the Executive Director;
  - “**designated representative**” means a practising lawyer designated by a law firm under Rule 2-12.5;
  - “**registration form**” means the prescribed form required under Rule 2-12.2 completed to the satisfaction of the Executive Director;
  - “**self-assessment report**” means a report required under Rule 2-12.3 in the prescribed form completed to the satisfaction of the Executive Director.
- (2) Rules 2-12.1 to 2-12.5 do not apply to
- (a) a public body such as government or a Crown corporation,
  - (b) a corporation that is not a law corporation, or
  - (c) a law corporation that provides legal services solely as part of another law firm as a partner, associate or employee of the firm.

### Registration

- 2-12.2** (1) A law firm that is engaged in the practice of law on May 1, 2018 or commences or resumes engaging in the practice of law after that date must deliver a registration form within 30 days.
- (2) A law firm must inform the Executive Director immediately of a change of any information included in the registration form.

- (b) does not establish an economic nexus with British Columbia under Rule 2-17 *[Disqualifications]*, provided that he or she provides legal services exclusively for or on behalf of the Office of the Judge Advocate General.

### **Disqualifications**

- 2-17** (1) A visiting lawyer who has established an economic nexus with British Columbia is not permitted to provide legal services without a permit under Rule 2-16 *[Inter-jurisdictional practice without a permit]*.
- (2) For the purposes of this rule, an economic nexus is established by actions inconsistent with a temporary basis for providing legal services, including but not limited to doing any of the following in British Columbia:
- (a) providing legal services beyond 100 business days, or longer period allowed under Rule 2-16 (4) *[Inter-jurisdictional practice without a permit]*;
  - (b) opening an office from which legal services are offered or provided to the public;
  - (c) becoming resident;
  - (d) opening or operating a trust account, or accepting trust funds, except as allowed under Rule 2-25 *[Trust funds]*;
  - (e) holding oneself out or allowing oneself to be held out as willing or qualified to provide legal services, except as a visiting lawyer.
- (3) A visiting lawyer who provides legal services in or from an office affiliated with the visiting lawyer's law firm in his or her home jurisdiction does not, for that reason alone, establish an economic nexus with British Columbia.
- (4) A visiting lawyer who becomes disqualified under this rule must cease providing legal services forthwith, but may apply under Rule 2-19 *[Inter-jurisdictional practice permit]* for an inter-jurisdictional practice permit or under Rule 2-79 *[Transfer from another Canadian jurisdiction]* for call and admission.
- (5) On application by a visiting lawyer, the Executive Director may allow the visiting lawyer to continue to provide legal services pending consideration of an application under Rule 2-19 *[Inter-jurisdictional practice permit]* or 2-79 *[Transfer from another Canadian jurisdiction]*.

### **Federal jurisdiction**

- 2-18** (1) Despite Rule 2-16 *[Inter-jurisdictional practice without a permit]*, a visiting lawyer who is not disqualified under Rule 2-17 (2) (b) to (e) *[Disqualifications]* may appear before any of the following tribunals without a permit:
- (a) the Supreme Court of Canada;
  - (b) the Federal Court of Appeal;
  - (c) the Federal Court;
  - (d) the Tax Court of Canada;

- (e) a federal administrative tribunal;
  - (f) service tribunals as defined in the *National Defence Act*;
  - (g) the Court Martial Appeal Court of Canada.
- (2) Subrule (1) applies when a visiting lawyer is preparing for an appearance allowed under that subrule and otherwise furthering the matter giving rise to the appearance.

### **Inter-jurisdictional practice permit**

- 2-19** (1) A visiting lawyer who does not qualify to provide legal services without a permit under Rule 2-16 [*Inter-jurisdictional practice without a permit*] or is disqualified under Rule 2-17 [*Disqualification*] may apply for a permit.
- (2) A permit allows a visiting lawyer to provide legal services as follows:
- (a) in the case of a visiting lawyer who is entitled to practise law in the jurisdiction of a reciprocating governing body of which the visiting lawyer is a member, for a maximum of 100 business days;
  - (b) in all other cases, for a specific legal matter.
- (3) A visiting lawyer applying under subrule (1) must deliver to the Executive Director
- (a) a completed permit application in the prescribed form, including a written consent for the release of relevant information to the Society,
  - (b) the application fee or renewal fee specified in Schedule 1,
  - (c) a certificate of standing dated not more than 30 days before the date of application, issued by each governing body of which the visiting lawyer is a member,
  - (d) proof of professional liability insurance as required under Rule 2-16 (3) (a) [*Inter-jurisdictional practice without a permit*], and
  - (e) proof that the visiting lawyer maintains the trust protection insurance or other defalcation coverage required under Rule 2-16 (3) (b) [*Inter-jurisdictional practice without a permit*].
- (4) Subrule (3) (b) does not apply to an application made by a visiting lawyer who is a member of a governing body in a jurisdiction in which
- (a) the visiting lawyer is entitled to practise law, and
  - (b) the governing body does not charge members of the Society a fee for the equivalent of a permit.

### **Application for inter-jurisdictional practice permit**

- 2-20** (1) On receipt of an application for a permit, the Executive Director must
- (a) issue or renew the permit, or
  - (b) refer the application to the Credentials Committee.



- (b) ensure that trust funds received are handled
  - (i) by a practising lawyer in a trust account controlled by the practising lawyer, and
  - (ii) in accordance with the Act and these rules.

### **Dispute resolution**

- 2-26** If a dispute arises with a governing body concerning any matter under the Protocol, the Credentials Committee may do one or both of the following:
- (a) agree with a governing body to refer the matter to a single mediator;
  - (b) submit the dispute to arbitration under Appendix 5 of the Protocol.

### **National Registry of Practising Lawyers**

- 2-27** (1) The Executive Director must provide to the National Registry the current and accurate information about practising lawyers required under the National Mobility Agreement.
- (2) No one may use or disclose information obtained from the National Registry except for a purpose related to enforcement of the Act and these rules.

## **Information sharing**

### **Sharing information with a governing body**

- 2-27.1** (1) This rule applies to information collected in accordance with the Act and these rules about a lawyer, former lawyer, law firm, articulated student, applicant, visiting lawyer or a person who has applied to be a member of a governing body.
- (2) Subject to subrule (3), when it appears to the Executive Director to be appropriate in the public interest, the Executive Director may provide information to a governing body.
- (3) The Executive Director must not provide confidential or privileged information to a governing body under subrule (2) unless the Executive Director is satisfied that the information
- (a) is adequately protected against disclosure, and
  - (b) will not be used for any purpose other than the regulation of the legal profession in the jurisdiction of the governing body.

## **Practitioners of foreign law**

### **Definitions**

**2-28** In Rules 2-28 to 2-34,

“**business day**” means any calendar day or part of a calendar day in which a practitioner of foreign law provides foreign legal services;

“**permit**” means a practitioner of foreign law permit issued under Rule 2-29 [*Practitioners of foreign law*];

“**resident**” has the meaning respecting a province or territory that it has with respect to Canada in the *Income Tax Act* (Canada).

### **Practitioners of foreign law**

- 2-29** (1) A person who qualifies under section 17 [*Practitioners of foreign law*] may apply to the Executive Director for a permit to act as a practitioner of foreign law in British Columbia by delivering to the Executive Director
- (a) a completed permit application in the prescribed form, including a written consent for the release of relevant information to the Society, and
  - (b) the application fee specified in Schedule 1.
- (2) The Executive Director may issue a permit to a person applying under subrule (1) if satisfied that the person
- (a) is a member of the legal profession in one or more foreign jurisdictions,
  - (b) is not suspended or disbarred and has not otherwise ceased, for disciplinary reasons, to be a member of a governing body or of the legal profession in any foreign jurisdiction,
  - (c) is a person of good character and repute,
  - (d) has practised the law of a foreign jurisdiction for at least 3 of the past 5 years, or undertakes in writing to act as a practitioner of foreign law in British Columbia only under the direct supervision of a practitioner of foreign law who has practised law in that foreign jurisdiction for at least 3 of the past 5 years,
  - (e) carries professional liability insurance or a bond, indemnity or other security
    - (i) in a form and amount at least reasonably comparable to the indemnity coverage required of lawyers under Rule 3-39 (1) [*Compulsory professional liability indemnification*], and
    - (ii) that specifically extends to services rendered by the practitioner of foreign law while acting as such in British Columbia.
- (3) Subject to subrule (4), the Executive Director may attach conditions or limitations to a permit issued or renewed under this rule.
- (4) The Executive Director may only attach under subrule (3) conditions or limitations that are authorized by the Credentials Committee.
- (5) A permit issued under subrule (2) is valid for one year from the issue date shown on it.
- (6) Despite subrule (5), a practitioner of foreign law permit ceases to be valid if the practitioner of foreign law
- (a) is suspended as a result of proceedings taken under Part 4 [*Discipline*], or
  - (b) ceases to comply with any of the requirements of this Part.

### **Marketing of legal services by practitioners of foreign law**

- 2-33** A practitioner of foreign law who is not a member of the Society must do all of the following when engaging in any marketing activity as defined in the *Code of Professional Conduct*, section 4.2 [*Marketing*]:
- (a) use the term “practitioner of foreign law”;
  - (b) state the foreign jurisdiction in which he or she holds professional legal qualifications, and the professional title used in that jurisdiction;
  - (c) not use any designation or make any representation from which a recipient might reasonably conclude that the practitioner of foreign law is a member of the Society.

### **Renewal of permit**

- 2-34** (1) In order to renew a practitioner of foreign law permit, a practitioner of foreign law must apply to the Executive Director for a renewal of the permit before his or her permit expires.
- (2) A renewal application must include
- (a) a completed permit renewal application in the prescribed form, including a written consent for the release of relevant information to the Society,
  - (b) evidence satisfactory to the Executive Director that the practitioner of foreign law continues to comply with the requirements set out in Rule 2-29 (2) [*Practitioners of foreign law*], and
  - (c) the renewal fee specified in Schedule 1.
- (3) The Executive Director may renew the permit of a practitioner of foreign law who has complied with the Act and these rules.
- (4) Subject to subrule (5), a permit renewed under subrule (3) is valid for one year.
- (5) Rule 2-29 (6) [*Practitioners of foreign law*] applies to a permit renewed under subrule (3).
- (6) A practitioner of foreign law who fails to pay when due the fee for renewal of a permit under subrule (2), including applicable taxes, or any part of it, must pay the late payment fee specified in Schedule 1.

## **Canadian legal advisors**

### **Scope of practice**

- 2-35** (1) A Canadian legal advisor may
- (a) give legal advice on
    - (i) the law of Québec and matters involving the law of Québec,
    - (ii) matters under federal jurisdiction, or
    - (iii) matters involving public international law, or

- (b) where expressly permitted by federal statute or regulation
  - (i) draw, revise or settle a document for use in a proceeding concerning matters under federal jurisdiction, or
  - (ii) appear as counsel or advocate before any tribunal with respect to matters under federal jurisdiction.
- (2) A Canadian legal advisor must not engage in the practice of law except as permitted under subrule (1).

## Requirements

- 2-36** (1) A member in good standing who is admitted as a Canadian legal advisor has all the duties and responsibilities of a practising lawyer under the Act, these rules and the *Code of Professional Conduct*.
- (2) A Canadian legal advisor must
- (a) be a member in good standing of the Chambre authorized to practise law in Québec,
  - (b) undertake to comply with Rule 2-35 [*Scope of practice*], and
  - (c) immediately notify the Executive Director in writing if he or she ceases to be authorized to practise law in Québec.

## Non-resident partners

### Inter-jurisdictional law firms

- 2-37** (1) A lawyer who practises law as a member of an inter-jurisdictional law firm must ensure that the firm does the following respecting the firm's practice of law in British Columbia:
- (a) complies with the Part 3, Division 7 [*Trust Accounts and Other Client Property*];
  - (b) makes its books, records and accounts, wherever they are located, available on demand by the Society or its designated agent.
- (2) An inter-jurisdictional law firm is subject to discipline under Part 4 [*Discipline*] in the same way as a law corporation, except that the penalties that a panel may impose are the following:
- (a) a reprimand of the firm;
  - (b) a fine in an amount not exceeding \$100,000;
  - (c) an order prohibiting members of the firm who are not members of the Society from practising in British Columbia.
- (3) On certification by a governing body that an inter-jurisdictional law firm has failed to pay, by the date on which it was due, a fine imposed under a provision similar to subrule (2), the Credentials Committee may make an order prohibiting lawyers from practising as members of the firm.

## Multi-disciplinary practice

### Definition and application

**2-38** (1) In Rules 2-38 to 2-49,

“**legal services**” means services that constitute the practice of law as defined in section 1;

“**member of an MDP**” means a lawyer or non-lawyer who holds an ownership interest in the MDP.

(2) The responsibilities imposed under Rules 2-38 to 2-49 are not affected by the fact that a member of an MDP is carrying on the practice of a profession, trade or occupation or participating in the MDP as an employee, shareholder, officer, director or contractor of a professional corporation or on its behalf.

### Conditions for MDP

**2-39** (1) A lawyer must not practise law in an MDP unless

(a) the lawyer and all members of the MDP are in compliance with Rules 2-38 to 2-49 and the *Code of Professional Conduct*,

(b) all lawyers who are members of the MDP have obtained express permission under this division to practise law in the MDP,

(c) all non-lawyer members of the MDP are of good character and repute,

(d) all members of the MDP agree in writing

(i) that practising lawyers who are members of the MDP will have actual control over the delivery of legal services by the MDP,

(ii) that non-lawyer members of the MDP will not interfere, directly or indirectly with the lawyer’s

(A) obligation to comply with the Act, these rules and the *Code of Professional Conduct*, and

(B) exercise of independent professional judgement,

(iii) to comply with the Act, these rules and the *Code of Professional Conduct*, and

(iv) to co-operate with and assist the Society or its agents in the conduct of a practice review, examination or investigation, and

(e) all members of the MDP who are governed by the regulatory body of another profession agree to report to the MDP any proceedings concerning their conduct or competence.

- (2) For the purposes of this rule, a lawyer has actual control over the delivery of legal services of the MDP if, despite any partnership agreement or other contract, the lawyer is able, in all cases and without any further agreement of any member of the MDP, to
- (a) exercise independent professional judgement, and
  - (b) take any action necessary to ensure that the lawyer complies with the Act, these rules and the *Code of Professional Conduct*.

### **Application to practise law in MDP**

- 2-40** (1) Before a lawyer may practise law as a member of an MDP that has not been granted permission under Rule 2-41 [*Consideration of MDP application*], the lawyer must submit the following to the Executive Director:
- (a) an application in the prescribed form;
  - (b) the application fee specified in Schedule 1;
  - (c) the investigation fee specified in Schedule 1 for each non-lawyer member of the proposed MDP;
  - (d) copies of all partnership agreements and other contracts that the lawyer proposes to enter into with other members of the proposed MDP.
- (2) In addition to any other requirement in the prescribed form, the lawyer must report full details of the arrangements that the lawyer has made to ensure that
- (a) no non-lawyer member of the MDP provides services to the public, except
    - (i) those services that support or supplement the practice of law by the MDP, and
    - (ii) under the supervision of a practising lawyer,
  - (b) privileged and confidential information is protected under Rule 2-45 [*Privilege and confidentiality*],
  - (c) all members of the MDP comply with the rules respecting conflicts of interest as required under Rule 2-46 [*Conflicts of interest*],
  - (d) every member of the MDP obtains and maintains professional liability indemnity coverage as required under Rule 2-47 [*Liability indemnification*],
  - (e) the lawyer and the MDP maintain trust accounts and trust accounting records in accordance with Rule 2-48 [*Trust funds*], and
  - (f) all non-lawyer members of the MDP enter into the agreements required under Rule 2-39 [*Conditions for MDP*].
- (3) Any number of lawyers proposing to practise law together in an MDP may submit a joint application under this rule.

### Consideration of MDP application

- 2-41** (1) On receipt of an application under Rule 2-40 [*Application to practise law in MDP*], the Executive Director must
- (a) grant permission to practise law in the MDP,
  - (b) if the requirements for permission to practise law in an MDP have not been met, refuse permission, or
  - (c) refer the application to the Credentials Committee.
- (2) The Executive Director must not grant permission under subrule (1) unless satisfied of the following:
- (a) all of the conditions set out in Rule 2-39 [*Conditions for MDP*] have been satisfied;
  - (b) the lawyer has made arrangements that will enable the lawyer and the MDP to comply with Rules 2-38 to 2-49.
- (3) If the lawyer applying for permission under Rule 2-40 [*Application to practise law in MDP*] agrees, the Executive Director may impose conditions or limitations on permission granted under subrule (1).
- (4) Within 30 days after being notified of the decision of the Executive Director under subrule (1) (b), the lawyer may, by written notice, request a review by the Credentials Committee.
- (5) If the Executive Director refers an application to the Credentials Committee under subrule (1) (c) or a review is requested under subrule (4), the Credentials Committee must
- (a) grant permission to practise law in an MDP, with or without conditions or limitations, or
  - (b) reject the application.
- (6) If an application is rejected or if conditions or limitations are imposed, the Credentials Committee must, at the written request of the lawyer applying, give written reasons for the decision.

### Changes in MDP

- 2-42** (1) A lawyer practising in an MDP must immediately notify the Executive Director when
- (a) ceasing to practise law in the MDP for any reason,
  - (b) any new person proposes to become a member of the MDP,

- (c) any member of the MDP ceases to be a member of the MDP or to be actively involved in the MDP's delivery of services to clients or in the management of the MDP, or
  - (d) there is any change in the terms of the partnership agreement or other contract affecting the conditions under which members of the MDP participate in the MDP.
- (2) When a new non-lawyer proposes to become a member of an MDP, the lawyer practising in the MDP must do the following at least 60 days before the proposed membership takes effect:
- (a) notify the Executive Director in the prescribed form;
  - (b) pay the application fee specified in Schedule 1.
- (3) Any number of lawyers practising law in an MDP may notify the Executive Director jointly under subrule (1) or (2).

### **Cancellation of MDP permit**

- 2-43** (1) If, for any reason, the Executive Director, in his or her sole discretion, is not satisfied that a lawyer is complying and will continue to comply with Rules 2-38 to 2-49, the Executive Director must cancel the permission granted under Rule 2-41 [*Consideration of MDP application*].
- (2) A cancellation under subrule (1) takes effect
- (a) after 30 days notice to all lawyers who are current members of the MDP affected by the cancellation, or
  - (b) without notice or on notice less than 30 days on the order of the Credentials Committee.
- (3) A lawyer who is notified of a cancellation under this rule may apply within 30 days to the Credentials Committee for a review of the decision.
- (4) When a lawyer applies for a review under subrule (3), the Credentials Committee must consider all the information available to the Executive Director, as well as submissions from or on behalf of the lawyer applying and the Executive Director and must
- (a) confirm the decision,
  - (b) reinstate the permission, with or without conditions or limitations specified by the Credentials Committee, or
  - (c) order a hearing before a panel under Part 5 [*Hearings and Appeals*].
- (5) The lawyer applying under subrule (3) or the Executive Director may initiate a review by a review board on the record of a decision under subrule (4) by delivering to the President and the other party a notice of review.



- (6) Rules 5-21 [*Notice of review*] and 5-23 to 5-28 apply to a review under this rule, insofar as they are applicable and with the necessary changes.
- (7) A lawyer who has applied for a review under subrule (3) may apply to the President for a stay of the cancellation pending the decision of the Credentials Committee on the review.
- (8) The person who applies for a review under subrule (5) may apply to the President for a stay of the cancellation pending the decision of the review board.
- (9) When considering an application for a stay under subrule (8), the President must consider all the information available to the Executive Director, as well as submissions from or on behalf of the Executive Director and the lawyer concerned and must
  - (a) refuse the stay, or
  - (b) grant the stay, with or without conditions or limitations.
- (10) On an application under subrule (7) or (8), the President may designate another Benchler to make a determination under subrule (9).
- (11) When a lawyer's permission to practise law in an MDP is cancelled under this rule, the lawyer must immediately cease practising law in the MDP.

### **Lawyer's professional duties**

- 2-44** (1) Except as provided in Rules 2-38 to 2-49, the Act, these rules and the *Code of Professional Conduct* apply to lawyers who practise in an MDP.
- (2) A lawyer practising law in an MDP must take all steps reasonable in the circumstances to ensure that the non-lawyer members of the MDP
  - (a) practise their profession, trade or occupation with appropriate skill, judgement and competence,
  - (b) comply with the Act, these rules and the *Code of Professional Conduct*, and
  - (c) provide no services to the public except
    - (i) those services that support or supplement the practice of law by the MDP, and
    - (ii) under the supervision of a practising lawyer, as required the *Code of Professional Conduct*, section 6.1 [*Supervision*].
- (3) A lawyer practising in an MDP must not permit any member or employee of the MDP to direct or control the professional judgment of the lawyer or to cause the lawyer or other members of the MDP to compromise their duties under the Act, these rules or the *Code of Professional Conduct*.

