



AMENDMENT PAGES

2021: No. 2 July

Highlights

Law Society Rules 2015:*

- A new process allows for a Benchers to resign from office (Rule 1-7(2): p. 21);
- annual general meetings may be held entirely or partly by internet connection (Rules 1-9(5) and 1-9.1: pp. 23-24);
- money received from a lawyer will first be applied to any debts owed to the Law Society before being applied to the lawyer's annual fee (Rule 2-117(1) and (2): p. 100);
- retainers received by lawyers providing mediation, arbitration and parenting co-ordination services may be deposited to their lawyer trust accounts (Rules 3-58.1 and 3-60(4): pp. 131 and 133);
- trust funds may be withdrawn by way of bank draft, provided that certain prescribed conditions are met (Rules 3-64(4), 3-64.1(2) and 3-64.3: pp. 134-135 and 136.1);
- pronouns, such as "he" or "she," have been updated with gender-neutral alternatives (definitions of "articling start date" and "Second Vice-President elect" and Rules 1-1(3), 1-2, 1-5(4), 1-6(2) and (4), 1-10(6), 1-13.1(4), 1-13.2(2), 1-22(1), 1-25(1.1), (4) and (5), 1-27(5), 1-27.1(3), 1-44.1(2), 1-51, 2-14(2), 2-16(2) and (8), 2-17(3), 2-23(2), 2-30(5), 2-31(2) and (5), 2-33, 2-34(1), 2-36(2), 2-43(1), 2-59(1) and (5), 2-62(1) and (2), 2-63(2), 2-66(1), 2-69(1), (8) and (9), 2-79(1), (4) and (7), 2-81(2) to (4), 2-82(3), 2-87(1), 2-96(1), 2-108(7), 3-6(1), 3-11(2), 3-12(4), 3-47, 3-50(1), 3-51(1) and (2), 3-66(1), 3-67(2), 3-72(2), 3-75(2) and (3), 3-80(4), 3-87(1) and (2), 3-90(3), 3-99(1.1) and (2), 3-108, 3-109(1), 4-5(1), 4-13(1), 4-26(7), 4-38(7), 5-25(7), 9-2(3), 9-10, 9-15(1), 9-17(3) and 10-4(1) and (2)).

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

Code of Professional Conduct for British Columbia: References to "insurance" are updated to "indemnity" and related terms, and unnecessary gender language is removed (rule 3.4-26.2, commentaries [1] and [2]: p. 38.4).

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

Manual section	Existing pages to be removed	Amendment pages to be inserted
Law Society Rules	11 – 12 17 – 26, 26.1 – 26.2 29 – 32 37 – 40 44.1 – 44.2, 45 – 50 53 – 56	11 – 12 17 – 26, 26.1 – 26.2 29 – 32 37 – 40 44.1 – 44.2, 45 – 50 53 – 56

[continued over]

Manual section	Existing pages to be removed	Amendment pages to be inserted
Law Society Rules	59 – 60 69 – 74 81 – 84 87 – 88 91 – 92 97 – 100 103 – 104 [<i>104.1 – 104.2 remains</i>] 105 – 106, 106.1 – 106.2 123 – 126 131 – 132, 132.1 – 132.2, 133 – 136, 136.1 – 136.2 139 – 142 145 – 148 151 – 152 157 – 160 163 – 164 169 – 170 175 – 176 197 – 198 205 – 212 215 – 216	59 – 60 69 – 74 81 – 84 87 – 88 91 – 92 97 – 100 103 – 104 105 – 106, 106.1 – 106.2 123 – 126 131 – 136, 136.1 – 136.4 139 – 142 145 – 148 151 – 152 157 – 160 163 – 164 169 – 170 175 – 176 197 – 198 205 – 212 215 – 216
Code of Professional Conduct for British Columbia	38.3 – 38.4	38.3 – 38.4

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

Updates: This amendment package updates the *Member's Manual* to **July 15, 2021**. The previous amendment package was 2021: No. 1 March.

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.

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

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

MEMBER'S MANUAL CONTENTS CHECKLIST

2021: No. 2 July

The following list of pages and tabs can be used to verify that your *Member's Manual* is complete and up to date.

Section of Manual	Pages	Dated	Section of Manual	Pages	Dated
Divider tab: LEGAL PROFESSION ACT			Text (<i>continued</i>)	77 – 78	[03/2021]
Title page	—	—		79 – 80	[12/2020]
Table of Contents	1 – 2	[12/2019]		81 – 84	[07/2021]
	3 – 4	[06/2016]		85 – 86	[12/2020]
	5 – 6	[03/2018]		87 – 88	[07/2021]
	7 – 8	[06/2016]		89 – 90	[09/2016]
	9 – 12	[12/2012]		91 – 92	[07/2021]
	13 – 14	[12/2019]		93 – 94	[09/2016]
	15 – 16	[06/2016]		95 – 96	[12/2020]
	17 – 18	[12/2019]		97 – 100	[07/2021]
	19 – 20	[03/2018]		101 – 102	[03/2021]
	21 – 22	[06/2016]		103 – 104	[07/2021]
	23 – 26, 26.1 – 26.2	[12/2019]		104.1 – 104.2	[12/2020]
	27 – 28	[06/2019]	105 – 106, 106.1 – 106.2		[07/2021]
	29 – 34	[03/2018]		107 – 112	[06/2018]
	34.1 – 34.2	[12/2012]		113 – 114	[10/2020]
	34.3 – 34.4	[03/2018]		115 – 116	[12/2020]
	34.5 – 34.6	[12/2012]		117 – 118	[03/2017]
	35 – 36	[06/2019]		119 – 122	[12/2020]
	36.1 – 36.2	[07/07]		123 – 126	[07/2021]
	37 – 40	[06/2019]		127 – 130	[09/2019]
	41 – 42	[03/2018]	131 – 136, 136.1 – 136.4		[07/2021]
	43 – 44	[03/2013]		137 – 138	[09/2019]
	45 – 46	[07/2010]		139 – 142	[07/2021]
	47 – 48	[06/2016]		143 – 144	[10/2020]
	49 – 50	[12/98]		145 – 148	[07/2021]
	51 – 54	[12/2012]		149 – 150	[12/2020]
	55 – 58	[03/2018]		151 – 152	[07/2021]
	59 – 60	[09/2014]		153 – 156	[06/2020]
				157 – 160	[07/2021]
				161 – 162	[12/2020]
Divider tab: LAW SOCIETY RULES				163 – 164	[07/2021]
Title page	—	—		165 – 166, 166.1 – 166.2	[06/2020]
Table of Contents	1 – 10	[03/2021]		167 – 168	[06/2015]
Text	11 – 12	[07/2021]		169 – 170	[07/2021]
	13 – 14	[06/2018]		171 – 174	[03/2021]
	15 – 16	[03/2021]		175 – 176	[07/2021]
	17 – 26, 26.1 – 26.2	[07/2021]		177 – 182	[03/2021]
	27 – 28	[06/2015]		183 – 184	[06/2019]
	29 – 32	[07/2021]		185 – 186	[12/2019]
	33 – 34	[12/2015]		187 – 188	[03/2021]
	35 – 36	[10/2020]		189 – 192, 192.1 – 192.2	[12/2020]
	37 – 40	[07/2021]		193 – 194	[12/2018]
	41 – 44	[12/2020]		195 – 196	[12/2019]
	44.1 – 44.2, 45 – 50	[07/2021]		197 – 198	[07/2021]
	51 – 52	[12/2020]		199 – 200	[09/2016]
	53 – 56	[07/2021]		201 – 204	[06/2015]
	57 – 58	[12/2020]		205 – 212	[07/2021]
	59 – 60	[07/2021]		213 – 214	[10/2020]
	61 – 66	[12/2020]		215 – 216	[07/2021]
	67 – 68	[03/2021]		217 – 222	[12/2020]
	69 – 74	[07/2021]		223 – 224	[03/2021]
	75 – 76	[12/2017]			

[continued over]

Divider tab: CODE OF PROFESSIONAL CONDUCT / PROFESSIONAL CONDUCT HANDBOOK			Text (continued)		
Title page	—	—	65 – 70		[12/2012]
Table of Contents	i – vi	[06/2017]	71 – 72		[09/2014]
Introduction	vii – viii	[03/2017]	73 – 74		[12/2012]
Text	1 – 2	[12/2013]	75 – 76		[12/2015]
	3 – 10	[12/2012]	76.1 – 76.2		[06/2013]
	11 – 12	[12/2016]	77 – 80		[12/2012]
	13 – 14	[12/2013]	81 – 84		[12/2019]
	14.1 – 14.2	[03/2017]	84.1 – 84.2		[12/2013]
	15 – 16	[06/2013]	85 – 90		[12/2012]
	17 – 18	[03/2021]	91 – 94		[12/2019]
	19 – 22	[12/2012]	95 – 96		[12/2012]
	23 – 24	[06/2019]	97 – 98		[06/2016]
	24.1 – 24.2	[12/2016]	99 – 100		[12/2012]
	25 – 30	[12/2012]	101 – 102		[03/2013]
	31 – 32	[03/2021]	102.1 – 102.4		[12/2015]
	33 – 38, 38.1 – 38.2	[12/2016]	103 – 106		[03/2015]
	38.3 – 38.4	[07/2021]	107 – 108		[12/2016]
	39 – 40	[06/2013]	109 – 112		deleted
	41 – 42	[12/2012]	113 – 114		[12/2012]
	43 – 44	[06/2013]	115 – 116		[12/2015]
	45 – 46	[06/2015]			
	47 – 48	[12/2015]			
	49 – 50	[12/2012]			
51 – 52	[12/2018]				
53 – 56	[03/2017]				
57 – 58	[12/2014]				
59 – 62	[12/2012]				
63 – 64, 64.1 – 64.2	[03/2017]				
			Divider tab: INDEMNIFICATION POLICIES		
			Policy No. LPL 21-01-01	1 – 32	[12/2020]
			BIC Endorsement #1	1 – 3	[12/2020]
			Divider tab: ARTICLING		
			Text	1 – 2	[06/03]
				3 – 4	[07/09]
				5 – 8	[06/03]

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 the student’s 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;

“qualified CPA” means a person in public accounting practice who is permitted to perform audit engagements by the Organization of Chartered Professional Accountants of British Columbia;

“reciprocating governing body”

(a) means a governing body that has signed the National Mobility Agreement, and adopted regulatory provisions giving effect to the requirements of the National Mobility Agreement, and

(b) includes a governing body that has signed the Territorial Mobility Agreement and adopted regulatory provisions giving effect to the requirements of the Territorial Mobility Agreement;

“record” includes metadata associated with an electronic record;

“remedial program” includes anything that may be recommended by the Practice Standards Committee under Rule 3-19 (1) (b) [*Action by Practice Standards Committee*];

“respondent” means a person whose conduct or competence is

(a) the subject of a citation directed to be issued under Rule 4-17 (1) [*Direction to issue, expand or rescind citation*], or

(b) under review by a review board under section 47 [*Review on the record*];

“review board” means a review board established in accordance with Part 5 [*Hearings and Appeals*];

“rule” or **“subrule”** means a rule or subrule contained in these rules;

“Second Vice-President-elect” means the Benchler elected under Rule 1-19 [*Second Vice-President-elect*], from the time of the election until the Benchler takes office as Second Vice-President;

“section” means a section of the *Legal Profession Act*;

“Society” means the Law Society of British Columbia continued under section 2 (1) [*Incorporation*];

“suspension” means temporary disqualification from the practice of law;

“Territorial Mobility Agreement” means the 2006 Territorial Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;

“training course” includes any assessments, examinations or remedial work taken during or after the training course, or an educational program required by the Credentials Committee;

“trust funds” means funds directly related to legal services provided by a lawyer or law firm received in trust by the lawyer or law firm acting in that capacity, including funds

(a) received from a client for services to be performed or for disbursements to be made on behalf of the client, or

(b) belonging partly to a client and partly to the lawyer or law firm if it is not practicable to split the funds;

“valuables” means anything of value that can be negotiated or transferred, including but not limited to

- (a) securities,
- (b) bonds,
- (c) treasury bills, and
- (d) personal or real property;

“vice-chair” means a person appointed to preside at meetings of a committee in the absence of the chair;

“visiting lawyer” means a member of a governing body who is qualified to practise law in another Canadian jurisdiction.

PART 1 – ORGANIZATION

Division 1 – Law Society

Benchers

Term of office

- 1-1** (1) The term of office for an appointed Bencher begins on the date that the appointment is effective and ends on January 1 of the next even-numbered year.
- (2) Despite subrule (1), an appointed Bencher continues to hold office until a successor is appointed.
- (3) An elected Bencher holds office for 2 years beginning on January 1 following the Bencher's election.

Term limits

- 1-2** (1) A Bencher is ineligible to be elected or appointed as a Bencher if
- (a) at the conclusion of the Bencher's term of office, the Bencher will have served as a Bencher for more than 7 years, whether consecutive or not, or
- (b) the Bencher has been elected Second Vice-President-elect.
- (2) Despite subrule (1) (a) but subject to subrule (1) (b), a Bencher who was a Bencher on January 10, 1992 and who, at the conclusion of the Bencher's term of office, will not have served as a Bencher for more than 11 years, whether consecutive or not, is eligible to be elected or appointed as a Bencher.

Oath of office

- 1-3** (1) At the next regular meeting of the Benchers attended by a Bencher after being elected or appointed as a Bencher or taking office as President or a Vice-President, the Bencher must take an oath of office in the following form:
- I, [name] do swear or solemnly affirm that:
- I will abide by the *Legal Profession Act*, the Law Society Rules and the *Code of Professional Conduct*, and I will faithfully discharge the duties of [a Bencher/ President/First or Second Vice-President], according to the best of my ability; and
- I will uphold the objects of the Law Society and ensure that I am guided by the public interest in the performance of my duties.
- (2) An oath under this rule must be taken before a judge of the Provincial Court or a superior court in British Columbia, the President or a Life Bencher.

Life Benchers

- 1-4** (1) A person, including the Attorney General, who is ineligible for further election or appointment as a Bencher under Rule 1-2 [*Term limits*] is a Life Bencher on leaving office as a Bencher.

- (2) A Life Bencher
 - (a) may attend and speak at meetings of the Benchers,
 - (b) has no vote in Bencher meetings,
 - (c) except as a member of a committee under Rule 1-49 [*Committees of the Benchers*], may not exercise any of the powers of a Bencher, and
 - (d) is ineligible to be elected or appointed as a Bencher.
- (3) A Bencher who was a Bencher on January 10, 1992 and who has served for at least 7 years as a Bencher is a Life Bencher on leaving office as a Bencher.
- (4) A person who was a Life Bencher on January 1, 2010 continues to be a Life Bencher.

President and Vice-Presidents

- 1-5** (1) The term of office for the President, First Vice-President and Second Vice-President is from January 1 to December 31 of each year.
- (2) Subject to subrule (7), on January 1 of each year,
 - (a) the First Vice-President becomes President,
 - (b) the Second Vice-President becomes First Vice-President, and
 - (c) the Second Vice-President-elect becomes Second Vice-President.
- (3) Each year, the members must elect a Bencher who is a member of the Society as the Second Vice-President-elect in accordance with Rule 1-19 [*Second Vice-President-elect*].
- (4) Without further election by the district, the Bencher elected by the members under subrule (3) holds office as a Bencher representing the district that last elected the Bencher until the Bencher completes a term as President.
- (5) If there is a vacancy in the office of President or a Vice-President for any reason, including the operation of this subrule or the failure of a Bencher to take office under this rule, the Bencher who would have assumed the office at the end of the term immediately assumes the vacant office.
- (6) If a vacancy under subrule (5) occurs when there is no Bencher elected by the members to assume the office,
 - (a) the Benchers may elect a Bencher who is a member of the Society to act in the vacant office until a ballot of all members, the next general meeting or December 31, whichever comes first, and
 - (b) if the next general meeting or a ballot takes place before December 31, the members must elect a Bencher who is a member of the Society to the vacant office for the remainder of the year, and a Second Vice-President-elect.
- (7) If the First Vice-President assumes the office of President under subrule (5) on or after July 1, subrule (2) does not operate on January 1 of the following year and the President and the Vice-Presidents continue in office for an additional full year.

- (8) The powers of the President may be exercised by a Vice-President or another member of the Executive Committee designated by the President
 - (a) if the President is absent or otherwise unable to act, or
 - (b) with the consent of the President.

