



Agenda

Benchers

Date: Friday, May 28, 2021

Time: **9:00 am - Call to order**

Please join the meeting anytime from 8:30 am to allow enough time to resolve any video/audio issues before the meeting commences.

Location: Virtual meeting

Recording: *Benchers, staff and guests should be aware that a digital audio and video recording will be made at this Benchers meeting to ensure an accurate record of the proceedings. Any private chat messages sent will be visible in the transcript that is produced following the meeting.*

VIRTUAL MEETING DETAILS

The Bencher Meeting is taking place via a virtual meeting. If you would like to attend the meeting, please email BencherRelations@lsbc.org

CONSENT AGENDA:

Any Bencher may request that a consent agenda item be moved to the regular agenda by notifying the President or the Manager, Governance & Board Relations prior to the meeting.

1	Minutes of April 23, 2021 meeting (regular session)
2	Minutes of April 23, 2021 meeting (<i>in camera</i> session)
3	Rule 1-9.1 – AGM entirely or partly by internet connection
4	Rule 2-117 – Failure to pay fine, costs or penalty
5	Rule 3-58.1 – Trust account only for legal services: Exception for Mediators, Arbitrators and Parenting Coordinators
6	Rule Amendments – Gender Inclusive Language



Agenda

REPORTS		
7	President’s Report	Dean Lawton, QC
8	CEO’s Report	Don Avison, QC
9	Briefing by the Law Society’s Member of the Federation Council	Pinder Cheema, QC
DISCUSSION/DECISION		
10	2021 Enterprise Risk Management Plan – Update	Don Avison, QC
11	Proposed Rule Amendment to provide for Bencher Resignation	Jeevyn Dhaliwal, QC
FOR INFORMATION		
12	External Appointment: Continuing Legal Education Society of BC	
13	External Appointment: British Columbia Law Institute	
14	Kamloops Lawyer Petition: Paralegals	
15	Minutes of May 13, 2021 Executive Committee Meeting (regular session)	
16	Three Month Bencher Calendar – June to August 2021	
IN CAMERA		
17	Other Business	



Minutes

Benchers

Date: Friday, April 23, 2021

Present:	Dean P.J. Lawton, QC, President	Dr. Jan Lindsay
	Lisa Hamilton, QC, 1 st Vice-President	Jamie Maclaren, QC
	Christopher McPherson, QC, 2 nd Vice-President	Geoffrey McDonald
	Paul Barnett	Steven McKoen, QC
	Pinder K. Cheema, QC	Jacqueline McQueen, QC
	Jennifer Chow, QC	Elizabeth J. Rowbotham
	Barbara Cromarty	Mark Rushton
	Jeevyn Dhaliwal, QC	Karen Snowshoe
	Cheryl S. D'Sa	Thomas L. Spraggs
	Lisa Dumbrell	Michael Welsh, QC
	Lisa Feinberg	Kevin B. Westell
	Martin Finch, QC	Chelsea D. Wilson
	Brook Greenberg, QC	Guangbin Yan
	Sasha Hobbs	Heidi Zetzsche
	Julie K. Lamb, QC	

Unable to Attend: Claire Marshall

Public Session – Staff Attendance:

Staff:	Avalon Bourne	Michael Lucas, QC
	Don Avison, QC	Alison Luke
	Barbara Buchanan, QC	Jeanette McPhee
	Lance Cooke	Cary Ann Moore
	Natasha Dookie	Doug Munro
	Su Forbes, QC	Hilary Stoddart
	Andrea Hilland	Lesley Small
	Jeffrey Hoskins, QC	Adam Whitcombe, QC
	Jason Kuzminski	Vinnie Yuen

Guests:	<p>Dom Bautista</p> <p>Janine Benedet, QC</p> <p>Dr. Susan Breau</p> <p>Dr. Cristie Ford</p> <p>Clare Jennings</p> <p>Alexis Kazanowski</p> <p>Derek LaCroix, QC</p> <p>Mark Meredith</p> <p>Caroline Nevin</p> <p>Linda Russell</p> <p>Kerry Simmons, QC</p> <p>Kenneth M. Walker, QC</p> <p>Tony Wilson, QC</p>	<p>Executive Director & Managing Editor, Law Courts Center</p> <p>Dean pro tem, Peter A. Allard School of Law</p> <p>Dean of Law, University of Victoria</p> <p>Professor, Peter A. Allard School of Law</p> <p>First Vice-President, Canadian Bar Association, BC Branch</p> <p>Assistant Dean, Faculty of Law, TRU</p> <p>Executive Director, Lawyers Assistance Program of B.C.</p> <p>Treasurer and Board Member, Mediate BC Society</p> <p>CEO, Courthouse Libraries BC</p> <p>CEO, Continuing Legal Education Society of BC</p> <p>Executive Director, Canadian Bar Association, BC Branch</p> <p>Life Bencher; Past President</p> <p>Life Bencher</p>
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CONSENT AGENDA

1. Minutes of March 5, 2021, meeting (regular session)

The minutes of the meeting held on March 5, 2021 were approved unanimously and by consent as circulated.

2. Minutes of March 5, 2021, meeting (*in camera* session)

The minutes of the *In Camera* meeting held on March 5, 2021 were approved unanimously and by consent as circulated.

3. Use of Bank Drafts by Lawyers

The following resolution was passed unanimously and by consent:

That the Benchers agree in principle to permit the withdrawal of funds by way of bank draft from a trust account on the conditions described above, and to refer the matter to the Act and Rules Committee to amend the Rules accordingly.

REPORTS

4. President's Report

Mr. Lawton began his report by recognizing the work of the Rule of Law and Lawyer Independence Advisory Committee, informing Benchers of the recent op-ed penned by the Advisory Committee that was featured in the Globe and Mail. The op-ed reviewed the arrests of Hong Kong lawyers for representing those who participated in demonstrations protesting legislative changes imposed by the Chinese government, and discussed the importance of protecting the independence of the legal profession. Mr. Lawton noted that the situation in China is of concern, and the independence of lawyers is integral to ensuring the public's access to justice and barring against authoritarianism.

Mr. Lawton informed Benchers of the passing of Dr. Maelor Vallance and recognized his many contributions, including as a Lay Bencher of the Law Society. A letter of condolence is being prepared to send to Dr. Vallance's family.

Mr. Lawton then spoke about a recent meeting of the Truth and Reconciliation Advisory Committee, which he attended. At the meeting, the Advisory Committee previewed some of the videos for the Indigenous Inter-cultural Awareness program, which will be rolled out in June.

Mr. Lawton spoke about the student interviews that he is currently conducting, noting that though the students with whom he has met have been keen regarding their future careers as

lawyers, they've also expressed concerns regarding stress, isolation, and the lack of contact with lawyers, mentors, and colleagues. It is important that the profession support one another during these trying times.

Mr. Lawton updated Benchers on a Young Lawyers Sub-section meeting he attended. The focus of the meeting was a discussion regarding ethics in the profession.

Mr. Lawton then spoke about his recent meeting with Chief Judge Melissa Gillespie and her interest in the work being done through the Innovation Sandbox, as well as innovation within the court. Chief Judge Gillespie has offered to participate in one or more Inns of Court around the province.

Mr. Lawton attempted to attend the budget lock-up, but wasn't able to, so Mr. Kuzminski will provide an update at a later time.

Mr. Lawton concluded his report by updating Benchers on the small group Bencher meetings that have been organized. Mr. Lawton noted the concerns expressed regarding the impacts of isolation.

Benchers discussed the Indigenous Inter-cultural Awareness program, and whether or not it should be open to the public. This will require further consideration.