### Privilege and confidentiality

- 2-45 A lawyer practising law in an MDP must take all steps reasonable in the circumstances, including the implementation of screening measures if necessary, to ensure that no improper disclosure of privileged or confidential information is made to any person, including a person appointed by the regulatory body of another profession in relation to the practice of another member or employee of the MDP.

### Conflicts of interest

- 2-46 (1) A lawyer practising law in an MDP must take all steps reasonable in the circumstances to ensure that the other members of the MDP will comply with the provisions of the Act, these rules and the *Code of Professional Conduct* respecting conflicts of interest as they apply to lawyers.
- (2) This rule applies when the MDP has provided legal services to a client or when a potential client has sought legal services from the MDP.

### Liability indemnification

- 2-47 (1) A lawyer practising law in an MDP must ensure that every non-lawyer member of the MDP providing services directly or indirectly to the public on behalf of the MDP
- (a) maintains professional liability indemnity coverage
    - (i) on the terms and conditions offered by the Society through the Lawyers Indemnity Fund and pays the indemnity fee, and
    - (ii) in an amount equivalent to the total amount of coverage that the MDP maintains in excess of that required under Rule 3-39(1) [*Compulsory professional liability indemnification*], and
  - (b) complies with the provisions of Part 3, Division 5 [*Indemnification*] as if the non-lawyer were a lawyer.
- (2) If a non-lawyer member of an MDP agrees in writing, in the prescribed form, to engage in activities on behalf of the MDP for an average of 25 hours or less per week, the applicable indemnity base assessment is the part-time indemnity fee specified in Schedule 1.

### Trust funds

- 2-48 (1) A lawyer practising law in an MDP that accepts any funds in trust from any person must maintain a trust account and a trust accounting system that are
- (a) in compliance with Part 3, Division 7 [*Trust Accounts and Other Client Property*], and
  - (b) within the exclusive control of lawyers practising law in the MDP.
- (2) A lawyer practising law in an MDP must ensure that all funds received by the MDP that would, if received by a lawyer, constitute trust funds, are handled through a trust account and accounting system that complies with these rules.

### **Notifying the Society**

- 2-49** (1) Each lawyer who practises law in an MDP must report to the Executive Director in the prescribed form concerning the following:
- (a) non-lawyer members of the MDP providing services to the public;
  - (b) the reasonable steps taken to protect privileged and confidential information under Rule 2-45 [*Privilege and confidentiality*];
  - (c) compliance with the rules respecting conflicts of interest;
  - (d) professional liability indemnity coverage maintained by non-lawyers under Rule 2-47 [*Liability indemnification*],
  - (e) trust accounts and trust accounting records maintained under Rule 2-48 [*Trust funds*];
  - (f) the agreements required under Rule 2-39 [*Conditions for MDP*] between the lawyer and all non-lawyer members of the MDP, and
  - (g) any other matter required by the Credentials Committee.
- (2) The report required under this rule must be made annually on a date determined by the Executive Director, or more frequently as determined by the Credentials Committee.

## **Division 2 – Admission and Reinstatement**

### **Credentials Committee**

#### **Credentials Committee**

- 2-50** (1) For each calendar year, the President must appoint a Credentials Committee, including a chair and vice chair, both of whom must be Benchers.
- (2) The President may remove any person appointed under subrule (1).
- (3) At any time, the President may appoint a person to the Credentials Committee to replace a Committee member who resigns or otherwise ceases membership in the Committee, or to increase the number of members of the Committee.

#### **Referral to Credentials Committee**

- 2-51** (1) The Executive Director may refer any matter for decision under this division to the Credentials Committee.
- (2) At the written request of a lawyer, former lawyer, articled student or applicant affected by a decision made by the Executive Director under this division, the Executive Director must refer the matter to the Credentials Committee.
- (3) When the Executive Director refers a matter to the Credentials Committee under this rule, the Committee may make any decision open to the Executive Director under this division and may substitute its decision for that of the Executive Director.

## **Powers of Credentials Committee**

- 2-52** (1) The Credentials Committee may
- (a) exercise the authority of the Benchers to call and admit barristers and solicitors,
  - (b) implement, administer and evaluate a training course and examinations, assignments and assessments for all articulated students,
  - (c) establish standards for passing the training course and examinations, assignments and assessment,
  - (d) establish procedures to be applied by the Executive Director and faculty of the training course for
    - (i) the deferral, review or appeal of failed examinations, assignments and assessments, and
    - (ii) remedial work in the training course or examinations, assignments and assessments, and
  - (e) review, investigate and report to the Benchers on all aspects of legal education leading to call and admission.
- (2) When the Credentials Committee is empowered to order a hearing under this division, it may do so even though the application has been withdrawn.
- (3) The Credentials Committee may, with the consent of the person concerned, vary or remove practice conditions or limitations imposed by the Committee under this division.

## **Application for enrolment, admission or reinstatement**

### **Disclosure of information**

- 2-53** (1) When a person makes an application under this division, the Executive Director may
- (a) disclose the fact that the application has been made and the status of the application, and
  - (b) provide information to a governing body under Rule 2-27.1 [*Sharing information with a governing body*].
- (2) For the purpose of subrule (1) (a), the status of an application is its stage of progress in processing the application, including, but not limited to the following:
- (a) received and under review;
  - (b) granted, with or without conditions or limitations;
  - (c) referred to the Credentials Committee;
  - (d) hearing ordered, whether or not a hearing has been scheduled;
  - (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 the prescribed form, 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 articulated student, the Executive Director may

### Articling term

- 2-59** (1) Unless the articling period is changed under Rules 2-59 to 2-65, an articulated student must work in the office of his or her principal for a period of not less than 9 months.
- (2) Unless otherwise permitted in this division, the articling term must be continuous, except that this period may be interrupted by
- (a) attendance at the training course,
  - (b) annual vacation of up to 10 working days at the discretion of the principal, or
  - (c) a leave of absence as permitted under Rule 2-69 [*Leave during articles*].
- (3) Any time taken for matters referred to in subrule (2) must not be included in the calculation of the articling term.
- (4) The articling term must not be reduced by more than 5 months under any other rule or the combined effect of any rules.
- (5) The Credentials Committee may increase the articling term to not more than 2 years if
- (a) the articulated student's performance has been unsatisfactory,
  - (b) the articulated student has not completed his or her obligations under the articling agreement, or
  - (c) other circumstances justify an increase.
- (6) If it would result in the articulated student qualifying for call and admission within 2 years of the student's first enrolment start date, a student enrolled for a second time is entitled to credit for
- (a) successful completion of the training course, and
  - (b) time spent in articles.
- (7) If an articulated student is enrolled for a second or subsequent time, the Credentials Committee may grant credit for successful completion of the training course and some or all time spent in articles when the articulated student was previously enrolled.

### Legal services by articulated students

- 2-60** (1) Subject to subrule (2) or any other prohibition in law, an articulated student may provide all legal services that a lawyer is permitted to provide, but the student's principal or another practising lawyer supervising the student must ensure that the student is
- (a) competent to provide the services offered,
  - (b) supervised to the extent necessary in the circumstances, and
  - (c) properly prepared before acting in any proceeding or other matter.

- (2) An articulated student must not
- (a) appear as counsel without the student's principal or another practising lawyer in attendance and directly supervising the student in the following:
    - (i) an appeal in the Court of Appeal, the Federal Court of Appeal or the Supreme Court of Canada;
    - (ii) a civil or criminal jury trial;
    - (iii) a proceeding by way of indictment,
  - (b) give an undertaking unless the student's principal or another practising lawyer supervising the student has also signed the undertaking, or
  - (c) accept an undertaking unless the student's principal or another practising lawyer supervising the student also accepts the undertaking.
- (3) Despite subrule (2) (a) (iii), an articulated student may appear without the student's principal or another practising lawyer in attendance and directly supervising the student in a proceeding
- (a) within the absolute jurisdiction of a provincial court judge, or
  - (b) by way of indictment with respect to
    - (i) an application for an adjournment,
    - (ii) setting a date for preliminary inquiry or trial,
    - (iii) an application for judicial interim release,
    - (iv) an application to vacate a release or detention order and to make a different order, or
    - (v) an election or entry of a plea of Not Guilty on a date before the trial date.

### Mid-term report

- 2-61** (1) This rule does not apply to
- (a) temporary articles under Rule 2-70 [*Temporary articles*], or
  - (b) articles when the term is less than 6 months.
- (2) Before the student has completed 60 per cent of the student's articling term, the principal and the student must deliver to the Executive Director a joint report on the student's progress to date in articles in the prescribed form.
- (3) A report under this rule must include a plan for completing the obligations of the principal and student under the articling agreement.



### Part-time articles

- 2-62** (1) An applicant for enrolment may apply to complete some or all of his or her articles part-time by submitting the following to the Executive Director not less than 2 months before the enrolment start date:
- (a) the documents and information required under Rule 2-54 (1) [*Enrolment in the admission program*];
  - (b) the application fee specified in Schedule 1;
  - (c) an articling agreement that includes all of the following:
    - (i) the prospective principal's express approval of the part-time arrangements;
    - (ii) the type of experience to be provided to the applicant;
    - (iii) the hours per day to be worked by the applicant;
    - (iv) the length of the proposed articling term.
- (2) An articulated student may apply to change his or her articles to part-time articles by submitting to the Executive Director the articling agreement referred to in subrule (1) (c).
- (3) The Executive Director may approve an application made under subrule (1) or (2) if
- (a) the proposed articling term is a continuous period that would give work experience in the office of the principal equivalent to that required under Rule 2-59 (1) [*Articling term*], and
  - (b) the student or applicant's articles will be completed within 2 years of the articling start date.
- (4) The part-time equivalent of the articling period is calculated on the following basis:
- (a) 8 hours of scheduled work equals one day of articles;
  - (b) no additional credit is allowed for more than 8 hours per day.
- (5) If the Executive Director refers an application under this rule to the Credentials Committee, the Committee must consider the applicant's submissions and may
- (a) approve the application without conditions or limitations,
  - (b) approve the application, subject to any conditions or limitations it considers appropriate, or
  - (c) reject the application.

### Law clerks

- 2-63** (1) An articulated student who has been employed as a law clerk for not less than 8 months may apply in writing to the Executive Director for a reduction in the articling term by an amount of time equal to half of the time served as a law clerk.
- (2) An articulated student whose application under this rule is accepted must article to his or her principal for a period of time and according to a schedule approved by the Executive Director.

- (3) An application under this rule must be accompanied by
  - (a) a written report on the student's character and competence from the judge to whom the articulated student clerked, and
  - (b) other documents or information that the Credentials Committee may reasonably require.

### **Articles in another Canadian jurisdiction**

**2-64** An articulated student or applicant for enrolment who has served a period of articles in another Canadian jurisdiction immediately before or after the student's period in articles in British Columbia, may apply in writing to the Executive Director for a reduction in the articling term by an amount of time equal to the time served in articles in the other jurisdiction.

### **Practice experience in a common law jurisdiction outside Canada**

- 2-65** (1) An articulated student or applicant for enrolment who holds professional legal qualifications obtained in a common law jurisdiction outside Canada and has been in the active practice of law in that jurisdiction for at least one full year, may apply in writing to the Executive Director for a reduction in the articling term.
- (2) The Executive Director may reduce an articling term under this rule by up to one month for each full year of active practice of law in another jurisdiction.

### **Secondment of articles**

- 2-66** (1) A principal may permit his or her articulated student to work in the office of another lawyer qualified to act as a principal, for not more than a total of 8 weeks of the student's articling period.
- (2) The Executive Director may permit an articulated student to work in the office of a lawyer qualified to act as a principal, other than the student's principal for a period or periods exceeding 8 weeks of the student's articling period.
- (3) If the Executive Director grants permission under subrule (2), the Executive Director may set conditions or limitations as appropriate.

### **Assignment of articles**

- 2-67** (1) An articulated student may apply for permission to assign the student's articles to another lawyer qualified to act as a principal by filing with the Executive Director, not later than 7 days after commencing employment at the office of the new principal,
- (a) an assignment of articles in the prescribed form,
  - (b) a declaration of principal in the prescribed form, and
  - (c) statements from the previous principal and from the articulated student setting out the reasons for the assignment.

- (2) If the articulated student does not apply to the Executive Director within the time specified in subrule (1), the time between the date the student left the previous principal's office and the date the student filed the application for assignment is not part of the articling period, unless the Credentials Committee directs otherwise.
- (3) If the previous principal does not execute one or more of the documents referred to in subrule (1), the Executive Director may dispense with the filing of those documents.
- (4) If the proposed principal is qualified to act as principal to an articulated student, the Executive Director may approve an application under this rule.
- (5) If the Executive Director refers an application under this rule to the Credentials Committee, the Committee must consider the student's submissions, and may
  - (a) approve the application without conditions or limitations,
  - (b) approve the application, subject to any conditions or limitations it considers appropriate, or
  - (c) reject the application.
- (6) An application under this rule must be approved effective on or after the date on which the articulated student began employment at the office of a new principal.

### **Other employment**

**2-68** During the articling period and the training course, an articulated student is not permitted to accept employment from any person other than the student's principal or the person to whom the student's articles are seconded under Rule 2-66 [*Secondment of articles*], except with the approval of the Executive Director.

### **Leave during articles**

- 2-69** (1) In the period from an articulated student's enrolment start date until call and admission, the student may take a leave of absence from articles, provided
- (a) the total time of leaves of absence, other than maternity and parental leaves, during the period does not exceed 22 working days,
  - (b) the leave of absence does not affect the student's attendance at the training course as required, and
  - (c) if any part of the leave is to take place when the student is required to work in the office of his or her principal, the principal consents to the leave in advance.
- (2) Any time taken for a leave of absence under this rule is not part of the articling period.
- (3) An articulated student who becomes a natural or adoptive parent during or within 12 weeks before the articling period is entitled to 12 weeks or, if the student is the primary caregiver of the child, 16 weeks parental leave.

- (4) An articulated student is entitled to 18 weeks maternity leave during the period from 11 weeks before to 17 weeks after giving birth, in addition to her entitlement under subrule (3).
- (5) If maternity or parental leave causes an articulated student to fail to attend any part of the training course, the Credentials Committee may require the student to attend all or part of the course at a session held after the completion of the student's maternity or parental leave.
- (6) An articulated student who takes a leave of absence under subrule (1) must notify the Executive Director in writing in advance.
- (7) An articulated student who takes a leave of absence under subrule (3) or (4) must notify the Executive Director in writing as soon as possible.
- (8) On the written application of an articulated student, the Executive Director may allow the student to take a leave of absence that is not otherwise authorized by this rule, provided that the articulated student will be eligible for call and admission within 2 years of his or her enrolment in the admission program.
- (9) On the written application of an articulated student, the Credentials Committee may allow the student to take a leave of absence that the Executive Director has not approved, including a leave that will result in the student not being eligible for call and admission within 2 years of his or her enrolment in the admission program.

### Temporary articles

- 2-70** (1) A person may apply for enrolment in temporary articles by filing the following with the Executive Director, not less than 30 days before the enrolment start date:
- (a) an application for enrolment in the prescribed form, including a written consent for the release of relevant information to the Society;
  - (b) an articling agreement in the prescribed form;
  - (c) the application fee for temporary articles specified in Schedule 1.
- (2) The Executive Director may enrol the following in temporary articles:
- (a) a student at a common law faculty of law in a Canadian university;
  - (b) a person whose application for enrolment as an articulated student has been approved, but whose articling term has not yet begun;
  - (c) a person who is qualified to practise law in a Commonwealth country and has actually practised law in that country for 2 years or more.
- (3) Temporary articles granted under subrule (2) (a) are void if the student ceases to be a student at a common law faculty of law in Canada.

### **Termination of enrolment**

- 2-75** (1) An articulated student is no longer enrolled in the admission program if the principal or the student has terminated the student's articles for any reason and no assignment of the student's articles is approved within 30 days.
- (2) The 30-day period referred to in subrule (1) does not run while the student is registered in and attending the training course.
- (3) A person whose enrolment has ceased under subrule (1) may apply for enrolment under Rule 2-54 (1) [*Enrolment in the admission program*].

## **Call and admission**

### **Call and admission**

- 2-76** (1) To qualify for call and admission, an articulated student must complete the following satisfactorily:
- (a) the articling term;
  - (b) the training course;
  - (b.1) the practice management course;
  - (c) any other requirements of the Act or these rules imposed by the Credentials Committee or the Benchers.
- (2) Subrule (1) (b.1) applies to articulated students enrolled in the admission program on or after January 1, 2018.

### **First call and admission**

- 2-77** (1) An articulated student who applies for call and admission must deliver to the Executive Director
- (a) the following in the prescribed form:
    - (i) a petition for call and admission;
    - (ii) a declaration of the principal;
    - (iii) a declaration of the applicant;
    - (iv) a joint report of the principal and the applicant certifying completion of their obligations under the articling agreement;
    - (v) a completed questionnaire;
    - (vi) written consent for the release of relevant information to the Society,
  - (b) a professional liability indemnity application or exemption form,
  - (c) the following fees:
    - (i) the call and admission fees specified in Schedule 1;
    - (ii) the prorated practice fee specified in Schedule 2;

- (iii) the prorated annual indemnity fee specified in Schedule 2, unless exempt under Rule 3-43 [*Exemption from professional liability indemnification*], and
  - (d) any other information and documents required by the Act or these rules that the Credentials Committee or the Benchers may request.
- (2) An articled student may apply under this rule at any time.
  - (3) If an articled student fails to meet the requirements of this rule, including the delivery of all documents specified, the Executive Director must summarily
    - (a) reject the application for call and admission, and
    - (b) terminate the student's enrolment.
  - (4) When the Credentials Committee has initiated a review under Rule 5-19 [*Initiating a review*] of a hearing panel's decision to enrol an articled student, the articled student is not eligible for call and admission until the review board has issued a final decision on the review or the Committee withdraws the review.

### **Law school faculty**

- 2-78 (1) A full-time lecturer in a faculty of law of a university in Canada who has the academic qualifications required under Rule 2-54 [*Enrolment in the admission program*] may apply for call and admission without completing the admission program.
- (2) On an application under this rule, the Credentials Committee may approve the application subject to the condition specified in subrule (3).
- (3) A lawyer called and admitted under this rule who ceases to be a full-time lecturer in a faculty of law of a university in Canada must complete the admission program unless the Credentials Committee otherwise orders.
- (4) The Benchers may require a lawyer who fails to comply with subrule (3) to resign from the Society.

### **Transfer from another Canadian jurisdiction**

- 2-79 (1) An applicant for call and admission on transfer from another jurisdiction in Canada must deliver the following to the Executive Director:
  - (a) an application for call and admission on transfer in the prescribed form, including written consent for the release of relevant information to the Society;
  - (b) a certificate of character;
  - (c) a certificate of standing from each body regulating the legal profession in any jurisdiction in which the applicant is or has been a member of the legal profession;

- (3) To qualify for call and admission, an applicant under this rule must certify, in the prescribed form, that he or she has reviewed and understands all of the materials reasonably required by the Executive Director.
- (4) A lawyer called and admitted under this rule has no greater rights as a member of the Society than
  - (a) the lawyer has as a member of the governing body of his or her home jurisdiction, or
  - (b) any other member of the Society in similar circumstances.

### **Transfer as Canadian legal advisor**

- 2-82** (1) Subject to subrule (3), a member of the Chambre may apply for call and admission on transfer as a Canadian legal advisor by delivering to the Executive Director the following:
- (a) a completed application for call and admission as a Canadian legal adviser in the prescribed form, including written consent for the release of relevant information to the Society;
  - (b) a certificate of character;
  - (c) a certificate of standing from the Chambre and each other body regulating the legal profession, in any jurisdiction, in which the applicant is or has been a member of the legal profession;
  - (d) a professional liability indemnity application or exemption form;
  - (e) the following fees:
    - (i) the application fee and call and admission fees specified in Schedule 1;
    - (ii) the prorated practice fee specified in Schedule 2;
    - (iii) the prorated annual indemnity fee specified in Schedule 2, unless exempt under Rule 3-43 [*Exemption from professional liability indemnification*];
  - (f) any other information and documents required by the Act or these rules that are requested by the Credentials Committee or the Benchers.
- (2) Subject to subrule (1), Rules 2-79 to 2-84 apply, with any necessary changes, to an application for call and admission on transfer as a Canadian legal advisor.
- (3) This rule does not apply to a member of the Chambre unless he or she has earned a bachelor's degree in civil law in Canada or a foreign degree and a certificate of equivalency from the Chambre.

### **Consideration of application for call and admission**

- 2-83** (1) The Executive Director must consider an application for call and admission by a person meeting the requirements under this division, and may conduct or authorize any person to conduct an investigation concerning the application.