Removal of the President or a Vice-President

- 1-6** (1) On a resolution of a majority of the Benchers to remove the President or a Vice-President from office, the Executive Director must conduct a referendum of all members of the Society to determine if the President or Vice-President, as the case may be, should be removed from office.
- (2) If a 2/3 majority of the members voting in a referendum under this rule vote to remove the President or a Vice-President from office, the President or Vice-President ceases to hold that office and ceases to be a Bencher.
- (3) Before conducting a referendum under subrule (1), the Executive Director must notify the President or Vice-President who is affected.
- (4) Within 30 days after the Benchers pass a resolution under subrule (1), the Executive Director must make available to each member of the Society in good standing
 - (a) a notice stating
 - (i) that the Benchers have resolved to remove from office the President or a Vice-President, as the case may be,
 - (ii) the reasons for the Benchers' resolution,
 - (iii) that a referendum from among the membership is being conducted to determine if the President or Vice-President, as the case may be, should be removed from office, and
 - (iv) the date on which the referendum votes will be counted,
 - (b) a statement by the President or Vice-President, as the case may be, stating why the President or Vice-President should not be removed from office, if that person wishes to have such a statement provided to each member, and
 - (c) voting materials as required in Rule 1-27 [*Voting procedure*].
- (5) The President or Vice-President in respect of whom the referendum is conducted may attend personally or by agent during proceedings under this rule.
- (6) After the counting of the ballots is completed, the Executive Director must declare whether the President or Vice-President, as the case may be, ceases to hold office.

Bencher ceasing to hold office

- 1-7** (1) A Bencher, other than an appointed Bencher, must be a member of the Society in good standing to take or hold office as a Bencher.
- (2) A Bencher may resign by submitting a written resignation to the President stating the effective date of the resignation, and the resignation becomes effective on that date.

Meetings

Annual general meeting

- 1-8** (1) The Benchers must hold an annual general meeting of the members of the Society each year.
- (2) Subject to subrule (3) and Rule 1-9 [*Telephone connections*], the Executive Committee may determine the place and time of the annual general meeting.
- (3) Unless the Benchers direct otherwise, the President must preside at the annual general meeting from a location in the City of Vancouver.
- (4) At the annual general meeting, the Benchers must present a report of their proceedings since the last annual general meeting.
- (5) At least 60 days before an annual general meeting, the Executive Director must issue a notice of the date and time of the annual general meeting.
- (6) In order to be considered at the annual general meeting, a resolution must be
- (a) signed by at least 2 members of the Society in good standing, and
 - (b) received by the Executive Director at least 35 days before the annual general meeting.
- (6.1) On receipt of a resolution under subrule (6), the Executive Director must promptly issue a notice of the resolution, including the text of the resolution and the names of the 2 members who signed it.
- (6.2) Not later than 21 days before the annual general meeting, the 2 members who signed a resolution submitted under subrule (6) may, by notifying the Executive Director in writing,
- (a) withdraw the resolution, or
 - (b) make changes to the resolution.
- (7) Before advance voting is permitted under Rule 1-13.1 [*Voting in advance of general meeting*] and at least 16 days before an annual general meeting, the Executive Director must issue
- (a) a notice containing the following information:
 - (i) the locations at which the meeting is to be held,
 - (ii) each resolution received in accordance with subrule (6), with any changes submitted under subrule (6.2), unless the resolution has been withdrawn under that subrule, and
 - (iii) notice of advance voting if it is to be permitted under Rule 1-13.1, and
 - (b) the audited financial statement of the Society for the previous calendar year.

- (8) The accidental failure to comply with any requirement under subrule (5), (6.1) or (7) does not invalidate anything done at the annual general meeting.
- (9) A notice or other document required to be issued under this rule must be made available to Benchers and members in good standing by electronic or other means.

Telephone and internet connections

- 1-9** (1) The Benchers may conduct a general meeting by joining any number of locations by
 - (a) telephone, or
 - (b) internet connection.
- (1.1) Persons participating in and entitled to vote at a general meeting who are connected by telephone or internet connection must be able to hear all others participating in person or by telephone.
- (1.2) Persons participating in and entitled to vote at a general meeting who are connected by telephone must be able to speak at the meeting if recognized by the President.
- (1.3) Persons participating in and entitled to vote at a general meeting who are connected by the internet must be able to vote in real time when called upon by the President to do so.
- (2) The Executive Director may appoint a Bencher or a member of the Society in good standing to act as local chair of a location where the President is not present.
- (3) The local chair must record the names of those in attendance and, unless the Executive Director directs otherwise, may dispense with registration and voting, non-voting and student cards under Rule 1-13 [*Procedure at general meeting*].
- (4) A person participating in a general meeting at any location connected under subrule (1) is present at the meeting for the purpose of Rule 1-13 [*Procedure at general meeting*] and the calculation of a quorum.
- (5) Subject to Rule 1-9.1 [*Annual general meeting by internet connection*], the Executive Committee must designate locations to be joined to the annual general meeting by telephone, including at least the following locations:
 - (a) one in District No. 1, County of Vancouver, or District No. 4, County of Westminister;
 - (b) one in District No. 2, County of Victoria;
 - (c) one in District No. 3, County of Nanaimo;
 - (d) one in District No. 5, County of Kootenay;
 - (e) one in District No. 6, Okanagan;
 - (f) 2 in District No. 7, County of Cariboo;
 - (g) one in District No. 8, County of Prince Rupert;
 - (h) one in District No. 9, Kamloops.

- (6) As an exception to subrule (5), if, 7 days before an annual general meeting, fewer than 15 members of the Society have indicated to the Executive Director an intention to attend the meeting at any location announced under Rule 1-8 (7) [*Annual general meeting*], the Executive Committee may cancel that location.
- (6.1) The Executive Director
- (a) may retain a contractor to assist in any part of a general meeting conducted by way of the internet,
 - (b) must ensure that votes cast electronically in a secret ballot remain secret, and
 - (c) must take reasonable security measures to ensure that only members entitled to vote can do so.
- (7) A technical failure that prevents any member from participating in or voting at a general meeting does not invalidate anything done at the general meeting.

Annual general meeting by internet connection

- 1-9.1** (1) Despite any other rule, and in its sole discretion, the Executive Committee may direct that the annual general meeting be held by internet connection
- (a) entirely and without the physical presence of individuals in a meeting place, or
 - (b) with the physical presence of individuals in one or more meeting places.
- (2) When the Executive Committee makes a direction under subrule (1), the annual general meeting is governed by Rules 1-8 to 1-13.2 that apply to a general meeting by internet connection.
- (3) Despite subrule (2), at an annual general meeting held entirely by internet connection, the President may
- (a) preside from any location in British Columbia, and
 - (b) allow any person participating in the meeting who has the appropriate electronic equipment to be heard by all others participating, to speak at the meeting.

Auditors

- 1-10** (1) At each annual general meeting, the members of the Society must appoint an auditor.
- (2) The auditor appointed under subrule (1) must be a qualified CPA.
- (3) A Bencher, Life Bencher or an employee of the Society is not eligible to be appointed auditor under subrule (1).
- (4) A member of the Society may require the attendance of the auditor at the meeting at the expense of the Society by giving notice in writing to the Executive Director at least 10 days before a meeting at which the financial statements of the Society are to be considered or the auditor is to be appointed or removed, and, in that case, the auditor must attend the meeting.

- (5) The auditor of the Society is entitled to
 - (a) attend any general meeting of the Society and to receive every notice and other communication relating to the meeting that a member of the Society is entitled to receive, and
 - (b) be heard at any general meeting that the auditor attends on any part of the business of the meeting that concerns the auditor or the financial statements of the Society.
- (6) At any general meeting, the auditor, if present, must answer enquiries directed to the auditor concerning the financial statements of the Society and the opinion on them stated in the auditor's report.
- (7) The auditor is entitled at all times to have access to every record of the Society and is entitled to require from the Benchers, officers and employees of the Society information and explanations that the auditor considers necessary to enable the auditor to prepare his or her report.

Special general meeting

- 1-11**
- (1) The Benchers may at any time convene a special general meeting of the Society.
 - (2) The Benchers must convene a special general meeting of the Society on a written request
 - (a) delivered to the Executive Director,
 - (b) stating the nature of the business that is proposed to be considered for the meeting, and
 - (c) signed by 5 per cent of the members of the Society in good standing at the time the request is received by the Executive Director.
 - (3) The Benchers must convene a special general meeting within 60 days of the receipt of a request under subrule (2).
 - (4) Subject to subrule (3), a special general meeting must be held at a time and place that the Benchers may determine.
 - (5) At least 21 days before a special general meeting, the Executive Director must, by electronic or other means, distribute to Benchers and members of the Society in good standing
 - (a) a notice of the meeting stating the business that will be considered at the meeting, and
 - (b) any resolution to be voted on under Rule 1-13.1 [*Voting in advance of general meeting*].
 - (6) The accidental omission to give notice of a special general meeting to any Bencher or member of the Society, or the non-receipt of that notice, does not invalidate anything done at the meeting.

- (7) No business other than the business stated in the notice under subrule (5) may be considered at a special general meeting.

Quorum

- 1-12** At a general meeting of the Society, 50 members of the Society in good standing constitute a quorum.

Procedure at general meeting

- 1-13** (1) Benchers, members of the Society in good standing and articulated students are entitled to be present and to speak at a general meeting.
- (1.1) Despite subrule (1), a person participating in a general meeting by way of internet connection is not entitled to speak at the meeting.
- (2) The Executive Director must register all persons attending a general meeting as follows:
- (a) members of the Society in good standing who have not previously voted on any resolution under Rule 1-13.1 [*Voting in advance of a general meeting*], who must be given a voting card;
 - (a.1) members of the Society in good standing who have previously voted on any resolution under Rule 1-13.1, who must be given a non-voting member card;
 - (b) articulated students, who must be given a student card;
 - (c) appointed Benchers and persons given permission to attend the meeting by the President, who may be given a card for identification only.
- (3) As an exception to subrule (2), the Executive Committee may authorize the Executive Director to dispense with registration or voting and student cards at a special general meeting.
- (4) At a general meeting, the President may allow a person who is not a Bencher, a member in good standing or a student to speak.
- (5) Subject to subrules (6) and (7), in the absence of the President, the First Vice-President or the Second Vice-President must preside at a general meeting and assume the duties of the President under Rules 1-8 to 1-13.
- (6) In the absence of the President and Vice-Presidents, one of the other Benchers present must preside at a general meeting and assume the duties of the President under Rules 1-8 to 1-13.
- (7) The members of the Society present at a general meeting must choose one of their number to preside at the meeting if
- (a) no Bencher is present 30 minutes after the time appointed for holding the meeting, or
 - (b) all Benchers present are unwilling to preside.

- (8) At the beginning of the meeting, the President must declare whether or not a quorum is present.
- (9) If a quorum is not present 30 minutes after the time appointed for a general meeting, the meeting
 - (a) if convened at the written request of members, is terminated, or
 - (b) in any other case, may be adjourned to a specified place and a new date within one week, as determined by the President.
- (10) No business, other than the election of a presiding Bencher and the adjournment or termination of the meeting, can be begun unless and until a quorum is present.
- (11) If the President has declared that a quorum is present, a quorum is deemed to remain present until a member present at the meeting challenges the quorum.
- (12) The Executive Committee is authorized to set the agenda for a general meeting.
- (12.1) A resolution on which members have voted in advance of the general meeting must not be amended, postponed or referred at the general meeting.
- (13) The President must decide questions of procedure to be followed at a general meeting not provided for in the Act or these Rules.
- (14) When a decision of the President is appealed, the President must call a vote of all members present, without debate, on whether they are in favour of or opposed to sustaining the President's decision.
- (15), (15.1), (16) and (17) [moved to Rule 1-13.2]
- (18) A general meeting may be adjourned from time to time and from place to place, but no business can be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Voting in advance of general meeting

- 1-13.1**
- (1) The Benchers may authorize the Executive Director to permit members of the Society in good standing to vote by electronic means on general meeting resolutions in advance of the general meeting.
 - (2) When advance voting is permitted under subrule (1), all members of the Society in good standing must have the opportunity to vote by electronic means on all general meeting resolutions.
 - (3) The Executive Director
 - (a) may retain a contractor to assist in any part of electronic voting on general meeting resolutions,
 - (b) must ensure that votes cast electronically in a secret ballot remain secret, and
 - (c) must take reasonable security measures to ensure that only members entitled to vote can do so.

- (4) A ballot on a general meeting resolution may be produced electronically, and to cast a valid vote, a member must indicate a vote in accordance with instructions accompanying the ballot.
- (5) The period of voting in advance of a general meeting must be at least 15 days ending at the close of business on the last business day before the general meeting.
- (6) A person who has voted electronically in advance of the meeting is present at the meeting for the purpose of calculation of a quorum under Rule 1-12 [*Quorum*].

Voting at general meeting

- 1-13.2** (1) A member of the Society in good standing who is present at a general meeting and has not previously voted on any resolution under Rule 1-13.1 [*Voting in advance of general meeting*] is entitled to one vote.
- (2) A member of the Society must not
- (a) cast a vote or attempt to cast a vote that the member is not entitled to cast, or
 - (b) enable or assist a person
 - (i) to vote in the place of the member, or
 - (ii) to cast a vote that the person is not entitled to cast.
- (3) Voting at a general meeting must be by show of voting cards, or by show of hands if voting cards have not been issued, unless the President orders a secret ballot.
- (4) A member of the Society is not entitled to vote by proxy.

Bencher meetings

- 1-14** (1) Bencher meetings are held in British Columbia, unless the Benchers direct otherwise.
- (2) The President or any 2 Benchers may call a special meeting of the Benchers.
- (3) At a meeting of the Benchers, 7 Benchers constitute a quorum, provided that a majority of the Benchers present are members of the Society.

Notice of Bencher meeting

- 1-15** (1) The Executive Director must notify the Benchers of the date, time and place of the next Bencher meeting or of an adjourned Bencher meeting.
- (2) The Executive Director must notify the Benchers under subrule (1) at least 48 hours before the meeting, or within less time if that is reasonable in the circumstances.

Regional election of Benchers

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

Qualifications of candidate

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

Nomination

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

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

Acclamation

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

Eligibility and entitlement to vote

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

Voter list

- 1-26** (1) [rescinded]
- (2) In this Division, a **“voter list”** is a list of voters for an electoral district containing, in alphabetical order, the names of all members of the Society eligible to vote in the electoral district.
- (2.1) For the purpose of this rule, an election is in progress from the day that nominations are opened until the last day that members are permitted to vote.

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

Voting procedure

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

- (c) place the ballot in the ballot envelope and seal the envelope,
 - (d) complete the declaration and sign it,
 - (e) place the ballot envelope in the mailing envelope and seal the envelope, and
 - (f) deliver, or mail postage prepaid, the mailing envelope to the Executive Director.
- (4) The Executive Director may issue a replacement ballot to a voter who informs the Executive Director in writing that the original ballot has been misplaced or spoiled or was not received.
- (5) The Executive Director may issue a new set of ballot materials to a member entitled to vote who informs the Executive Director in writing that the original ballot material sent to the member relates to a district other than the one in which the member is entitled to vote.

Electronic voting

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

Order of names on ballot

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

- (6) Benchers in office on the date specified under subrule (5) are eligible to vote for the Executive Committee as follows:
 - (a) all Benchers are eligible to vote for elected Benchers;
 - (b) appointed Benchers are eligible to vote for appointed Benchers.
- (7) to (9) [rescinded; (8) moved to (2.1)]
- (10) If a vote is required for an election under this rule,
 - (a) it must be conducted by secret ballot,
 - (b) a ballot must be rejected if it contains votes for more candidates than there are positions to be filled, and
 - (c) when more than one Bencher is to be elected, the candidates with the most votes, up to the number of positions to be filled, are elected.
- (11) If, because of a tie vote or for any other reason, the Benchers fail to elect 4 members of the Executive Committee under subrule (1), or if a vacancy occurs in any position elected under this rule, the Benchers or the appointed Benchers, as the case may be, must hold an election to fill the vacancy at the next regular meeting of the Benchers.
- (12) The Executive Director may conduct an election for members of the Executive Committee partly or entirely by electronic means.
- (13) This rule applies, with the necessary changes and so far as applicable, to an election conducted partly or entirely by electronic means.

Date falling on Saturday, Sunday or holiday

- 1-42** If the time for doing an act in this division falls or expires on a day when the Society office is not open during regular business hours, the time is extended to the next day that the office is open.
- 1-43** [rescinded 12/2015]

Extension of dates

- 1-44** The Executive Committee may, on application by the Executive Director, extend any date stated in Rule 1-20 to 1-44.