5. CEO's Report

Mr. Avison began his report with an update on COVID-19, and its impacts on Law Society operations. Staff continue to come into the office in reduced numbers, and productivity remains high. There has been some uncertainty regarding the new provincial health restrictions, but greater clarity should be provided later today, and the restrictions will likely have little implication for Law Society operations. Mr. Avison informed Benchers that a staff committee had been formed to look into workplace operations post COVID-19 and to consider reforms based on the "new normal" regarding office operations. Mr. Avison provided demographic information regarding Law Society staff, noting that about 60% of staff members were at least able to register for the COVID-19 vaccine.

Mr. Avison reviewed with Benchers key points from the provincial and federal budgets, noting that both reflected substantial deficits with allocations for business recovery and support for people through these challenging times. Much of the new spending included in the provincial budget was allocated through contingency funds, so the Law Society will be requesting further details on the specifics of how this money will be spent. The provincial budget also included significant allocations to health care and to the tourism industry. The federal budget included funding commitments for the reestablishment of the Law Reform Commission of Canada and support for diversion and the reduction of over-representation within the justice system, as well

as funding for Statistics Canada to implement a data aggregate action plan to reduce systemic racism and sexism in the professions. Funding allocations were also made for a variety of other initiatives related to the legal profession and access to justice, including: legal support for racialized communities, drug treatment courts, immigration and refugee legal aid, and Indigenous Justice Strategy engagement.

Mr. Avison spoke about the Cullen Commission hearings, noting that the evidentiary phase would soon be coming to a close. The Law Society's focus will now be on its submissions and recommendations for the Commissioner. The Commission received an extension regarding its final report, which is now due December 15. The Executive Committee and the Anti-Money Laundering Working Group along with the Law Society's Counsel will be convening to discuss the submissions in more detail.

Mr. Avison informed Benchers that planning continues for the Federation fall conference and council meeting, which is scheduled to take place in Saskatoon in person. If federal and provincial health restrictions preclude the event from taking place in person, it will be conducted virtually. The theme will be challenges facing new entrants into the profession. Mr. Avison also updated Benchers on the Abrametz case, which will likely be one of the more significant regulatory matters that the Supreme Court of Canada will be considering over the course of its current term. The Law Society of Saskatchewan has been granted leave by the Supreme Court of Canada, and the Federation will be seeking intervenor status. Other law societies may also seek leave to intervene directly.

Mr. Avison then provided an update regarding the Innovation Sandbox, noting that 41 proposals had been received to date, with 24 having been considered by the Executive Committee. Of those 24 that have been considered, 9 have been approved to receive no action letters, 6 require no further action, 4 were outside scope, 3 were denied, and 2 were deferred. The remaining 17 proposals are under review. For those requiring no further action, often the proponents didn't need to submit a proposal through the Innovation Sandbox. Mr. Avison reviewed the services being proposed by proponents, which have included legal advice and assistance for those with dementia, legal coaching, lawyer referral services, and online will services.

Mr. Avison then updated Benchers on the Indigenous Inter-cultural Awareness program. The course materials are being formatted and edited, and additional video content is being developed to go along with the written content. The intention is to have modules posted online and accessible to the profession by June. Mr. Avison noted that it would be an evolving program, with revisions being made as needed. Mr. Avison thanked staff for all their efforts and work on the program.

Mr. Avison provided a brief update on the Law Society's Enterprise Risk Management Plan, which would be presented at the May Bencher meeting.

Mr. Avison concluded his report with an update regarding the virtual sessions being organized to give the profession an opportunity to discuss the mental health impacts of COVID-19, and what could be done to improve mental health and the wellbeing of the profession. The sessions are being facilitated by Brook Greenberg, QC, Cheryl D'Sa, and Kendra Milne, and 160 registrants have signed up for the sessions thus far. Mr. Lawton will also be in attendance to provide opening remarks. Mr. Greenberg provided a brief overview of the sessions, and thanked staff for their efforts and work in planning and supporting the event.

Benchers discussed plans to resume holding in-person call ceremonies. Mr. Avison noted that in-person call ceremonies would resume as soon as health restrictions allow, and this remains a top of mind issue, as the volume will be quite significant. Staff is considering creative solutions and options to address the backlog. Communication will likely be posted to the website regarding plans for call ceremonies. Benchers also discussed the inclusion of all regions of the province in discussions regarding call ceremonies.

Benchers discussed the Innovation Sandbox and ensuring the protection of the public. Mr. Avison noted that the intention is to post the no action letters on the Law Society website, and to provide additional information on the range of proposals approved. Mr. Avison also noted that in order to help with the proposal review process, an Advisory Group was being considered in order to provide a broader review of the proposals and to make recommendations to the Executive Committee. Benchers also discussed the incorporation of technology and virtual opportunities into the services being proposed through the Innovation Sandbox.

Benchers discussed the scheduling of the articling student interviews, and opportunities to stagger and/or allocate the interviews to reduce the number of interviews being conducted at any one time. Staff will be looking into improvements into assignment allocation, including virtual options so that Benchers across jurisdictions could conduct interviews with students across the province.

6. Briefing by the Law Society's Member of the Federation Council

Ms. Cheema began her report by informing Benchers that the Law Society of Alberta had invited her to its Bencher Retreat, which will be taking place in June in Jasper, and the theme will be alternatives to articling.

The University of Victoria's Dean of Law, Dr. Susan Breau, recently spoke at a meeting of the Victoria Bar Association on the impacts of COVID-19 on available articling positions, and how law schools are being asked to help fill the gap. Both Ms. Cheema and Mr. Lawton were in attendance.

Ms. Cheema noted that the list of priorities of other law societies, which was requested at the last Bencher meeting, would be provided to staff for dissemination.

Ms. Cheema provided additional information regarding the Abrametz case, noting that the matter first arose in 2012 as a consequence of a Law Society of Saskatchewan audit, which turned up irregularities in Mr. Abrametz's trust account. Ms. Cheema provided background information regarding the case, noting that the Saskatchewan Court of Appeal had been quite critical of the Law Society of Saskatchewan. Ms. Cheema noted that this case has resource implications due to the increased complexity of files, and reiterated the importance of the Federation's intervenor status.

Ms. Cheema concluded her report by informing Benchers that the next Federation Council meeting is Monday, June 7.

Mr. Greenberg provided an update regarding the National Wellbeing Study, noting that he had shared with the working group some of the videos that Communications had put together and suggested the working group do something similar with the communication plan for the study, which was greeted with enthusiasm.

DISCUSSION/DECISION

7. Trust Account Use: Mediators, Arbitrators, and Parenting Coordinators

Mr. Avison reviewed the item and the background leading up to the proposed recommendation to amend Rule 3-58.1 to allow retainers received by lawyers providing mediation, arbitration, and parenting coordination services to be deposited into their lawyer trust accounts.

Benchers discussed the proposed recommendation and whether or not there would be benefit to providing a comment noting that these services were not the practice of law. Mr. Avison expressed caution in specifically defining the work of mediators, arbitrators, and parenting coordinators as legal services as it could cause considerable harm to those who perform these services.

The following motion was made and seconded:

BE IT RESOLVED that Rule 3-58.1 be amended to allow retainers received by lawyers providing mediation, arbitration, and parenting coordination services to be deposited into their lawyer trust accounts.

The motion was passed by the majority of Benchers.

Mr. Lawton noted that the matter would be referred to the Act and Rules Committee to amend the Rules accordingly.

8. Law Society Motto and Crest

Ms. Dhaliwal introduced the item to Benchers, and noted that in his mandate letter to the Committee, Mr. Lawton had requested that the Committee consider modernizing the Law Society's crest and Latin motto. Ms. Dhaliwal reviewed the background of the crest and motto, and the Committee's discussions regarding whether or not the Law Society has need of a crest and motto, or whether a more contemporary logo or symbol might be sufficient. Ms. Dhaliwal noted that it was the Committee's preliminary view that a motto was no longer required, and that the crest should be replaced with a more representative symbol. Ms. Dhaliwal noted that the Governance Committee would liaise with the Truth and Reconciliation Advisory Group as appropriate on this matter.