- (2) On an application for call and admission, the Executive Director may
  - (a) authorize the call and admission of the applicant without conditions or limitations, 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) authorize the call and admission of the applicant without conditions or limitations,
  - (b) authorize the call and admission of the applicant with conditions or limitations on the applicant's practice, if the applicant consents in writing to those conditions or limitations, or
  - (c) order a hearing.

### **Barristers and solicitors' roll and oath**

- 2-84**
- (1) The Executive Director must maintain the barristers and solicitors' roll in paper or electronic form, or a combination of both.
  - (2) Every lawyer who is called to the Bar of British Columbia and admitted as a solicitor of the Supreme Court must,
    - (a) before beginning the practice of law, take the barristers and solicitors' oath in a form approved by the Benchers before a judge of the Provincial Court or a superior court in British Columbia or before a practising lawyer, and
    - (b) be presented in open court before one or more of the judges of the Supreme Court.
  - (3) The Executive Director must enter in the barristers and solicitors' roll the full names of all persons who are called as barristers and admitted as solicitors.
  - (4) On proof that an applicant who has otherwise qualified for call and admission has taken the oath required under subrule (2) (a), the Executive Director must issue to the applicant a practising certificate, a non-practising certificate or a Canadian legal advisor certificate, as the case may be.
  - (5) The Executive Director must not renew a practising certificate or a Canadian legal advisor certificate issued under subrule (4) unless the lawyer has been presented in open court as required under subrule (2) (b).
  - (6) Despite subrule (5)
    - (a) the Executive Director may renew a certificate issued under subrule (4) within four months of its expiry date, and
    - (b) the Benchers may, by resolution, extend the time for a lawyer or a category of lawyers to be presented in open court.



## Reinstatement

### Reinstatement of former lawyer

- 2-85** (1) A former lawyer may apply for reinstatement as a member of the Society by delivering the following to the Executive Director:
- (a) an application for reinstatement in the prescribed form, including written consent for the release of relevant information to the Society;
  - (b) the appropriate application fee specified in Schedule 1.
- (2) An applicant for reinstatement may apply for the following status on reinstatement:
- (a) practising lawyer, only if the applicant has met the conditions for practising law under Rule 2-89 [*Returning to practice after an absence*];
  - (b) non-practising member on compliance with Rule 2-3 [*Non-practising members*];
  - (c) retired member if the lawyer is qualified under Rule 2-4 (1) [*Retired members*] and on compliance with Rule 2-4 (2) and (3).
- (3) On an application under subrule (2) (c), the Executive Director may waive payment of all or part of the application fee on any conditions that the Executive Director considers appropriate.
- (4) The Executive Director may issue a practising certificate to an applicant on reinstatement on payment of the following:
- (a) the prorated practice fee specified in Schedule 2;
  - (b) the prorated annual indemnity fee specified in Schedule 2, unless exempt under Rule 3-43 [*Exemption from professional liability indemnification*];
  - (c) any surcharge for which the lawyer is liable under Rule 3-44 (2) [*Deductible, surcharge and reimbursement*].
- (5) The Executive Director may issue a non-practising or retired member certificate to an applicant on reinstatement on payment of the appropriate prorated fee specified in Schedule 3.
- (6) Subject to subrule (7), the Executive Director must consider an application for reinstatement of a former lawyer and may conduct or authorize any person to conduct an investigation concerning the application.

- (7) The Executive Director must not consider an application for reinstatement of a former lawyer unless the former lawyer has
  - (a) submitted all trust reports required under Rules 3-79 [*Trust report*] and 3-84 (1) [*Former lawyers*],
  - (b) paid all assessments accrued under Rule 3-80 [*Late filing of trust report*] before and after the former lawyer ceased to be a member of the Society unless the Executive Director waives all of the assessments under Rule 3-80 (3) and any conditions have been fulfilled, and
  - (c) paid all costs of trust reports ordered under Rule 3-81 (6) [*Failure to file trust report*].
- (8) If an applicant for reinstatement is a disbarred lawyer, the Executive Director must refer the application to the Credentials Committee.
- (9) On an application for reinstatement to which subrules (7) and (8) do not apply, the Executive Director may
  - (a) reinstate the applicant without conditions or limitations, or
  - (b) refer the application to the Credentials Committee for consideration.
- (10) Subject to subrule (11), when the Executive Director refers an application for reinstatement to the Credentials Committee under subrule (9), the Committee may
  - (a) reinstate the applicant without conditions or limitations,
  - (b) reinstate the applicant with conditions or limitations on the applicant's practice if the applicant consents in writing to those conditions or limitations, or
  - (c) order a hearing.
- (11) The Credentials Committee must order a hearing in the following circumstances:
  - (a) section 19(3) applies;
  - (b) the Committee cannot reach another disposition of the matter under subrule (10);
  - (c) the Committee resolves to order a hearing.
- (12) An applicant for reinstatement must give written notice of the application as directed by the Executive Director, and persons so notified may appear in person or by counsel at the hearing and be heard on the application.

### **Subsequent application for reinstatement**

- 2-86** A person whose application for reinstatement is rejected under section 22 (3) [*Credentials hearings*] may not make a new application for reinstatement until the earlier of the following:
- (a) 2 years after the date on which the application was rejected;
  - (b) the date set by the panel when the application was rejected or by the review board on a review under Part 5 [*Hearings and appeals*].

### **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.

### **Annual non-practising and retired member fees**

- 2-105.1** (1) Non-practising and retired members must pay the applicable annual fee specified in Schedule 1 by November 30 of the year preceding the year for which it is payable.
- (2) The Benchers may, by resolution, waive payment of the annual fee by a retired member or group of retired members.

### **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 2-105.1 [*Annual non-practising and retired member fees*] 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 2-105.1 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 the prescribed form.

### **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.

### **Taxes payable**

- 2-114** Any fee or assessment on which any government tax is payable is not paid unless that tax is also paid.

### **Refund when lawyer does not practise law**

- 2-115** (1) A lawyer who has paid an instalment of the annual fee but who satisfies the Executive Director that the lawyer has totally abstained from practice in British Columbia during the portion of the year to which the instalment applies through disability, other than a suspension, is entitled to a refund of
- (a) the difference between the instalment of the practising fee set by the Benchers under section 23 (1) (a) [*Annual fees and practising certificate*] and the portion of the non-practising member fee specified in Schedule 1, and
  - (b) a portion of the annual indemnity fee set under section 30 (3) (a) [*Indemnification*], in an amount determined by the Executive Director.
- (2) On payment of the refund under subrule (1), the lawyer
- (a) immediately ceases to be qualified to practise law, and
  - (b) on compliance with Rule 2-3 [*Non-practising members*], becomes a non-practising member.
- (3) A lawyer who qualifies under Rule 2-4 [*Retired members*] to be a retired member and complies with that rule may elect to become a retired member, rather than a non-practising member under subrule (2) (b), and receive a refund of the difference between the non-practising member fee and the retired member fee specified in Schedule 1, in addition to the refund under subrule (1).

### **Refund on exemption during practice year**

- 2-116** (1) A lawyer who has paid the annual indemnity fee instalment for a portion of the year and ceases to practise for any reason other than suspension or who becomes exempt under Rule 3-43 [*Exemption from professional liability indemnification*] during that portion of the year, is entitled to a refund of a portion of the indemnity fee in an amount determined by the Executive Director.
- (2) If a lawyer becomes a non-practising or retired member during a portion of the year for which the lawyer has paid the annual practising fee instalment, the Executive Director must apply a prorated portion of the practising fee to the prorated non-practising or retired member fee and refund the difference, if any, to the lawyer.
- (3) A lawyer who ceases practising law under any of the following circumstances is entitled to a refund of the unused portion of the annual practising fee instalment paid, less the administration fee specified in Schedule 1:
- (a) judicial appointment;
  - (b) death;
  - (c) total incapacity such that the lawyer is incapable of applying for non-practising status.

**Failure to pay fine, costs or penalty**

- 2-117** (1) The Executive Director must apply any money received from or on behalf of a lawyer or former lawyer to payment of the following due and owing by the lawyer or former lawyer before any fees or assessments:
- (a) a fine;
  - (b) costs;
  - (c) a penalty;
  - (d) a deductible amount paid on behalf of the lawyer under the Society's indemnity policy;
  - (e) reimbursement for payment made on behalf of the lawyer or former lawyer under trust protection indemnity coverage.
- (2) If a lawyer fails to pay, by the time that it is required to be paid, any of the amounts referred to in subrule (1), the Credentials Committee may suspend the lawyer until the amount is paid.
- (3) The Executive Director may approve the form of certificate to be filed in the Supreme Court under section 27 [*Practice standards*], 38 [*Discipline hearings*] or 46 [*Costs*].

**No refund on suspension**

- 2-118** A lawyer who is suspended
- (a) is not entitled to a refund of any part of the annual practising fee for the period of the suspension or any special assessment that the lawyer has paid, and
  - (b) must pay the annual practising fee or special assessment when it is due.



- (5) Despite subrule (4), if the Executive Director considers it necessary for the effective investigation of the complaint, the Executive Director may delay notification of the lawyer.
- (6) When acting under subrule (4), the Executive Director may decline to identify the complainant or the source of the complaint.
- (7) A lawyer must co-operate fully in an investigation under this division by all available means including, but not limited to, responding fully and substantively, in the form specified by the Executive Director
  - (a) to the complaint, and
  - (b) to all requests made by the Executive Director in the course of an investigation.
- (8) When conducting an investigation of a complaint, the Executive Director may
  - (a) require production of files, documents and other records for examination or copying,
  - (b) require a lawyer to
    - (i) attend an interview,
    - (ii) answer questions and provide information relating to matters under investigation, or
    - (iii) cause an employee or agent of the lawyer to answer questions and provide information relating to the investigation,
  - (c) enter the business premises of a lawyer
    - (i) during business hours, or
    - (ii) at another time by agreement with the lawyer.
- (9) Any written response under subrule (7) must be signed by
  - (a) the lawyer personally, or
  - (b) a representative of the law firm, if the complaint is about a law firm.
- (10) The Executive Director may deliver to the complainant a copy or a summary of a response received from the lawyer, subject to solicitor and client privilege and confidentiality.
- (11) A lawyer who is required to produce files, documents and other records, provide information or attend an interview under this rule must comply with the requirement
  - (a) even if the information or files, documents and other records are privileged or confidential, and
  - (b) as soon as practicable and, in any event, by the time and date set by the Executive Director.

### **Failure to produce records on complaint investigation**

- 3-6** (1) Subject to subrules (2) and (3), a lawyer who is required under Rule 3-5 [*Investigation of complaints*] or 4-55 [*Investigation of books and accounts*] to produce and permit the copying of files, documents and other records, provide information or attend an interview and answer questions and who fails or refuses to do so is suspended until he or she has complied with the requirement to the satisfaction of the Executive Director.
- (2) 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 this rule be delayed for a specified period of time.
- (3) At least 7 days before a suspension under this rule 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 (2) and the deadline for making such an application before the suspension is to take effect.

### **Resolution by informal means**

- 3-7** The Executive Director may, at any time, attempt to resolve a complaint through mediation or other informal means.

### **Resolution by consent agreement**

- 3-7.1** (1) At any time before a complaint is referred to a Committee or the chair of the Discipline Committee under Rule 3-8 [*Action after investigation*], the Executive Director may resolve a complaint by agreement with the lawyer.
- (2) A consent agreement under this rule must include admission by the lawyer of a discipline violation and one or more of the following:
- (a) a requirement that the lawyer complete a course of study or remedial program to the satisfaction of the Executive Director;
  - (b) conditions or limitations on the practice of the lawyer;
  - (c) payment of a fine permitted under section 38 [*Discipline hearings*];
  - (d) suspension of the lawyer from the practice of law or from practice of law in one or more fields of law;
  - (e) resignation of the lawyer from membership in the Society;
  - (f) any other disciplinary action that could be ordered by a hearing panel under section 38.

- (3) A consent agreement is not effective unless it is
  - (a) signed by the Executive Director,
  - (b) personally signed by the lawyer or, where the complaint is made against a law firm, by the representative of a law firm, and
  - (c) approved by the chair of the Discipline Committee or another member of the Discipline Committee designated for the purpose by the chair.
- (4) Under subrule (3) (c), the chair of the Discipline Committee or the chair's designate may
  - (a) approve the agreement as proposed, or
  - (b) decline to approve the agreement.
- (5) Subject to Rule 3-7.2 [*Breach of consent agreement*], the Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.
- (6) An admission of conduct tendered in good faith by a lawyer during negotiation that does not result in an effective consent agreement under subrule (3) is not admissible in a hearing of a citation arising from the complaint.
- (7) When a complaint is resolved by means of a consent agreement, the Executive Director must notify the complainant in writing of the disposition.
- (8) Section 15 (3) [*Authority to practise law*] applies to a lawyer who is suspended or disbarred or is permitted to resign from membership in the Society under a consent agreement.

### **Breach of consent agreement**

- 3-7.2** If a lawyer is in breach of a consent agreement, the Executive Director may do one or more of the following:
- (a) treat the breach as a complaint under this division;
  - (b) reopen investigation of the complaint that gave rise to the consent agreement;
  - (c) refer the matter to a Committee or the chair of the Discipline Committee under Rule 3-8 [*Action after investigation*];
  - (d) enter into an amended consent agreement under Rule 3-7.3 [*Amending consent agreement*].

### **Amending consent agreement**

- 3-7.3** (1) A consent agreement may be amended by agreement of the parties reduced to writing and given effect as in Rule 3-7.1 (3) [*Resolution by consent agreement*].
- (2) An agreement amended under subrule (1) has the same effect as if given effect under Rule 3-7.1 (3).

- (3) Either party may apply to the chair of the Discipline Committee to approve a proposed amendment concerning
  - (a) a course of study, remedial program or other task to be completed by the lawyer,
  - (b) conditions or limitations on the practice of the lawyer, or
  - (c) an extension of time to pay a fine or begin a suspension.
- (4) On an application under subrule (3), the chair of the Discipline Committee may
  - (a) amend the agreement as proposed, or
  - (b) decline to amend the agreement.
- (5) The chair of the Discipline Committee may designate another member of the Committee to exercise the discretion under subrule (4).

### **Publication of consent agreement**

- 3-7.4** (1) When a consent agreement has been reached and approved under Rule 3-7.1 [*Resolution by consent agreement*], the Executive Director must publish on the Society's website a summary of the circumstances of the consent agreement and the action taken.
- (2) In addition to that required under subrule (1), publication may be made by any other means.
  - (3) This rule must not be interpreted to permit the disclosure of any information that is subject to solicitor and client privilege or confidentiality.
  - (4) A publication under this rule must identify the lawyer who is a party to the consent agreement.
  - (5) The Executive Director may publish a summary of an amendment to a consent agreement by any means used to publish the original agreement.

### **Action after investigation**

- 3-8** (1) After investigating a complaint, the Executive Director must take no further action if the Executive Director is satisfied that the complaint
  - (a) is not valid or its validity cannot be proven, or
  - (b) does not disclose conduct serious enough to warrant further action.
- (2) The Executive Director may take no further action on a complaint if the Executive Director is satisfied that the matter giving rise to the complaint has been resolved.
  - (3) Unless subrule (1) applies or the Executive Director takes no further action under subrule (2), the Executive Director must refer the complaint to the Practice Standards Committee or to the Discipline Committee.

**“required professional development”** means a minimum number of hours of continuing education determined by the Benchers under Rule 3-29 (1) [*Professional development*];

**“small firm”** includes

- (a) a firm in which not more than 4 lawyers practise law together, and
- (b) a lawyer in an arrangement to share expenses with other lawyers who otherwise practises as an independent practitioner, except when the lawyer relies on a firm that is not a small firm to maintain trust accounting and other financial records on the lawyer’s behalf,

but does not include

- (c) a public body such as government or a Crown corporation, or
- (d) a corporation other than a law corporation, or other private body.

### **Application**

**3-27** Rule 3-28 [*Practice management course*] applies to a lawyer when

- (a) the lawyer begins practice in a small firm or, while practising in a small firm, becomes a signatory on a trust account, unless the lawyer has done both of the following in a Canadian jurisdiction for a total of 2 years or more in the preceding 5 years:
  - (i) engaged in the practice of law in a small firm;
  - (ii) been a signatory on a trust account, or
- (b) the Practice Standards Committee, by resolution, so orders.

### **Practice management course**

- 3-28** (1) Within 6 months after and not more than 12 months before the date on which this Rule applies to a lawyer, the lawyer must
- (a) successfully complete the practice management course, and
  - (b) certify to the Executive Director in the prescribed form that the lawyer has successfully completed the practice management course.
- (2) A lawyer who is in breach of subrule (1) has failed to meet a minimum standard of practice, and the Executive Director may refer the matter to the Discipline Committee or the chair of the Discipline Committee.

### **Professional development**

- 3-29** (1) The Benchers may determine by resolution the minimum number of hours of continuing education that is required of a practising lawyer in each calendar year.
- (2) The Benchers may prescribe circumstances in which a class of practising lawyer may be excused from completing all or part of the required professional development.

- (3) In each calendar year, a practising lawyer must
  - (a) complete the required professional development, and
  - (b) certify to the Executive Director in the prescribed form that the lawyer has completed the required professional development.
- (4) Despite subrule (3), a practising lawyer need not complete the required professional development in a calendar year in which the lawyer has successfully completed the admission program or the equivalent in another Canadian jurisdiction.
- (5) On written application by a practising lawyer who has refrained from the practice of law for a minimum of 60 consecutive days in a calendar year, the Executive Director may reduce the required professional development for that lawyer.
- (6) The Executive Director must not reduce the amount of required professional development under subrule (5)
  - (a) by an amount greater than that proportionate to the part of the calendar year in which the lawyer refrained from the practice of law
  - (b) by any amount if the lawyer refrained from the practice of law as a result of suspension, disbarment or other disciplinary proceedings.
- (7) A lawyer who ceases to be a practising lawyer without completing all required professional development must complete the uncompleted portion in the next calendar year in which the lawyer is a practising lawyer, in addition to the required professional development for that calendar year.
- (8) A practising lawyer who is in breach of this Rule has failed to meet a minimum standard of practice, and the Executive Director may refer the matter to the Discipline Committee or the chair of the Discipline Committee.

## **Mentoring**

- 3-30** (1) The Benchers may allow credit as a mentor, subject to any conditions or limitations that the Benchers consider appropriate.
- (2) To qualify to receive credit as a mentor, a lawyer must
  - (a) be qualified to act as a principal to an articled student under Rule 2-57 (2) and (2.1) [*Principals*], and
  - (b) not be the subject of an order of the Credentials Committee under subrule (4) (c).

- (c) is in compliance with Rule 3-38 (3) [*Professional development for family law neutrals*].
- (2) A lawyer who has been accredited by the Society as a family law mediator may so state in any marketing activity.
- (3) The Credentials Committee may allow a lawyer previously accredited by the Society as a family law mediator time in which to comply with any changes to the requirements under subrule (1) (b).

### **Family law arbitrators**

- 3-36** (1) A lawyer may act as a family law arbitrator only if the lawyer
- (a) possesses sufficient knowledge, skills and experience relevant to family law to carry out the function of an arbitrator in a fair and competent manner,
  - (b) has, for a total of at least 10 years, engaged in the full-time practice of law or the equivalent in part-time practice or sat as a judge or master,
  - (c) has completed a course of study in family law arbitration approved by the Credentials Committee, and
  - (d) is in compliance with Rule 3-38 (3) [*Professional development for family law neutrals*].
- (2) A lawyer who has been accredited by the Society as a family law arbitrator may so state in any marketing activity.
- (3) The Credentials Committee may allow a lawyer who has previously acted as a family law arbitrator time in which to comply with any changes to the requirements under subrule (1) (c).

### **Parenting coordinators**

- 3-37** (1) A lawyer may act as a parenting coordinator only if the lawyer
- (a) possesses sufficient knowledge, skills and experience relevant to family law to carry out the function of a parenting coordinator in a fair and competent manner,
  - (b) has, for a total of at least 10 years, engaged in the full-time practice of law or the equivalent in part-time practice or sat as a judge or master, including considerable family law experience dealing with high conflict families with children,
  - (c) has completed a course of study in parenting coordination approved by the Credentials Committee, and
  - (d) is in compliance with Rule 3-38 (3) [*Professional development for family law neutrals*].

- (2) A lawyer who has been accredited by the Society as a parenting coordinator may so state in any marketing activity.
- (3) The Credentials Committee may allow a lawyer who has previously acted as a parenting coordinator time in which to comply with any changes to the requirements under subrule (1) (c).