General

Executive Director's delegate

- 1-44.1** (1) Any power or authority delegated to the Executive Director under these rules may be exercised by the Executive Director's delegate.
- (2) In the absence of evidence to the contrary, a person employed or retained by the Society is the Executive Director's delegate when acting within the scope of the person's employment or retainer to exercise a power or authority delegated to the Executive Director under these rules.

Seal

- 1-45** (1) Subject to subrule (2), the seal of the Society may be affixed to a document in the presence of
- (a) 2 persons, one of whom must be the President or a Vice-President, and the other of whom must be an officer of the Society, or
 - (b) one or more persons appointed by resolution of the Executive Committee.
- (2) The seal may be affixed in the presence of any one of the persons referred to in subrule (1) in the case of
- (a) a certificate, or
 - (b) a document that certifies true copies of any document or resolution.
- (3) The person or persons in whose presence the seal is affixed must sign the certificate or document of certification.

Laying of information

- 1-46** Any information alleging an offence against the Act may be laid in the name of the Society on oath of an officer of the Society or a member of the Executive Committee.

Freedom of Information and Protection of Privacy Act

- 1-47** The Executive Director is designated as the head of the Society for the purposes of the *Freedom of Information and Protection of Privacy Act*.

Appointment of Law Society counsel

- 1-48** (1) Subject to Rule 1-51 (a) [*Powers and duties*], the Executive Director may appoint an employee of the Society or retain another lawyer to advise or represent the Society in any legal matter.
- (2) When Rule 1-51 (a) [*Powers and duties*] applies and it is not practicable to call a meeting of the Executive Committee before the advice of counsel is required, the Executive Director may appoint counsel on an interim basis.

Division 2 – Committees

Committees of the Benchers

- 1-49** Subject to these rules, the President may
- (a) appoint any person as a member of a committee of the Benchers, and
 - (b) terminate the appointment.

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 the Executive Director;
 - (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*.

Self-assessment report

- 2-12.3** (1) From time to time, the Executive Director may require a law firm to complete and deliver a self-assessment report.
- (2) The Executive Director must notify the law firm of the requirement to deliver a self-assessment report at least 3 months before the date on which the Executive Director requires the law firm to deliver it.
- (3) All information and documents received by the Society under this rule are confidential, and no person is permitted to disclose them to any person.
- (4) Despite subrule (3), the Society may use information and documents received under this rule only for the purpose of statistical and other analysis regarding the practice of law.

Late delivery

- 2-12.4** (1) A law firm that fails to deliver a document required under Rule 2-12.2 [*Registration*] or 2-12.3 [*Self-assessment report*] by the time that it is due is deemed to have been in compliance with the rules if the law firm does the following within 60 days:
- (a) deliver the document required;
 - (b) pay the late delivery fee specified in Schedule 1.
- (2) A law firm that fails to deliver a document required under Rule 2-12.2 [*Registration*] or 2-12.3 [*Self-assessment report*] beyond 60 days from the time that it is due is in breach of the rules and must immediately do the following:
- (a) deliver the document required;
 - (b) pay the late delivery fee specified in Schedule 1;
 - (c) pay an additional late delivery fee specified in Schedule 1.

Designated representative

- 2-12.5** (1) A law firm that is engaged in the practice of law must designate as its designated representative one or more practising lawyers engaged in the practice of law as members of the law firm.
- (2) 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 notify the Executive Director of the designation of designated representative as part of the registration process under Rule 2-12.2 [*Registration*].
- (3) A law firm that changes its designation of designated representative must inform the Executive Director within 7 days.
- (4) A designated representative must respond promptly and completely to any communication from the Society.

- (5) A designated representative
- (a) is not responsible for a disciplinary violation by a law firm as a result of being a designated representative, and
 - (b) must not knowingly or recklessly provide false or inaccurate information in any form or report required under Rules 2-12.1 to 2-12.5.

Paralegals

Supervision of limited number of designated paralegals

- 2-13** (1) In this rule, “**designated paralegal**” means an individual permitted under section 6.1 [*Supervision*] of the *Code of Professional Conduct* to give legal advice and represent clients before a court or tribunal.
- (2) A lawyer must not supervise more than 2 designated paralegals at one time.

Unauthorized practice

Unauthorized practice of law

- 2-14** (1) A lawyer must not knowingly facilitate by any means the practice of law by a person who is not a practising lawyer or otherwise permitted to practise law under sections 15 to 17 or Rule 2-39 [*Conditions for MDP*].
- (2) Without limiting subrule (1), a lawyer must not knowingly do any of the following:
- (a) act as an agent or permit the lawyer’s name to be used or held out in any way that enables a person to engage in the unauthorized practice of law;
 - (b) send a process or other document to a person or do any other act that enables a person to engage in the unauthorized practice of law;
 - (c) open or maintain an office for the practice of law unless the office is under the personal and actual control and management of a practising lawyer.
- (3) When the Society obtains a court order or an agreement restraining a person who is not a practising lawyer from the practice of law, the Executive Director may publish generally a summary of the circumstances and of the order or agreement, in a form that appears appropriate to the Executive Director.

Inter-jurisdictional practice

Definitions

2-15 In Rules 2-15 to 2-27,

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

“**entitled to practise law**” means allowed, under all of the legislation and regulation of a home jurisdiction, to engage in the practice of law in the home jurisdiction;

“**legal matter**” includes any activity or transaction that constitutes the practice of law and any other activity or transaction ordinarily conducted by lawyers in British Columbia in the course of practising law, whether or not persons other than lawyers are legally capable of conducting it;

“**National Registry**” means the National Registry of Practising Lawyers established under the National Mobility Agreement;

“**permit**” means an inter-jurisdictional practice permit issued under Rule 2-19 [*Inter-jurisdictional practice permit*];

“**provide legal services**” means to engage in the practice of law

(a) physically in British Columbia, except with respect to the law of a home jurisdiction, or

(b) with respect to the law of British Columbia physically in any jurisdiction,

and includes to provide legal services respecting federal jurisdiction in British Columbia;

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

Inter-jurisdictional practice without a permit

- 2-16** (1) Subject to the other requirements of this rule, a visiting lawyer may provide legal services without a permit
- (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 in any calendar year, or
 - (b) in all other cases, on not more than 10 legal matters and for not more than 20 business days in total during any 12-month period.
- (2) Visiting lawyers must not hold themselves out or allow themselves to be held out as willing or qualified to provide legal services, except as visiting lawyers.
- (3) Subject to subrule (4), to qualify to provide legal services on a temporary basis under this rule, a visiting lawyer must at all times
- (a) maintain professional liability insurance that
 - (i) is reasonably comparable in coverage and limits to the indemnity coverage required of lawyers under Rule 3-39 (1) [*Compulsory professional liability indemnification*], and
 - (ii) extends to the visiting lawyer’s temporary practice in British Columbia,
 - (b) maintain trust protection insurance or other defalcation compensation coverage from a governing body that extends to the visiting lawyer’s temporary practice in British Columbia,
 - (c) not be subject to conditions of or restrictions on the visiting lawyer’s practice or membership in the governing body in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency or capacity,

- (d) not be the subject of criminal or disciplinary proceedings in any jurisdiction,
 - (e) have no disciplinary record in any jurisdiction, and
 - (f) not establish an economic nexus with British Columbia, contrary to Rule 2-17 *[Disqualifications]*.
- (4) On application of a visiting lawyer who otherwise qualifies under subrule (3), the Executive Director may allow the visiting lawyer to provide legal services without a permit beyond the limits set in subrule (1).
- (5) At the written request of a visiting lawyer affected by a decision made by the Executive Director under subrule (4), the Credentials Committee may
- (a) confirm the decision, or
 - (b) substitute its decision.
- (6) The requirement in subrule (3) (a) does not apply to a visiting lawyer who is exempt from professional liability indemnification under Rule 3-43 *[Exemption from professional liability indemnification]* with respect to legal services to be provided in British Columbia.
- (7) A visiting lawyer who provides legal services without a permit must, on request,
- (a) provide evidence to the Executive Director that the visiting lawyer has complied with and continues to comply with this rule, and
 - (b) disclose to the Executive Director each governing body of which the visiting lawyer is a member.
- (8) Notwithstanding Rules 2-15 to 2-27, members of the Canadian Forces who are entitled to practise law in a home jurisdiction in which they are members of the governing body
- (a) may provide legal services for or on behalf of the Office of the Judge Advocate General without a permit, and
 - (b) do not establish an economic nexus with British Columbia under Rule 2-17 *[Disqualifications]*, provided that they provide 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 the visiting lawyer’s 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.
- (2) If the Executive Director refers an application to the Credentials Committee under subrule (1), the Committee must
- (a) issue or renew a permit, subject to any conditions or limitations the Committee may direct, or
 - (b) reject the application.

- (3) If the Credentials Committee rejects an application, the Committee must, at the written request of the person applying under Rule 2-19 (1) [*Inter-jurisdictional practice permit*], give written reasons for the decision.

Non-practising and retired members

- 2-21** (1) If a permit is issued under Rule 2-20 [*Application for inter-jurisdictional practice permit*] to a non-practising member or a retired member, the member is released from the undertaking given under Rule 2-3 [*Non-practising members*] or 2-4 [*Retired members*] only for the purpose allowed by the permit.
- (2) If a non-practising member or a retired member qualifies to provide legal services as a visiting lawyer without a permit under Rule 2-16 [*Inter-jurisdictional practice without a permit*], the member is released from the undertaking given under Rule 2-3 [*Non-practising members*] or 2-4 [*Retired members*] only for the purpose of providing legal services under Rule 2-16.

Expiry and renewal of inter-jurisdictional practice permit

- 2-22** (1) Subject to subrules (2) to (4), a permit issued or renewed under Rule 2-20 [*Application for inter-jurisdictional practice permit*] is valid for one year from the date it was issued.
- (2) In the case of a visiting lawyer who is not entitled to practise law in the jurisdiction of a reciprocating governing body of which the visiting lawyer is a member, the permit expires on the completion of the legal matter for which the permit was granted.
- (3) A permit ceases to be valid if the holder of the permit
- (a) is not a practising member in good standing of a governing body,
 - (b) fails to maintain professional liability insurance as described in Rule 2-19 (3) (d) [*Inter-jurisdictional practice permit*],
 - (b.1) fails to maintain the trust protection insurance or other defalcation coverage described in Rule 2-16 (3) (b) [*Inter-jurisdictional practice without a permit*],
or
 - (c) is suspended or disbarred by any governing body.
- (4) Before expiry of a permit under subrule (1), the holder of the permit may apply under Rule 2-19 [*Inter-jurisdictional practice permit*] for its renewal.

Responsibilities of visiting lawyer

- 2-23** (1) The Act, these rules and the *Code of Professional Conduct* apply to and bind a visiting lawyer providing legal services.
- (2) It is the responsibility of a visiting lawyer providing legal services to
- (a) record and verify the number of business days in which the visiting lawyer provides legal services, and
 - (b) prove that the visiting lawyer has complied with these rules.

Enforcement

2-24 (1) and (2) [rescinded]

- (3) A fine imposed on a lawyer or former lawyer by a governing body may be enforced under Rule 4-45 (4) [*Discipline proceedings involving members of other governing bodies*].
- (4) A lawyer who practises law in another Canadian jurisdiction must comply with the applicable legislation, regulations, rules and *Code of Professional Conduct* of that jurisdiction.
- (5) The Executive Director may require a visiting lawyer to
 - (a) account for and verify the number of business days spent providing legal services, and
 - (b) verify compliance with any rules specified by the Executive Director.
- (6) If a visiting lawyer fails or refuses to comply with a requirement under subrule (5) within 20 days, or such longer time that the Executive Director may allow in writing,
 - (a) the visiting lawyer is prohibited from providing legal services without a permit,
 - (b) any permit issued to the visiting lawyer under Rule 2-19 [*Inter-jurisdictional practice permit*] is rescinded, and
 - (c) the Executive Director must advise each of the governing bodies of which the visiting lawyer is or has been a member, of the visiting lawyer's failure to comply and the consequences.
- (7) A visiting lawyer who is affected by subrule (6) may apply to the Credentials Committee for restoration of any or all rights lost under that subrule and the Committee may, in its discretion, grant the application, subject to any conditions or limitations it considers to be in the public interest.

Trust funds

- 2-25** A visiting lawyer providing legal services must not maintain a trust account in British Columbia, and must
- (a) promptly remit funds received in trust to the visiting lawyer's trust account in the home jurisdiction, or

Conditions and limitations

- 2-30** (1) Subject to Rule 2-31 [*Providing foreign legal services without a permit*], no one may provide foreign legal services or market a foreign legal practice in British Columbia without a permit issued under Rule 2-29 (2) [*Practitioners of foreign law*].
- (2) A practitioner of foreign law who holds a current permit may provide foreign legal services in British Columbia respecting
- (a) the law of a foreign jurisdiction in which the practitioner of foreign law is fully licensed to practise law, and
 - (b) trans-jurisdictional or international legal transactions.
- (3) A practitioner of foreign law must not
- (a) provide advice respecting the law of British Columbia or another Canadian jurisdiction, or
 - (b) deal in any way with funds that would, if accepted, held, transferred or otherwise dealt with by a lawyer, constitute trust funds, except money received on deposit for fees to be earned in the future by the practitioner of foreign law.
- (4) The Act, these rules and the *Code of Professional Conduct* apply to and bind a practitioner of foreign law.
- (5) A practitioner of foreign law must notify the Executive Director promptly if the practitioner of foreign law
- (a) is the subject of criminal or professional discipline proceedings in any jurisdiction,
 - (b) ceases to be a member in good standing of the legal profession in any jurisdiction, or
 - (c) fails to complete satisfactorily any continuing legal education program required of the practitioner of foreign law as a member of the legal profession in a foreign jurisdiction.

Providing foreign legal services without a permit

- 2-31** (1) Subject to the other requirements of this rule, a practitioner of foreign law may provide foreign legal services without a permit for a maximum of 30 business days in any calendar year.
- (2) Subject to subrule (3), to qualify to provide foreign legal services without a permit, a practitioner of foreign law must at all times
- (a) qualify for a permit under Rule 2-29 (2) [*Practitioners of foreign law*],
 - (b) comply with Rules 2-30 (3) to (5) [*Conditions and limitations*],
 - (c) not be subject to conditions of or restrictions on membership in the governing body of the practitioner of foreign law or on qualification to practise law in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency or capacity,

- (d) not be the subject of criminal or disciplinary proceedings in any jurisdiction,
 - (e) have no criminal or disciplinary record in any jurisdiction, and
 - (f) not establish an economic nexus with British Columbia.
- (3) A practitioner of foreign law who provides foreign legal services without a permit must, on request,
- (a) provide evidence to the Executive Director that the practitioner of foreign law has complied with and continues to comply with this rule, and
 - (b) disclose to the Executive Director each governing body of which the practitioner of foreign law is a member.
- (4) For the purposes of this rule, an economic nexus is established by actions inconsistent with a temporary basis for providing foreign legal services, including but not limited to doing any of the following in British Columbia:
- (a) providing foreign legal services beyond 30 business days in a calendar year;
 - (b) opening an office from which foreign legal services are offered or provided to the public;
 - (c) becoming resident;
 - (d) holding oneself out or allowing oneself to be held out as willing or qualified to provide legal services, except as a practitioner of foreign law without a permit.
- (5) A practitioner of foreign law who practises law in a law firm in the home jurisdiction of the practitioner of foreign law and provides legal services in or from an office in British Columbia affiliated with that firm does not, for that reason alone, establish an economic nexus with British Columbia.
- (6) A practitioner of foreign law who becomes disqualified under subrule (4) must cease providing foreign legal services forthwith, but may apply under Rule 2-29 [*Practitioners of foreign law*] for a permit.
- (7) On application by a practitioner of foreign law, the Executive Director may allow the practitioner of foreign law to begin or continue to provide foreign legal services pending consideration of an application under Rule 2-29 [*Practitioners of foreign law*].

Dual qualification

- 2-32** A lawyer, other than a retired or non-practising member, who is qualified to practise law in a foreign jurisdiction may act as a practitioner of foreign law in British Columbia without obtaining a permit, provided the lawyer maintains professional liability insurance that
- (a) specifically extends to the lawyer's activities as a practitioner of foreign law in British Columbia, and
 - (b) is 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*].