The following motion was made and seconded:

BE IT RESOLVED that the Benchers direct the Governance Committee to conduct a review of the Law Society's crest and to engage in the necessary consultations using the Law Society's resources as may be required in order to devise recommendations for a replacement.

Some Benchers suggested holding a contest to help redesign the logo, which could serve as a public engagement exercise and bring in interest from the public. Benchers also discussed the importance of being inclusive and having an emblem reflective of that.

The motion was passed unanimously.

9. Recognition of Law Society Members Policy

Mr. Lawton reviewed the proposed recognition of Law Society Members policy, which came about due to a request received from a member proposing that the Law Society determine a form of recognition for a recently deceased member. Mr. Lawton noted that the item was for discussion only.

Benchers discussed the proposed policy, and whether or not the decision to recognize members should be determined by the President and/or Benchers as requests are received. Some Benchers expressed concerns in developing policies that could bind future Benchers from being able to recognize members, or commemorate other areas of law, and that these decisions could be made on a one-by-one basis.

Benchers discussed the appropriateness of Benchers recognizing members, particularly as this could be difficult for the Law Society to manage, and there are other organizations that could and

already are doing this. Some Benchers also expressed concerns with naming awards, as there could be an exclusionary risk. Some Benchers noted that the Law Society should remain neutral and impartial and shouldn't be weighing in regarding who should or shouldn't receive endorsement.

Benchers discussed the usefulness of having a general policy that could help guide decision making for staff and the Ladder when these sorts of requests are received.

Mr. Lawton noted that this matter would be discussed further at a subsequent meeting.

UPDATES

10.2021 First Quarter Financial Report

Ms. Hamilton, Chair of the Finance and Audit Committee introduced the item, and then Ms. McPhee provided an overview of the financial results and highlights to the end of March 2021, noting year to date results are positive to budget, mostly due to timing differences in revenue and expenses.

FOR INFORMATION

11.Minutes of April 8, 2021 Executive Committee Meeting

There was no discussion on this item.

12.Three Month Bencher Calendar – May to July 2021

There was no discussion on this item.

13.Fall 2020 Justice Summit Report

There was no discussion on this item.

14.2021 Bencher and Executive Committee Meeting Dates

There was no discussion on this item.

15.2022 Bencher and Executive Committee Meeting Dates

There was no discussion on this item.

Executive Committee Election

The election for the vacant elected Bencher position on the Executive Committee was held.

Mr. Lawton reported the results of the election, indicating that Ms. McQueen was the successful candidate. Mr. Lawton thanked all of the candidates for putting forth their names for consideration.

The Benchers then commenced the *In Camera* portion of the meeting.

AB
2021-04-23



Memo

To: Benchers
From: Jeffrey G. Hoskins, QC for Act and Rules Committee
Date: May 5, 2021
Subject: **Rule 1-9.1 (proposed)—AGM entirely or partly by internet connection**

1. At the Annual General Meeting in 2020 members voted 95.7 per cent in favour of the resolution proposed by the Benchers to allow for future Annual General Meetings to be held entirely or partly by internet connection. I attach a copy of the resolution for your reference.
2. The AGM resolution represents the authority required under section 12 of the *Legal Profession Act* (2/3 of those members voting at a general meeting respecting the proposed amendment of a rule) for the Benchers to amend a rule governing general meetings of the Society, including the annual general meeting.
3. The Act and Rules Committee recommends the adoption of a new Rule 1-9.1, which is intended to give effect to the resolution with minimal interference with the rest of the rules governing general meetings.
4. I attach a draft of amendments in redlined and clean versions, along with a suggested resolution for the implementation of the change.

Attachments: AGM resolution
drafts
resolution

JGH

The Law Society of British Columbia



BE IT RESOLVED to authorize the Benchers to amend the Rules respecting general meetings to provide that:

1. the Executive Committee may determine whether an annual general meeting should be conducted entirely with in-person participation, as a combination of in-person participation and electronic participation, or entirely through electronic participation; and
2. if the Executive Committee determines that an annual general meeting will be conducted partially or entirely through electronic participation, Rules 1-8 to 1-13.2 apply, with the necessary changes in so far as they are applicable, to an annual general meeting conducted through electronic participation.

Commentary:

Following an unprecedented year due to COVID-19 and in light of the public health limits on events, the Executive Committee determined, as permitted by Ministerial Order M167, that the 2020 Annual General Meeting would be held through an electronic communications medium without physical locations. While the present pandemic is not expected to continue in the long term, the Benchers agreed to propose a Bencher Resolution for consideration and approval by the members that would allow future Annual General Meetings to be held through an electronic communications medium, in whole or in part, should circumstances justify it.

Note: Section 12 of the *Legal Profession Act* requires the approval of two-thirds of members voting in a general meeting or referendum to permit the Benchers to make rule changes with respect to general meetings.

LAW SOCIETY RULES

PART 1 – ORGANIZATION

Division 1 – Law Society

Meetings

Telephone and internet connections

- 1-9** (5) Subject to Rule 1-9.1 [AGM by internet connection], ~~The 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 Westminster;
 - (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.

AGM 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.

LAW SOCIETY RULES

PART 1 – ORGANIZATION

Division 1 – Law Society

Meetings

Telephone and internet connections

1-9 (5) Subject to Rule 1-9.1 [*AGM 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 Westminster;
- (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.

AGM 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.

AGM BY INTERNET

SUGGESTED RESOLUTION:

BE IT RESOLVED to amend the Law Society Rules as follows:

1. *In Rule 1-9 (5) by striking out “The Executive Committee must” and substituting “Subject to Rule 1-9.1 [AGM by internet connection], the Executive Committee must”.*
2. *By enacting the following rule:*

AGM 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.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



Memo

To: Benchers
From: Executive Committee
Date: April 12, 2021
Subject: Law Society Rule 2-117 – Proposed Amendments

Purpose

This memorandum outlines reasons for a recommendation from the Executive Committee to the Benchers to amend Rule 2-117, which governs monies owing to the Law Society by a lawyer or former lawyer.

Law Society Rule 2-117

Law Society Rule 2-117(1) currently requires the Executive Director to apply any money received from or on behalf of a lawyer or former lawyer to payment of the following due and owing by the lawyer or former lawyer before any fees or assessments:

- (a) a fine;
- (b) costs;
- (c) a penalty;
- (d) a deductible amount paid on behalf of the lawyer under the Society's indemnification program;
- (e) reimbursement for payment made on behalf of the lawyer or former lawyer under trust protection indemnification.

Rule 2-117(2) permits the Credentials Committee to suspend a lawyer if the lawyer fails to pay any of these amounts when they are due. The rule, however, is silent on the process for the Credentials Committee to administratively suspend a lawyer (unlike other Rules such as 3-81 for failure to file a trust report and Rule 3-32 for failing to complete and report CPD), and in practice, this power granted by the rules is not utilized.

Process to collect monies outstanding to the Law Society

If a lawyer has not paid amounts owing to the Law Society as they become due, Rule 2-117(1) provides a helpful avenue to collect such monies when Law Society fees are due.

Leading up to the deadlines for payment of the annual fees instalments, staff determine which lawyers owe money to the Law Society and advise those lawyers that they must pay those outstanding amounts before any money received can be applied to their fees, in accordance with Rule 2-117.

Problem

Because the nature of what is owed to the Law Society is defined in several different ways (such as an “assessment,” a “late payment fee,” costs,” “deductibles,” “reimbursements” etc.), and because not all of these terms are defined, a question has arisen about whether “late payment fees” or an “assessment” of a charge under the Rules is meant to be included in Rule 2-117, as these fees or assessments are not specifically listed. While they might be thought of as a form of “fine” or even a “penalty” for having failed to do something by the time that the Rules required it to be done, contrary arguments are also available. Providing better clarity in the Rule to ensure that the rule applies to all outstanding money would be advisable.