### **Professional development for family law neutrals**

- 3-38**
- (1) The Credentials Committee may determine the minimum number of hours of professional development that is required of a family law mediator, arbitrator or parenting coordinator in each calendar year.
  - (2) The requirements under subrule (1) may be different for each of family law mediators, arbitrators or parenting coordinators.
  - (3) In each calendar year, a family law mediator, arbitrator or parenting coordinator must
    - (a) complete the required professional development, and
    - (b) certify to the Executive Director in the prescribed form that the lawyer has completed the professional development required under this rule.
  - (4) Professional development completed under this rule may also be reported under Rule 3-29 [*Professional development*] if it meets the requirements of that rule.
  - (5) Despite subrule (3), a family law mediator, arbitrator or parenting coordinator need not complete the required professional development in a calendar year in which the lawyer has successfully completed the course of study required under Rules 3-35 to 3-37.

## **Division 5 – Indemnification**

### **Compulsory professional liability indemnification**

- 3-39**
- (1) A lawyer must maintain professional liability indemnity coverage on the terms and conditions offered by the Society through the Lawyers Indemnity Fund and pay the indemnity fee under Rule 3-40 [*Annual indemnity fee*], unless the lawyer is exempt or ineligible under Rule 3-43 [*Exemption from professional liability indemnification*].
  - (2) A lawyer is bound by and must comply with the terms and conditions of the professional liability indemnity policy maintained under subrule (1).
  - (3) As soon as practicable, the Executive Director must notify all governing bodies of any change to professional liability indemnification under this division that affects the limits of liability or scope of coverage.



### **Compulsory trust protection indemnification**

- 3-39.1** (1) A lawyer must maintain trust protection indemnity coverage on the terms and conditions offered by the Society through the Lawyers Indemnity Fund and pay any fee for trust protection indemnity coverage set under Rule 3-40 [*Annual indemnity fee*].
- (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 the prescribed form, 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 not engaged in the practice of law, other than providing pro bono legal services, anywhere as a member of the Society.

(1.1) A lawyer may apply in the prescribed form to the Executive Director for exemption from the requirement to maintain professional liability indemnity coverage and pay the indemnity fee if the lawyer is employed by or seconded to one of the following:

- (a) a federal, provincial, territorial or municipal government department or a Crown corporation;
- (b) a society, association, partnership or corporation, other than a law firm;
- (c) a trade union or a similar organization;
- (d) a regulatory body,

and is not engaged in the practice of law, other than providing legal services to that employer or a related organization or providing pro bono legal services.

- (2) A lawyer must not be exempted under subrule (1.1) if the lawyer engages in the practice of law in any way other than as described in that provision.
- (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 in the prescribed form 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, 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 in the prescribed form 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.

- (2) The Executive Director may authorize a lawyer to withdraw trust funds for a purpose not specified in subrule (1).
- (3) No payment from trust funds may be made unless
  - (a) trust accounting records are current, and
  - (b) there are sufficient funds held to the credit of the client on whose behalf the funds are to be paid.
- (4) A lawyer must not make or authorize the withdrawal of funds from a pooled or separate trust account, except
  - (a) by cheque as permitted by subrule (5) or Rule 3-65 (1.1) (a) [*Payment of fees from trust*],
  - (b) by electronic transfer as permitted by Rule 3-64.1 [*Electronic transfers from trust*],
  - (c) by instruction to a savings institution as permitted by subrule (9), or
  - (d) in cash if required under Rule 3-59 (5) or (6) [*Cash transactions*].
- (5) A lawyer who makes or authorizes the withdrawal of funds from a pooled or separate trust account by cheque must
  - (a) withdraw the funds with a cheque marked “Trust,”
  - (b) not make the cheque payable to “Cash” or “Bearer,” and
  - (c) ensure that the cheque is signed by a practising lawyer.
- (6) to (8) [rescinded]
- (9) A lawyer may instruct a savings institution to pay to the Foundation under Rule 3-60 [*Pooled trust account*] the net interest earned on a pooled trust account.
- (10) A transfer of funds from a pooled trust account to a separate trust account must be authorized by the client and approved in writing signed by a lawyer.

### **Electronic transfers from trust**

- 3-64.1** (1) In this rule, “**requisition**” means an electronic transfer of trust funds requisition, in the prescribed form.
- (2) A lawyer may withdraw funds from a pooled or separate trust account by electronic transfer, provided all of the following conditions are met:
    - (a) the electronic funds transfer system used by the lawyer must not permit an electronic transfer of funds unless,
      - (i) a person other than the lawyer, using a password or access code, enters data into the electronic funds transfer system describing the details of the transfer, and
      - (ii) the lawyer, using another password or access code, enters data into the electronic funds transfer system authorizing the financial institution to carry out the transfer;

- (b) the lawyer using an electronic funds transfer system to withdraw trust funds must not
  - (i) disclose the lawyer's password or access code associated with the electronic funds transfer system to another person, or
  - (ii) permit another person, including a non-lawyer employee, to use the lawyer's password or access code to gain such access;
- (c) the electronic funds transfer system used by the lawyer must produce, no later than the close of the banking day immediately after the day on which the electronic transfer of funds is authorized, a confirmation in writing from the financial institution confirming that the data describing the details of the transfer and authorizing the financial institution to carry out the transfer were received;
- (d) the confirmation required in paragraph (c) must contain all of the following:
  - (i) the name of the person authorizing the transfer;
  - (ii) the amount of the transfer;
  - (iii) the trust account name, trust account number and name of the financial institution from which the money is drawn;
  - (iv) the name, branch name and address of the financial institution where the account to which money is transferred is kept;
  - (v) the name of the person or entity in whose name the account to which money is transferred is kept;
  - (vi) the number of the account to which money is transferred;
  - (vii) the time and date that the data describing the details of the transfer and authorizing the financial institution to carry out the transfer are received by the financial institution;
  - (viii) the time and date that the confirmation in writing from the financial institution was sent to the lawyer authorizing the transfer;
- (e) before any data describing the details of the transfer or authorizing the financial institution to carry out the transfer is entered into the electronic funds transfer system, the lawyer must complete and sign a requisition authorizing the transfer;
- (f) the data entered into the electronic funds transfer system describing the details of the transfer and authorizing the financial institution to carry out the transfer must be as specified in the requisition;
- (g) the lawyer must retain in the lawyer's records a copy of
  - (i) the requisition
  - (ii) the confirmation required in paragraph (c).

### **Executive Director's modification**

- 3-76** (1) Having regard to the accounting and storage systems employed by a specific lawyer, the Executive Director may modify the requirements of that lawyer under Rules 3-68 to 3-71 or 3-75 [*Retention of records*].
- (2) The Executive Director may, at any time, cancel or amend a modification under subrule (1).
- (3) The Executive Director must make a modification under subrule (1) or a cancellation or amendment of a modification under subrule (2) in writing.
- (4) A lawyer who receives a written modification from the Executive Director under subrule (1) must retain it and any amendment under subrule (2) for as long as
- (a) the books, records and accounts to which it relates are retained, or
  - (b) the lawyer would have been required to retain the books, records and accounts to which it relates, but for the modification and any amendment.

### **Annual CDIC report**

- 3-77** A lawyer who holds pooled trusts funds in a designated savings institution insured by the Canada Deposit Insurance Corporation must file an annual report for each account maintained by the lawyer with that institution in accordance with section 3 (3) of the Schedule to the *Canada Deposit Insurance Corporation Act*, so that each client's funds, rather than the account itself, are insured up to the limit of CDIC insurance.

### **Lawyer's right to claim funds**

- 3-78** Nothing in this division deprives a lawyer of any recourse or right, whether by way of lien, set-off, counterclaim, charge or otherwise, against
- (a) funds standing to the credit of a client in a trust account, or
  - (b) valuables held for a client.

### **Trust report**

- 3-79** (1) Subject to subrules (4) and (6), a lawyer must deliver to the Executive Director completed trust reports for reporting periods of 12 months covering all the time that the lawyer is a member of the Society.
- (2) The date on which a firm ceases to practise law is the end of a reporting period.
- (3) A lawyer must deliver a completed trust report to the Executive Director within 3 months of the end of each reporting period.
- (4) On a written request made before the due date of a trust report, the Executive Director may allow a lawyer to submit a trust report covering a time period other than 12 months.

- (5) A trust report delivered to the Executive Director under this rule must
  - (a) be in the prescribed form,
  - (b) be complete to the satisfaction of the Executive Director, and
  - (c) include all signatures required in the form.
- (6) A non-practising or retired lawyer or a practising lawyer who is exempt under Rule 3-43 [*Exemption from professional liability indemnification*] from the requirement to maintain professional liability indemnity coverage and pay the indemnity fee, is not required to file a trust report for a reporting period of 12 months during which the lawyer has
  - (a) not received any funds in trust,
  - (b) not withdrawn any funds held in trust, and
  - (c) complied with this division.

### **Late filing of trust report**

- 3-80** (1) A lawyer who does not deliver a trust report as required under Rule 3-79 [*Trust report*] or 3-82 (5) [*Accountant's report*] is in breach of these rules.
- (2) A lawyer who fails to deliver a trust report by the date required under Rule 3-79 [*Trust report*] or 3-82 (5) [*Accountant's report*] is deemed to have been in compliance with the rules during the period of time that the lawyer was late in delivering the report if the lawyer delivers the following to the Executive Director within 30 days of the due date:
- (a) the required report;
  - (b) the late fee specified in Schedule 1.
- (3) A lawyer who does not deliver a trust report for 30 days after it is required under Rule 3-79 [*Trust report*] or 3-82 (5) [*Accountant's report*] is liable to an assessment of \$400 per month or part of a month until the report is delivered.
- (4) When there are special circumstances, the Executive Director may, on application and in his or her discretion, waive payment of all or part of an assessment made under this rule unconditionally or on any conditions that the Executive Director considers appropriate.

### **Failure to file trust report**

- 3-81** (1) Subject to subrules (3) and (4), a lawyer who does not deliver a trust report under Rule 3-79 [*Trust report*] or 3-82 (5) [*Accountant's report*] for 60 days after it is required, is suspended until the report is completed to the satisfaction of the Executive Director and delivered as required.
- (2) A trust report is not delivered for the purposes of subrules (1) unless all explanations of exceptions required by the Executive Director are delivered to the Executive Director.

## Division 8 – Unclaimed Trust Money

### Definition

**3-88** In this division:

“**efforts to locate**” means steps that are reasonable and adequate in all the circumstances, including the amount of money involved;

“**lawyer**” includes a law firm.

### Payment of unclaimed trust money to the Society

- 3-89** (1) A lawyer who has held money in trust on behalf of a person whom the lawyer has been unable to locate for 2 years may apply to the Executive Director to pay those funds to the Society under section 34 [*Unclaimed trust money*].
- (2) A lawyer must make the application referred to in subrule (1) in writing containing all of the following information that is available to the lawyer:
- (a) the full name and last known mailing address of each person on whose behalf the lawyer held the money;
  - (b) the exact amount to be paid to the Society in respect of each such person;
  - (c) the efforts made by the lawyer to locate each such person;
  - (d) any unfulfilled undertakings given by the lawyer in relation to the money;
  - (e) the details of the transaction in respect of which the money was deposited with the lawyer.
- (3) A lawyer who cannot provide all the information described in subrule (2) must advise the Executive Director of the reasons why the lawyer does not have that information and deliver to the Executive Director copies of all records in the lawyer’s power or possession that relate to the ownership and source of the money.
- (4) If the Executive Director is satisfied that the lawyer has made appropriate efforts to locate the owner of the money, the Executive Director may accept the money under section 34 [*Unclaimed trust money*].
- (5) The Executive Director must account for money received by the Society under subrule (4) separately from the other funds of the Society.

### Investigation of claims

- 3-90** (1) A person may make a claim under section 34 [*Unclaimed trust money*] in writing, in the prescribed form by delivering it to the Executive Director.
- (2) A claimant must provide the Executive Director with information and documents that the Executive Director reasonably requires.
- (3) In order to determine the validity of a claim, the Executive Director may make or authorize inquiries or further investigations that he or she considers desirable.

### Adjudication of claims

- 3-91** (1) The Executive Director may
- (a) approve a claim if satisfied that the claim is valid, or
  - (b) refer the claim to the Executive Committee.
- (2) When the Executive Director refers a claim to the Executive Committee, the Committee may, in its discretion
- (a) approve or reject a claim based on the information received under Rule 3-90 [*Investigation of claims*], or
  - (b) order a hearing to determine the validity of a claim.
- (3) If a hearing is ordered, the Executive Director must give the claimant reasonable notice in writing of the date, time and place of the hearing.
- (4) The Executive Director must serve the notice referred to in subrule (3) in accordance with Rule 10-1 [*Service and notice*].
- (5) The Executive Committee must conduct every hearing under this rule in private unless the Committee determines, in the public interest, that a specific individual or the public generally may be present at part or all of the hearing.
- (6) Subject to the Act and these rules, the Executive Committee may determine the practice and procedure to be followed at a hearing.
- (7) The claimant or the Society may call a witness to testify, who
- (a) if competent to do so, must take an oath or make a solemn affirmation before testifying, and
  - (b) is subject to cross-examination.
- (8) Following completion of the evidence, the Executive Committee must invite the claimant and the Society to make submissions on the issues to be decided by the Committee.
- (9) Following the hearing of the evidence and submissions, the Executive Committee must determine whether the claimant is entitled to the money held in trust by the Society.
- (10) If the claim is approved under subrule (1) (a) or (9), the Executive Director must
- (a) calculate the exact amount owing to the claimant,
  - (b) calculate, in accordance with Rule 3-92 [*Calculation of interest*], the interest owing to the claimant on that amount, and
  - (c) pay to the claimant the total of the amounts calculated under paragraphs (a) and (b).



### Calculation of interest

- 3-92** (1) In calculating the interest owing to a claimant under Rule 3-91 [*Adjudication of claims*], the Executive Committee must allow interest, for each 3-month period, at 2% below the prime lending rate of the Society’s banker on March 31, June 30, September 30 and December 31 respectively, in each year, with interest to be compounded on June 30 and December 31 in each year.
- (2) Interest calculated under subrule (1) is payable from the first day of the month following receipt of the unclaimed money by the Society, until the last day of the month before payment out by the Society.

### Efforts to locate the owner of funds

- 3-93** From time to time, the Executive Director must conduct or authorize efforts to locate the owner of money held under this Part.

### Payment to the Law Foundation

- 3-94** Before paying the principal amount received under Rule 3-89 [*Payment of unclaimed trust money to the Society*] to the Foundation under section 34 [*Unclaimed trust money*], the Executive Director must be satisfied that the owner of the money cannot be located following efforts to locate the owner.

## Division 9 – Real Estate Practice

### Definitions

- 3-95** In this division,
- “**closing date**” means the date upon which the documents to effect a transaction are filed as a pending application in the appropriate land title office;
- “**discharge of mortgage**” means any discharge of mortgage that releases any portion of the land or interest in land charged by the mortgage;
- “**mortgage**” means one of the following registered in a land title office in British Columbia:
- (a) a mortgage of land or an interest in land;
  - (b) a debenture or trust deed containing a fixed charge on land or an interest in land;
- “**mortgagee**” includes the holder of a fixed charge under a debenture or trust deed that is a mortgage;
- “**notary**” means a member of the Society of Notaries Public of British Columbia.

### Report of failure to cancel mortgage

- 3-96** A lawyer must deliver to the Executive Director within 5 business days a report in the prescribed form when
- (a) the lawyer delivers funds to
    - (i) a mortgagee to obtain a registrable discharge of mortgage, or
    - (ii) another lawyer or a notary on the undertaking of the other lawyer or notary to obtain and register a discharge of mortgage, and
  - (b) 60 days after the closing date of the transaction giving rise to the delivery of such funds, the lawyer has not received
    - (i) a registrable discharge of mortgage from the mortgagee, or
    - (ii) satisfactory evidence of the filing of a registrable discharge of mortgage as a pending application in the appropriate land title office from the other lawyer or notary.

### Electronic submission of documents

- 3-96.1** A lawyer authorized to access and use the electronic filing system of the land title office for the electronic submission or registration of documents must not
- (a) disclose the lawyer's password associated with an electronic signature to another person, or
  - (b) permit another person, including a non-lawyer employee
    - (i) to use the lawyer's password to gain such access, or
    - (ii) to affix an electronic signature to any document or gain access to the electronic filing system unless otherwise authorized to do so.

## Division 10 – Criminal Charges

### Reporting criminal charges

- 3-97** (1) This rule applies to lawyers, articulated students, practitioners of foreign law and applicants.
- (2) Subject to subrule (4), a person who is charged with an offence under a federal or provincial statute, or an equivalent offence in another jurisdiction, must immediately provide to the Executive Director written notice of the charge.
- (3) [rescinded]
- (4) No notification is required under subrule (2) if a person is issued or served with a ticket as defined in the *Contraventions Act* (Canada) or a violation ticket as defined in the *Offence Act*.

- (2) A lawyer under investigation may not resign from membership in the Society except
  - (a) with the consent of the Executive Director, or
  - (b) under the terms of a consent agreement under Rule 3-7.1 [*Resolution by consent agreement*].
- (3) A respondent may not resign from membership in the Society except with the consent of the Discipline Committee.
- (4) The Executive Director may direct that a lawyer under investigation who would otherwise have ceased to be a member of the Society for failure to pay the annual fee or a special assessment continue as a member not in good standing and not permitted to engage in the practice of law.
- (5) The Discipline Committee may, by resolution, direct that a respondent who would otherwise have ceased to be a member of the Society for failure to pay the annual fee or a special assessment continue as a member not in good standing and not permitted to engage in the practice of law.
- (6) A direction under subrule (4) or (5) may be made to continue in effect until stated conditions are fulfilled.
- (7) When a direction under subrule (4) or (5) expires on the fulfillment of all stated conditions or is rescinded by the Executive Director or Discipline Committee,
  - (a) the lawyer concerned ceases to be a member of the Society,
  - (b) if the rescission is in response to a request of the lawyer concerned, the Committee may impose conditions on the rescission.

### **Notification**

- 4-7** The Executive Director must notify the complainant and the lawyer or law firm in writing of the determination of the Discipline Committee under Rule 4-4 [*Action on complaints*] or the chair under Rule 4-5 [*Consideration of complaints by the chair*].

### **Confidentiality of Discipline Committee deliberations**

- 4-8** (1) No one is permitted to disclose any of the following information except for the purpose of complying with the objects of the Act or with these rules:
- (a) information and documents that form part of the consideration of a complaint under Rule 4-4 [*Action on complaints*] or 4-5 [*Consideration of complaints by chair*];
  - (b) the result of a consideration under Rule 4-4.
- (2) As an exception to subrule (1), the Executive Director may disclose information referred to in that subrule
- (a) with the consent of the lawyer, in responding to an enquiry made for the purpose of a potential judicial appointment, or
  - (b) to a governing body under Rule 2-27.1 [*Sharing information with a governing body*].

- (3) No one is permitted to disclose a direction to issue a citation until the respondent is notified.
- (4) Despite subrule (3), the Executive Director may disclose to the public a direction to issue a citation, its subject matter and its status before the respondent is notified if
  - (a) the identity of the respondent has already been disclosed to the public,
  - (b) the citation is in respect of an offence to which the respondent has pleaded guilty or of which the respondent has been found guilty, or
  - (c) the citation is based on a complaint that has become known to the public.
- (4.1) Despite subrule (1), the Executive Director may disclose information about Discipline 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.
- (5) 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.
- (6) This rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

#### **Conduct letter from the chair**

- 4-9** (1) When a letter authorized under Rule 4-4 (1) (b) [*Action on complaints*] is sent to the lawyer, the Executive Director must provide the complainant with
- (a) a copy of the letter, or
  - (b) if directed by the Discipline Committee, a summary of the letter.
- (2) A letter authorized under Rule 4-4 (1) (b) [*Action on complaints*]
- (a) does not form part of the lawyer's professional conduct record, and
  - (b) is not admissible in the hearing of a citation under this part.

#### **Conduct meeting**

- 4-10** (1) A conduct meeting must be held in private.
- (2) The Discipline Committee or the chair of the Discipline Committee may appoint one or more individuals who are Benchers, Life Benchers or lawyers to meet with a lawyer or a law firm required to attend a conduct meeting under Rule 4-4 (1) (c) [*Action on complaints*].
- (3) No record of an order under Rule 4-4 (1) (c) [*Action on complaints*] or of the conduct meeting forms part of the lawyer's professional conduct record.
- (4) A Bencher or other lawyer who has participated in a conduct meeting is not permitted to testify in the hearing of a citation as to any statement made by the respondent during the conduct meeting, unless the respondent puts the matter in issue.