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 the practitioner of foreign law 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 it 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 the Canadian legal advisor 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.

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 the Executive Director's 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.

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 the student's 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 the student's 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 the applicant's 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 the student's 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 a 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) With the principal's consent, an articulated student may 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 a 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 articled 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 articled 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 articled student who takes a leave of absence under subrule (1) must notify the Executive Director in writing in advance.
- (7) An articled 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 articled 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 articled student will be eligible for call and admission within 2 years of enrolment in the admission program.
- (9) On the written application of an articled 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 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 articled 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.

- (d) a professional liability indemnity application or exemption form;
 - (e) proof of academic qualification
 - (i) as required of applicants for enrolment under Rule 2-54 (2) [*Enrolment in the admission program*], or;
 - (ii) for a member of the Barreau, proof that the applicant has earned
 - (A) a bachelor’s degree in civil law in Canada, or
 - (B) a foreign degree and a certificate of equivalency from the Barreau;
 - (f) 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*];
 - (g) any other information and documents required by the Act or these rules that are requested by the Credentials Committee or the Benchers.
- (2) An applicant under this rule must not be called and admitted unless the Executive Director is satisfied that the lawyer is not prohibited from practising law under Rule 2-89 [*Returning to practice after an absence*].
- (3) Unless Rule 2-81 [*Transfer under National Mobility Agreement and Territorial Mobility Agreement*] applies, an applicant under this rule must pass an examination on jurisdiction-specific substantive law, practice and procedure set by the Executive Director.
- (4) An applicant who does not satisfy the Executive Director that the applicant has an adequate knowledge of the English language must satisfactorily complete the training required by the Credentials Committee.
- (5) An applicant who is required to write an examination under this rule or Rule 2-89 [*Returning to practice after an absence*] must pass the required examination within 12 months after the Executive Director’s decision to permit the applicant to write the examination.
- (6) At least 30 days before writing the first examination, an applicant who is required to write an examination under this rule or Rule 2-89 [*Returning to practice after an absence*] must pay the fee specified in Schedule 1 for the examination.
- (7) An applicant who fails the transfer or qualification examination
 - (a) is entitled to a formal re-read of the examination on application to the Executive Director in writing within 30 days of notification of the applicant’s failure,
 - (b) may re-write the examination
 - (i) at any time, provided the applicant has not failed the examination before,
or

- (ii) after a period of one year from the date of the failure if the applicant has previously failed the examination, or
- (c) may be permitted to write the examination for a third or subsequent time at any time despite paragraph (b) (ii) on application to the Credentials Committee in writing stating
 - (i) compassionate grounds, supported by medical or other evidence, or
 - (ii) other grounds based on the applicant's past performance.

In-house counsel

- 2-80** (1) An applicant under Rule 2-79 [*Transfer from another Canadian jurisdiction*] may apply to the Credentials Committee for call and admission as in-house counsel.
- (2) On an application under this rule, the Credentials Committee may exempt an applicant from the requirements to write and pass the transfer examination or the qualification examination or complete the requirement under Rule 2-81 (3) [*Transfer under National Mobility Agreement and Territorial Mobility Agreement*].
- (3) A lawyer who is called and admitted as in-house counsel must practise law in British Columbia only on behalf of the lawyer's employer or one of its subsidiaries or affiliates.
- (4) On application of a lawyer called and admitted as in-house counsel, the Credentials Committee may relieve the lawyer of the restriction under subrule (3), on the lawyer
- (a) writing and passing the required examination under Rule 2-79 [*Transfer from another Canadian jurisdiction*], or
 - (b) completing the requirements under Rule 2-81 (3) [*Transfer under National Mobility Agreement and Territorial Mobility Agreement*], if the lawyer
 - (i) has practised law full-time in British Columbia for 2 years, or the equivalent in part-time practice, immediately preceding the application,
 - (ii) is entitled to practise law in the jurisdiction of a governing body of which the applicant is a member, or
 - (iii) was, when called and admitted in British Columbia, entitled to practise law in the jurisdiction of a governing body of which the applicant was a member.

Transfer under National Mobility Agreement and Territorial Mobility Agreement

- 2-81** (1) This rule applies to an applicant for transfer from another Canadian jurisdiction, provided that the applicant is entitled to practise law in the jurisdiction of a governing body of which the applicant is a member.
- (2) An applicant under this rule must fulfill all of the requirements in Rule 2-79 [*Transfer from another Canadian jurisdiction*] for call and admission on transfer from another Canadian jurisdiction, except that the applicant does not need to pass any transfer examination.

- (3) To qualify for call and admission, an applicant under this rule must certify, in the prescribed form, that the applicant 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 the lawyer's 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 adviser.
- (3) This rule applies to those members of the Chambre who have 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.

Former judge or master

Former judge or master

- 2-87** (1) Subject to subrules (2) and (3), the practice of law by a lawyer who was a judge or a master is restricted as follows:
- (a) a former judge of a federally-appointed court must not appear as counsel in any court in British Columbia without first obtaining the approval of the Credentials Committee;
 - (b) a former judge of a provincial or territorial court in Canada must not appear as counsel in the Provincial Court of British Columbia for 3 years after ceasing to be a judge;
 - (c) a former master of the Supreme Court of British Columbia must not appear as counsel before a master, a registrar, a district registrar or a deputy district registrar of the Supreme Court of British Columbia for 3 years after ceasing to be a master.
- (2) The Credentials Committee may impose conditions or limitations respecting the practice of a former judge when giving approval for that lawyer to appear as counsel under subrule (1) (a).
- (3) The Credentials Committee may at any time relieve a lawyer of a practice restriction referred to in subrule (1) and may impose conditions or limitations respecting the practice of the lawyer concerned.
- (4) A lawyer who has served as a judge or master in any court must not use any judicial title or otherwise allude to the lawyer's former status in any marketing activity.
- (5) Subrule (4) does not preclude a lawyer who has served as a judge or master from referring to the lawyer's former status in
- (a) a public announcement that the lawyer has resumed the practice of law or joined a law firm,
 - (b) a public speaking engagement or publication that does not promote the lawyer's practice or firm,
 - (c) seeking employment, partnership or appointment other than the promotion of the lawyer's practice or firm, or
 - (d) informal conversation or correspondence.
- (6) For the purpose of this rule, it is not the promotion of a lawyer's practice or firm to provide, on request, a curriculum vitae or other statement of experience that refers to the lawyer's former status as a judge or master.
- (7) This rule applies to a lawyer who has served as a master or the equivalent officer of a superior court in Canada as it does to a former master of the Supreme Court of British Columbia.

Returning to practice

Definition and application

- 2-88** (1) In Rules 2-88 to 2-90, unless the context indicates otherwise, “**relevant period**” is the shortest of the following periods of time in the immediate past:
- (a) 5 years;
 - (b) the time since the lawyer’s first call and admission in any jurisdiction;
 - (c) the time since the lawyer last passed the qualification examination.
- (2) For the purpose of paragraph (b) of the definition of “relevant period” in subrule (1), a lawyer is deemed to have been called and admitted as of the date that a practising certificate was issued under Rule 2-84 (4) [*Barristers and solicitors’ roll and oath*].
- (3) Rules 2-88 to 2-90 apply to a former lawyer and an applicant.

Returning to practice after an absence

- 2-89** (1) If, for a total of 3 years or more in the relevant period, a lawyer has not engaged in the practice of law, the lawyer must not practise law without first doing one of the following:
- (a) passing the qualification examination;
 - (b) obtaining the permission of the Credentials Committee under subrule (3).
- (2) Subrule (1) applies
- (a) despite any other rule, and
 - (b) whether or not the lawyer holds or is entitled to hold a practising certificate.
- (3) A lawyer may apply in writing to the Credentials Committee for permission to practise law without passing the qualification examination.
- (4) On an application under subrule (3), the Credentials Committee may approve the application if, in its judgement
- (a) the lawyer has engaged in activities that have kept the lawyer current with substantive law and practice skills, or
 - (b) the public interest does not require the lawyer to pass the qualification examination.
- (5) Before approving an application under subrule (4), the Credentials Committee may require the lawyer to enter into a written undertaking to do any of the things set out in Rule 2-90 (5) (b) [*Conditions on returning to practice*].
- (6) A lawyer who is required to write the qualification examination under subrule (1) must pay, at least 30 days before writing the first examination, the fee specified in Schedule 1.

- (5) If, 15 days before the date set for a hearing, the applicant has not deposited with the Executive Director the security for costs set under this rule, the hearing is adjourned.
- (6) Before the time set for depositing security for costs under subrule (5), an applicant may apply to the Credentials Committee for an extension of time, and the Committee may, in its discretion, grant all or part of the extension applied for.

Law Society counsel

- 2-93** The Executive Director must appoint an employee of the Society or retain another lawyer to represent the Society when
- (a) a hearing is ordered under this division,
 - (b) a review is initiated under section 47 [*Review on the record*],
 - (c) an applicant appeals a decision to the Court of Appeal under section 48 [*Appeal*], or
 - (d) the Society is a respondent in any other action involving an application relating to sections 19 to 22 or this division.

Preliminary questions

- 2-94** (1) Before a hearing begins, the applicant or counsel for the Society may apply for the determination of a question relevant to the hearing by delivering to the President, and to the other party, written notice setting out the substance of the application and the grounds for it.
- (2) [rescinded]
- (3) When an application is made under subrule (1), the President must do one of the following as appears to the President to be appropriate:
- (a) appoint a panel to determine the question;
 - (b) refer the question to a pre-hearing conference;
 - (c) refer the question to the panel at the hearing of the application.
- (4) The President may designate another Bencher to exercise the discretion under subrule (3).
- (5) A panel appointed under subrule (3) (a) is not seized of the application or any question pertaining to the application other than that referred under that provision.

Compelling witnesses and production of documents

- 2-95** (1) Before a hearing begins, the applicant or counsel for the Society may apply for an order under section 44 (4) [*Witnesses*] by delivering written notice setting out the substance of the application and the grounds for it to the President and to the other party.
- (2) [rescinded]

- (3) When an application is made under subrule (1), after considering any submissions of counsel, the President must
 - (a) make the order requested or another order consistent with section 44 (4) *[Witnesses]*, or
 - (b) refuse the application.
- (4) The President may designate another Bencher to make a decision under subrule (3).
- (5) On the motion of the applicant or counsel for the Society, the President or another Bencher designated by the President may apply to the Supreme Court under section 44 (5) *[Witnesses]* to enforce an order made under subrule (3).

Pre-hearing conference

- 2-96**
- (1) At the request of the applicant or counsel for the Society, or on the President's own initiative, the President may order a pre-hearing conference at any time before a hearing ordered under this division commences.
 - (2) When a conference has been ordered under subrule (1), the President must
 - (a) set the date, time and place of the conference, and
 - (b) designate a Bencher to preside at the conference.
 - (3) Counsel for the Society, and the applicant or applicant's counsel or both, must be present at the conference.
 - (4) Any person may participate in a conference by telephone or by any other means of communication that allows all persons participating to hear each other, and a person so participating is present for the purpose of subrule (3).
 - (5) The conference must consider
 - (a) the possibility of agreement on facts in order to facilitate the hearing,
 - (b) the discovery and production of documents,
 - (c) the possibility that privilege or confidentiality might require that all or part of the hearing be closed to the public, or that exhibits and other evidence be excluded from public access,
 - (d) setting a date for the hearing,
 - (e) any application by counsel for the Society to withhold the identity or locating particulars of a witness, and
 - (f) any other matters that may aid in the disposition of the application.
 - (6) The Bencher presiding at a pre-hearing conference may
 - (a) adjourn the conference generally or to a specified date, time and place,
 - (b) order discovery and production of documents,
 - (c) set a date for the hearing, and
 - (d) allow or dismiss an application under subrule (5) (f).

- (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 the Executive Director's 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.

Money owed to the Society

- 2-117** (1) Where there is any amount of money due and owing to the Society by a lawyer or former lawyer, the Executive Director must apply any money received from the lawyer or former lawyer to the debt before money is applied to the annual fee or a special assessment.
- (2) [rescinded]
- (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 the lawyer 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.

- (4) Despite subrule (3), the Executive Director may refer a complaint to the chair of the Discipline Committee if the complaint concerns only allegations that the lawyer has done one or more of the following:
- (a) breached a rule;
 - (b) breached an undertaking given to the Society;
 - (c) failed to respond to a communication from the Society;
 - (d) breached an order made under the Act or these rules.

Notifying the parties

- 3-9** (1) When a decision has been made under Rule 3-8 [*Action after investigation*], the Executive Director must notify the complainant and the lawyer in writing of the disposition.
- (2) When the Executive Director takes no further action on a complaint under Rule 3-8 (1) [*Action after investigation*], notice to the complainant under subrule (1) must include
- (a) the reason for the decision, and
 - (b) instructions on how to apply for a review of the decision under Rule 3-14 [*Review by Complainants' Review Committee*].

Extraordinary action to protect public

- 3-10** (1) An order may be made under this rule with respect to a lawyer or articled student who is
- (a) the subject of an investigation or intended investigation under Rule 3-5 [*Investigation of complaints*], and
 - (b) not the subject of a citation in connection with the matter under investigation or intended to be under investigation.
- (2) If they are satisfied, on reasonable grounds, that extraordinary action is necessary to protect the public, 3 or more Benchers may
- (a) impose conditions or limitations on the practice of a lawyer or on the enrolment of an articled student, or
 - (b) suspend a lawyer or the enrolment of an articled student.
- (3) An order made under subrule (2) or varied under Rule 3-12 [*Procedure*] is effective until the first of
- (a) final disposition of any citation authorized under Part 4 [*Discipline*] arising from the investigation, or
 - (b) rescission, variation or further variation under Rule 3-12.
- (4) Subject to an order under subrule (6), when a condition or limitation is imposed under this rule on the practice of a lawyer or the enrolment of an articled student, the Executive Director may disclose the fact that the condition or limitation applies and the nature of the condition or limitation.

- (5) The Benchers who make an order under subrule (2) (a) must consider the extent to which disclosure of the existence and content of the order should be made public.
- (6) Where, in the judgment of the Benchers who made an order under subrule (2) (a), there are extraordinary circumstances that outweigh the public interest in the disclosure of the order, those Benchers may order
 - (a) that the Executive Director not disclose all or part of the order, or
 - (b) placing limitations on the content, means or timing of disclosure.
- (7) An order made under subrule (6) does not apply to disclosure of information for the purposes of
 - (a) enforcement of the order,
 - (b) investigation and consideration of a complaint under this part or Part 4 [*Discipline*] or a proceeding under Part 5 [*Hearings and appeals*], or
 - (c) obtaining and executing an order under Part 6 [*Custodianships*].
- (8) The Benchers who make an order under subrule (6) must give written reasons for their decision.
- (9) An order under subrule (6) may be made by a majority of the Benchers who made the order under subrule (2) (a).
- (10) If the Executive Director discloses the existence of a condition or limitation under subrule (2) (a) 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.
- (11) Subrule (10) does not apply to a decision of a hearing panel or a review board.

Medical examination

- 3-11** (1) This rule applies to a lawyer or articulated student who is the subject of
- (a) an investigation or intended investigation under Rule 3-5 [*Investigation of complaints*], or
 - (b) a citation under Part 4 [*Discipline*].
- (2) If they are of the opinion, on reasonable grounds, that the order is likely necessary to protect the public, 3 or more Benchers may make an order requiring a lawyer or articulated student to
- (a) submit to an examination by a medical practitioner specified by those Benchers, and
 - (b) instruct the medical practitioner to report to the Executive Director on the ability of the lawyer to practise law or, in the case of an articulated student, the ability of the student to complete articles.

- (3) The Executive Director may deliver a copy of the report of a medical practitioner under this rule to the Discipline Committee or the Practice Standards Committee.
- (4) The report of a medical practitioner under this rule
 - (a) may be used for any purpose consistent with the Act and these rules, and
 - (b) is admissible in any hearing or proceeding under the Act and these rules.

Procedure

- 3-12**
- (1) The Benchers referred to in Rules 3-10 to 3-12 must not include a member of the Discipline Committee.
 - (2) Before Benchers take action under Rule 3-10 [*Extraordinary action to protect public*] or 3-11 [*Medical examination*], there must be a proceeding at which 3 or more Benchers and discipline counsel are present.
 - (3) The proceeding referred to in subrule (2)
 - (a) must be initiated by one of the following:
 - (i) the Discipline Committee;
 - (ii) the Practice Standards Committee;
 - (iii) the Executive Director, and
 - (b) may take place without notice to the lawyer or articled student if the majority of Benchers present are satisfied, on reasonable grounds, that notice would not be in the public interest.
 - (4) The lawyer or articled student and counsel for the lawyer or articled student may be present at a proceeding under this rule.
 - (5) All proceedings under this rule must be recorded by a court reporter.