Discussion

Collecting money due from a lawyer for assessments of late fees or penalties or costs can be difficult. It is an ineffective method of regulation if a lawyer continuously fails to pay the amount owing to the regulator for the delict of the lawyer, but is still permitted to maintain membership in the Society by paying enough to renew a licence. The current rule requires the Executive Director to apply money received by a lawyer first to moneys owing by the lawyer for the lawyer’s regulatory issues. If a lawyer has outstanding payments owing and submits enough money to cover only the membership fee, the Executive Director must apply the money received first to the outstanding payments owing. That ensures those amounts are paid. If, by doing so, the lawyer will thereby not have submitted enough to renew membership, then the lawyer’s membership will terminate. This is a very effective tool in ensuring that all money owing is paid, and this rule has been put to effective use for many years. If payment of most debts owing to the Law Society will cause hardship, in many cases the lawyer has the option of seeking an extension.

However, the current wording of the rule may open arguments that it applies only to certain categories of money owing to the Law Society. The Executive Committee has agreed with the staff recommendation that the rule should be clarified by making it applicable to all money owing to the Law Society, regardless of how it was assessed.

Recommendation

In order to be transparent and clear on the purpose of Rule 2-117 the Committee recommends that the Benchers approve amending the rules in order to ensure that any money received by the Law Society from a member is first applied to any debts owing by the member to the Law Society before it is applied to the member's annual fee.

The Act and Rules Committee has had an opportunity to draft a rule. If the Benchers accept the Executive Committee recommendation, the Benchers are asked to resolve to amend Rule 2-117 in the form prepared by the Act and Rules Committee.

LAW SOCIETY RULES

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 3 – Fees and Assessments

~~Failure to pay fine, costs or penalty~~ Money owed to the Society

- 2-117 (1) ~~The Executive Director must apply~~ Where there is any amount of money ~~received~~ from or on behalf of a lawyer or former lawyer to payment of the following due and owing to the Society by ~~the 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 any the annual fees or a special assessments.
- ~~_____~~ (a) a fine;
 - ~~_____~~ (b) costs;
 - ~~_____~~ (c) a penalty;
 - ~~_____~~ (d) a deductible amount paid on behalf of the lawyer under the Society's indemnity policy;
 - ~~_____~~ (e) reimbursement for payment made on behalf of the lawyer or former lawyer under trust protection indemnity coverage.
- (2) ~~If a lawyer fails to pay, by the time that it is required to be paid, any of the amounts referred to in subrule (1), the Credentials Committee may suspend the lawyer until the amount is paid.~~ [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*].

LAW SOCIETY RULES

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 3 – Fees and Assessments

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*].

PAYMENT OF DEBT BEFORE FEES**SUGGESTED RESOLUTION:**

BE IT RESOLVED to amend the Law Society Rules as follows:

1. *Rule 2-117 (1) and (2) is rescinded and the following substituted:*

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.

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



Memo

To: Benchers
 From: Jeffrey G. Hoskins, QC for Act and Rules Committee
 Date: May 5, 2021
 Subject: **Rule 3-58.1—Trust account only for legal services:
 Exception for mediators, arbitrators and parenting coordinators**

1. At the meeting in April the Benchers adopted this resolution:

THAT Rule 3-58.1 be amended to allow retainers received by lawyers providing mediation, arbitration and parenting co-ordination services to be deposited to their lawyer trust accounts.

2. There is considerable history to this issue, which is briefly explained in the attached memorandum from the Executive Committee, which was before the Benchers at the meeting.
3. I also attach draft amendments, in redlined and clean versions, and a suggested resolution recommended by the Act and Rules Committee for adoption to implement the Benchers' policy decision.

Drafting notes

4. Rule 3-58.1(1) as it currently stands is taken from the Federation model rules on anti-money laundering. For some reason, it talks about money "paid into" a trust account, whereas the rest of the BC Rules talk about money "deposited to" trust accounts. The proposed amendment to subrule (1) would change the language to be consistent with the rest of the accounting rules. Note that the proposed subrule (3) uses the new language as well.
5. The reference to "legal services" in Rule 3-58.1(2) is changed to simply "services" so as to include family law mediation, arbitration and parenting coordination, which are not legal services in the sense of "practice of law" as defined in the *Legal Profession Act*.

6. The proposed subrule (3) constitutes an exception to the rule allowing only trust funds related to legal services to be deposited to a lawyer's trust account. It is drafted to apply only to services of a lawyer acting as a family law mediator or arbitrator or a parenting coordinator. Although the Benchers resolution was not worded that specifically, the Committee noted that it was that family law bar that requested the change and others, such as commercial and labour law mediators and arbitrators, had not expressed an interest. Since this is an exception to a rule that is intended to combat money laundering, it was thought best to draw the exception narrowly.
7. The proposed amendments would amend Rule 3-60 to allow deposit of appropriate retainers to pooled trust accounts. There is no parallel proposal to amend Rule 3-61 to allow them to be deposited in separate trust accounts since the point of the requested amendment was to avoid the need to open separate accounts.

Attachments: memo from Executive Committee
 drafts
 resolution

JGH



Memo

To: Benchers
From: Executive Committee
Date: April 13, 2021
Subject: Mediators, Arbitrators and Parenting Co-ordinators Retainers and Trust Accounts

Background

In July 2019, the Benchers unanimously approved the implementation of Rule changes recommended by the Act and Rules Committee based on the October 2018 report of the Federation of Law Societies' Anti-Money Laundering and Terrorist Financing Working Group. That report recommended a Model Rule that restricted the use of trust accounts to transactions or matters for which the legal professional or the legal professional's firm is providing legal services..

Acting on that recommendation, the Benchers created Rule 3-58.1 that states *"a lawyer or law firm must not permit funds to be paid into or withdrawn from a trust account unless the funds are directly related to legal services provided by the lawyer or law firm."*

In February 2020, the Law Society advised the profession that, because neither mediation or arbitration is the practice of law, *"mediators and arbitrators who take pre-payment of fees for their services from parties or the parties' counsel must not deposit these funds into their trust account regulated by the Law Society."* Soon after the advisory was released, lawyers who provide family law mediation services responded that the Law Society's direction would require two accounts – one for the mediation and one for the agreement preparation - and that it was impossible to parse out the time allocated to the mediation and time allocated to *"legal services"* in order to determine what portion of retainers must be deposited into a trust account.

The Executive Committee considered the matter in the spring of 2020, and proposed that the definition of "trust funds" be amended to exclude retainers received for the provision of legal services incidental to the provision of mediation or arbitration services by a lawyer. The amendment would permit the entire retainer to be placed in an account other than the lawyer's trust account, and therefore lawyers would not have to bifurcate the retainer.

At the 2020 Annual General Meeting, a member resolution was passed directing the Benchers, inter alia, to permit practising lawyers acting as mediators, arbitrators and parenting coordinators to deposit retainers received into their lawyer trust accounts in accordance with the Law Society Rules.

Consideration

The intention behind Rule 3-58.1 is to ensure that lawyers use their trust accounts only for the legitimate purposes for which they are established, namely to aid in the completion of a transaction in which the lawyer or law firm plays a role as legal advisor and facilitator.¹ The use of the phrase “directly related to legal services” in Rule 3-58.1 was intended to encapsulate this concept in the Rule.

Although mediation, arbitration and parenting coordinator services are provided by lawyers, none of these services is the practice of law in British Columbia. However, since providing the direction regarding mediation and arbitration retainers and lawyer trust account, it has become apparent that the provision of mediation and arbitration services by lawyers is more complicated than the direction supposed.

Where services that are the practice of law are provided in conjunction with mediation and arbitration services, which the Committee was advised does happen, the careful segregation of the retainer into the amount that *must* go into the lawyer’s trust account from the amount of the retainer that *must not* is difficult, if not impossible, to do in advance.