## Procedure

- 5-6** (1) Subject to the Act and these Rules, the panel may determine the practice and procedure to be followed at a hearing.
- (2) Before a court reporter begins reporting the proceedings of a hearing, the chair of the panel must ensure that the reporter takes an oath or makes a solemn affirmation to faithfully and accurately report and transcribe the proceedings.
- (3) The applicant, respondent or counsel for the Society may call witnesses to testify.
- (4) All witnesses, including a respondent ordered to give evidence under section 41 (2) (a) [*Panels*],
- (a) must take an oath or make a solemn affirmation, if competent to do so, before testifying, and
  - (b) are subject to cross-examination.
- (5) The panel may make inquiries of a witness as it considers desirable.
- (6) The hearing panel may accept any of the following as evidence:
- (a) an agreed statement of facts;
  - (b) oral evidence;
  - (c) affidavit evidence;
  - (d) evidence tendered in a form agreed to by the respondent or applicant and Society counsel;
  - (e) an admission made or deemed to be made under Rule 4-28 [*Notice to admit*];
  - (f) any other evidence it considers appropriate.

## Communication with Ombudsperson confidential

- 5-7** (1) This rule is to be interpreted in a way that will facilitate the Ombudsperson assisting in the resolution of disputes through communication without prejudice to the rights of any person.
- (2) Communication between the Ombudsperson acting in that capacity and any person receiving or seeking assistance from the Ombudsperson is confidential and must remain confidential in order to foster an effective relationship between the Ombudsperson and that individual.
- (3) The Ombudsperson must hold in strict confidence all information acquired in that capacity from participants.

- (4) In a proceeding
  - (a) no one is permitted to give evidence about any discussion or other communication with the Ombudsperson in that capacity, and
  - (b) no record can be admitted in evidence or disclosed under Rule 4-34 [*Demand for disclosure of evidence*] or 4-35 [*Application for details of the circumstances*] if it was produced
    - (i) by or under the direction of the Ombudsperson in that capacity, or
    - (ii) by another person while receiving or seeking assistance from the Ombudsperson, unless the record would otherwise be admissible or subject to disclosure under Rule 4-34 [*Demand for disclosure of evidence*] or 4-35 [*Application for details of the circumstances*].

### **Public hearing**

- 5-8** (1) Every hearing is open to the public, but the panel or review board may exclude some or all members of the public.
- (1.1) The panel or review board must not make an order under subrule (1) unless, in the judgment of the panel or review board
  - (a) the public interest or the interest of an individual in the order outweighs the public interest in the principle of open hearings in the present case, or
  - (b) the order is required to protect the safety of an individual.
- (2) On application by anyone, or on its own motion, the panel or review board may make the following orders to protect the interests of any person:
  - (a) an order that specific information not be disclosed despite Rule 5-9 (2) [*Transcript and exhibits*];
  - (b) any other order regarding the conduct of the hearing necessary for the implementation of an order under paragraph (a).
- (3) Despite the exclusion of the public under subrule (1) in a hearing on a citation, the complainant and one other person chosen by the complainant may remain in attendance during the hearing, unless the panel orders otherwise.
- (4) Except as required under Rule 5-9 [*Transcript and exhibits*], when a hearing is in progress, no one is permitted to possess or operate any device for photographing, recording or broadcasting in the hearing room without the permission of the panel or review board, which the panel or review board in its discretion may refuse or grant, with or without conditions or restrictions.
- (5) When a panel or review board makes an order or declines to make an order under this rule, the panel or review board must give written reasons for its decision.

### **Transcript and exhibits**

- 5-9** (1) All proceedings at a hearing must be recorded by a court reporter.
- (2) Subject to the Act, these rules and the *Freedom of Information and Protection of Privacy Act*, any person may obtain, at the person's own expense, a copy of
- (a) a transcript of any part of the hearing that is open to the public, or
  - (b) an exhibit entered in evidence when a hearing is open to the public.
- (3) This rule must not be interpreted to permit the disclosure of any information, files or records that are confidential or subject to a solicitor client privilege.

### **Decision**

- 5-10** (1) A decision of a hearing panel is made by majority vote.
- (2) On request, the Executive Director must disclose a panel's written reasons for its decision, subject to the protection of solicitor and client privilege and confidentiality.
- (3) When a hearing panel gives written reasons for its decision, it must not disclose in those reasons any information that is confidential or subject to solicitor and client privilege.

### **Costs of hearings**

- 5-11** (1) A panel may order that an applicant or respondent pay the costs of a hearing referred to in Rule 5-1 [*Application*], and may set a time for payment.
- (2) A review board may order that an applicant or respondent pay the costs of a review under section 47, and may set a time for payment.
- (3) Subject to subrule (4), the panel or review board must have regard to the tariff of costs in Schedule 4 [*Tariff for hearing and review costs*] to these Rules in calculating the costs payable by an applicant, a respondent or the Society.
- (4) A panel or review board may order that the Society, an applicant or a respondent recover no costs or costs in an amount other than that permitted by the tariff in Schedule 4 [*Tariff for hearing and review costs*] if, in the judgment of the panel or review board, it is reasonable and appropriate to so order.
- (5) The cost of disbursements that are reasonably incurred may be added to costs payable under this Rule.
- (6) In the tariff in Schedule 4 [*Tariff for hearing and review costs*],
- (a) one day of hearing includes a day in which the hearing or proceeding takes 2 and one-half hours or more, and
  - (b) for a day that includes less than 2 and one-half hours of hearing, one-half the number of units or amount payable applies.

- (7) If no adverse finding is made against the applicant, the panel or review board has the discretion to direct that the applicant be awarded costs.
- (8) If the citation is dismissed or rescinded after the hearing has begun, the panel or review board has the discretion to direct that the respondent be awarded costs in accordance with subrules (3) to (6).
- (9) Costs deposited under Rule 2-92 [*Security for costs*] must be applied to costs ordered under this Rule.
- (10) An applicant must not be enrolled, called and admitted or reinstated until the costs ordered under this Rule or the Act are paid in full.
- (11) As an exception to subrule (10), the Credentials Committee may direct that an applicant be enrolled, called and admitted or reinstated even though costs ordered under this rule have not been paid in full and may make the direction subject to any conditions that the Committee finds appropriate.

### **Application to vary certain orders**

- 5-12** (1) An applicant or respondent may apply in writing to the President for
- (a) an extension of time
    - (i) to pay a fine or the amount owing under Rule 5-11 [*Costs of hearings*],  
or
    - (ii) to fulfill a condition imposed under section 22 [*Credentials hearings*],  
38 [*Discipline hearings*], or 47 [*Review on the record*],
  - (b) a variation of a condition referred to in paragraph (a) (ii), or
  - (c) a change in the start date for a suspension imposed under section 38  
[*Discipline hearings*] or 47 [*Review on the record*].
- (2) An application under subrule (1) (c) must be made at least 7 days before the start date set for the suspension.
- (2.1) A party or anyone with an interest in information subject to an order made under Rule 5-8 (2) (a) [*Public hearing*] may make an application in writing to the President for rescission or variation of the order.
- (3) [rescinded]
- (4) The President must refer an application under subrule (1) or (2.1) to one of the following, as may in the President's discretion appear appropriate:
- (a) the same panel or review board that made the order;
  - (b) a new panel;
  - (c) the Discipline Committee;
  - (d) the Credentials Committee.



- (5) The panel, review board or Committee that decides an application under subrule (1) must
  - (a) dismiss the application,
  - (b) extend to a specified date the time for payment,
  - (c) vary the conditions imposed, or extend to a specified date the fulfillment of the conditions, or
  - (d) specify a new date for the start of a period of suspension imposed under section 38 [*Discipline hearings*] or 47 [*Review on the record*].
- (5.1) The panel, review board or Committee that decides an application under subrule (2.1) must
  - (a) dismiss the application,
  - (b) rescind the order, or
  - (c) vary the order to one that the original panel or review board was permitted to make under Rule 5-8 (2) (a) [*Public hearing*].
- (6) If, in the view of the President and the chair of the Committee to which an application is referred under subrule (4) (c) or (d), there is a need to act on the application before a meeting of the Committee can be arranged, the chair of the Committee may hear the application and make the determination under subrule (5).
- (7) An application under this rule does not stay the order that the applicant seeks to vary.

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## PART 9 – INCORPORATION AND LIMITED LIABILITY PARTNERSHIPS

### Division 1 – Law Corporations

#### Corporate name

9-1 A corporation must use a name

- (a) under which no other corporation holds a valid law corporation permit under this division,
- (b) that does not so nearly resembles the name of another corporation holding a valid law corporation permit under this division that it is likely to confuse or mislead the public,
- (c) that complies with the *Code of Professional Conduct*, section 4.2 [Marketing], and
- (d) that includes one of the following phrases:
  - (i) “law corporation”;
  - (ii) “law ULC”;
  - (iii) “law unlimited liability company.”

#### Corporate name certificate

- 9-2 (1) A lawyer may apply to the Executive Director, in the prescribed form, for a certificate that the Society does not object to the incorporation of a company as a law corporation under a proposed name.
- (2) On receipt of an application under subrule (1), the Executive Director must either
- (a) issue a certificate to the lawyer if the Executive Director is satisfied that the intended name complies with Rule 9-1 [Corporate name], or
  - (b) reject the application.
- (3) The Executive Director must notify the lawyer in writing of his or her decision under subrule (2).

#### Review of Executive Director’s decision

- 9-3 (1) A lawyer whose application is rejected under Rule 9-2 [Corporate name certificate] may apply in writing to the Ethics Committee for a review.
- (2) After considering any submissions received from the lawyer and from the Executive Director, the Ethics Committee must
- (a) direct the Executive Director to issue a certificate to the lawyer if it is satisfied that the intended name complies with Rule 9-1 [Corporate name], or
  - (b) reject the application.
- (3) The Ethics Committee must notify the lawyer and the Executive Director in writing of its decision under this Rule.

### Law corporation permit

- 9-4** A company may apply to the Executive Director for a law corporation permit by delivering to the Executive Director
- (a) a completed permit application in the prescribed form,
  - (b) a true copy of the certificate of incorporation of the company and any other certificates that reflect a change in name or status, and
  - (c) the fee specified in Schedule 1.

### Issuance of permit

- 9-5** (1) Subject to section 82 [*Law corporation permit*], the Executive Director must issue a law corporation permit to a company that has complied with the Act and these rules.
- (2) Subject to subrule (3), a law corporation permit issued under subrule (1) is valid from the effective date shown on it.
- (3) A permit issued to a law corporation ceases to be valid if
- (a) it is revoked under Rule 9-11 [*Revocation of permits*],
  - (b) a practising lawyer who is a voting shareholder in the law corporation dies or otherwise ceases to be a practising lawyer, and no provision is made in the articles of the law corporation for the immediate and automatic disposition of that person's shares in that case,
  - (c) another law corporation that is a voting shareholder in the law corporation ceases to be registered as a company under the *Business Corporations Act* or ceases to hold a valid law corporation permit and no provision is made in the articles of the law corporation for the immediate and automatic disposition of the other law corporation's shares in that case, or
  - (d) the corporation surrenders the permit to the Executive Director.

### Change of corporate name

- 9-6** (1) A law corporation may apply to the Executive Director in the prescribed form for a certificate that the Society does not object to a specific change of name for the law corporation.
- (2) Rules 9-1 to 9-3 apply to an application under subrule (1), with the necessary changes and so far as they are applicable.
- (3) A law corporation must not apply for a change of name under the *Business Corporations Act* unless it has been granted the certificate referred to in subrule (1).

## SCHEDULE 1 – 2021 LAW SOCIETY FEES AND ASSESSMENTS

<b>A. Annual fee</b>	<b>\$</b>
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 2-105.1 (1) [ <i>Annual non-practising and retired member fees</i> ]) .....	125.00
6. Late payment fee for retired members (Rule 2-108 (4)).....	nil
7. Non-practising member fee (Rule 2-105.1 (1)) .....	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>B. Trust administration fee</b>	
1. Each client matter subject to fee (Rule 2-110 (1) [ <i>Trust administration fee</i> ]) ..	15.00
 <b>C. Special assessments</b>	
 <b>D. Articled student fees</b>	
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
 <b>E. Transfer fees</b>	
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
 <b>F. Call and admission fees</b>	
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

<b>G. Reinstatement fees</b>	<b>\$</b>
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
 <b>H. Change of status fees</b>	
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
 <b>I. Inter-jurisdictional practice fees</b>	
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
 <b>J. Corporation and limited liability partnership fees</b>	
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
 <b>K. Practitioners of foreign law</b>	
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
 <b>L. Late fees</b>	
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

<b>M. Multi-disciplinary practice fees</b>		<b>\$</b>
1. Application fee (Rule 2-40 (1) (b) [ <i>Application to practise law in MDP</i> ].....		300.00
2. Application fee per proposed non-lawyer member of MDP (Rules 2-40 (1) (c) and 2-42 (2) [ <i>Changes in MDP</i> ].....		1,125.00

**Note:** The federal goods and services tax applies to Law Society fees and assessments.

**SCHEDULE 2 – 2021 PRORATED FEES AND ASSESSMENTS  
FOR PRACTISING LAWYERS**

[Rules 2-77 (1) [*First call and admission*], 2-79 (1) [*Transfer from another Canadian jurisdiction*], 2-85 (4) [*Reinstatement of former lawyer*], and 3-45 (1) and (2) [*Application for indemnity coverage*]]

	Practice fee		Indemnity fee assessment	
	Payable prior to call	Payable by May 31	Payable prior to call	Payable by May 31
<b>Full-time indemnification</b>				
January	1,144.56	1,144.56	900.00	900.00
February	953.80	1,144.56	750.00	900.00
March	763.04	1,144.56	600.00	900.00
April	572.28	1,144.56	450.00	900.00
May	381.52	1,144.56	300.00	900.00
June	190.76	1,144.56	150.00	900.00
July	1,144.56	0.00	900.00	0.00
August	953.80	0.00	750.00	0.00
September	763.04	0.00	600.00	0.00
October	572.28	0.00	450.00	0.00
November	381.52	0.00	300.00	0.00
December	190.76	0.00	150.00	0.00
<b>Part-time indemnification</b>				
January	1,144.56	1,144.56	450.00	450.00
February	953.80	1,144.56	375.00	450.00
March	763.04	1,144.56	300.00	450.00
April	572.28	1,144.56	225.00	450.00
May	381.52	1,144.56	150.00	450.00
June	190.76	1,144.56	100.00	450.00
July	1,144.56	0.00	450.00	0.00
August	953.80	0.00	375.00	0.00
September	763.04	0.00	300.00	0.00
October	572.28	0.00	225.00	0.00
November	381.52	0.00	150.00	0.00
December	190.76	0.00	100.00	0.00

**Note:** The federal goods and services tax applies to Law Society fees and assessments.



**SCHEDULE 3 – 2021 PRORATED FEES  
FOR NON-PRACTISING AND RETIRED MEMBERS**

[Rules 2-3 (1) *[Non-practising members]*, 2-4 (2) *[Retired members]*  
and 2-85 (5) *[Reinstatement of former lawyer]*]

	<b>Non-practising members fee</b>	<b>Retired members fee</b>
January	325.00	125.00
February	296.06	112.78
March	270.83	104.17
April	241.90	91.94
May	216.67	83.33
June	187.73	71.11
July	162.50	62.51
August	133.56	50.27
September	108.33	41.67
October	79.40	29.44
November	54.17	20.84
December	25.23	8.60

**Note:** The federal goods and services tax applies to Law Society fees and assessments.

**SCHEDULE 4 – TARIFF FOR HEARING AND REVIEW COSTS**

[Rule 5-11 *[Costs of hearings]*]

Item no.	Description	Number of units
<b>Citation hearing</b>		
1.	Preparation/amendment of citation, correspondence, conferences, instructions, investigations or negotiations after the authorization of the citation to the completion of the discipline hearing, for which provision is not made elsewhere	Minimum 1 Maximum 10
2.	Proceeding under s. 26.01 <i>[Suspension during investigation]</i> , 26.02 <i>[Medical examination]</i> or 39 <i>[Suspension]</i> and any application to rescind or vary an order under the Rules, for each day of hearing	30
3.	Disclosure under Rule 4-34 <i>[Demand for disclosure of evidence]</i>	Minimum 5 Maximum 20
4.	Application for particulars/preparation of particulars under Rule 4-35 <i>[Application for details of the circumstances]</i>	Minimum 1 Maximum 5
5.	Application to adjourn under Rule 4-40 <i>[Adjournment]</i> <ul style="list-style-type: none"> <li>• if made more than 14 days prior to the scheduled hearing date</li> <li>• if made less than 14 days prior to the scheduled hearing date</li> </ul>	1 3
6.	Pre-hearing conference	Minimum 1 Maximum 5
7.	Preparation of agreed statement of facts <ul style="list-style-type: none"> <li>• if signed more than 21 days prior to hearing date</li> <li>• if signed less than 21 days prior to hearing date</li> <li>• delivered to Respondent and not signed</li> </ul>	Min. 5 to max. 15 Min. 10 to max. 20 Min. 10 to max. 20
8.	Preparation of affidavits	Minimum 5 Maximum 20
9.	Preparation of Notice to Admit	Minimum 5 Maximum 20
10.	Preparation of response to Notice to Admit	Minimum 5 Maximum 20
11.	All process and correspondence associated with retaining and consulting an expert for the purpose of obtaining opinion(s) for use in the proceeding	Minimum 2 Maximum 10
12.	All process and communication associated with contacting, interviewing and issuing summons to all witnesses	Minimum 2 Maximum 10
13.	Interlocutory or preliminary motion for which provision is not made elsewhere, for each day of hearing	10
14.	Preparation for interlocutory or preliminary motion, per day of hearing	20

# 2021 BC Lawyers Professional Liability Indemnification Policy

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<b>Indemnitor:</b>	<b>BC Lawyers Indemnity Association (“BCLIA”)</b>
<b>Address for service:</b>	<b>5th Floor, 845 Cambie Street, Vancouver, BC V6B 4Z9</b>
<b>Administrator:</b>	<b>Law Society of British Columbia (“Law Society”)</b>
<b>Manager:</b>	<b>Lawyers Indemnity Fund</b>
<b>Master Policy number:</b>	<b>LPL 21-01-01</b>

INDEMNIFICATION POLICY

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## INDEMNIFICATION POLICY

### DECLARATIONS

**This policy governs claims and potential claims first made and reported in 2021 — please read the policy carefully.**

1. **Individual Covered Party:** As defined in this policy
2. **Policy Period:** January 1, 2021 12:01 a.m. to January 1, 2022 12:01 a.m. (PST)
3. **Individual Coverage Period:** As defined in this policy
4. **Indemnity Fee:** As set by the **Law Society**
5. **Policy Territory:** Worldwide
6. **Limits of Liability and Deductibles:**

Coverage	Limit of Liability	Limit of Liability – Annual Aggregate	Deductible
Part A: Professional Liability (errors & omissions)	\$1,000,000 per <b>error</b> for <b>damages, claims expenses, and deductible</b>	\$2,000,000 per <b>individual Covered Party</b> , including all <b>additional Covered Parties</b> , less any payments made under Part C	\$5,000 per <b>error</b> resulting in payment of <b>damages</b> or \$10,000 for any <b>error</b> reported within three years of the report date of a Part A or C <b>error</b> resulting in another payment of <b>damages</b>
Part B: Trust Protection for dishonest appropriation	\$300,000 per <b>claimant</b> and <b>error</b> , except as provided in Condition 1.4.3 for inter-jurisdictional practice, for <b>damages</b> and <b>claims expenses</b>	\$17,500,000 profession-wide for all <b>claims</b> for <b>damages</b> and <b>claims expenses</b> , with a \$2,000,000 sublimit for inter-jurisdictional practices	Nil
Part C: Trust Shortage Liability arising from <b>social engineering fraud</b> or reliance on fraudulent certified cheques	\$500,000 per <b>error</b> for <b>damages, claims expenses, and deductible</b>	\$500,000 sublimit within the Part A annual aggregate limit per <b>individual Covered Party</b> , including all <b>additional Covered Parties</b>  \$500,000 <b>law firm</b> annual aggregate limit for all <b>claims</b> for <b>damages, claims expenses</b> and deductibles  \$2,000,000 profession-wide for all <b>errors</b> combined	35% of the total amount of <b>damages</b> and <b>claims expenses</b> paid per <b>error</b> , reduced by the amount of any overdraft

## INDEMNIFICATION POLICY

### 7. Endorsements:

End#1 – OPTIONAL BUSINESS INNOCENT COVERED PARTY ENDORSEMENT

#### Limits of Liability and Deductibles:

Coverage	Limit of Liability*	Limit of Liability – Annual Aggregate*	Deductible
Business innocent covered party endorsement	\$1,000,000 per <b>error</b> for <b>damages, claims expenses, and deductible</b>	\$2,000,000 for all <b>additional Covered Parties</b> covered by all <b>BIC endorsements</b> issued to <b>members</b> at the <b>covered firm</b> for all <b>damages, claims expenses</b> and deductible arising from all <b>vicarious liability claims</b> or potential <b>vicarious liability claims</b>	10% of the total amount of <b>damages</b> and <b>claims expenses</b> paid for <b>vicarious liability claims</b> .