[This page is intentionally left blank.]

Deductible, surcharge and reimbursement

- 3-44** (1) On demand, a lawyer must pay in full to the Society any of the following amounts paid under the Society’s indemnification program on behalf of the lawyer:
- (a) a deductible amount;
 - (b) any other amount that the lawyer is required to repay or reimburse the indemnity fund under professional liability indemnity policy.
- (2) If indemnity has been paid under the Society’s indemnification program, the lawyer on whose behalf it is paid must
- (a) pay the indemnity surcharge specified in Schedule 1 for each of the next 5 years in which the lawyer is a member of the Society and not exempt from the indemnity fee, and
 - (b) if the payment was made under trust protection indemnity coverage, reimburse the Society in full on demand, for all amounts paid.
- (3) The Executive Director may, in the Executive Director’s discretion, extend the time for a lawyer to reimburse the Society under subrule (1) or (2), or pay a surcharge under subrule (2) or, in extraordinary circumstances, waive payment altogether.

Application for indemnity coverage

- 3-45** (1) A lawyer may apply for indemnity coverage by delivering to the Executive Director
- (a) an application for indemnity coverage, and
 - (b) the prorated indemnity fee as specified in Schedule 2.
- (2) A lawyer who is indemnified for part-time practice may apply for coverage for full-time practice by delivering to the Executive Director
- (a) an application for full-time indemnity coverage, and
 - (b) the difference between the prorated full-time indemnity fee specified in Schedule 2 and any payment made for part-time indemnity coverage for the current year.
- (3) The Executive Director must not grant the indemnity coverage applied for under subrule (1) or (2) unless satisfied that the lawyer is not prohibited from practising law under Rule 2-89 [*Returning to practice after an absence*].

Confidentiality of indemnity claims

- 3-46** (1) In this rule, “**claim**” means a claim or potential claim reported under the professional liability indemnity policy and trust protection indemnity coverage.
- (2) Unless permitted by this rule, no one is permitted to disclose any information or records associated with a claim.
- (3) The Executive Director may do any of the following:
- (a) disclose information about a claim with the consent of the lawyer;

- (b) if a claim has become known to the public, disclose
 - (i) the existence of the claim,
 - (ii) its subject matter,
 - (iii) its status, including, if the claim is closed, the general basis on which it was closed, and
 - (iv) any additional information necessary to correct inaccurate information.
- (4) For the purpose of subrule (3) (b) (iii), the status of a claim is its stage of progress through the claims handling process, including, but not limited to the following:
 - (a) opened;
 - (b) under investigation;
 - (c) the stage of any litigation commenced;
 - (d) closed.
- (5) In the case of a claim under trust protection indemnity coverage, despite subrule (2), the Executive Director may do any of the following:
 - (a) publish the name of a lawyer or former lawyer and the circumstances of a claim when a panel or the Benchers acting under Part 4 [*Discipline*] or 5 [*Hearings and Appeals*] or a court has found that the lawyer or former lawyer has misappropriated property of a claimant;
 - (b) disclose the name of a lawyer or former lawyer and the circumstances of a claim when
 - (i) the lawyer's misappropriation is known to the public,
 - (ii) the claim arises from part of a scheme considered by a panel or the Benchers or a court in the written reasons for a decision, or
 - (iii) the facts are not disputed or are admitted by the lawyer or former lawyer;
 - (c) with the consent of the Discipline Committee, 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.

Division 6 – Financial Responsibility

Definitions

3-47 In this Division:

“insolvent lawyer” means a lawyer who

- (a) is the respondent to an application for a bankruptcy order under section 43,
- (b) has made an assignment of all the lawyer's property for the general benefit of the lawyer's creditors under section 49,
- (c) has made a proposal under section 50 or 66.12,

- (d) has filed a notice of intention to make a proposal under section 50.4, or
- (e) has applied for a consolidation order under section 219 of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3;

“**monetary judgment**” includes

- (a) an order nisi of foreclosure,
- (b) any certificate, final order or other requirement under a statute that requires payment of money to any party,
- (c) a garnishment order under the *Income Tax Act* (Canada) if a lawyer is the tax debtor, and
- (d) a judgment of any kind against an MDP in which the lawyer has an ownership interest.

Application

3-48 This Division applies to the following as it does to a lawyer, with the necessary changes and so far as it is applicable:

- (a) a non-practising member;
- (b) a retired member;
- (c) an articulated student;
- (d) a practitioner of foreign law;
- (e) a visiting lawyer permitted to practise law in British Columbia under Rules 2-16 to 2-20;
- (f) a law corporation.

Standards of financial responsibility

3-49 Instances in which a lawyer has failed to meet a minimum standard of financial responsibility include, but are not limited to, the following:

- (a) a monetary judgment is entered against a lawyer who does not satisfy the judgment within 7 days after the date of entry;
- (b) a lawyer is an insolvent lawyer;
- (c) a lawyer does not produce and permit the copying of records and other evidence or provide explanations as required under Rule 3-85 (2) (b) [*Compliance audit of books, records and accounts*];
- (d) a lawyer does not deliver a trust report as required under Rule 3-79 [*Trust report*] or 3-82 (5) [*Accountant’s report*];
- (e) a lawyer does not report and pay the trust administration fee to the Society as required under Rule 2-110 [*Trust administration fee*];
- (f) a lawyer does not produce electronic accounting records when required under the Act or these rules in a form required under Rule 10-3 (2) [*Records*].

Failure to satisfy judgment

- 3-50** (1) A lawyer against whom a monetary judgment is entered and who does not satisfy the judgment within 7 days after the date of entry must immediately notify the Executive Director in writing of
- (a) the circumstances of the judgment, including whether the judgment creditor is a client or former client of the lawyer, and
 - (b) the lawyer's proposal for satisfying the judgment.
- (2) Subrule (1) applies whether or not any party has commenced an appeal from the judgment.
- (3) If a lawyer fails to deliver a proposal under subrule (1) (b) that is adequate in the discretion of the Executive Director, the Executive Director may refer the matter to the Discipline Committee or the chair of the Discipline Committee.

Insolvent lawyer

- 3-51** (1) A lawyer who becomes an insolvent lawyer must immediately
- (a) notify the Executive Director in writing that the lawyer has become an insolvent lawyer, and
 - (b) deliver to the Executive Director
 - (i) a copy of all material filed in the proceedings referred to in the definition,
 - (ii) all information about any debts to a creditor who is or has been a client of the lawyer,
 - (iii) all information about any debt that arose from the lawyer's practice of law, and
 - (iv) any other information, including copies of any books, records, accounts and other documents and information in the lawyer's possession that are relevant to the proceedings referred to in the definition that the Executive Director may request.
- (2) An insolvent lawyer who becomes bankrupt has committed conduct unbecoming the profession in either of the following circumstances:
- (a) the lawyer's wilful neglect of creditors, financial irresponsibility or personal extravagance contributed to the bankruptcy;
 - (b) the lawyer fails or refuses to take reasonable steps to obtain a discharge from the bankruptcy within a reasonable time.
- (3) An insolvent lawyer must not operate a trust account except with
- (a) the permission of the Executive Director, and
 - (b) a second signatory who is a practising lawyer, not an insolvent lawyer and approved by the Executive Director.

Trust account only for legal services

- 3-58.1** (1) Except as permitted by the Act or these rules or otherwise required by law, a lawyer or law firm must not permit funds to be deposited to or withdrawn from a trust account unless the funds are directly related to legal services provided by the lawyer or law firm.
- (2) A lawyer or law firm must take reasonable steps to obtain appropriate instructions and pay out funds held in a trust account as soon as practicable on completion of the services to which the funds relate.
- (3) Despite subrule (1), a lawyer or law firm may deposit to and withdraw from a trust account funds that are received as a retainer for services as a mediator, arbitrator or parenting coordinator.
- (4) Funds deposited to a trust account by a lawyer or law firm under subrule (3) are subject to all the rules pertaining to trust funds as if the funds were received from a client in relation to legal services provided by the lawyer or law firm.

Cash transactions

- 3-59** (1) This rule applies when a lawyer or law firm engages in any of the following activities on behalf of a client, including giving instructions on behalf of a client in respect of those activities:
- (a) receiving or paying funds;
 - (b) purchasing or selling securities, real property or business assets or entities;
 - (c) transferring funds or securities by any means.
- (2) Despite subrule (1), this rule does not apply when a lawyer or law firm receives or accepts cash in connection with the provision of legal services by the lawyer or law firm
- (a) [rescinded]
 - (b) from a peace officer, law enforcement agency or other agent of the Crown acting in an official capacity,
 - (c) pursuant to the order of a court or other tribunal for the release to the lawyer or the lawyer's client of cash that has been seized by a peace officer, law enforcement agency or other agent of the Crown acting in an official capacity,
 - (d) to pay a fine, penalty or bail, or
 - (e) from a financial institution or public body.
- (3) While engaged in an activity referred to in subrule (1), a lawyer or law firm must not receive or accept cash in an aggregate amount greater than \$7,500 in respect of any one client matter.
- (4) Despite subrule (3), a lawyer or law firm may receive or accept cash in an aggregate amount greater than \$7,500 in respect of a client matter for professional fees, disbursements or expenses in connection with the provision of legal services by the lawyer or law firm.

- (5) A lawyer or law firm that receives or accepts cash in an aggregate amount greater than \$7,500 under subrule (4) must make any refund out of such money in cash.
- (6) A lawyer or law firm that receives cash, unless permitted under this rule to accept it, must
 - (a) make no use of the cash,
 - (b) return the cash, or if that is not possible, the same amount in cash, to the payer immediately,
 - (c) make a written report of the details of the transaction to the Executive Director within 7 days of receipt of the cash, and
 - (d) comply with all other rules pertaining to the receipt of trust funds.
- (7) For the purposes of this rule, a lawyer or law firm that receives or accepts cash in foreign currency is deemed to have received or accepted the cash converted into Canadian dollars based on
 - (a) the official conversion rate of the Bank of Canada for that currency as published in the Bank of Canada's Daily Noon Rates in effect at the relevant time, or
 - (b) if no official conversion rate is published as set out in paragraph (a), the conversion rate of the Bank of Canada in effect on the most recent business day.

Pooled trust account

- 3-60** (1) The following provisions apply to a pooled trust account:
- (a) the account must be kept in a designated savings institution;
 - (b) the account must be readily available for the lawyer to draw on;
 - (c) the lawyer must periodically receive
 - (i) cancelled cheques, and
 - (ii) bank statements for the account covering all transactions on the account;
 - (d) the savings institution must agree with the lawyer to pay interest to the Foundation in accordance with subrule (3);
 - (e) the account must be kept in the name of
 - (i) the lawyer, or
 - (ii) the firm of which the lawyer is a partner, employee, member or voting shareholder;
 - (f) the account must be designated as a "trust" account on the records of the savings institution and of the lawyer.
- (2) The cancelled cheques and bank statements referred to in subrule (1) (c) may be received or retained by the lawyer in an electronic form acceptable to the Executive Director.

- (3) A lawyer who opens or maintains a pooled trust account must
 - (a) instruct the savings institution in writing to remit the net interest earned on the account to the Foundation at least quarterly, and
 - (b) if the lawyer opens or maintains the account at a bank or trust company, notify the institution in writing that the account is a trust account containing the funds of more than one client.
- (4) Subject to subrule (5) and Rule 3-74 [*Trust shortage*], a lawyer must not deposit to a pooled trust account any funds other than
 - (a) trust funds,
 - (b) funds that are fiduciary property, or
 - (c) funds the lawyer is permitted to deposit to a trust account under Rule 3-58.1 (3) [*Trust account only for legal services*].
- (5) A lawyer may maintain in a pooled trust account up to \$300 of the lawyer's own funds.

Separate trust account

- 3-61** (1) A separate trust account must be
 - (a) an interest-bearing trust account or a savings, deposit, investment or similar form of account in a savings institution in British Columbia, and
 - (b) designated as a "trust" account on the records of the savings institution and of the lawyer.
- (2) An account referred to in subrule (1) must be
 - (a) in the name of
 - (i) the lawyer,
 - (ii) the firm of which the lawyer is a partner, employee, member or voting shareholder, or
 - (iii) the trust, or
 - (b) identified by a number that identifies the client on inspection of the lawyer's books and accounts.
- (3) Subject to Rule 3-74 [*Trust shortage*], a lawyer must not deposit to a separate trust account any funds other than trust funds or funds that are fiduciary property.

Cheque endorsed over

- 3-62** If a lawyer receives a cheque payable to the lawyer in trust and, in the ordinary course of business, pays the cheque to a client, or to a third party on behalf of the client, in the form in which it was received, the lawyer must keep a written record of the transaction and retain a copy of the cheque.

Trust account balance

- 3-63** A lawyer must at all times maintain sufficient funds on deposit in each pooled or separate trust account to meet the lawyer's obligations with respect to funds held in trust for clients.

Withdrawal from trust

- 3-64** (1) A lawyer must not withdraw or authorize the withdrawal of any trust funds unless the funds are
- (a) properly required for payment to or on behalf of a client or to satisfy a court order,
 - (b) the property of the lawyer,
 - (c) in the account as the result of a mistake,
 - (d) paid to the lawyer to pay a debt of that client to the lawyer,
 - (e) transferred between trust accounts,
 - (f) due to the Foundation under section 62 (2) (b) [*Interest on trust accounts*], or
 - (g) unclaimed trust funds remitted to the Society under Division 8 [*Unclaimed Trust Money*].
- (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*],
 - (b.1) by bank draft as permitted by Rule 3-64.3 [*Withdrawal from trust by bank draft*],
 - (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, and
 - (ii) the confirmation required in paragraph (c).
- (3) Despite subrule (2) (a), a lawyer who practises law as the only lawyer in a law firm and who has no non-lawyer staff may transfer funds electronically if the lawyer personally uses
- (a) one password or access code to enter data into the electronic funds transfer system describing the details of the transfer, and
 - (b) a different password or access code to enter data into the electronic funds transfer system authorizing the financial institution to carry out the transfer.
- (4) No later than the close of the banking day immediately after the day on which the confirmation required in subsection (2) (c) is sent to a lawyer, the lawyer must
- (a) produce a printed copy of the confirmation,
 - (b) compare the printed copy of the confirmation and the signed requisition relating to the transfer to verify that the money was drawn from the trust account as specified in the signed requisition,
 - (c) indicate on the printed copy of the confirmation
 - (i) the name of the client,
 - (ii) the subject matter of the file, and
 - (iii) any file numberin respect of which the money was drawn from the trust account, and
 - (d) after complying with paragraphs (a) to (c), sign, date and retain the printed copy of the confirmation.

- (5) A transaction in which a lawyer personally uses an electronic funds transfer system to authorize a financial institution to carry out a transfer of trust funds is not exempted under Rule 3-101 (c) (ii) [*Exemptions*] from the client identification and verification requirements under Rules 3-102 to 3-106.
- (6) Despite subrules (2) to (4), a lawyer may withdraw funds from a pooled or separate trust account by electronic transfer using the electronic filing system of the land title office for the purpose of the payment of property transfer tax on behalf of a client, provided that the lawyer
 - (a) retains in the lawyer's records a copy of
 - (i) all electronic payment authorization forms submitted to the electronic filing system,
 - (ii) the property transfer tax return, and
 - (iii) the transaction receipt provided by the electronic filing system,
 - (b) digitally signs the property transfer tax return in accordance with the requirements of the electronic filing system, and
 - (c) verifies that the money was drawn from the trust account as specified in the property transfer tax return.

Electronic deposits into trust

3-64.2 A lawyer must not receive money into a trust account by means of electronic transfer unless the following conditions are met:

- (a) the lawyer must obtain a confirmation in writing providing details of the transfer from the financial institution or the remitter of the funds within 2 banking days of the deposit;
- (b) the deposit must generate sufficient documentation to enable the lawyer to meet the record-keeping requirements under this division.