The Committee was also advised that the implementation of the Model Rule on which Rule 3-58.1 is based in other Canadian jurisdictions is not being consistently applied to preclude mediation and arbitration retainers from being deposited in lawyer trust accounts.

Finally, the Committee was advised that it is highly unlikely that the deposit of mediation and arbitration retainers in lawyer trust accounts is the type of mischief that the Model Rule was intended to prevent and that the risk of money laundering or other illegal activity is, in this context, low.

Recommendation

After considering all of the options that have been advanced since the communication in February 2020, the Executive Committee agreed to recommend to the Benchers that Rule 3-58.1 be amended to allow retainers received by lawyers providing mediation, arbitration and parenting co-ordination services to be deposited to their lawyer trust accounts. The Committee believes this is a practical response to the issues raised since the February 2020 communication as it would only apply to the deposit of retainers for these services and is unlikely to compromise the purpose for which Rule 3-58.1 was created.

¹ *Law Society of BC v. Skogstad*, 2008 LSBC 19 at paragraph 61. See also *Law Society of BC v. Gurney* 2017 LSBC 15 and *Law Society of BC v. Hammond* 2020 LSBC 18.

LAW SOCIETY RULES

PART 3 – PROTECTION OF THE PUBLIC

Division 7 – Trust Accounts and Other Client Property

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 ~~paid into~~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 ~~legal~~ 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 the lawyer or law firm providing services of a family law mediator or arbitrator or a 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.

Pooled trust account

- 3-60** (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, ~~or~~
- (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.

LAW SOCIETY RULES

PART 3 – PROTECTION OF THE PUBLIC

Division 7 – Trust Accounts and Other Client Property

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- (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 the lawyer or law firm providing services of a family law mediator or arbitrator or a parenting coordinator.
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 - (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.

MAPC RETAINERS IN TRUST

SUGGESTED RESOLUTION:

BE IT RESOLVED to amend the Law Society Rules as follows:

1. Rule 3-58.1 is rescinded and the following substituted:

- 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 the lawyer or law firm providing services of a family law mediator or arbitrator or a 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.

2. Rule 3-60 (4) is rescinded and the following substituted:

- (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*].

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



Memo

To: Benchers
From: Jeffrey G. Hoskins, QC for Act and Rules Committee
Date: May 5, 2021
Subject: **Gender inclusive language**

1. In the last year or two the Act and Rules Committee has taken note of the trend toward the use of language that is not only gender neutral, but also non-binary terms rather than alternatives between two specific genders. This has been underlined by the courts in December issuing practice directions for counsel and parties to state pronoun preferences in court.
2. In March, the BC government announced the planned revision of all of the province's legislation and regulation to replace gender binary references. I an extract from the CBC website reporting on the announcement. The revision of about 600 regulations was carried out by Order in Council 140-2021. Here is a link to that Order for those with a special interest: [Order in Council 140/2021 \(gov.bc.ca\)](https://www.gov.bc.ca/council/orders/140-2021).
3. Some time ago, the Act and Rules Committee decided that changes to the Law Society Rules to non-binary language could be done where the opportunity arises in the course of making other more substantive changes. We have, in fact, made some progress in that regard. However, there remain more than 100 instances of "he or she", "his or her" etc. in the Rules.
4. The Committee considered that speeding up this project would have the obvious advantage of implementing the policy objective of accessibility and inclusiveness. It would also be in keeping with our efforts to conform to legislative and regulatory standards in BC. Presumably, the *Legal Profession Act* will be reformed like all other statutes, and consistency between the statute and the Rules is also an objective.
5. Since the Law Society no longer prints and mails replacement pages for the *Member's Manual*, there would be minimal dollar cost to making the changes at one time.

6. With the aid of MSWord search function, the Committee has reviewed the current Law Society Rules and located at least the straight-forward cases of gender binary provisions. I attach draft amendments, in the usual redlined and clean versions, recommended by the Act and Rules Committee to make the language more inclusive. We have attempted to avoid the singular they/them wherever possible because that still seems ungrammatical or at least overly informal to many users of the Rules.
7. There is also a suggested resolution, which the Committee recommends to the Benchers for adoption.

Attachments: news story
 drafts
 resolution

JGH

B.C. government replaces 600 clauses in 70 laws and regulations with gender neutral terms

CBC.CA/ CBC News/ online/ posted March 11 2021

For years now, Brynn Hanks has been quietly correcting gendered pronouns, replacing "she" and "he" with "they." I

n the 15 years since Hanks has been out as a queer trans man, the northern B.C. resident has seen society slowly shift its language and attitudes. "I think it signals to everyone that diversity of our strength." Hanks told CBC Radio One.

Now, the B.C. government has made sweeping changes to language used across 15 ministries.

"Anyone who's felt discrimination or seen themselves excluded will immediately see why this is important and why words matter," Ravi Kahlon, B.C.'s minister of jobs, economic recovery and innovation, told CBC News.

"I think we owe it to everyone in B.C. to reframe the language we use, to ensure gender inclusivity in both our language and also in the policies."

On Wednesday, an order-in-council replaced more than 600 instances of gendered language in 70 B.C. laws and regulations, including the Family Law Act and Employment Standards.

Pronouns, like "he" or "she," have been updated with gender-neutral alternatives. Familial relationships, like "sister" and "brother" will use "sibling." "Husband" and "wife" is replaced by "spouse" and gendered terms like "man-made" will be termed "human-made."

Kahlon says the change goes beyond political values or symbolic inclusion. He says gender-neutral language can also eliminate ambiguity in the law. "In many of the cases ... it left the regulations open for interpretation. We found ways to address that but also have certainty in the regulation."

The NDP government is planning to review and remove a remaining estimated 3,400 instances of gendered language in regulations and legislation.

Jasmeet Wahid, a family lawyer and partner at Kahn Zack Ehrlich Lithwick LLP, is welcoming the changes. "It makes complete sense," she said. "Language is powerful."

Wahid litigated a high-profile transgender rights case to the B.C. Court of Appeal, A.B. v. C.D., which concerned a child's consent to gender-affirming care.

In the case, Justice Gregory Bowden ruled that acts of misgendering and trying to discourage the child from seeking gender treatment amounted to family violence.

B.C.courts have also recently introduced a policy asking lawyers to provide preferred pronouns during hearings.

"The fact that we are doing this, that we're normalizing it, from my perspective is significant," Wahid said. "For those people that are troubled by it, perhaps they don't appreciate the significance around language or the struggles for inclusivity."

For Brynn Hanks, inclusion and recognition of gender identity remains a long and ongoing process. "It's a great start," he said. "[But I] don't think it's enough to erase the kinds of history that trans people have experienced in Canada in general and in our community."

Rather than focus on individual identity, he takes comfort from First Nation colleagues he works with and Indigenous values and culture of community: speaking as "we" and "us," instead of "I."

"I'm really looking forward to the day when our laws and guidelines are more inclusive of us as a collective, instead of individuals."

LAW SOCIETY RULES

RULE 1 – DEFINITIONS

Definitions

- 1 In these rules, unless the context indicates otherwise:
 - “**articling start date**” means the date on which an articulated student begins employment with ~~his or her~~the student’s principal;
 - “**Second Vice-President-elect**” means the Benchers elected under Rule 1-19 [Second Vice-President-elect], from the time of the election until ~~he or she~~the Benchers takes office as Second Vice-President;

PART 1 – ORGANIZATION

Division 1 – Law Society

Benchers

Term of office

- 1-1 (3) An elected Benchers holds office for 2 years beginning on January 1 following ~~his or her~~the Benchers election.

Term limits

- 1-2 (1) A Benchers is ineligible to be elected or appointed as a Benchers if
 - (a) at the conclusion of the Benchers term of office, ~~he or she~~the Benchers will have served as a Benchers for more than 7 years, whether consecutive or not, or
 - (2) Despite subrule (1) (a) but subject to subrule (1) (b), a Benchers who was a Benchers on January 10, 1992 and who, at the conclusion of ~~his or her~~the Benchers term of office, will not have served as a Benchers for more than 11 years, whether consecutive or not, is eligible to be elected or appointed as a Benchers.