\*All payments under Part A for the same **error** or **errors** are within, not in addition to, these limits of liability.

## INDEMNIFICATION POLICY

### DEFINITIONS

For convenience, all defined words are in bold print. We, us or our refers to **BCLIA**. You, your or the **Covered Party** refers in Parts A and C to the **individual Covered Party** or **additional Covered Party**, and in Part B to the **individual Covered Party** or **innocent Covered Party**. Unless otherwise indicated, all specific statutory references are to statutes of British Columbia. In this policy:

**Additional Covered Party** means:

- (a) each **law firm** in which the **individual Covered Party** is or was a partner, employee or associate counsel or that is or was liable for the **individual Covered Party**;
- (b) each **law corporation**, law office management corporation and law office management limited partnership, which is or was owned wholly or partly, directly or indirectly, by the **individual Covered Party** or their **spouse**, and each present or former officer, director, shareholder or limited partner thereof;
- (c) each present or former **member** who, at the time of the **error**, was insured or indemnified by us and was the **individual Covered Party's** partner or liable for the **individual Covered Party**;
- (d) each present or former employee of the **individual Covered Party**, or of any **law firm, law corporation**, law office management corporation and law office management limited partnership described in (a) or (b) above, provided such employee was acting within the scope of their duties and acting under the supervision of, in a supporting role to and not independent of the **individual Covered Party**; and
- (e) each present or former **MDP partner** who, at the time of the **error**, was insured or indemnified by us and a partner in a **multi-disciplinary practice** in which all of the members were in compliance with **Law Society** Rules 2-38 through 2-49.

**Apparent partnership** means: an expense sharing or other arrangement in which two or more **members** or **law corporations**, or a combination thereof, are or were held out to the public as partners whether or not the partnership in fact exists or existed.

**Canadian legal advisor** means: a lawyer admitted as a Canadian legal advisor member by the **Law Society**.

**Certificate** means: a certificate issued by the **Law Society** to a **member** as proof of insurance or indemnity under any previous plan of professional liability insurance or indemnity for **members** of the **Law Society**.

**Claim** means: a demand for money, or the threat or institution of an action or other proceeding against you.

**Claimant** means:

- (a) under Part A or C: a person or **organization** who has made or may make a **claim**; and
- (b) under Part B: a person who has or alleges to have suffered a monetary loss, and who provides a statutory declaration relating to that loss in a form satisfactory to us.

## INDEMNIFICATION POLICY

**Claims expenses** means:

- (a) (i) fees and disbursements charged by defence counsel appointed by us; and
  - (ii) all other fees, costs and expenses incurred by us, or by you with our written consent, resulting from the investigation, adjustment, defence and appeal of a **claim** or potential **claim**, including all sums payable under Part A 2, Part B 2 and Part C 2, and all fees, costs and expenses we incur in any recovery efforts, but does not include salaries of our officers, directors and employees, or those of the **Law Society**; or
- (b) for the purposes of Part A 2.9 only, reasonable fees and disbursements charged by independent defence counsel and payable by you.

**Compensation program** means: those statutory compensation programs as provided for by any current or former legislative act, including but not limited to: funds established to compensate victims of lawyer defalcation; the “Assurance Fund” as provided under the *Land Title Act*; similar funds as established for general public protection against loss consequent on the unlawful acts of third parties under other legislation as may now or subsequently be established; and any substantially similar or equivalent compensation programs established by any government.

**Confidentiality Protocol** means: the **Law Society’s** protocol for the preservation of confidentiality of professional liability insurance or indemnification claims information, as amended from time to time.

**Costs** means: costs payable to a party pursuant to the Supreme Court Civil Rules, or the civil rules of court of any other Canadian or US jurisdiction, by agreement or by Order, except for **special costs**.

**Covered Party** means:

- (a) under Part A or Part C: an **individual Covered Party** or **additional Covered Party**; and
- (b) under Part B: an **individual Covered Party** or **innocent Covered Party**.

**Damages** means:

- (a) under Part A: any compensatory damages award or settlement, including any related pre-judgment or post-judgment interest or **costs**, or **repair costs**, relating to covered allegations.

**Damages** does not include:

- (i) an order of set-off or any order for the return or reimbursement of, or accounting for or disgorgement of, any property, benefit, legal fees or disbursements that you received, even if claimed as compensatory or general damages;
- (ii) any order for punitive, exemplary or aggravated damages, even if claimed as compensatory or general damages;
- (iii) any fine, sanction or penalty;



## INDEMNIFICATION POLICY

- (iv) any order or indemnification for **costs** made against you in litigation in which you are not a party;
  - (v) any order for **special costs**; or
  - (vi) the cost of complying with declaratory, injunctive or other non-monetary relief.
- (b) under Part B: any monetary award or settlement, including any related pre-judgment or post-judgment interest or **costs**, for the direct loss only of no more than the value of money or the **deemed value** of other property dishonestly appropriated.

**Damages** does not include:

- (i) any monetary award, settlement or sum for which the **claimant** or **Covered Party**:
    - a. is entitled to claim indemnity under any other policy or form of insurance (including title insurance); or
    - b. has recourse through any **compensation program** or other source of recovery including set-offs whether legal or equitable;that would cover such loss in whole or in part in the absence of this policy as this coverage is intended to be last-resort indemnity coverage;
  - (ii) any order or indemnification for **costs** made against you in litigation in which you are not a party, or
  - (iii) any order for **special costs** made against you or at all.
- (c) under Part C: any monetary award or settlement, including any related pre-judgment or post-judgment interest or **costs**, for the direct loss only of no more than the amount by which the **trust account** is short, and any **repair costs** or compensatory damages directly related to covered allegations.

**Damages** does not include:

- (i) any monetary award, settlement or sum for which the **claimant** or **Covered Party** is entitled to claim indemnification under any other policy or form of insurance that would cover such loss in whole or in part in the absence of this policy as this coverage is intended to be last-resort indemnity coverage;
- (ii) any order or indemnification for **costs** made against you in litigation in which you are not a party, or
- (iii) any order for **special costs**; or
- (iv) the cost of complying with declaratory, injunctive or other non-monetary relief.

## INDEMNIFICATION POLICY

**Deemed value** means: the equivalent of the property's actual cash value or, if the property is not convertible into money, the actual cash value of the property at the time of dishonest appropriation.

**Error** means:

- (a) under Part A: an actual or alleged negligent act, negligent error or negligent omission, including a **protocol error** or a **personal injury error**. Where actual or alleged errors are related, they will be deemed to be one **error**. **Errors** are related when they:
  - (i) are logically or causally connected;
  - (ii) cause a single loss to one or more **claimants**;
  - (iii) occur in the course of the **Covered Party(ies)** acting as an executor or personal representative of a deceased, an administrator, an escrow holder, an attorney appointed under a Power of Attorney, a guardian, a trustee or a committee; or
  - (iv) occur in relation to the same or similar underlying facts, events, transactions, activities or undertakings, which, without limiting the generality of the foregoing, include accidents, investment programs or schemes, loan agreements, offerings of ownership interest or debt, corporate reorganizations, tax plans, estates, real estate developments, leases, licences, commercial ventures and litigation matters

regardless of whether they are made by more than one **Covered Party** or by **Covered Parties** acting in more than one capacity, occur at different times or in the course of more than one professional service, retainer or client matter, or give rise to **claims** by more than one **claimant**. When two or more **law firms** are involved, the **errors** are not related.

- (b) under Part B: a dishonest appropriation of money or other property, whether to the use of the **individual Covered Party** or a third party, that was entrusted to and received by the **individual Covered Party** in their capacity as a barrister and solicitor and in relation to the provision of **professional services** to others.
- (c) under Part C: a payment to a third party that creates an unintended shortage in trust funds that are held in a **trust account** in connection with the performance of **professional services** for others, provided that such payment was either:
  - (i) the result of the deposit into that **trust account** of what purports and appears and the **individual Covered Party** believed to be a genuine certified cheque, bank draft, credit union official cheque, **law firm** trust cheque or money order that ultimately proves to be counterfeit, forged or materially altered; or
  - (ii) the result of **social engineering fraud** and made only because the **individual Covered Party** believed the payment was legitimate and duly authorized, and did not relate in any way to the mistaken belief that funds had been deposited into the **trust account**.

## INDEMNIFICATION POLICY

**Family** means: **spouse**, children, parents or siblings.

**Individual coverage period** means: the period during which an **individual Covered Party** is covered for an **error**, as follows:

- (a) under Part A:
  - (i) any period prior to January 1, 1971, 12:01 a.m. PST during which the **individual Covered Party** was a **member**;
  - (ii) any period between January 1, 1971, 12:01 a.m. PST and January 1, 1998, 12:01 a.m. PST during which the **individual Covered Party** was a **member** and held a **certificate**;
  - (iii) any period after January 1, 1998, 12:01 a.m. PST during which the **individual Covered Party** paid the annual insurance or **indemnity fee**; or
  - (iv) any period after January 1, 2002, 12:01 a.m. PST during which the **individual Covered Party** was a **member** and was performing **sanctioned pro bono services**.
- (b) under Part B: any period during which the **individual Covered Party** was a **member**.
- (c) under Part C: any period after January 1, 2012, 12:01 a.m. PST during which the **individual Covered Party** paid the annual insurance or **indemnity fee**.

**Individual Covered Party** means: each **member** or former **member** who:

- (a) made or allegedly made the **error**; or
- (b) for the purposes of Part A only, each **MDP partner** or former **MDP partner** who made or allegedly made the **error**, provided that all of the members of the **multi-disciplinary practice** were in compliance with **Law Society** Rules 2-38 through 2-49 at the time of the **error**.

**Ineligible portion** means: that portion that equals the proportionate beneficial ownership of the **organization** held individually or collectively, directly or indirectly, at the time of the **error** by the persons listed in subparagraphs 6.2.1, 6.2.2 and 6.2.3 of Exclusion 6.2 of this policy.

**Innocent Covered Party** means: each present or former **member** who:

- (a) is or may be liable for the **individual Covered Party**;
- (b) did not personally commit, participate in committing, or acquiesce in the **error**; and
- (c) was indemnified by us at the time of the **error**.

**Law corporation** means: an entity incorporated under the *Business Corporations Act* that is governed by, and a valid certificate of authorisation has been issued under, the *Legal Profession Act*.

## INDEMNIFICATION POLICY

**Law firm** means: a sole proprietorship through which a **member** provides **professional services**, a **law corporation**, a partnership of **members** or **law corporations** or a combination thereof, a **multi-disciplinary practice** or an **apparent partnership**.

**MDP partner** means: a non-lawyer partner in a **multi-disciplinary practice** in which permission to practise law was granted under Rule 2-41 of the **Law Society** Rules.

**Member** means: a member, other than a **Canadian legal advisor**, in good standing shown on the records of the **Law Society**.

**Multi-disciplinary practice** means: a multi-disciplinary practice as defined in the **Law Society** Rules.

**Network Security breach** means:

- (a) the electronic receipt or transmission of a computer virus or other program via the internet or in any other manner that does or is intended to delete, distort, corrupt, manipulate, impair or gain or prevent access to: internet connections, networks or systems; computer programming; computer, telecommunication or other devices; or electronic data for uses other than those intended for authorized users of such devices, systems or networks; or
- (b) the failure or violation of the security of computer, telecommunication or other devices, systems, or networks.

**Organization** means: any business, business venture, joint venture, proprietorship, partnership, limited partnership, cooperative, society, syndicate, corporation, association, or any legal or commercial entity.

**Personal injury error** means: malicious prosecution, libel or slander, or a publication or utterance in violation of an individual's right of privacy.

**Policy period** means: the period stated in Declaration 2.

**Professional services** means:

- (a) the practice of law as defined in the *Legal Profession Act*;
- (b) *pro bono* legal services or **sanctioned pro bono services**;
- (c) acting as a custodian under Part 6 of the *Legal Profession Act* or in a similar role, or as an arbitrator, mediator or parenting coordinator;
- (d) performing any other activity deemed to be the practice of law by the **Law Society**;
- (e) acting as an **MDP partner**, provided that such services support or supplement the practice of law by the **law firm** and are provided under the supervision of a **member**; or

## INDEMNIFICATION POLICY

- (f) acting as:
  - (i) an executor or personal representative of a deceased, an administrator, an escrow holder, an attorney appointed under a Power of Attorney, a guardian, a trustee, a committee, or in any similar fiduciary capacity;
  - (ii) a patent or trademark agent; or
  - (iii) an agent for any record keeping or filing duty imposed by any provincial or federal statute

provided that such services, and the related appointment or retainer, are connected and incidental to the **individual Covered Party's** practice of law and, for the purposes of Part B of this policy only, the **individual Covered Party** is also providing legal services.

**Professional services** does not include:

- (i)
    - (a) acting as a bailee or conduit of funds, from trust or otherwise, or
    - (b) providing investment advice or investment services
- unless such services, and the related appointment or retainer, are performed in consequence of and incidental to the **individual Covered Party's** practice of law;
- (ii) publishing or communicating on a website, blog or social media platform unless directly connected and incidental to the **individual Covered Party's** practice of law;
  - (iii) the services or activities of a "mortgage broker" as defined in the *Mortgage Broker Act*; or
  - (iv) with respect to Part A and Part C only, **unauthorized practice** by the **individual Covered Party**.

**Protocol error** means: a building location defect that is not disclosed as a result of an opinion given in compliance with and pursuant to the terms and conditions of the Western Law Societies Conveyancing Protocol (British Columbia) issued by the **Law Society**, Version 2, February 2, 2001 as amended from time to time.

**Reciprocal Jurisdiction** means: the province, but not the territory, of a reciprocating governing body as defined in the **Law Society** Rules, other than the Barreau du Québec.

**Related errors** in Part B means: **errors** are related if the money or other property dishonestly appropriated was received in relation to the provision of the same **professional services**, retainer or client matter.

**Related organization** means: an **organization** that controls, is controlled by, or is under common control with another **organization**.

**Repair costs** means: any costs, other than **claims expenses**, approved or paid by us, incurred attempting to avoid or mitigate a loss arising out of an **error**.

## INDEMNIFICATION POLICY

**Sanctioned *pro bono* services** means: *pro bono* legal services provided to an individual known to you only as a result of performing these services through a *pro bono* legal services program, provided that both the services and the program are approved for the purposes of this policy by the **Law Society**, and that the services are provided solely through the program.

**Seconded lawyer** means: an **individual Covered Party** who is a member of a **law firm**, but who, at the request of the **law firm**, temporarily acts in the capacity of in-house counsel for an **organization** or its **related organization**.

**Social engineering fraud** means: the intentional misleading of an **individual Covered Party** into sending or paying money based on false information that is provided to the **individual Covered Party**.

**Special costs** means: party and party costs ordered to be assessed as special costs (formerly called “solicitor and client costs”) pursuant to Supreme Court Civil Rule 14-1(1), or another similar term in the civil rules of court of any other Canadian or US jurisdiction, or an equivalent type of punitive costs.

**Spouse** means: a person who is or has been married, or a person who is or has been living in a marriage-like relationship for a period of time of not less than one year.

**Trust account** means: a trust account operated pursuant to and in accordance with Part 3, Division 7, Trust Accounts and Other Client Property, of the **Law Society** Rules.

**Unauthorized practice** means:

- (a) for the purposes of Condition 3.3, the practice of law by an **individual Covered Party** in breach of an undertaking given to the **Law Society** or in contravention of a condition or limitation of practice imposed or agreed to under the **Law Society** Rules; or
- (b) for the purposes of the definition of **Professional Services**, the practice of law by an **individual Covered Party** in contravention of the rules of any other law society or bar.

## INDEMNIFICATION POLICY

This policy is a contract between each **Covered Party** and **BCLIA**.

In consideration of the payment of the **indemnity fee** and subject to the terms of this policy, we agree with you that:

### **PART A: PROFESSIONAL LIABILITY FOR ERRORS & OMISSIONS**

#### **1. INDEMNITY AGREEMENT A**

We will pay on your behalf all sums that you become legally obligated to pay as **damages** because of any **claim** first made against you and reported to us in writing during the **policy period** arising out of an **error** by the **individual Covered Party** in performing or failing to perform **professional services** for others.

#### **2. DEFENCE, EXPENSES AND SETTLEMENT**

2.1 With respect to any **claim** first made or suit first brought within Canada or the United States of America seeking **damages** for which you are entitled to indemnity under Part A of this policy, we have the right:

2.1.1 and the duty to defend any suit against you, even if any of the allegations of the suit are groundless, false or fraudulent; and

2.1.2 to select and instruct defence counsel and to investigate and settle any **claim** including the right to elicit, or instruct defence counsel to elicit, offers of settlement. If you object to any settlement recommended by us, we may:

(a) settle the **claim** without your consent and you will remain liable to pay the deductible stated in Declaration 6; or

(b) give you the right to negotiate or defend the **claim** or suit if you provide security for any **damages** for which you may be liable. The amount and form of security required will be determined by us, in our sole discretion. If we give you the right to negotiate or defend the **claim** or suit, any duty we may have had to defend the **claim** ceases and the **damages** and **claims expenses** in excess of the amount for which we could have settled will not be recoverable under this policy.

2.2 With respect to any **claim** that is made or suit that is brought elsewhere than within Canada or the United States of America seeking **damages** for which you are entitled to indemnity under Part A of this policy:

2.2.1 we have the right, but not the duty, to investigate, settle, defend or pay **claims expenses** in accordance with Part A 2.1.2; and

2.2.2 if we elect not to investigate, settle or defend a **claim** or suit, you will, under our supervision, investigate and defend as is reasonably necessary and, if we deem

## INDEMNIFICATION POLICY

prudent you will settle such **claim** or suit. Subject to Part A 2.3, we will reimburse you for the reasonable cost of such investigation, settlement or defence.

- 2.3 For any part of a **claim** for which you are not entitled to coverage under Part A of this policy, you agree that you are responsible for:
- 2.3.1 any **claims expenses** that are solely or substantially attributable to that part of a **claim**; and
- 2.3.2 an equal or, if we agree, less than equal share of any **claims expenses** that are attributable both to that part, and any other part of the **claim** for which you are entitled to coverage under Part A.
- 2.4 The allocation of **claims expenses** under Part A 2.3 will be determined following final determination of the **claim**.
- 2.5 Notwithstanding Part A 2.4 we may, at any time prior to final determination of a **claim**, require that you contribute, on an interim basis, to **claims expenses** in any proportion or amount that we determine is reasonable having regard to Part A 2.3. Any such payment, demand or failure to make a demand by us is without prejudice to our respective rights under Part A 2.4.
- 2.6 Any allocation or advancement of **claims expenses** does not apply to or create any presumption with respect to the allocation between covered and uncovered loss.
- 2.7 Notwithstanding Exclusion 2, we have the right and the duty to defend, in accordance with Part A 2.1.2, any **claim** first made against you and reported to us during the **policy period** arising out of a **personal injury error** while you were performing or failing to perform **professional services** for others.
- 2.8 Notwithstanding our obligations pursuant to Part A 2.1, 2.2 and 2.7, we may decline, at any time, to defend, continue to defend, investigate or pay **claims expenses** where we determine on reasonable grounds that a **claim** does not arise out of an **error** by you in performing or failing to perform **professional services** for others, or that you are not entitled to coverage for a **claim** because of any exclusion, breach of a condition or any other term of this policy. If you disagree with our decision you agree that, at the arbitration of the dispute, each of us may introduce evidence relating to the issues of coverage and your activities and that such evidence will be considered by the arbitrator in determining our respective obligations.
- 2.9 We will reimburse **claims expenses** up to a maximum sublimit of \$100,000 to the per **error** limit in Declaration 6 in the:
- 2.9.1 appeal of a penalty assessed against an **individual Covered Party** pursuant to section 163.2 or section 237.3 of the *Income Tax Act*, R.S.C. 1985, c.1 or section 285.1 of the *Excise Tax Act*, R.S.C. 1985, c. E-15; or



## INDEMNIFICATION POLICY

2.9.2 defence of the prosecution of an offence against an **individual Covered Party** under subsection 8(8), section 10.1 or subsection 10.3(1) of the *Personal Information Protection and Electronic Documents Act* (PIPEDA), S.C. 2000, c.5

subject to: the assessment or prosecution occurring in the course of, in consequence of and directly related to the **individual Covered Party's** practice of law; our prior written consent to your choice of independent defence counsel; and an acquittal, a withdrawal of the allegation, or a finding by the Court that the **individual Covered Party** did not commit the acts or omissions that gave rise to the assessment or prosecution.

### 3. CLAIMS FIRST MADE AND REPORTED

3.1 Part A of this policy applies only to **claims** arising out of **errors** that occurred during the **individual coverage period**, and provided that:

3.1.1 the **claim** or potential **claim** is first made against you during the **policy period** and reported to us in writing during the **policy period**; and

3.1.2 you had no knowledge, prior to January 1, 1989 of the **claim** or of an **error** or circumstances occurring prior to January 1, 1986 which you knew or could have reasonably foreseen might be the basis of a **claim**.