Withdrawal from trust by bank draft

3-64.3 A lawyer may withdraw funds from a pooled or separate trust account by bank draft, provided all of the following conditions are met:

- (a) the recipient of the funds must provide the following in writing:
 - (i) consent in advance to receive the funds in the form of a bank draft;
 - (ii) acknowledgement of receipt of the funds;
- (b) the lawyer using a bank draft to withdraw trust funds must
 - (i) document the transaction on the client's file using the prescribed form,
 - (ii) obtain the bank draft at a financial institution where the lawyer's law firm has a trust account, and

- (iii) maintain in the lawyer's records
 - (A) the documents obtained from the recipient under paragraph (a),
 - (B) the completed form required under subparagraph (i), and
 - (C) a copy of the bank draft.

Payment of fees from trust

- 3-65** (1) In this rule, “fees” means fees for services performed by a lawyer or a non-lawyer member of the lawyer’s MDP, charges, disbursements and taxes on those fees, charges and disbursements.
- (1.1) A lawyer who withdraws or authorizes the withdrawal of trust funds for the payment of the lawyer’s fees must withdraw the funds
 - (a) with a cheque payable to the lawyer’s general account, or
 - (b) by electronic transfer in accordance with Rule 3-64.1 [*Electronic transfers from trust*] to the lawyer’s general account.
 - (2) A lawyer who withdraws or authorizes the withdrawal of trust funds under subrule (1.1) in payment for the lawyer’s fees must first prepare a bill for those fees and immediately deliver the bill to the client.
 - (3) A bill or letter is delivered within the meaning of this rule if it is
 - (a) mailed to the client at the client’s last known address,
 - (b) delivered personally to the client,
 - (c) transmitted by electronic facsimile to the client at the client’s last known electronic facsimile number,
 - (d) transmitted by electronic mail to the client at the client’s last known electronic mail address, or
 - (e) made available to the client by other means agreed to in writing by the client.
 - (4) As an exception to subrule (2), a lawyer need not deliver a bill if the client instructs the lawyer otherwise in writing.
 - (5) A lawyer must not take fees from trust funds when the lawyer knows that the client disputes the right of the lawyer to receive payment from trust funds, unless
 - (a) the client has agreed that the lawyer may take funds from trust to satisfy the lawyer’s account and the client has acknowledged that agreement in writing or the lawyer has confirmed the client’s agreement in a letter delivered to the client,
 - (b) a bill has been delivered under subrule (3), whether or not the client has directed otherwise under subrule (4),

- (c) the lawyer has given the client written notice that the fees will be taken from trust unless, within one month, the client commences a fee review under section 70 [*Review of a lawyer's bill*] or an action disputing the lawyer's right to the funds, and
 - (d) the client has not commenced a fee review under section 70 or an action at least one month after written notice is given under paragraph (c).
- (6) Despite subrule (5), if a lawyer knows that the client disputes a part of the lawyer's account, the lawyer may take from trust funds fees that are not disputed.
- (7) A lawyer must not take fees from trust funds impressed with a specific purpose, if the object of the trust has not been fulfilled, without the express consent of the client or another person authorized to give direction on the application of the trust funds.

Withdrawal from separate trust account

- 3-66** (1) A lawyer who makes or authorizes the withdrawal of funds from a separate trust account in respect of which cancelled cheques and bank statements are not received from the savings institution monthly and kept in the lawyer's records must first transfer the funds into the lawyer's pooled trust account.
- (2) Rules 3-64 to 3-65 apply to funds that have been transferred into a pooled trust account in accordance with subrule (1).
- (3) A lawyer who disburses trust funds received with instructions under Rule 3-58 (2) [*Deposit of trust funds*] must keep a written record of the transaction.

Accounting records

- 3-67** (1) In this rule, "supporting document" includes
- (a) validated deposit receipts,
 - (b) periodic bank statements,
 - (c) passbooks,
 - (d) cancelled and voided cheques,
 - (e) bank vouchers and similar documents,
 - (f) vendor invoices, and
 - (g) bills for fees, charges and disbursements.
- (2) A lawyer must record all funds received and disbursed in connection with the lawyer's law practice by maintaining the records required under this division.
- (3) A lawyer must maintain accounting records, including supporting documents, in
- (a) legibly handwritten form, in ink or other duplicated or permanent form,
 - (b) printed form, or
 - (c) an electronic form in compliance with subrule (4).

- (4) A lawyer who maintains accounting records, including supporting documents, in electronic form, must ensure that
 - (a) all records and documents are maintained in a way that will allow compliance with Rule 10-3 (2) [*Records*],
 - (b) copies of both sides of all paper records and documents, including any blank pages, are retained in a manner that indicates that they are two sides of the same document, and
 - (c) there is a clear indication, with respect to each financial transaction, of
 - (i) the date of the transaction,
 - (ii) the individual who performed the transaction, and
 - (iii) all additions, deletions or modifications to the accounting record and the individual who made each of them.
- (5) A lawyer must record transactions in accounting records in chronological order and in an easily traceable form.
- (6) A lawyer must retain all supporting documents for both trust and general accounts.

Billing records

- 3-71** (1) A lawyer must keep file copies of all bills delivered to clients or persons charged
- (a) showing the amounts and the dates charges are made,
 - (b) indicating all dates on which the bill was created or modified,
 - (c) identifying the client or person charged, and
 - (d) filed in chronological, alphabetical or numerical order.
- (2) For the purpose of subrule (1), a bill includes a receipt issued under Rule 3-72 (3) [*Recording transactions*].

Recording transactions

- 3-72** (1) A lawyer must record each trust or general transaction promptly, and in any event not more than
- (a) 7 days after a trust transaction, or
 - (b) 30 days after a general transaction.
- (2) A lawyer must record in general account records all funds
- (a) received by the lawyer expressly on account of fees earned and billed or disbursements made by the day the funds are received,
 - (b) subject to a specific agreement with the client allowing the lawyer to treat them as the lawyer's own funds, or
 - (c) that the lawyer is entitled to keep whether or not the lawyer renders any services to or makes any disbursements on behalf of that client.
- (3) A lawyer who receives funds to which subrule (2) applies must immediately deliver a bill or issue to the client a receipt for the funds received, containing sufficient particulars to identify the services performed and disbursements incurred.
- (4) As an exception to subrule (1), a lawyer must record the receipt of interest on a separate trust account within 30 days of payment or of notice that funds have been credited to the account.

Monthly trust reconciliation

- 3-73** (1) A lawyer must prepare a monthly trust reconciliation of the total of all unexpended balances of funds held in trust for clients as they appear in the trust ledgers, with the total of balances held in the trust bank account or accounts, together with the reasons for any differences between the totals.
- (2) The monthly trust reconciliation must be supported by
- (a) a detailed monthly listing showing the unexpended balance of trust funds held for each client, and identifying each client for whom trust funds are held,
 - (b) a detailed monthly bank reconciliation for each pooled trust account,

- (c) a listing of balances of each separate trust account or savings, deposit, investment or similar form of account, identifying the client for whom each is held,
 - (d) a listing of balances of all other trust funds received pursuant to Rule 3-58 (2) [*Deposit of trust funds*], and
 - (e) a listing of valuables received and delivered and the undelivered portion of valuables held for each client.
- (3) Each monthly trust reconciliation prepared under subrule (1) must include the date on which it was prepared.
- (4) A lawyer must retain for at least 10 years
- (a) each monthly trust reconciliation prepared under subrule (1), and
 - (b) the detailed listings described in subrule (2) as records supporting the monthly trust reconciliations.
- (5) A lawyer must make the trust reconciliation required by this rule not more than 30 days after the effective date of the reconciliation.

Trust shortage

- 3-74** (1) A lawyer who discovers a trust shortage must immediately pay enough funds into the account to eliminate the shortage.
- (2) A lawyer must immediately make a written report to the Executive Director, including all relevant facts and circumstances, if the lawyer
- (a) discovers a trust shortage greater than \$2,500, or
 - (b) is or will be unable to deliver up, when due, any trust funds held by the lawyer.
- (3) A trust shortage referred to in this rule includes a shortage caused by service charges, credit card discounts and bank errors.

Retention of records

- 3-75** (1) In this rule, “**records**” means the records referred to in Rules 3-67 to 3-71.
- (2) A lawyer must keep all records for as long as the records apply to money held as trust funds or to valuables held in trust for a client and for at least 10 years from the final accounting transaction or disposition of valuables.
- (3) A lawyer must keep records, other than electronic records, at the lawyer’s chief place of practice in British Columbia for at least 3 years from the final accounting transaction or disposition of valuables.

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 the Executive Director's 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.

- (2) When an order is made under subrule (1),
 - (a) the Executive Director must designate one or more persons to conduct the compliance audit, and
 - (b) on notification of the order, the lawyer concerned must immediately produce and permit the copying of all files, vouchers, records, accounts, books and any other evidence and must provide any explanations required by the person designated under paragraph (a) for the purpose of completing the compliance audit.

Failure to produce records on compliance audit

- 3-86** (1) Subject to subrules (2) and (3), a lawyer who does not produce and permit the copying of records and other evidence or provide explanations as required under Rule 3-85 (2) (b) [*Compliance audit of books, records and accounts*] is suspended until the records are produced, copying is permitted and explanations are provided 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.

Disposition of files, trust money and other documents and valuables

- 3-87** (1) Before leaving a firm in British Columbia, a lawyer must advise the Executive Director in writing of the lawyer's intended disposition of all of the following that relate to the lawyer's practice in British Columbia and are in the lawyer's possession or control:
- (a) open and closed files;
 - (b) wills and wills indices;
 - (c) titles and other important documents and records;
 - (d) other valuables;
 - (e) trust accounts and trust funds;
 - (f) fiduciary property.

- (2) Within 30 days after withdrawing from the practice of law in British Columbia, a lawyer or former lawyer must confirm to the Executive Director in writing that
- (a) the documents and property referred to in subrule (1) (a) to (d) have been disposed of, and any way in which the disposition differs from that reported under subrule (1),
 - (b) all trust accounts referred to in subrule (1) (e) have been closed and that
 - (i) all the balances have been
 - (A) remitted to the clients or other persons on whose behalf they were held,
 - (B) transferred to another lawyer with written instructions concerning the conditions attaching to them, or
 - (C) paid to the Society under Rule 3-89 [*Payment of unclaimed trust money to the Society*], and
 - (ii) any net interest earned on a pooled trust account has been remitted to the Foundation in accordance with this division, and
 - (c) the lawyer or former lawyer has notified all clients and other persons for whom the lawyer is or may become a personal representative, executor, trustee or other fiduciary regarding the lawyer or former lawyer's withdrawal from practice and any change in the lawyer's membership status.
- (3) A law corporation must confirm to the Executive Director as required under subrule (2) within 30 days of
- (a) cancellation of its permit under Part 9 [*Incorporation and Limited Liability Partnerships*], and
 - (b) ceasing to provide legal services.
- (4) The Executive Director may, on application in writing by the lawyer, former lawyer or law corporation, extend the time limit referred to in subrule (1), (2) or (3) or, if in the opinion of the Executive Director it is in the public interest, relieve the lawyer, former lawyer or law corporation of any of the requirements of those subrules.
- (5) On an enquiry, the Executive Director may disclose information collected under this rule if satisfied that
- (a) the person enquiring has a bona fide reason to obtain the information, and
 - (b) disclosure of the information would not be an unreasonable invasion of anyone's privacy.

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 the Executive Director 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).

Division 11 – Client Identification and Verification

Definitions

3-98 (1) In this division,

“**client**” includes

- (a) another party that a lawyer’s client represents or on whose behalf the client otherwise acts in relation to obtaining legal services from the lawyer, and
- (b) in Rules 3-102 to 3-105, an individual who instructs the lawyer on behalf of a client in relation to a financial transaction;

“**disbursements**” has the same meaning as in Rule 3-53 [*Definitions*];

“**expenses**” has the same meaning as in Rule 3-53;

“**financial institution**” has the same meaning as in Rule 3-53;

“**financial transaction**” means the receipt, payment or transfer of money on behalf of a client or giving instructions on behalf of a client in respect of the receipt, payment or transfer of money;

“**interjurisdictional lawyer**” means a member of a governing body who is authorized to practise law in another Canadian jurisdiction;

“**money**” includes cash, currency, securities, negotiable instruments or other financial instruments, in any form, that indicate a person’s title or right to or interest in them, and electronic transfer of deposits at financial institutions;

“**organization**” means a body corporate, partnership, fund, trust, co-operative or an unincorporated association;

“**professional fees**” has the same meaning as in Rule 3-53;

“**public body**” has the same meaning as in Rule 3-53;

“**reporting issuer**” means an organization that is

- (a) a reporting issuer within the meaning of the securities law of any province or territory of Canada,
- (b) a corporation whose shares are traded on a stock exchange that is prescribed by the *Income Tax Act* (Canada) and operates in a country that is a member of the Financial Action Task Force on Money Laundering, or
- (c) controlled by a reporting issuer;

“**securities dealer**” means an entity that is authorized under federal, provincial or territorial legislation to engage in the business of dealing in securities or any other financial instruments or to provide portfolio management or investment advising services, other than an entity that acts exclusively on behalf of an entity so authorized.

(2) In this division, a person controls an organization if the person, directly or indirectly, has the power to elect a majority of the directors or equivalent body of the organization by virtue of

- (a) ownership or direction over voting securities of the organization,
- (b) being or controlling the general partner of a limited partnership, or
- (c) being a trustee of or occupying a similar position in the organization.

Application

3-99 (1) Subject to subrule (2), this division applies to a lawyer who is retained by a client to provide legal services.

(1.1) The requirements of this division are in keeping with a lawyer's obligation to know the lawyer's client, understand the client's financial dealings in relation to the retainer with the client and manage any risks arising from the professional business relationship with the client.

(2) Rules 3-100 to 3-108 and 3-110 do not apply when a lawyer provides legal services

- (a) on behalf of the lawyer's employer, or
- (b) in the following circumstances if no financial transaction is involved:
 - (i) as part of a duty counsel program sponsored by a non-profit organization;
 - (ii) in the form of pro bono summary advice.

(2.1) A lawyer is not required to repeat compliance with Rules 3-100 to 3-106 when another lawyer or an interjurisdictional lawyer who has complied with those rules or the equivalent provisions of a governing body

- (a) engages the lawyer to provide legal services to the client as an agent, or
- (b) refers a matter to the lawyer for the provision of legal services.

(3) In this division, the responsibilities of a lawyer may be fulfilled by the lawyer's firm, including members or employees of the firm wherever located.

Requirement to identify client

3-100 (1) A lawyer who is retained by a client to provide legal services must obtain and record, with the applicable date

- (a) [rescinded]
- (b) for individuals, all of the following information:
 - (i) the client's full name;
 - (ii) the client's home address, home telephone number and occupation;
 - (iii) the address and telephone number of the client's place of work or employment, where applicable, and
- (c) for organizations, all of the following information:
 - (i) the client's full name, business address and business telephone number;
 - (ii) the name, position and contact information for individuals who give instructions with respect to the matter for which the lawyer is retained;

- (6) A lawyer must not rely on information obtained by an agent under this rule unless the lawyer
 - (a) obtains from the agent all of the information obtained by the agent under that agreement or arrangement, and
 - (b) is satisfied that the information is valid and current and that the agent verified identity in accordance with Rule 3-102 [*Requirement to verify client identity*].
- (7) A lawyer may rely on an agent's previous verification of an individual client if the agent was, at the time of the verification
 - (a) acting in the agent's own capacity, whether or not the agent was acting under this rule, or
 - (b) acting as an agent under an agreement or arrangement in writing entered into with another lawyer required under this division to verify the identity of a client.

Timing of verification for individuals

- 3-105** (1) At the time that a lawyer provides legal services in respect of a financial transaction, the lawyer must verify the identity of a client who is an individual.
- (2) When a lawyer has verified the identity of an individual, the lawyer is not required subsequently to verify that same identity unless the lawyer has reason to believe the information, or the accuracy of it, has changed.

Timing of verification for organizations

- 3-106** (1) A lawyer who provides legal services in respect of a financial transaction must verify the identity of a client that is an organization promptly and, in any event, within 30 days.
- (2) When a lawyer has verified the identity of a client that is an organization and obtained and recorded information under Rule 3-103 [*Requirement to identify directors, shareholders and owners*], the lawyer is not required subsequently to verify that identity or obtain and record that information, unless the lawyer has reason to believe that the information, or the accuracy of it, has changed.