President and Vice-Presidents

- 1-5 (4) Without further election by the district, the Benchers elected by the members under subrule (3) holds office as a Benchers representing the district that last elected the Benchers until ~~he or she~~the Benchers completes a term as President.

LAW SOCIETY RULES

Removal of the President or a Vice-President

- 1-6** (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, ~~he or she~~the President or Vice-President ceases to hold that office and ceases to be a Benchers.
- (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
- (b) a statement by the President or Vice-President, as the case may be, stating why ~~he or she~~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

Meetings

Auditors

- 1-10** (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 ~~his or her~~the auditor's report.

Voting in advance of general meeting

- 1-13.1** (4) A ballot on a general meeting resolution may be produced electronically, and to cast a valid vote, a member must indicate ~~his or her~~a vote in accordance with instructions accompanying the ballot.

Voting at general meeting

- 1-13.2** (2) A member of the Society must not
- (a) cast a vote or attempt to cast a vote that ~~he or she~~the member is not entitled to cast, or

LAW SOCIETY RULES

Elections

Qualifications of candidate

- 1-22** (1) To be eligible to be a candidate for election as a Benchers, a member of the Society must
- (c) if a practising lawyer, maintain ~~his or her~~the chief place of ~~the lawyer's~~the lawyer's practice or employment in the district in which ~~he or she~~the lawyer seeks to be a candidate, and
 - (d) if a retired or non-practising member, reside in the district in which ~~he or she~~the member seeks to be a candidate.

Eligibility and entitlement to vote

- 1-25** (1.1) A member of the Society must not cast a vote or attempt to cast a vote that ~~he or she~~the member is not entitled to cast.
- (4) A resident member of the Society may vote only in the district in which the member maintains ~~his or her~~
- (a) ~~the~~ chief place of ~~the member's~~the member's practice or employment, in the case of a practising ~~member~~lawyer, or
 - (b) ~~the member's~~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 ~~have his or her name~~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.

Voting procedure

- 1-27** (5) The Executive Director may issue a new set of ballot materials to a ~~member entitled to vote~~member who informs the Executive Director in writing that the original ballot material sent to ~~him or her~~the member relates to a district other than the one in which ~~he or she~~the member is entitled to vote.

Electronic voting

- 1-27.1** (3) A ballot may be produced electronically and, to cast a valid vote, a member must indicate ~~his or her~~a vote in accordance with instructions accompanying the ballot.

LAW SOCIETY RULES

General

Executive Director's delegate

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

Division 2 – Committees

Powers and duties

1-51 The powers and duties of the Executive Committee include the following:

- (e) approving agreements relating to the employment, termination or resignation of the Executive Director and the remuneration and benefits paid to ~~him or her~~ the Executive Director;

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 1 – Practice of Law

Unauthorized practice

Unauthorized practice of law

- 2-14** (2) Without limiting subrule (1), a lawyer must not knowingly do any of the following:
- (a) act as an agent or permit ~~his or her~~ 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;

LAW SOCIETY RULES

Inter-jurisdictional practice

Inter-jurisdictional practice without a permit

- 2-16** (2) ~~A~~Visiting lawyers must not hold ~~himself or herself~~themselves out or allow ~~himself or herself~~themselves to be held out as willing or qualified to provide legal services, except as ~~a~~-visiting lawyers.
- (8) Notwithstanding Rules 2-15 to 2-27, ~~a~~-members of the Canadian Forces who ~~is~~are entitled to practise law in a home jurisdiction in which ~~he or she is~~they are memberss of the governing body
- (b) ~~does~~ not establish an economic nexus with British Columbia under Rule 2-17 [*Disqualifications*], provided that ~~he or she~~they provides legal services exclusively for or on behalf of the Office of the Judge Advocate General.

Disqualifications

- 2-17** (3) A visiting lawyer who provides legal services in or from an office affiliated with the visiting lawyer's law firm in ~~his or her~~the visiting lawyer's home jurisdiction does not, for that reason alone, establish an economic nexus with British Columbia.

Responsibilities of visiting lawyer

- 2-23** (2) It is the responsibility of a visiting lawyer providing legal services to
- (a) record and verify the number of business days in which ~~he or she~~the visiting lawyer provides legal services, and
- (b) prove that ~~he or she~~the visiting lawyer has complied with these rules.

Practitioners of foreign law

Conditions and limitations

- 2-30** (5) A practitioner of foreign law must notify the Executive Director promptly if ~~he or she~~the practitioner of foreign law

LAW SOCIETY RULES

Providing foreign legal services without a permit

- 2-31** (2) Subject to subrule (3), to qualify to provide foreign legal services without a permit, a practitioner of foreign law must at all times
- (c) not be subject to conditions of or restrictions on ~~his or her~~ membership in the governing body of the practitioner of foreign law or ~~his or her on~~ qualification to practise law in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency or capacity,
 - (5) A practitioner of foreign law who practises law in a law firm in ~~his or her~~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.

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]:
- (b) state the foreign jurisdiction in which ~~he or she~~the practitioner of foreign law holds professional legal qualifications, and the professional title used in that jurisdiction;

Renewal of permit

- 2-34** (1) In order to renew a practitioner of foreign law permit, a practitioner of foreign law must apply to the Executive Director for a renewal of the permit before ~~his or her permit~~it expires.

Canadian legal advisors

Requirements

- 2-36** (2) A Canadian legal advisor must
- (c) immediately notify the Executive Director in writing if ~~he or she~~the Canadian legal advisor ceases to be authorized to practise law in Québec.

LAW SOCIETY RULES

Multi-disciplinary practice

Cancellation of MDP permit

- 2-43** (1) If, for any reason, the Executive Director, in ~~his or her~~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*].

Division 2 – Admission and Reinstatement

Articling term

- 2-59** (1) Unless the articling period is changed under Rules 2-59 to 2-65, an articulated student must work in the office of ~~his or her~~the student's principal for a period of not less than 9 months.
- (5) The Credentials Committee may increase the articling term to not more than 2 years if
- (b) the articulated student has not completed ~~his or her~~the student's obligations under the articling agreement, or

Part-time articles

- 2-62** (1) An applicant for enrolment may apply to complete some or all of ~~his or her~~the applicant's articles part-time by submitting the following to the Executive Director not less than 2 months before the enrolment start date:
- (2) An articulated student may apply to change ~~his or her~~the student's articles to part-time articles by submitting to the Executive Director the articling agreement referred to in subrule (1) (c).

Law clerks

- 2-63** (2) An articulated student whose application under this rule is accepted must article to ~~his or her~~a principal for a period of time and according to a schedule approved by the Executive Director.

Secondment of articles

- 2-66** (1) ~~With the~~A principal's ~~may permit his or her~~consent, an articulated student ~~to~~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.

LAW SOCIETY RULES

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
- (c) if any part of the leave is to take place when the student is required to work in the office of ~~his or her~~a principal, the principal consents to the leave in advance.
- (8) On the written application of an articulated student, the Executive Director may allow the student to take a leave of absence that is not otherwise authorized by this rule, provided that the articulated student will be eligible for call and admission within 2 years of ~~his or her~~ enrolment in the admission program.
- (9) On the written application of an articulated student, the Credentials Committee may allow the student to take a leave of absence that the Executive Director has not approved, including a leave that will result in the student not being eligible for call and admission within 2 years of ~~his or her~~ enrolment in the admission program.