3.2 A **claim** or potential **claim** is first made against you during the **policy period** if during the **policy period**:

3.2.1 you become aware of an **error** or any circumstance which could reasonably be expected to be the basis of a **claim**, however unmeritorious; or

3.2.2 a **claim** is made against you seeking **damages** for which you are entitled to indemnity under this policy.

3.3 If Part A of this policy replaces, without interruption of coverage, a professional liability policy issued previously by us then a **claim** which was first made against you after January 1, 1989, and reported to us within the **policy period**, will be deemed to be first made against you within the **policy period** of this policy.

3.4 Except as provided in Condition 6, if you are not entitled to indemnity or a defence for a **claim**, Part A of this policy will not provide indemnity or a defence for such or similar **claim** to any other **Covered Party**.

### 4. RECIPROCAL JURISDICTIONS

4.1 Where the closest and most real connection to a **claim** or potential **claim** is with a **Reciprocal Jurisdiction**, and the scope of coverage provided by the **Reciprocal Jurisdiction's** compulsory lawyers professional liability insurance or indemnity policy (the "**Reciprocal Jurisdiction's** policy") is broader than that provided by Part A of this policy, we will provide the same scope of compulsory coverage as that of the **Reciprocal Jurisdiction's** policy. For clarity, however, all **claims** and potential **claims** reported under

## INDEMNIFICATION POLICY

Part A of this policy remain subject to the limits of liability stated in Condition 1 and the Declarations of this policy.

- 4.2 The determination of whether a **Reciprocal Jurisdiction** has the closest and most real connection to a **claim** or potential **claim** will be made by us, exercising our discretion reasonably, and considering whether at the time you were performing the **professional services** giving rise to the **claim**:
- 4.2.1 you were practising the law of a **Reciprocal Jurisdiction**;
  - 4.2.2 you were performing the **professional services** in a **Reciprocal Jurisdiction**;
  - 4.2.3 your client was in a **Reciprocal Jurisdiction**; and
  - 4.2.4 the subject matter of the **professional services** was located in or emanated from a **Reciprocal Jurisdiction**.

We will also consider where the proceedings, if any, to advance the **claim** are or are likely to be brought.

- 4.3 Part A 4.1 and 4.2 apply only if, at the time the **individual Covered Party** was performing the **professional services** giving rise to a **claim**, the **individual Covered Party** was practising law either in accordance with the inter-jurisdictional practice provisions of the Rules of the **Law Society** and the **Reciprocal Jurisdiction's** law society or as a Canadian legal advisor member of the Barreau du Québec.
- 4.4 Part A 4.1 and 4.2 do not apply if coverage under Part A of this policy would be excluded or limited in any way by the application of Exclusion 7 or 11 to a **claim** or potential **claim**.

### **PART B: TRUST PROTECTION FOR DISHONEST APPROPRIATION**

#### **1. INDEMNITY AGREEMENT B**

Notwithstanding Exclusions 1 and 2 of this policy, we will pay on your behalf all sums that you become legally obligated to pay to a **claimant** as **damages** because of any **claim** first made against you and reported to us during the **policy period** arising out of an **error** by the **individual Covered Party**, provided that the **error** is the sole cause of the **damages**.

#### **2. DEFENCE AND SETTLEMENT**

- 2.1 With respect to any **claim** first made or suit first brought seeking **damages** that are covered under Part B of this policy:
- 2.1.1 we have the right, but not the duty, to defend any suit against you;
  - 2.1.2 if we elect to defend you, we have the right to:
    - (a) select and instruct defence counsel; and

## INDEMNIFICATION POLICY

- (b) withdraw from the defence of the suit, without seeking or obtaining your consent, at any time that we, in our sole discretion, deem appropriate;
- 2.1.3 we have the right to investigate any **claim** or potential **claim**;
- 2.1.4 we have the right to settle any **claim** without seeking or obtaining your consent, on such terms and conditions and at such time as we, in our sole discretion, deem appropriate; and
- 2.1.5 if you fail to cooperate in the investigation or defence of a **claim**, and you prejudice our ability to investigate or argue potential defences, we have the right to deny coverage for the **claim**.

### 3. CLAIMS FIRST MADE AND REPORTED

3.1 Part B of this policy applies only to:

3.1.1 **claims** arising out of **errors** that occurred while the **individual Covered Party** was a **member**, provided that the **claim** is first made against you during the **policy period** and reported to us during the **policy period**. A **claim** is first made against you during the **policy period** if during the **policy period**:

- (a) an **innocent Covered Party** becomes aware of an **error** or any circumstance that could reasonably be expected to be the basis of a **claim**, however unmeritorious, or a **claim** is made against an **innocent Covered Party** seeking **damages** that are covered under Part B of this policy;
- (b) a **claim** is made against an **individual Covered Party** seeking **damages** that are covered under Part B of this policy, and we deem notice of the **claim** given to us by a third party to be notice given by the **individual Covered Party**; or
- (c) the **Law Society** gives notice of a **claim** or potential **claim** against an **individual Covered Party**, and we deem such notice to be notice given by the **individual Covered Party**; or

3.1.2 a **claim** seeking **damages** that are covered under Part B of this policy that is first made against you and of which written notice is given to us by the **claimant** within:

- (a) six (6) months of the **claimant** becoming sufficiently aware of the facts underlying the occurrence of an **error** such that the **claimant** had the means of knowing that an **error** had occurred; and
- (b) in any event, no more than ten (10) years of the date of the **error**.

3.2 We may, in our sole discretion, agree to extend the time limits set out in Part B 3.1.1 and 3.1.2.

## INDEMNIFICATION POLICY

### **PART C: TRUST SHORTAGE LIABILITY ARISING FROM SOCIAL ENGINEERING FRAUD OR RELIANCE ON FRAUDULENT CERTIFIED CHEQUES**

#### **1. INDEMNITY AGREEMENT C**

We will pay on your behalf all sums that you become legally obligated to pay as **damages** because of any **claim** first made against you and reported to us during the **policy period** arising out of an **error** by the **individual Covered Party**.

#### **2. DEFENCE, EXPENSES AND SETTLEMENT**

2.1 With respect to any **claim** first made or suit first brought seeking **damages** that are covered under Part C of this policy:

2.1.1 we have the right, but not the duty, to defend any suit against you;

2.1.2 if we elect to defend you, we will have the right to select and instruct defence counsel;

2.1.3 we have the right to investigate any **claim** or potential **claim**; and

2.1.4 we have the right to settle any **claim** including the right to elicit, or instruct defence counsel to elicit, offers of settlement. If you object to any settlement recommended by us, we may:

(a) settle the **claim** without your consent and you will remain liable to pay the deductible stated in Declaration 6; or

(b) give you the right to negotiate or, if we are defending, defend the **claim** or suit. In this event, the **damages** and **claims expenses** in excess of the amount for which we could have settled will not be recoverable under this policy.

#### **3. CLAIMS FIRST MADE AND REPORTED**

3.1 Part C of this policy applies only to **claims** arising out of **errors** that occurred during the **individual coverage period**, and provided that the **claim** or potential **claim** is first made against you during the **policy period** and reported to us in writing during the **policy period**.

3.2 A **claim** or potential **claim** is first made against you during the **policy period** if during the **policy period**:

3.2.1 you first become aware of an **error** or any circumstance that could reasonably be expected to be the basis of a **claim**, however unmeritorious; or

3.2.2 a **claim** is made against you seeking **damages** for which you are entitled to indemnity under this policy.

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- 3.3 If Part C of this policy replaces, without interruption of coverage, a policy issued previously by us then a **claim** that was first made against you after January 1, 2012, and reported to us within the **policy period**, will be deemed to be first made against you within the **policy period** of this policy.
- 3.4 Except as provided in Condition 6, if you are not entitled to indemnity or a defence for a **claim**, Part C of this policy will not provide indemnity or a defence for such or similar **claim** to any other **Covered Party**.

## EXCLUSIONS

This policy does not apply to:

1. a **claim** arising out of or in any way connected to your actual or alleged criminal act;
2. a **claim** arising out of or in any way connected to your actual or alleged dishonest, fraudulent or malicious act;
3. a **claim** arising out of or in any way connected to:
  - 3.1 any injury to, physical contact with, sickness, disease or death of any person, except for emotional distress or humiliation of a **claimant** directly resulting from an **error**; or
  - 3.2 injury to or destruction of any tangible property, including the loss of use thereof;
4. a **claim** arising out of or in any way connected to your activity as a fiduciary with respect to an employee benefit plan or pension plan;
5. a **claim** arising out of or in any way connected to your activities as an officer or director except your activities as an officer or director of a **law corporation** or law office management corporation;
6. a **claim**:
  - 6.1 arising out of an **error** of an **individual Covered Party**, the payment of which would benefit, in whole or in part, directly or indirectly, the **individual Covered Party** or their **family** or **law firm**, provided that this Exclusion 6.1 does not apply to any benefit derived solely from the ownership of an **organization**; or
  - 6.2 by or in any way connected to any **organization** in which:
    - 6.2.1 the **individual Covered Party**;
    - 6.2.2 the **individual Covered Party's family**; or
    - 6.2.3 the partners, associates or associate counsel of the **individual Covered Party** or their **law firm**;

## INDEMNIFICATION POLICY

individually or collectively, directly or indirectly, had at the time of the **error** or thereafter, effective management or control of the **organization** or beneficial ownership of the **organization** in an amount greater than ten per cent (10%), provided that with respect to any payment resulting from a **claim** that falls within Part B of this policy, this Exclusion 6.2 applies only to exclude the **ineligible portion** of such payment.

7. a **claim** made against you by an **organization** or **related organization** which:
  - 7.1 employs you,
  - 7.2 at which you work as a **seconded lawyer**, or
  - 7.3 at which you are a partner.
8. a **claim** against you where the **individual Covered Party** is a member of any other jurisdiction's law society or bar, except a law society of another province or territory of Canada, arising out of or in any way connected to that **individual Covered Party's** permanent practice in the other jurisdiction. For the purposes of Part B of this policy, this Exclusion 8 shall be read with the words "the Barreau du Québec" substituted for the words "a law society of another province or territory of Canada" and without the word "permanent".

With respect to Part A: Professional Liability only, the following additional exclusions apply.

Part A of the policy does not apply to:

9. a **claim** arising out of or in any way connected to the collection, use or disclosure of any information by a third party;
10. a **claim** arising out of or in any way connected to damage to or loss of data, disclosure of confidential information, theft or other loss of money or property, or any other loss that arises, directly or indirectly, from a **network security breach** or **social engineering fraud**;
11. a **claim** arising out of or in any way connected to the dishonest appropriation of money or other property by any person including but not limited to an **error** under Part B of this policy;
12. a **claim** arising out of or in any way connected to any shortage of trust funds held in a **trust account** if that shortage is caused by or in any way connected to a dishonest or fraudulent act by any person including but not limited to an **error** under Part C of this policy; or
13. a **claim** arising out of or in any way connected to any contractual liability (express or implied, including an indemnity) unless there would be tort liability in the absence of the contract and only to the extent **damages** arise solely from any tort liability.

## INDEMNIFICATION POLICY

With respect to Part B: Trust Protection only, the following additional exclusions apply.

Part B of this policy does not apply to:

14. a **claim** arising out of or in any way connected to the wrongful or unlawful conduct, fault or neglect of the **claimant** or the **claimant's spouse**;
15. a **claim** by an **organization** arising out of or in any way connected to the wrongful or unlawful conduct, fault or neglect of an officer, director, employee or agent of the **organization** or an individual who had, directly or indirectly, effective management or control of the **organization** or beneficial ownership of the **organization** in an amount greater than ten per cent (10%);
16. a **claim** where the money or property that was dishonestly appropriated had been unlawfully obtained by the **claimant**;
17. a **claim** brought by a **claimant** who:
  - 17.1 knew prior to the time of the **error** of any dishonest act by the **individual Covered Party**;  
or
  - 17.2 committed, participated in committing, consented to expressly or impliedly, acquiesced in or was reckless or wilfully blind to the **error**; or
18. a **claim** arising out of or in any way connected to an investment, a purported investment or a Ponzi scheme.

With respect to Part C: Trust Shortage Liability only, the following additional exclusions apply.

Part C of this policy does not apply to:

19. a **claim** arising out of or in any way connected to the wrongful or unlawful conduct of a present or former employee of the **law firm** or contractor for the **law firm**;
20. a **claim** arising out of circumstances in which you were required but failed to comply with the client identification and verification procedures set out in Part 3, Division 11, Client Identification and Verification, of the **Law Society Rules**; or
21. **errors** that occurred prior to January 1, 2012.

## CONDITIONS

### 1. LIMITS OF LIABILITY

#### 1.1 PART A — PER **ERROR**

- 1.1.1 The limit of liability stated in Declaration 6 shall be the maximum amount payable under Part A of this policy for all **damages, claims expenses** and deductibles for all **claims** arising out of an **error**.

## INDEMNIFICATION POLICY

1.1.2 If a **claim** or potential **claim** is reported to us by or on behalf of any **Covered Party** during the **policy period**, all additional **claims** or potential **claims** reported subsequently that arise out of the same **error** shall be:

- (a) part of the **claim** or potential **claim** first made and reported to us; and
- (b) deemed to be reported within this **policy period**;

and all such **claims** or potential **claims** shall be subject to the terms of this policy and to the one limit of liability applicable to the **claim** or potential **claim** first reported.

### 1.2 PART A — ANNUAL AGGREGATE

1.2.1 The limit of liability stated in Declaration 6 is the maximum amount payable under Part A of this policy on behalf of each **individual Covered Party**, including all related **additional Covered Parties**, for all **damages, claims expenses** and deductibles arising out of all **claims** and potential **claims** first reported during the **policy period**.

1.2.2 All payments of **damages, claims expenses** and deductibles under Part A or Part C reduce the limits of our liability stated in Declaration 6.

### 1.3 PART A — MULTIPLE COVERED PARTIES, CLAIMS OR CLAIMANTS

Notwithstanding any other provision of this policy, one or more **claims** resulting from an **error** shall be subject to one limit of liability and shall not increase our limits of liability regardless of whether the **error** is made by more than one **Covered Party** or by **Covered Party(ies)** acting in more than one capacity and regardless of whether the **claims** are made against more than one **Covered Party** or made by more than one **claimant**.

### 1.4 PART B — PER CLAIMANT AND ERROR

1.4.1 The limit of liability stated in Declaration 6 or, if Condition 1.4.3 applies, then as stated there, shall be the maximum amount payable under Part B of this policy for all **damages and claims expenses** for all **claims** by a **claimant** arising out of an **error** or **related errors**.

1.4.2 If a **claim** or potential **claim** is reported to us by or on behalf of any **Covered Party** during the **policy period**, all additional **claims** or potential **claims** reported subsequently that arise out of the same **error** or **related errors** shall be:

- (a) part of the **claim** or potential **claim** first made and reported to us; and
- (b) deemed to be reported within this **policy period**;

and all such **claims** or potential **claims** shall be subject to the terms of this policy and to the limit of liability stated in Declaration 6 or, if Condition 1.4.3 applies, then as stated there, applicable to the **claim** or potential **claim** first reported.



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1.4.3 If the **error** or **related errors** arise out of either your temporary practice in, or with respect to the law of, a **Reciprocal Jurisdiction** of which you are not a member, or your practice as a Canadian legal advisor member of the Barreau du Québec, the limit of liability stated in Declaration 6 shall be \$250,000, and Conditions 1.4.1, 1.4.2 and 1.5 shall be read as if the amount in Declaration 6 was \$250,000.

### 1.5 PART B — MULTIPLE COVERED PARTIES, CLAIMS, CLAIMANTS OR ERRORS

One or more **claims**, resulting from an **error** or **related errors** made by one or more **Covered Parties**, made against one or more **Covered Parties** by a **claimant** or by related claimants, shall be subject to the one limit of liability stated in Declaration 6 or, if Condition 1.4.3 applies, then as stated there. **Claimants** are related if the money or other property dishonestly appropriated was jointly provided or jointly owned by the **claimants** or if the **claimants** are members of one **family**. In no case will the limit of coverage for an **error** or **related errors** exceed the limit set out in Declaration 6.

### 1.6 PART B — INTER-JURISDICTIONAL PRACTICE ANNUAL AGGREGATE

The limit of liability that is the maximum amount payable under Part B of this policy on behalf of all **individual Covered Parties**, including all related **additional Covered Parties**, for all **damages** arising out of all **claims** and potential **claims** first reported during the **policy period** arising out of either your temporary practice in or with respect to the law of a **Reciprocal Jurisdiction** of which you are not a member, or your practice as a Canadian legal advisor member of the Barreau du Québec, is \$2,000,000. This limit shall be a sublimit to the Profession-Wide Annual Aggregate Limit set out in Declaration 6 and Condition 1.7.

### 1.7 PART B — PROFESSION-WIDE ANNUAL AGGREGATE

1.7.1 The limit of liability stated in Declaration 6 is the maximum amount payable under this policy for the **policy period** on an aggregate basis for all **Covered Parties** covered by Part B of this policy. For clarity, all **Covered Parties** covered by Part B of this policy means all present and former **members** of the **Law Society**. All payments by us of **damages** and **claims expenses** arising out of all **claims** and potential **claims** first reported during the **policy period** reduce the Profession-Wide Aggregate Limit for that **policy period** in the amount of the payments.

1.7.2 The **individual Covered Parties** and **innocent Covered Parties** agree that we may make payments of **damages** and **claims expenses** in reduction of the Profession-Wide Aggregate Limit, even though such payments will reduce or eliminate the limit otherwise available to **individual Covered Parties** or **innocent Covered Parties** for the **policy period**.

## INDEMNIFICATION POLICY

### 1.8 PART C — PER ERROR

1.8.1 The limit of liability stated in Declaration 6 shall be the maximum amount payable under Part C of this policy for all **damages, claims expenses** and deductibles for all **claims** arising out of an **error**.

1.8.2 If a **claim** or potential **claim** is reported to us by or on behalf of any **Covered Party** during the **policy period**, all additional **claims** or potential **claims** reported subsequently that arise out of the same **error** shall be:

- (a) part of the **claim** or potential **claim** first made and reported to us; and
- (b) deemed to be reported within this **policy period**;

and all such **claims** or potential **claims** shall be subject to the terms of this policy and to the one limit of liability applicable to the **claim** or potential **claim** first reported.

### 1.9 PART C — ANNUAL AGGREGATE

1.9.1 The limit of liability stated in Declaration 6, a sublimit to the Part A Annual Aggregate limit stated in Declaration 6, is the maximum amount payable under Part C of this policy on behalf of each **individual Covered Party**, including all related **additional Covered Parties**, for all **damages, claims expenses** and deductibles arising out of all **claims** and potential **claims** first reported during the **policy period**.

1.9.2 All payments of **damages, claims expenses** and deductibles reduce the limits of our liability stated in Declaration 6.

### 1.10 PART C — LAW FIRM ANNUAL AGGREGATE

The limit of liability stated in Declaration 6 is the maximum amount payable under this Part C of this policy for the **policy period** on an aggregate basis for all **Covered Parties** who, at the time of the **error**, were at the same **law firm**, for all **damages, claims expenses** and deductibles arising out of all **claims** and potential **claims** first reported during the **policy period**.

### 1.11 PART C — MULTIPLE COVERED PARTIES, CLAIMS OR CLAIMANTS

Notwithstanding any other provision of this policy, one or more **claims** resulting from an **error** shall be subject to one limit of liability and shall not increase our limits of liability regardless of whether the **error** is made by more than one **Covered Party** or by **Covered Party(ies)** acting in more than one capacity and regardless of whether the **claims** are made against more than one **Covered Party** or made by more than one **claimant**.

## INDEMNIFICATION POLICY

### 1.12 PART C — PROFESSION-WIDE ANNUAL AGGREGATE

1.12.1 The limit of liability stated in Declaration 6 is the maximum amount payable under this policy for the **policy period** on an aggregate basis for all **Covered Parties** covered by Part C of this policy. For clarity, all **Covered Parties** covered by Part C of this policy means all present and former **members** of the **Law Society**. All payments by us of **damages** and **claims expenses** arising out of all **claims** and potential **claims** first reported during the **policy period** reduce the Profession-Wide Aggregate Limit for that **policy period** in the amount of the payments.

1.12.2 The **individual Covered Parties** and **additional Covered Parties** agree that we may make payments of **damages** and **claims expenses** in reduction of the Profession-Wide Aggregate Limit, even though such payments will reduce or eliminate the limit otherwise available to **individual Covered Parties** or **additional Covered Parties** for the **policy period**.