Record keeping and retention

- 3-107** (1) A lawyer must obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of Rule 3-102 (1) [*Requirement to verify client identity*].
- (2) The documents referred to in subrule (1) may be kept in a machine-readable or electronic form, if a paper copy can be readily produced from it.
- (3) A lawyer must retain a record of the information, with applicable dates, and any documents obtained or produced for the purposes of
 - (a) Rule 3-100 [*Requirement to identify client*],

- (b) Rule 3-103 [*Requirement to identify directors, shareholders and owners*],
 - (c) Rule 3-102 [*Requirement to verify client identity*],
 - (d) Rule 3-104 [*Use of an agent for client verification*], or
 - (e) Rule 3-110 [*Monitoring*].
- (4) The lawyer must retain information and documents referred to in subrule (3) for the longer of
- (a) the duration of the lawyer and client relationship and for as long as is necessary for the purpose of providing services to the client, and
 - (b) a period of at least 6 years following completion of the work for which the lawyer was retained.

Existing matters

3-108 Rules 3-99 to 3-107 do not apply to matters for which a lawyer was retained before December 31, 2008, but they do apply to all matters for which the lawyer is retained after that time, regardless of whether the client is a new or existing client.

Criminal activity, duty to withdraw

- 3-109** (1) If, in the course of obtaining the information and taking the steps required in Rule 3-100 [*Requirement to identify client*], 3-102 (2) [*Requirement to verify client identity*], 3-103 [*Requirement to identify directors, shareholders and owners*] or 3-110 [*Monitoring*], or at any other time while retained by a client, a lawyer knows or ought to know that the lawyer is or would be assisting a client in fraud or other illegal conduct, the lawyer must withdraw from representation of the client.
- (2) This rule applies to all matters for which a lawyer is retained before or after this division comes into force.

Monitoring

- 3-110** (1) While retained by a client in respect of a financial transaction, a lawyer must monitor on a periodic basis the professional business relationship with the client for the purposes of
- (a) determining whether the following are consistent with the purpose of the retainer and the information obtained about the client under this division:
 - (i) the client's information in respect of their activities;
 - (ii) the client's information in respect of the source of the money used in the financial transaction;
 - (iii) the client's instructions in respect of transactions, and
 - (b) assessing whether there is a risk that the lawyer may be assisting in or encouraging dishonesty, fraud, crime or other illegal conduct.
- (2) A lawyer must keep a record, with the applicable date, of the measures taken and the information obtained under subrule (1) (a).

PART 4 – DISCIPLINE

Interpretation and application

- 4-1** (1) In this part,
- “**conduct meeting**” means a meeting that a lawyer or a law firm is required to attend under Rule 4-4 (1) (c) [*Action on complaints*];
- “**conduct review**” means a meeting with a conduct review subcommittee that a lawyer or a law firm is required to attend under Rule 4-4 (1) (d).
- (2) This part applies to a former lawyer, an articulated student, a law firm, a visiting lawyer permitted to practise law under Rules 2-16 to 2-20 and a practitioner of foreign law as it does to a lawyer, with the necessary changes and so far as it is applicable.
- (3) This part must be interpreted in a manner consistent with standards of simplicity, fairness and expediency, and so as to provide maximum protection to the public and to lawyers.
- (4) In this part, a law firm may act through its designated representative or another lawyer engaged in the practice of law as a member of the law firm.

Discipline Committee

- 4-2** (1) For each calendar year, the President must appoint a Discipline 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 Discipline 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.
- (4) Any function of the chair of the Discipline Committee under this part may be performed by the vice chair if the chair is not available for any reason, or by another Benchers member of the Committee designated by the President if neither the chair nor the vice-chair is available for any reason.

Consideration of complaints by Committee

- 4-3** (1) The Discipline Committee must consider any complaint referred to it under these rules and may instruct the Executive Director to make or authorize further investigation that the Discipline Committee considers desirable.
- (2) If, in the view of the Executive Director and the chair of the Discipline Committee, there is a need to act before a meeting of the Committee can be arranged, the Executive Director may refer a complaint to the chair for consideration under Rule 4-5 [*Consideration of complaints by chair*].

Action on complaints

- 4-4** (1) After its consideration under Rule 4-3 [*Consideration of complaints by Committee*], the Discipline Committee must
- (a) decide that no further action be taken on the complaint,
 - (b) authorize the chair or other Bench member of the Discipline Committee to send a letter to the lawyer concerning the lawyer's conduct,
 - (c) require the lawyer or law firm to attend a meeting with one or more Benchers or lawyers to discuss the conduct of the lawyer,
 - (d) require the lawyer or law firm to appear before a Conduct Review Subcommittee, or
 - (e) direct that the Executive Director issue a citation against the lawyer under Rule 4-17 (1) [*Direction to issue, expand or rescind citation*].
- (2) In addition to the determination made under subrule (1), the Discipline Committee may refer any matter or any lawyer to the Practice Standards Committee.
- (3) In addition to any action taken under subrules (1) and (2), if a complaint discloses that there may be grounds for revoking a law corporation's permit under Rule 9-11 [*Revocation of permits*], the Discipline Committee may order a hearing on the revocation of the law corporation's permit.
- (4) At any time before the Discipline Committee makes a decision under Rule 4-13 (6) (a) to (c) [*Conduct Review Subcommittee report*], the Committee may resolve to rescind a decision made under subrule (1) (d) to require a lawyer to appear before a Conduct Review Subcommittee and substitute another decision under subrule (1).

Consideration of complaints by chair

- 4-5** (1) The chair of the Discipline Committee must consider any complaint referred to the chair under these rules and may instruct the Executive Director to make or authorize further investigation that the chair considers desirable.
- (2) After considering a complaint under subrule (1), the chair of the Discipline Committee must
- (a) direct that the Executive Director issue a citation against the lawyer under Rule 4-17(1) [*Direction to issue, expand or rescind citation*], or
 - (b) refer the complaint to the Discipline Committee.

Continuation of membership during investigation or disciplinary proceedings

- 4-6** (1) In this rule, "**lawyer under investigation**" means a lawyer who is the subject of
- (a) an investigation under Part 3, Division 1, [*Complaints*] or
 - (b) a decision of the Discipline Committee under Rule 4-4 (1) (c) or (d) [*Action on complaints*].

Conduct Review Subcommittee

- 4-11** (1) The Discipline Committee or the chair of the Discipline Committee must appoint a Conduct Review Subcommittee to consider the conduct of a lawyer referred to the Subcommittee under Rule 4-4 (1) (d) [*Action on complaints*].
- (2) A Conduct Review Subcommittee
- (a) must include at least one lawyer,
 - (b) may include one or more appointed Benchers, and
 - (c) must be chaired by a Bencher or a Life Bencher.

Conduct review

- 4-12** (1) A conduct review is an informal proceeding at which the lawyer or law firm
- (a) must appear personally, and
 - (b) may be represented by counsel.
- (2) Subject to subrule (3), a conduct review must be conducted in private.
- (3) The Conduct Review Subcommittee may, in its discretion, permit the complainant to be present at all or part of the meeting, with or without the right to speak at the meeting.

Conduct Review Subcommittee report

- 4-13** (1) The Conduct Review Subcommittee must
- (a) prepare a written report of the factual background, the Subcommittee's conclusions and any recommendations, and
 - (b) deliver a copy of that report to the lawyer, together with written notice that the lawyer has 30 days from the date of the notice to notify the chair of the Subcommittee in writing of any dispute as to the contents of the report and the reasons the lawyer disputes the contents of the report.
- (2) If the Subcommittee considers it necessary for the effective consideration of the lawyer's dispute, it may order a further meeting.
- (3) If a further meeting is ordered under subrule (2), Rule 4-12 [*Conduct review*] applies.
- (4) The Subcommittee must consider the lawyer's dispute and
- (a) amend its report as it considers appropriate, or
 - (b) forward its report to the Discipline Committee without amendment.
- (5) The Subcommittee must notify the lawyer in writing of its decision under subrule (4) and, if the report is amended, provide a copy of the amended report to
- (a) the lawyer, and
 - (b) the Discipline Committee.

- (6) After considering the Conduct Review Subcommittee's report, the Discipline Committee must do one or more of the following:
 - (a) decide to take no further action on the complaint;
 - (b) refer the lawyer to the Practice Standards Committee;
 - (c) direct that a citation be issued against the lawyer under Rule 4-17 (1) *[Direction to issue, expand or rescind citation]*;
 - (d) rescind the decision under Rule 4-4 (1) (d) *[Action on complaints]* to require the lawyer or law firm to appear before the Conduct Review Subcommittee, and substitute another decision under Rule 4-4 (1).
- (7) A member of the Discipline Committee who has participated in the Conduct Review Subcommittee is not, for that reason, precluded from participating in and voting on a decision under subrule (6).
- (8) After making its decision under subrule (6), the Discipline Committee must
 - (a) notify the lawyer and the complainant of its decision, and
 - (b) subject to Rule 4-14 *[Privilege and confidentiality]*, deliver a copy or summary of the report to the complainant.

Privilege and confidentiality

4-14 In complying with Rule 4-13 *[Conduct Review Subcommittee report]*, the Discipline Committee and the Conduct Review Subcommittee must not disclose to the complainant information subject to the solicitor and client privilege of a client, other than the complainant, or other confidential information that the complainant is not entitled to receive.

Publication and disclosure

- 4-15** (1) The Executive Director may publish and circulate to the profession a summary of the circumstances of a matter that has been the subject of a conduct review.
- (2) A summary published under subrule (1) must not identify the lawyer or complainant unless that person consents in writing to being identified.
 - (3) If a complaint giving rise to a conduct review is known to the public or if a conduct review is ordered in a matter that was the subject of a citation that has been rescinded, the Executive Director may disclose
 - (a) the fact that the lawyer or law firm is or has been required to appear before a Conduct Review Subcommittee, and
 - (b) the decision of the Discipline Committee under Rule 4-13 (6) *[Conduct Review Subcommittee report]*.

Review of interim suspension or practice conditions

- 4-26** (1) If an order has been made under Rule 4-23 (2) [*Interim suspension or practice conditions*], the respondent may apply in writing to the President at any time for rescission or variation of the order.
- (2) An application under subrule (1) must be heard as soon as practicable and, if the respondent has been suspended without notice, not later than 7 days after the date on which it is received by the Society, unless the respondent consents to a longer time.
- (3) When application is made under subrule (1), the President must appoint a new panel under Rule 4-39 [*Appointment of panel*].
- (4) A panel appointed under subrule (3) must not include a person who
- (a) participated in the decision that authorized the issuance of the citation,
 - (b) was one of the Benchers who made the order under review, or
 - (c) is part of a panel assigned to hear the citation.
- (5) A hearing under this rule is open to the public, but the panel may exclude some or all members of the public in any circumstances it considers appropriate.
- (6) On application by anyone, the panel may make the following orders to protect the interests of any person:
- (a) an order that specific information not be disclosed;
 - (b) any other order regarding the conduct of the hearing necessary for the implementation of an order under paragraph (a).
- (7) All proceedings at a hearing under this rule must be recorded by a court reporter, and any person may obtain, at the person's expense, a transcript of any part of the hearing that the person was entitled to attend.
- (8) The respondent and discipline counsel may call witnesses to testify who
- (a) if competent to do so, must take an oath or make a solemn affirmation before testifying, and
 - (b) are subject to cross-examination.
- (9) If the order under Rule 4-23 (2) [*Interim suspension or practice conditions*] took effect without notice to the respondent, witnesses called by discipline counsel must testify first, followed by witnesses called by the respondent.
- (10) If subrule (9) does not apply, witnesses called by the respondent must testify first, followed by witnesses called by discipline counsel.
- (11) The panel may
- (a) accept an agreed statement of facts, and
 - (b) admit any other evidence it considers appropriate.

- (12) Following completion of the evidence, the panel must
 - (a) invite the respondent and discipline counsel to make submissions on the issues to be decided by the panel,
 - (b) decide by majority vote whether cause has been shown by the appropriate party under subrule (13) or (14), as the case may be, and
 - (c) make an order if required under subrule (13) or (14).
- (13) If an order has been made under Rule 4-23 (2) [*Interim suspension or practice conditions*] with notice to the respondent, the panel must rescind or vary the order if cause is shown on the balance of probabilities by or on behalf of the respondent.
- (14) If an order has been made under Rule 4-23 (2) [*Interim suspension or practice conditions*] without notice to the respondent, the panel must rescind or vary the order, unless discipline counsel shows cause, on the balance of probabilities, why the order should not be rescinded or varied.

Appointment of discipline counsel

- 4-27** The Executive Director must appoint a lawyer employed by the Society or retain another lawyer to represent the Society when
- (a) a direction to issue a citation is made under Rule 4-17 [*Direction to issue, expand or rescind citation*],
 - (b) a person initiates a review under section 47 [*Review on the record*],
 - (c) a person appeals a decision to the Court of Appeal under section 48 [*Appeal*],
or
 - (d) the Society is a respondent in any other action involving the investigation of a complaint or the discipline of a lawyer.

Notice to admit

- 4-28** (1) At any time, but not less than 45 days before a date set for the hearing of a citation, the respondent or discipline counsel may request the other party to admit, for the purposes of the hearing only, the truth of a fact or the authenticity of a document.
- (2) A request made under subrule (1) must
- (a) be made in writing in a document clearly marked “Notice to Admit” and served in accordance with Rule 10-1 [*Service and notice*], and
 - (b) include a complete description of the fact, the truth of which is to be admitted, or attach a copy of the document, the authenticity of which is to be admitted.
- (3) A party may make more than one request under subrule (1).
- (4) A respondent or discipline counsel who receives a request made under subrule (1) must respond within 21 days by serving a response on the other party in accordance with Rule 10-1 [*Service and notice*].

- (3) When an application is made under subrule (1), the President must do one of the following as appears to the President to be appropriate:
 - (a) appoint a panel to determine the question;
 - (b) refer the question to a pre-hearing conference;
 - (c) refer the question to the panel at the hearing of the citation.
- (4) The President may designate another Bencher to exercise the discretion under subrule (3).
- (5) A panel appointed under subrule (3) (a) is not seized of the citation or any question pertaining to the citation other than that referred under that provision.

Compelling witnesses and production of documents

- 4-37** (1) Before a hearing begins, the respondent or discipline counsel may apply for an order under section 44 (4) [*Witnesses*] by delivering to the President and to the other party written notice setting out the substance of the application and the grounds for it.
- (2) [rescinded]
- (3) When an application is made under subrule (1), after considering any submissions, the President must
- (a) make the order requested or another order consistent with section 44 (4) [*Witnesses*], or
 - (b) refuse the application.
- (4) The President may designate another Bencher to make a decision under subrule (3).
- (5) On the motion of the respondent or discipline counsel, the President or another Bencher designated by the President may apply to the Supreme Court under section 44 (5) [*Witnesses*] to enforce an order made under subrule (3).

Pre-hearing conference

- 4-38** (1) The President may order a pre-hearing conference at any time before the hearing of a citation begins, at the request of the respondent or discipline counsel, or on the President's own initiative.
- (2) When the President orders a conference under subrule (1), the President must
- (a) set the date, time and place of the conference, and notify the parties, and
 - (b) designate a Bencher to preside at the conference.
- (3) [rescinded]
- (4) Discipline counsel must be present at the conference.
- (5) The respondent may attend the conference in person, through counsel or both.
- (6) If the respondent fails to attend the conference, the Bencher presiding may proceed with the conference in the absence of the respondent and may make any order under this rule, if the Bencher is satisfied that the respondent had notice of the conference.

- (7) The Benchler presiding at a pre-hearing conference may allow any person to participate in a conference by telephone or by any other means of communication that allows all persons participating to hear each other, and a person so participating is present for the purpose of this rule.
- (8) The conference may consider any matters that may aid in the fair and expeditious disposition of the citation, including but not limited to
 - (a) simplification of the issues,
 - (b) amendments to the citation,
 - (b.1) any matter for which the Benchler may make an order under subrule (10),
 - (b.2) conducting all or part of the hearing in written form,
 - (c) admissions or an agreed statement of facts,
 - (d) disclosure and production of documents,
 - (d.1) agreement for the hearing panel to receive and consider documents or evidence under Rule 4-41 (3) (e) [*Preliminary matters*], and
 - (e) the possibility that privilege or confidentiality might require closure of all or part of the hearing to the public, or exclusion of exhibits and other evidence from public access.
- (f) and (g) [rescinded]
- (9) The respondent or discipline counsel may apply to the Benchler presiding at the conference for an order
 - (a) [rescinded]
 - (b) to withhold the identity or contact information of a witness,
 - (c) to adjourn the hearing of the citation,
 - (d) for severance of allegations or joinder of citations under Rule 4-22 [*Severance and joinder*],
 - (e) for disclosure of the details of the circumstances of misconduct alleged in a citation under Rule 4-35 [*Application for details of the circumstances*],
 - (e.1) that the Benchler may make under subrule (10), or
 - (f) concerning any other matters that may aid in the fair and expeditious disposition of the citation.
- (10) The Benchler presiding at a pre-hearing conference may, on the application of a party or on the Benchler's own motion, make an order that, in the judgment of the Benchler, will aid in the fair and expeditious disposition of the citation, including but not limited to orders
 - (a) adjourning the conference generally or to a specified date, time and place,
 - (b) setting a date for the hearing to begin,
 - (c) allowing or dismissing an application made under subrule (9) or referred to the conference under this part,
 - (d) specifying the number of days to be scheduled for the hearing,

- (2) If, in the opinion of the review board, there are special circumstances, the review board may admit evidence that is not part of the record.