Call and admission

Transfer from another Canadian jurisdiction

- 2-79** (1) An applicant for call and admission on transfer from another jurisdiction in Canada must deliver the following to the Executive Director:
- (e) proof of academic qualification
 - (ii) for a member of the Barreau, proof that ~~he or she~~the applicant has earned
- (4) An applicant who does not satisfy the Executive Director that ~~he or she~~the applicant has an adequate knowledge of the English language must satisfactorily complete the training required by the Credentials Committee.
- (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 ~~his or her~~the applicant's failure,
 - (b) may re-write the examination
 - (i) at any time, provided ~~he or she~~the applicant has not failed the examination before, or

LAW SOCIETY RULES

- (ii) after a period of one year from the date of the failure if ~~he or she~~the applicant has previously failed the examination, or

Transfer under National Mobility Agreement and Territorial Mobility Agreement

- 2-81** (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 ~~he or she~~the applicant does not need ~~not to~~ pass any transfer examination.
- (3) To qualify for call and admission, an applicant under this rule must certify, in the prescribed form, that ~~he or she~~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 ~~his or her~~the lawyer's home jurisdiction, or

Transfer as Canadian legal advisor

- 2-82** (3) This rule ~~does not apply~~applies to ~~a~~those members of the Chambre ~~unless he or she who has have~~ earned a bachelor's degree in civil law in Canada or a foreign degree and a certificate of equivalency from the Chambre.

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 ~~must is~~restrict~~ed his or her practice of law~~ as follows:

Credentials hearings

Pre-hearing conference

- 2-96** (1) At the request of the applicant or counsel for the Society, or on ~~his or her~~the President's own initiative, the President may order a pre-hearing conference at any time before a hearing ordered under this division commences.

LAW SOCIETY RULES

Division 3 – Fees and Assessments

Late payment

- 2-108** (7) When there are special circumstances, the Executive Director may, in ~~his or her~~ the Executive Director's discretion, waive or reduce a late payment fee payable under this rule.

PART 3 – PROTECTION OF THE PUBLIC

Division 1 – Complaints

Failure to produce records on complaint investigation

- 3-6** (1) Subject to subrules (2) and (3), a lawyer who is required under Rule 3-5 *[Investigation of complaints]* or 4-55 *[Investigation of books and accounts]* to produce and permit the copying of files, documents and other records, provide information or attend an interview and answer questions and who fails or refuses to do so is suspended until ~~he or she~~ the lawyer has complied with the requirement to the satisfaction of the Executive Director.

Medical examination

- 3-11** (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
- (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 ~~his or her~~ articles.

Procedure

- 3-12** (4) The lawyer or articulated student and ~~his or her~~ counsel for the lawyer or articulated student may be present at a proceeding under this rule.

LAW SOCIETY RULES

Division 6 – Financial Responsibility

Definitions

3-47 In this Division:

“insolvent lawyer” means a lawyer who

- (b) has made an assignment of all ~~his or her~~the lawyer’s property for the general benefit of the lawyer’s creditors under section 49,

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
- (b) ~~his or her~~the lawyer’s proposal for satisfying the judgment.

Insolvent lawyer

- 3-51** (1) A lawyer who becomes an insolvent lawyer must immediately
- (a) notify the Executive Director in writing that ~~he or she~~the lawyer has become an insolvent lawyer, and
 - (b) deliver to the Executive Director
 - (iv) any other information, including copies of any books, records, accounts and other documents and information in ~~his or her~~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 conducted ~~himself or herself in a manner~~ unbecoming the profession in either of the following circumstances:

Division 7 – Trust Accounts and Other Client Property

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 ~~his or her~~the lawyer’s pooled trust account.

LAW SOCIETY RULES

Accounting records

- 3-67** (2) A lawyer must record all funds received and disbursed in connection with ~~his or her~~the lawyer's law practice by maintaining the records required under this division.

Recording transactions

- 3-72** (2) A lawyer must record in ~~his or her~~ general account records all funds
 (b) subject to a specific agreement with the client allowing the lawyer to treat them as ~~his or her~~the lawyer's own funds, or

Retention of records

- 3-75** (2) A lawyer must keep ~~his or her~~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 ~~his or her~~ records, other than electronic records, at ~~his or her~~the lawyer's chief place of practice in British Columbia for at least 3 years from the final accounting transaction or disposition of valuables.

Late filing of trust report

- 3-80** (4) When there are special circumstances, the Executive Director may, on application and in ~~his or her~~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.

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 ~~his or her~~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:

LAW SOCIETY RULES

- (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
- (c) the lawyer or former lawyer has notified all clients and other persons for whom the lawyer is or ~~potentially~~ may become a personal representative, executor, trustee or other fiduciary regarding the lawyer or former lawyer's withdrawal from practice and any change in ~~his or her~~ the lawyer's membership status.

Division 8 – Unclaimed Trust Money

Investigation of claims

- 3-90** (3) In order to determine the validity of a claim, the Executive Director may make or authorize inquiries or further investigations that ~~he or she~~ the Executive Director considers desirable.

Division 11 – Client Identification and Verification

Application

- 3-99** (1.1) The requirements of this division are in keeping with a lawyer's obligation to know ~~his or her~~ 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 ~~his or her~~ the lawyer's employer, or

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 ~~he or she~~ the lawyer is retained after that time, regardless of whether the client is a new or existing client.

LAW SOCIETY RULES

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 ~~he or she~~the lawyer is or would be assisting a client in fraud or other illegal conduct, the lawyer must withdraw from representation of the client.

PART 4 – DISCIPLINE

Consideration of complaints by chair

- 4-5** (1) The chair of the Discipline Committee must consider any complaint referred to ~~him or her~~the chair under these rules and may instruct the Executive Director to make or authorize further investigation that the chair considers desirable.

Conduct Review Subcommittee report

- 4-13** (1) The Conduct Review Subcommittee must
- (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 ~~he or she~~the lawyer disputes the contents of the report.

Review of interim suspension or practice conditions

- 4-26** (7) All proceedings at a hearing under this rule must be recorded by a court reporter, and any person may obtain, at ~~his or her~~the person's expense, a transcript of any part of the hearing that ~~he or she~~the person was entitled to attend.

Pre-hearing conference

- 4-38** (7) ~~If the~~The Benchers presiding at a pre-hearing conference ~~considers it appropriate, he or she~~ 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.

LAW SOCIETY RULES

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~~he or she~~ 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.

PART 9 – INCORPORATION AND LIMITED LIABILITY PARTNERSHIPS

Division 1 – Law Corporations

Corporate name certificate

- 9-2 (3) The Executive Director must notify the lawyer in writing of ~~his or her~~the
decision under subrule (2).

Notice of change in corporate information

- 9-10 The president of a company or ~~his or her~~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.

Division 2 – Limited Liability Partnerships

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 ~~he or she~~the person intends to file under that Act,

LAW SOCIETY RULES

- (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. ~~Each partner~~ Partners ~~is~~ are personally liable for ~~his or her~~ 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.

PART 10 – GENERAL

Security of records

- 10-4** (1) A lawyer must protect ~~his or her~~ 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) ~~he or she~~ the lawyer has lost custody or control of any ~~of the lawyer's~~ records related to the lawyer's practice for any reason,

LAW SOCIETY RULES

RULE 1 – DEFINITIONS

Definitions

1 In these rules, unless the context indicates otherwise:

“**articling start date**” means the date on which an articulated student begins employment with the student’s principal;

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

PART 1 – ORGANIZATION

Division 1 – Law Society

Benchers

Term of office

1-1 (3) An elected Benchers holds office for 2 years beginning on January 1 following the Benchers’ election.

Term limits

1-2 (1) A Benchers is ineligible to be elected or appointed as a Benchers if

- (a) at the conclusion of the Benchers’ term of office, the Benchers will have served as a Benchers for more than 7 years, whether consecutive or not, or
- (2) Despite subrule (1) (a) but subject to subrule (1) (b), a Benchers who was a Benchers on January 10, 1992 and who, at the conclusion of the Benchers’ term of office, will not have served as a Benchers for more than 11 years, whether consecutive or not, is eligible to be elected or appointed as a Benchers.