### 1.13 PART C – ELIMINATION OF A TRUST SHORTAGE

We will not pay any **damages** or **claims expenses**, or undertake or continue the defence of any proceeding until you have complied with your obligation to eliminate a trust shortage under Rule 3-74 (1) of the **Law Society** Rules.

### 1.14 PARTS A, B AND C – CLAIMS EXPENSES WITHIN LIMITS

All **claims expenses** are within, not in addition to, the applicable limit of liability set out in Declaration 6. **Claims expenses** will be subtracted first from the applicable limit of our liability, with the remainder being the amount available to pay **damages**, subject to deductibles.

### 1.15 PARTS A, B AND C - EXHAUSTION OF LIMITS

We will not pay any **damages** or **claims expenses**, or undertake or continue the defence of any proceeding after the applicable limit of our liability has been exhausted by payment of **damages, claims expenses** and deductibles or after deposit of the balance of the applicable limit of our liability in a court of competent jurisdiction. In such a case, we have the right to withdraw from the further defence by tendering control of the defence to you.

## 2. DEDUCTIBLES

2.1 If **damages** are payable pursuant to Part A of this policy, you will pay the deductible stated in Declaration 6.

2.2 If **damages** or **claims expenses** are paid pursuant to Part B of this policy, no deductible will be paid by you.

2.3 If **damages** or **claims expenses** are payable pursuant to Part C of this policy, you will pay the deductible stated in Declaration 6 reduced by the amount you are legally obligated to pay and have paid a savings institution to satisfy any overdraft created in the **trust account**.

## INDEMNIFICATION POLICY

- 2.4 Our obligation to pay **damages** applies only to **damages** in excess of the deductible and we will be liable only for the difference between the deductible and the limit of liability.
- 2.5 When one or more **claims** arising out of an **error** are made jointly or severally against two or more **law firms** or **individual Covered Parties** at separate **law firms**, the deductible applies separately to each **law firm**.
- 2.6 All of the terms and conditions of this policy apply even if the amount of the **claim**, potential **claim** or **damages** may be less than the deductible stated in Declaration 6.
- 2.7 If we request, you will make direct payments for **claims** or potential **claims** within the deductible to us or to other parties.

### 3. REIMBURSEMENT

- 3.1 **Damages** or **claims expenses** may be paid in excess of the limit of liability or within the deductible and you will repay such amounts to us on demand.
- 3.2 If you are not entitled to coverage for a **claim** or any part of a **claim** because of any exclusion, breach of a condition, or any other term of this policy and **damages** or **claims expenses** are paid on behalf of you or any other **Covered Party** pursuant to this policy, you will reimburse us for all such amounts on demand.
- 3.3 If you are engaged in **unauthorized practice** and a **claim** or any part of a **claim** that falls within Part A or C of this policy relates to the **unauthorized practice**, and **damages** or **claims expenses** are paid on behalf of you or any other **Covered Party** pursuant to this policy, the **individual Covered Party** will reimburse us for all such amounts on demand.
- 3.4 If **damages** or **claims expenses** are paid on behalf of you or any other **Covered Party** pursuant to Part B of this policy:
  - 3.4.1 the **individual Covered Party** will reimburse us for all such amounts on demand; and
  - 3.4.2 if any other **Covered Party** received a benefit from the **error**, that **Covered Party** will reimburse us on demand for the portion of the **damages** paid that is commensurate with the amount of the benefit.
- 3.5 In relation to Conditions 3.1, 3.2, 3.3 and 3.4:
  - 3.5.1 if payments are made on behalf of two or more **Covered Parties**, your liability to us will be joint and several; and
  - 3.5.2 the timing of any demand made is in our sole discretion.

## INDEMNIFICATION POLICY

### 4. NOTICE OF CLAIM OR SUIT

- 4.1 If you become aware of an **error** or any circumstance that could reasonably be expected to be the basis of a **claim**, however unmeritorious, you will give written notice immediately, along with the fullest information obtainable, during the **policy period** to:

Lawyers Indemnity Fund  
5th Floor, 845 Cambie Street  
Vancouver, BC V6B 4Z9  
Attention: Director of Claims

or

Fax: 604-682-5842

or

Email: [LIFclaims@lif.ca](mailto:LIFclaims@lif.ca)

Such notice and the information collected in the notice is necessary to settle or defend any **claim** or anticipated **claim** against you, and you are providing it to us for the dominant purpose of litigation.

- 4.2 If a **claim** is made or suit is brought against you, you will forward immediately to us every demand, notice of civil claim or other process with the fullest information obtainable.
- 4.3 We may deem notice of an **error**, **claim** or potential **claim** given by a third party to be notice given by you.

### 5. ASSISTANCE AND COOPERATION

- 5.1 You will cooperate with us and with any counsel we retain and assist us in investigating coverage for and the facts and circumstances of **claims** and potential **claims**, in efforts to repair **errors**, in making settlements, and in the conduct of suits. Upon request, you will also:
- 5.1.1 give written statements, information and documents to and meet with us or any counsel we retain for the purpose of determining or reviewing coverage;
  - 5.1.2 provide information and documents as necessary to investigate and defend any **claim** or potential **claim**;
  - 5.1.3 submit to examination and interview by us or any counsel we retain, under oath if we request;
  - 5.1.4 attend hearings, examinations for discovery and trial;
  - 5.1.5 assist in securing and giving evidence, including obtaining the attendance of witnesses in the conduct of suits; and

## INDEMNIFICATION POLICY

5.1.6 assist in effecting all rights of indemnity, contribution or apportionment available to you or us;

all without cost to us.

5.2 You will notify us immediately of any settlement offer made on any **claim** or potential **claim**.

5.3 You will not, except at your own cost, admit liability, make any payment, settle a **claim** or potential **claim**, assume any obligation, directly or indirectly assist in making or proving a **claim** against you, take any other action that might prejudice our ability to avoid or minimize any **damages**, agree to arbitration or any similar means of resolution of any dispute, waive any rights, or incur any expenses without our prior written consent.

5.4 We shall keep any information that you provide us strictly confidential in accordance with the **Confidentiality Protocol**. You consent to any permitted disclosure, and agree that such disclosure does not constitute a waiver of privilege with respect to any third parties or, if it does, constitutes a limited waiver of privilege only for the purpose for which it is disclosed.

### 6. INNOCENT ADDITIONAL COVERED PARTY

6.1 Whenever coverage under Part A of this policy would be excluded, suspended or lost because of:

6.1.1 the application of Exclusion 1 or 2 to you; or

6.1.2 the failure to give timely notice in accordance with Part A 3 or Condition 4;

we will cover each **additional Covered Party** who did not personally commit, participate in committing, acquiesce in or remain passive after having personal knowledge of the act or **error** which is the subject of the Exclusion or the breach of Part A 3 or Condition 4, and provided that those **additional Covered Parties** who are entitled to the benefit of this Condition comply with all conditions promptly and were **members** or **MDP partners** at the time of the act or **error**.

6.2 Condition 6.1 does not apply if the act or **error** which is the subject of Exclusion 1 or 2 is an **error** for the purposes of Part B of this policy.

6.3 Where Exclusion 6.2 applies to a **claim** because, individually or collectively, directly or indirectly, the acquisition by you or your **family** of effective management or control or beneficial ownership greater than 10% of an **organization**:

6.3.1 occurred after the time of the **error**; and

6.3.2 was not related in any way to the **professional services** giving rise to the **error**;

then, pursuant to the terms of this policy, we will cover your partners who were **members** at the time of the **error**, or the **law firm** employing you (excluding any **law corporation** wholly owned by you or your **family**) at the time of the **error**.

## INDEMNIFICATION POLICY

### 7. CONFLICTS

Any duty that we may have to defend or indemnify you does not give rise to an obligation on our part to pay any cost you may incur in relation to:

- 7.1 a dispute arising out of or in connection with this policy or the breach thereof; or
- 7.2 any other actual or potential conflict between us.

You agree that you are solely responsible for any such cost without recourse to us.

### 8. ARBITRATION OR MEDIATION

We are entitled to exercise all your rights in the choice of arbitrators or mediators and in the conduct of any arbitration or mediation proceeding involving a **claim** covered by this policy.

### 9. OTHER COVERAGE OR RECOURSE

- 9.1 With respect to Part A, this indemnification policy is excess and we will not pay any **claim, damages or claims expenses** until any other valid and collectible insurance, or right of indemnity, whether primary, excess, contributing, contingent or otherwise, except for insurance that is specifically arranged to pay amounts in excess of the limits of liability provided by this policy, is exhausted.
- 9.2 With respect to Part B, and to further clarify the intent and effect of the definition of **damages** under Part B, if a **Covered Party, claimant** or any other party at interest in any loss covered by Part B of this policy has any bond, right of indemnity, insurance or recourse to any other source of recovery including set-offs whether legal or equitable, which would cover such loss in whole or in part in the absence of this policy, this policy will be null and void to the extent of the amount of such other bond, right of indemnity, insurance or recourse to any other source of recovery including set-offs whether legal or equitable; but this policy will cover such loss, subject to its terms, only to the extent of the amount of such loss in excess of the amount of such other bond, right of indemnity, insurance or recourse to any other source of recovery including set-offs whether legal or equitable.
- 9.3 With respect to Part C, and to further clarify the intent and effect of the definition of **damages** under Part C, if other valid insurance, collectible bond, right of indemnity or recourse to any other source of recovery exists and protects the **individual Covered Party** or any other **Covered Party**, other than insurance specifically arranged to pay amounts in excess of the limits of liability provided by this policy, this policy will be null and void in respect of such hazards that are otherwise covered by the other valid coverage, whether the **Covered Party** is specifically named in that coverage or not. However, if the loss exceeds the collective limits of all other valid coverage, whether primary, contributing, excess, contingent or on any other basis at law or in equity, then this policy shall apply as excess, subject to its terms including limits and deductibles, and we will not pay any **claim, damages or claims expenses** until such other valid coverage is exhausted.
- 9.4 If any **Covered Party** has lawyers professional liability insurance or indemnification coverage (other than insurance specifically arranged to pay amounts in excess of the limits

## INDEMNIFICATION POLICY

of liability provided by this or any other Canadian jurisdiction's policy) under another Canadian jurisdiction's policy (or Canadian jurisdictions' policies) that applies to a **claim** covered by this policy, the total amount of insurance or indemnity provided under these policies, together, will not exceed the total value of the **claim** or the most that is available under either (any one) of these policies alone, whichever is less. The decision as to which of these policies will respond, or as to any allocation between (or amongst) the policies, will be made by us together with the other Canadian jurisdiction(s), and you agree to be bound by the decision. For clarity, a **Reciprocal Jurisdiction** is also a Canadian jurisdiction.

### 10. PROCEEDINGS AGAINST US

10.1 No proceeding will lie against us unless, as a condition precedent, you have complied with all the terms of this policy, and until the amount of your obligation to pay has been finally determined either by judgment against you after actual trial or by binding arbitration ruling or by written agreement between you, the **claimant** and us. Neither you nor any other person will have any right to join us in any proceeding against you.

10.2 All disputes arising out of or in connection with this policy or the breach thereof, except in relation to reimbursement as provided in Condition 3 and the allocation of **claims expenses** under Part A 2.4, will be determined by arbitration in Vancouver, British Columbia, before a single arbitrator. You agree to keep all communications, meetings, evidence, materials and hearings relating to the arbitration, and any reasons or award arising from the arbitration, strictly confidential unless we agree otherwise or disclosure is required by law.

### 11. INSOLVENCY, BANKRUPTCY, INCAPACITY OR DEATH

Your insolvency, bankruptcy, incapacity or death will not relieve us or you or your estate of any of our respective obligations under this policy.

### 12. SUBROGATION

In the event of any payment under this policy, we will be subrogated to all your rights of recovery against any person or **organization** and you will do whatever is necessary to secure such rights. You will do nothing after you have notice of a **claim** or potential **claim** to prejudice such rights, and will reasonably cooperate with us.

### 13. CHANGES

Nothing will effect a waiver or a change in any part of this policy or estop us from asserting any right under this policy, nor will the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy, signed by our authorized officer.

### 14. ASSIGNMENT

Your interest in this policy is not assignable.



## INDEMNIFICATION POLICY

### 15. RELEASE OF COVERAGE

We may, in our sole discretion, agree to allow you to assume all of our responsibilities and obligations under this policy and in so doing you will release us from all such responsibilities and obligations.

### 16. INDEMNITY FEE ADJUSTMENT

16.1 If you become indemnified during the **policy period**, the **indemnity fee** payable will be determined by the **Law Society** and us on a *pro rata* basis.

16.2 If, during the **policy period**, you cease to be a **member** or you are exempted from the compulsory professional liability indemnification program, the **indemnity fee** will be adjusted by the **Law Society** and us on a *pro rata* basis.

16.3 If you are suspended or disbarred, the **indemnity fee** will be deemed to be fully earned and will not be adjusted.

### 17. CANCELLATION OF POLICY

17.1 This policy may be cancelled by the **Law Society** on your behalf by giving us written notice stating when after the notice the cancellation shall be effective.

17.2 This policy may be cancelled by us by giving the **Law Society** not less than 30 days written notice of such cancellation.

17.3 If we cancel this policy, earned **indemnity fees** will be computed on a *pro rata* basis.

### 18. APPLICABLE LAW

This policy, and any dispute arising out of or in connection with it or the breach thereof, will be exclusively governed by and interpreted in accordance with the laws of British Columbia and any applicable federal laws of Canada and, in the event any dispute is not governed by Condition 10.2 of this policy, it will be submitted and subject to the exclusive jurisdiction of the Courts of British Columbia in Vancouver, British Columbia.

### 19. PAYMENT INTO COURT

If we cannot obtain a sufficient discharge for money for which we admit liability, we may apply to the court without notice to any person for an order for the payment of it into court, and the court may order the payment into court to be made on terms as to costs and otherwise the court directs, and may provide to what fund or name the amount must be credited.

The receipt of the registrar or other proper officer of the court is a sufficient discharge to us for the money paid into court, and the money must be dealt with according to the orders of the court.

### 20. CURRENCY

The deductibles and limits are expressed in Canadian currency.

## INDEMNIFICATION POLICY

### 21. TERRITORY

This policy applies to **errors** occurring anywhere in the world.

IN WITNESS WHEREOF, we have caused this policy to be executed.

BC Lawyers Indemnity Association

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Susan I. Forbes, QC, Director

## **Endorsement #1 - BUSINESS INNOCENT COVERED PARTY (BIC)**

ATTACHED TO AND FORMING PART OF POLICY NO. LPL 21-01-01 (the “**Policy**”)

This **BIC endorsement** only applies to coverage under Part A of the **Policy** and only if both the **individual Covered Party** and all other **individual Covered Parties** at the **covered firm** have paid the **BIC fee**. Any additions or deletions of **individual Covered Parties** at the **covered firm** during the **BIC coverage period** will not affect the validity of this **BIC endorsement**.

Words and phrases that appear in bold are defined in this **BIC endorsement** or in the Definitions section of the **Policy**. You or your in the **Policy** is amended to only refer to an **additional Covered Party** as defined in this **BIC endorsement**.

In consideration of the payment of the **BIC fee**, and in reliance on the statements made in the **BIC application**, it is understood and agreed that solely for the purposes of the coverage afforded by this **BIC endorsement** for a **vicarious liability claim** under Part A:

1. The following definitions are added to the **Policy**:

**Authorized agent** means: the **member** at the **covered firm** who has been authorized by each and every **individual Covered Party** at the **covered firm**, and the **covered firm**, to complete the **BIC application** on their behalf.

**BIC application** means: the application for this **BIC endorsement** forming part of the **BIC endorsement** and completed by the **authorized agent**.

**BIC coverage period** means:

- (a) any period after January 1, 2021, 12:01 a.m. PST during which the **individual Covered Party** was a **member**, and paid both the **indemnity fee** and **BIC fee**; and
- (b) any period prior to January 1, 2021, 12:01 PST during which the **covered firm** was issued a Business Innocent Covered Party (formerly Business Innocent Insured prior to January 1, 2020) Policy and the **individual Covered Party** was a **member** and paid the **indemnity fee**.

**BIC endorsement period** means: the period between January 1, 2021 12:01 a.m. to January 1, 2022 12:01 a.m. (PST) for which the **BIC fee**, or a prorated portion of the **BIC fee** has been paid in addition to the **indemnity fee**.

**BIC fee** means: the cost of this **BIC endorsement**, as communicated by the **Lawyers Indemnity Fund** of the **Law Society**.

**Covered firm** means: the **law firm** in which the **individual Covered Party** is or was a partner, employee or associate counsel or that is or was liable for the **individual Covered Party** at the time the **professional services** giving rise to the **claim** and the **vicarious liability claim** were provided.

**Vicarious liability claim** means: a **claim** against an **additional Covered Party** arising from a professional liability **claim** against the **individual Covered Party** for **damages** that would be

## INSURANCE POLICIES

covered under Part A of the **Policy** but for the application of Exclusion 6.2 and Part A 3.4 of the **Policy**.

2. The definition of **additional Covered Parties** in the **Policy** is deleted and replaced with:
  - (a) a **covered firm**; and
  - (b) each present or former **member** who, at the time the **individual Covered Party** was providing the **professional services** giving rise to the **claim** and the **vicarious liability claim**:
    - (i) was indemnified by us and paid the **BIC fee**,
    - (ii) is or was at the **covered firm** and is or may be vicariously liable for the **individual Covered Party** at the time the **professional services** giving rise to the **claim** and the **vicarious liability claim** were provided,
    - (iii) had no knowledge of the circumstances giving rise to the application of Exclusion 6.2,
    - (iv) exercised due diligence in completing the **BIC application**, and
    - (v) made reasonable and regular inquiries of the **individual Covered Party** that could have disclosed the circumstances giving rise to the application of Exclusion 6.2 under the **Policy**.
3. An **individual Covered Party** is deleted from the definition of **Covered Party** for Part A in the **Policy**, leaving **additional Covered Party** only.
4. The following is inserted into Exclusion 6.2 before the word provided:

except that we will pay all sums **additional Covered Parties** become legally obligated to pay as **damages** because of any **vicarious liability claim** first made and reported to us in writing during the **BIC coverage period**, and
5. The following Exclusions are added to the Policy:

The **BIC endorsement** does not apply to:

  1. **errors** that occurred prior to January 1, 2002.
  2. **claims, errors** or any circumstances that the **individual Covered Party** knew or could have reasonably foreseen prior to the **endorsement coverage period** might be the basis of a **claim** excluded by Exclusion 6.2.
6. The following conditions apply to coverage afforded by this **BIC endorsement**:
  1. **THE BIC FEE**

The **BIC fee** is payable at the beginning of the **BIC coverage period** and is fully earned.

## INSURANCE POLICIES

### 2. REPRESENTATIONS

By accepting the coverage afforded under this **BIC endorsement**, each **additional Covered Party** agrees:

2.1 the statements in this **BIC application** are accurate and complete; and

2.2 this **BIC endorsement** has been issued in reliance upon such representations;

but coverage is nevertheless extended under this policy to an **additional Covered Party** who did not make or who did not knowingly permit to be made any false statement in the **BIC application**.

### 3. ACTING AS AGENT

Each **individual Covered Party** expected to be with a **covered firm** at the inception of the **BIC coverage period** authorizes, on their behalf, the **authorized agent** at the **covered firm** to act as their sole agent to complete and sign the **BIC application**, and the **authorized agent** or **covered firm** to give or receive notice of cancellation, pay the **BIC fee** and agree to any changes to this **BIC endorsement**.

### 4. LIMITS OF LIABILITY

The limit of liability for **damages, claims expenses** and deductible is \$1,000,000 per **error**. The annual aggregate limit of liability for coverage afforded by this **BIC endorsement** is \$2,000,000 for all **additional Covered Parties** covered by all **BIC endorsements** issued to **members** at the **covered firm** for all **damages, claims expenses** and deductible arising from all **vicarious liability claims** or potential **vicarious liability claims** first made and reported to us in writing during the **BIC endorsement period**. All payments, including deductible, under Part A for the same **error** or **errors** are within, not in addition to, these limits of liability.

### 7. The following conditions are added to the **Policy**:

2.1.1 If **damages** or **claims expenses** are paid pursuant to the **BIC endorsement** for **vicarious liability claims**, you will pay the deductible in Declaration 7 for End #1.

17.4 This **BIC endorsement** may be cancelled by **BCLIA** for non-payment of the **BIC fee** by providing 15 days written notice to the **covered firm**. This **BIC endorsement** may be cancelled by the **covered firm** by surrender thereof to **BCLIA** or by written notice to the **Company** stating when thereafter the cancellation shall be effective. The mailing of notice by regular mail shall be sufficient proof of notice by the **Company** or the **covered firm**. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the **BIC coverage period**. Notice of cancellation by **BCLIA** to the **covered firm** shall be deemed notice to all **additional Covered Parties**.

All other terms and conditions of the **Policy** remain unchanged.