Preparation and delivery of record

- 5-24.1**
- (1) Within 60 days of delivering a notice of review, the party initiating the review must prepare the record for the review in accordance with the relevant rule and deliver
 - (a) 6 copies to the President, and
 - (b) 1 copy to the other party.
 - (2) The time for producing the record may be extended by agreement of the parties.
 - (3) No date may be set for the hearing of a review unless the party initiating the review has delivered all copies of the record required under subrule (1).
 - (4) By delivering to the President and to the other party written notice setting out the grounds for the application, the party initiating the review may apply for
 - (a) an extension of time to prepare and deliver the record, or
 - (b) an order that the Society bear all or part of the cost of obtaining and copying all or part of the record.
 - (5) When an application is made under subrule (4), the President must decide whether to grant all or part of the relief sought, with or without conditions, and must notify the parties accordingly.
 - (6) The President may
 - (a) designate another Bencher to make a determination under subrule (5), or
 - (b) refer the application to a pre-review conference.
 - (7) A determination under subrule (5) is without prejudice to an order of the review board under Rule 5-11 [*Costs of hearings*].

Notice of review hearing

- 5-24.2**
- (1) The date, time and place for the hearing on a review to begin must be set
 - (a) by agreement between the parties, or
 - (b) on the application of a party, by the President or by the Bencher presiding at a pre-review conference.
 - (2) When a date is set under subrule (1), the President must notify the parties in writing of the date, time and place of the hearing at least 30 days before the date set for the hearing to begin, unless the parties agree to a shorter notice period.

Pre-review conference

- 5-25** (1) The President may order a pre-review conference at any time before the hearing on a review, at the request of the applicant, respondent or counsel for the Law Society, or on the President's own initiative.
- (2) When a conference has been ordered under subrule (1), the President must
- (a) set the date, time and place of the conference and notify the parties, and
 - (b) designate a Bencher to preside at the conference.
- (3) Counsel representing the Society must be present at the conference.
- (4) [rescinded]
- (5) The applicant or the respondent, as the case may be, may attend the conference, in person, through counsel or both.
- (6) If the applicant or the respondent, as the case may be, fails to attend the conference, the Bencher presiding may proceed with the conference in the absence of that party and may make any order under this Rule, if the Bencher is satisfied that the party had been notified of the conference.
- (7) The Bencher presiding at a pre-review conference may allow any person to participate in the conference by telephone or by any other means of communication that allows all persons participating to hear each other, and a person so participating is present for the purpose of this Rule.
- (8) The conference may consider
- (a) the simplification of the issues,
 - (b) any issues concerning the record to be reviewed,
 - (c) the possibility of agreement on any issues in the review,
 - (d) the exchange of written arguments or outlines of argument and of authorities,
 - (e) the possibility that privilege or confidentiality might require that all or part of the hearing be closed to the public or that exhibits and other evidence be excluded from public access,
 - (f) setting a date for the review, and
 - (g) any other matters that may aid in the disposition of the review.
- (9) The Bencher presiding at a pre-review conference may
- (a) adjourn the conference or the hearing of the review generally or to a specified date, time and place,
 - (b) order the exchange of written arguments or outlines of argument and of authorities, and set deadlines for that exchange,
 - (c) set a date for the review, subject to Rule 5-24.1 (3) [*Preparation and delivery of record*], and
 - (d) make any order or allow or dismiss any application consistent with this part.

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 the 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).

- (4) The Executive Director must issue a new permit to a law corporation that has
 - (a) obtained the certificate referred to in subrule (1),
 - (b) delivered to the Executive Director a true copy of the certificate of the Registrar of Companies showing the change of name and the date it is effective, and
 - (c) paid the fee specified in Schedule 1.
- (5) Subject to Rule 9-5 (3) [*Issuance of permit*], a law corporation permit issued under subrule (4) is valid until the date on which the permit that it replaces would have expired.

Public disclosure of corporate status

- 9-7** When a lawyer or law firm provides legal services to the public through a law corporation, all advertising for the lawyer or law firm must indicate that the law corporation provides the legal services.

Corporate information

- 9-8** A law corporation must deliver to the Executive Director copies of its Articles, Notice of Articles and amendments to its Articles or Notice of Articles
- (a) when applying for a permit, and
 - (b) immediately on adoption of new or amended Articles or Notice of Articles.

Disclosure of corporate information

- 9-9** (1) All information and documents received by the Society under this division are confidential, and no person is permitted to disclose them to any person.
- (2) As an exception to subrule (1), the Society may
- (a) use information and documents for a purpose consistent with the Act and these rules,
 - (b) disclose information and documents to a governing body under Rule 2-27.1 [*Sharing information with a governing body*], and
 - (c) disclose the following information, on request, to any person:
 - (i) the name of a corporation;
 - (ii) a corporation's place of business;
 - (iii) whether a company has a valid law corporation permit;
 - (iv) whether a specified lawyer is an employee or a voting shareholder of a corporation;
 - (v) whether a specified law corporation is a voting shareholder of a law corporation.

Notice of change in corporate information

- 9-10** The president of a company or the president's designate must promptly advise the Executive Director in writing of any change to the information contained in the permit application or renewal permit application most recently delivered to the Society.

Revocation of permits

- 9-11** (1) After a hearing, a panel may revoke a law corporation's permit if
- (a) in the course of providing legal services the corporation does anything that, if done by a lawyer, would be professional misconduct or conduct unbecoming the profession,
 - (b) the corporation contravenes the Act or a rule, or
 - (c) the corporation ceases to comply with a condition of qualification referred to in section 81 [*Authorized and prohibited activities of law corporations*] or a condition under this division or section 82 [*Law corporation permit*].
- (2) Instead of revoking a law corporation permit under subrule (1), a panel may do one or more of the following:
- (a) reprimand one or more of the voting shareholders of a law corporation;
 - (b) impose a fine on the law corporation in an amount not exceeding \$50,000;
 - (c) impose conditions or limitations under which the law corporation may continue to provide legal services to the public.
- (3) Any shareholder, director, officer or employee of or contractor to a law corporation may be
- (a) compelled to give evidence at a proceeding under this division or under Part 5 [*Hearings and appeals*], or
 - (b) required to produce any file or record in that person's possession or control that is relevant to matters raised in the proceeding.
- (4) To the extent reasonably possible, Parts 4 [*Discipline*] and 5 [*Hearings and appeals*] apply to notice of a hearing on the revocation of a law corporation permit and to the hearing as they apply to a citation and the hearing of the citation.
- (5) If a hearing has been ordered on the revocation of a law corporation permit and a citation has been directed to be issued against a shareholder, director, officer or employee of the corporation holding the permit, the Discipline Committee may direct that the citation and the question of the revocation of the law corporation permit be heard together.
- (6) When the Discipline Committee has directed that a citation and the question of the revocation of a law corporation permit be heard together, the panel conducting the hearing may order that they be heard separately.

- (7) When a panel imposes a condition or limitation under which a law corporation may continue to provide legal services to the public under subrule (2) (c), the Executive Director may disclose the fact that the condition or limitation applies and the nature of the condition or limitation.
- (8) If the Executive Director discloses the existence of a condition or limitation under subrule (7) 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.
- (9) Subrule (8) does not apply to a decision of Benchers, a hearing panel or a review board.

Division 2 – Limited Liability Partnerships

Definition

- 9-12** In this division “**person applying**” means a person applying or proposing to apply on behalf of a partnership for registration as a limited liability partnership or extraprovincial limited liability partnership under Part 6 [*Limited Liability Partnerships*] of the *Partnership Act*.

Practice through a limited liability partnership

- 9-13** A lawyer or law corporation is authorized to carry on the practice of law through a limited liability partnership, provided that the lawyer or law corporation and the limited liability partnership comply with the *Partnership Act* and meet the prerequisites of this division.

LLP name

- 9-14** A limited liability partnership must not use a name contrary to the *Code of Professional Conduct*, section 4.2 [*Marketing*].

Notice of application for registration

- 9-15** (1) Before an application to register a partnership or an extraprovincial limited liability partnership as a limited liability partnership is made on behalf of the partnership under Part 6 [*Limited Liability Partnerships*] of the *Partnership Act*, the person applying must
- (a) submit to the Executive Director a copy of the registration statement that the person intends to file under that Act,
 - (b) pay the LLP registration fee specified in Schedule 1, and
 - (c) receive a statement of approval of LLP registration from the Executive Director.

- (2) On receipt of a submission under subrule (1), the Executive Director must issue a statement of approval of LLP registration if the Executive Director is satisfied that
 - (a) the intended name complies with Rule 9-14 [*LLP name*], and
 - (b) membership in the partnership complies with subrules (3) and (5).
- (3) Each partner in an LLP must be
 - (a) a member of the Society,
 - (b) a member of a recognized legal profession in another jurisdiction,
 - (c) a law corporation holding a valid permit under this part or the equivalent in the jurisdiction in which it provides legal services, or
 - (d) a non-lawyer participating in the partnership in another Canadian jurisdiction as permitted in that jurisdiction.
- (4) Despite subrule (3), an LLP that is an MDP in which a lawyer has permission to practise law under Rules 2-38 to 2-49 may include non-lawyer members as permitted by those rules.
- (5) At least one partner in an LLP must be a member of the Society or a law corporation holding a valid permit under this Part.
- (6) If the Executive Director is not satisfied of the matters referred to in subrule (2), the Executive Director must decline to issue a statement of approval.
- (7) The Executive Director must notify the person applying in writing of the Executive Director's decision under subrule (2).

Review of Executive Director's decision

- 9-16** (1) If the Executive Director declines to issue a statement of approval under Rule 9-15 [*Notice of application for registration*], the person applying may apply in writing to the Ethics Committee for a review.
- (2) After considering any submissions received from the partners and from the Executive Director, the Ethics Committee must
 - (a) direct the Executive Director to issue a statement of approval if it is satisfied that
 - (i) the intended name complies with Rule 9-14 [*LLP name*], and
 - (ii) Rule 9-15 (3) [*Notice of application for registration*] has been satisfied,or
 - (b) reject the application.
 - (3) The Ethics Committee must notify the person applying and the Executive Director in writing of its decision under this rule.

Disclosure of LLP status

- 9-17 (1) When a firm provides legal services to the public through a limited liability partnership, all advertising for the firm must indicate that the limited liability partnership provides the legal services.
- (2) When a firm is continued as a limited liability partnership, the firm must promptly take reasonable steps to notify in writing each existing client of the firm of the change and the effect of a limited liability partnership in respect of the liability of partners.
- (3) The notice required under subrule (2) must include a statement to the following effect, prominently placed:
- The partners in a limited liability partnership are not personally liable for the negligent acts or omissions of another partner or an employee unless the partner knew of the negligent act or omission and did not take reasonable steps to prevent it. Partners are personally liable for their own actions, and the partnership continues to be liable for the negligence of its partners, associates and employees. Accordingly, there is no reduction or limitation on the liability of the partnership.
- (4) When a firm is registered as an extraprovincial limited liability partnership under Part 6 [*Limited Liability Partnerships*] of the *Partnership Act*, the firm must promptly take reasonable steps to notify in writing each existing client of the firm in British Columbia of the registration and any change, resulting from the registration, in the liability of the partners.
- (5) Subrule (4) does not apply to a client outside of British Columbia if the firm provides legal services to the client primarily through lawyers outside of British Columbia.
- (6) The notice required under subrule (2) or (4) may be
- (a) mailed by regular or registered mail to the client at the client's last known address,
 - (b) delivered personally to the client,
 - (c) transmitted by electronic facsimile to the client at the client's last known electronic facsimile number,
 - (d) transmitted by electronic mail to the client at the client's last known electronic mail address, or
 - (e) published in a newspaper distributed in the area in which the client resides or carries on business.

Change in LLP information and annual reports

9-18 A limited liability partnership must deliver to the Executive Director copies of the following at the same time that they are filed under Part 6 [*Limited Liability Partnerships*] of the *Partnership Act*:

- (a) an annual report;
- (b) an amendment to the registration statement.

Disclosure of LLP information

- 9-19** (1) All information and documents received by the Society under this division are confidential, and no person is permitted to disclose them to any person.
- (2) As an exception to subrule (1), the Society may
- (a) use information and documents for a purpose consistent with the Act and these rules,
 - (b) disclose information and documents to a governing body under Rule 2-27.1 [*Sharing information with a governing body*], and
 - (c) disclose to any person on request the name and place of business of a limited liability partnership.

Notification of non-compliance

9-20 With the consent of the Credentials Committee, the Executive Director may notify the Registrar of Companies if the Executive Director becomes aware of the failure of a limited liability partnership or one or more of its partners to maintain compliance with the requirements of Part 6 [*Limited Liability Partnerships*] of the *Partnership Act*.

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

Security of records

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

[This page is intentionally left blank.]

Chapter 3 – Relationship to Clients

3.4-22 Unless the former client consents, members of the new law firm must not discuss the new law firm's representation of its client or the former law firm's representation of the former client in that matter with a transferring lawyer referred to in rule 3.4-20 except as permitted by rule 3.3-7.

[amended 11/2016]

Lawyer due diligence for non-lawyer staff

3.4-23 A lawyer or a law firm must exercise due diligence in ensuring that each member and employee of the law firm, and each other person whose services the lawyer or the law firm has retained:

- (a) complies with rules 3.4-17 to 3.4-23; and
- (b) does not disclose confidential information:
 - (i) of clients of the firm; or
 - (ii) any other law firm in which the person has worked.

[heading added, rule amended 11/2016]

Commentary

[1] This rule is intended to regulate lawyers and articulated law students who transfer between law firms. It also imposes a general duty on lawyers and law firms to exercise due diligence in the supervision of non-lawyer staff to ensure that they comply with the rule and with the duty not to disclose confidences of clients of the lawyer's firm and confidences of clients of other law firms in which the person has worked.

[2] Certain non-lawyer staff in a law firm routinely have full access to and work extensively on client files. As such, they may possess confidential information about the client. If these staff move from one law firm to another and the new firm acts for a client opposed in interest to the client on whose files the staff worked, unless measures are taken to screen the staff, it is reasonable to conclude that confidential information may be shared. It is the responsibility of the lawyer/law firm to ensure that staff who may have confidential information that, if disclosed, may prejudice the interests of the client of the former firm, have no involvement with and no access to information relating to the relevant client of the new firm.

[[1] and [2] added 11/2016]

3.4-24 to 3.4-26 [rescinded 11/2016]

Conflicts with clients

3.4-26.1 A lawyer must not perform any legal services if there is a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected by the lawyer's

- (a) relationship with the client, or
- (b) interest in the client or the subject matter of the legal services.

[amended 11/2013]

Commentary

[1] Any relationship or interest that affects a lawyer's professional judgment is to be avoided under this rule, including ones involving a relative, partner, employer, employee, business associate or friend of the lawyer.

3.4-26.2 The remuneration paid to a lawyer by a client for the legal work undertaken by the lawyer for the client is not a disqualifying interest under rule 3.4-26.1.

Commentary

[1] Generally speaking, a lawyer may act as legal advisor or as business associate, but not both. These principles are not intended to preclude lawyers from performing legal services on their own behalf. Lawyers should be aware, however, that acting in certain circumstances may cause them to lose coverage as a result of Exclusion 6 in the B.C. Lawyers Compulsory Professional Liability Indemnity Policy and similar provisions in other insurance policies.

[2] Whether or not coverage under the Compulsory Policy is lost is determined separate and apart from the ethical obligations addressed in this chapter. Review the current policy for the exact wording of Exclusion 6 or contact the Lawyers Indemnity Fund regarding the application of the Exclusion to a particular set of circumstances.

[[1] and [2] amended 07/2021]