President and Vice-Presidents

1-5 (4) Without further election by the district, the Benchers elected by the members under subrule (3) holds office as a Benchers representing the district that last elected the Benchers until the Benchers completes a term as President.

LAW SOCIETY RULES

Removal of the President or a Vice-President

- 1-6** (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.
- (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
- (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

Meetings

Auditors

- 1-10** (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.

Voting in advance of general meeting

- 1-13.1** (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.

Voting at general meeting

- 1-13.2** (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

Elections

Qualifications of candidate

- 1-22** (1) To be eligible to be a candidate for election as a Bencher, a member of the Society must
- (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

LAW SOCIETY RULES

- (d) if a retired or non-practising member, reside in the district in which the member seeks to be a candidate.

Eligibility and entitlement to vote

- 1-25** (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.
- (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.

Voting procedure

- 1-27** (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** (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.

General

Executive Director's delegate

- 1-44.1** (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.

LAW SOCIETY RULES

Division 2 – Committees

Powers and duties

1-51 The powers and duties of the Executive Committee include the following:

- (e) approving agreements relating to the employment, termination or resignation of the Executive Director and the remuneration and benefits paid to the Executive Director;

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 1 – Practice of Law

Unauthorized practice

Unauthorized practice of law

2-14 (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;

Inter-jurisdictional practice

Inter-jurisdictional practice without a permit

2-16 (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.

- (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

- (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.

LAW SOCIETY RULES

Disqualifications

- 2-17** (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.

Responsibilities of visiting lawyer

- 2-23** (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.

Practitioners of foreign law

Conditions and limitations

- 2-30** (5) A practitioner of foreign law must notify the Executive Director promptly if the practitioner of foreign law

Providing foreign legal services without a permit

- 2-31** (2) Subject to subrule (3), to qualify to provide foreign legal services without a permit, a practitioner of foreign law must at all times
- (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,
- (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.

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]:
- (b) state the foreign jurisdiction in which the practitioner of foreign law holds professional legal qualifications, and the professional title used in that jurisdiction;

LAW SOCIETY RULES

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.

Canadian legal advisors

Requirements

- 2-36** (2) A Canadian legal advisor must
- (c) immediately notify the Executive Director in writing if the Canadian legal advisor ceases to be authorized to practise law in Québec.

Multi-disciplinary practice

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*].

Division 2 – Admission and Reinstatement

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.
- (5) The Credentials Committee may increase the articling term to not more than 2 years if
- (b) the articulated student has not completed the student's obligations under the articling agreement, or

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:

LAW SOCIETY RULES

- (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).

Law clerks

- 2-63** (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.

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.

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
- (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.
- (8) On the written application of an articulated student, the Executive Director may allow the student to take a leave of absence that is not otherwise authorized by this rule, provided that the articulated student will be eligible for call and admission within 2 years of enrolment in the admission program.
- (9) On the written application of an articulated student, the Credentials Committee may allow the student to take a leave of absence that the Executive Director has not approved, including a leave that will result in the student not being eligible for call and admission within 2 years of enrolment in the admission program.

Call and admission

Transfer from another Canadian jurisdiction

- 2-79** (1) An applicant for call and admission on transfer from another jurisdiction in Canada must deliver the following to the Executive Director:
- (e) proof of academic qualification
- (ii) for a member of the Barreau, proof that the applicant has earned

LAW SOCIETY RULES

- (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.
- (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

Transfer under National Mobility Agreement and Territorial Mobility Agreement

- 2-81** (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

Transfer as Canadian legal advisor

- 2-82** (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.

LAW SOCIETY RULES

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:

Credentials hearings

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.

Division 3 – Fees and Assessments

Late payment

- 2-108** (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.

PART 3 – PROTECTION OF THE PUBLIC

Division 1 – Complaints

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.

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LAW SOCIETY RULES

- (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.

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- (a) notify the Executive Director in writing that the lawyer has become an insolvent lawyer, and
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 - (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:

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LAW SOCIETY RULES

- (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
 - (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.

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LAW SOCIETY RULES

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LAW SOCIETY RULES

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Division 1 – Law Corporations

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Notice of application for registration

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- (a) submit to the Executive Director a copy of the registration statement that the person intends to file under that Act,

LAW SOCIETY RULES

- (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.

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- 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,

GENDER INCLUSIVE LANGUAGE

SUGGESTED RESOLUTION:

BE IT RESOLVED to amend the Law Society Rules as follows:

1. *The following rules are amended by striking out “his or her” and substituting “the student’s”:*
 - (a) *Rule 1, definition of “articling start date”;*
 - (b) *Rule 2-59 (1) and (5) (b);*
 - (c) *Rule 2-62 (2).*
2. *The following rules are amended by striking out “he or she” and substituting “the Benchers”:*
 - (a) *Rule 1, definition of “Second Vice-President-elect”;*
 - (b) *Rule 1-2 (1);*
 - (c) *Rule 1-5 (4).*
3. *The following rules are amended by striking out “his or her” and substituting “the Benchers”:*
 - (a) *Rule 1-1 (3);*
 - (b) *Rule 1-2 (2).*
4. *Rule 1-6 is amended by striking out “he or she” where it occurs and substituting “the President or Vice-President”.*
5. *Rule 1-10 (6) is amended by striking out “his or her” and substituting “the auditor’s”.*
6. *The following rules are amended by striking out “his or her vote” and substituting “a vote”.*
 - (a) *Rule 1-13.1 (4);*
 - (b) *Rule 1-27.1 (3).*

7. ***The following rules are amended by striking out “he or she” and substituting “the member”:***
 - (a) ***Rule 1-13.2 (2);***
 - (b) ***Rule 1-22 (1) (d);***
 - (c) ***Rule 1-25 (1.1).***
8. ***Rule 1-22 (1) (c) is rescinded and the following is substituted:***
 - (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.
9. ***Rule 1-25 (4) and (5) is rescinded and the following is substituted:***
 - (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..
10. ***Rule 1-27 (5) is rescinded and the following is substituted:***
 - (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..
11. ***Rule 1-44.1 (2) is rescinded and the following is substituted:***
 - (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..

12. ***Rule 1-51 (e) is amended by striking out “him or her” and substituting “the Executive Director”.***
13. ***The following rules are amended by striking out “his or her” and substituting “the lawyer”:***
 - (a) ***Rule 2-14 (2);***
 - (b) ***Rule 2-81 (4);***
 - (c) ***Rule 3-47;***
 - (d) ***Rule 3-50 (1);***
 - (e) ***Rule 3-51 (1);***
 - (f) ***Rule 3-66 (1);***
 - (g) ***Rule 3-67 (2);***
 - (h) ***Rule 3-87 (1);***
 - (i) ***Rule 3-99 (1.1) and (2).***
14. ***Rule 2-16 (2) and (8) is rescinded and the following is substituted:***
 - (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.
 - (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..
15. ***Rule 2-17 is amended by striking out “his or her” and substituting “the visiting lawyer’s”.***

16. *Rule 2-23 (2) is amended by striking out “he or she” where it occurs and substituting “the visiting lawyer”.*
17. *The following rules are amended by striking out “he or she” and substituting “the practitioner of foreign law”:*
 - (a) *Rule 2-30 (5);*
 - (b) *Rule 2-33.*
18. *Rule 2-31 is amended*
 - (a) *by rescinding subrule (2) (c) and substituting the following:*
 - (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,, *and*
 - (b) *in subrule (5) by striking out “in his or her home jurisdiction” and substituting “in the home jurisdiction of the practitioner of foreign law”.*
19. *Rule 2-34 is amended by striking out “before his or her permit expires.” and substituting “before it expires.”.*
20. *Rule 2-36 is amended by striking out “he or she” and substituting “the Canadian legal advisor”.*
21. *The following rules are amended by striking out “his or her” and substituting “the Executive Director’s”:*
 - (a) *Rule 2-43 (1);*
 - (b) *Rule 2-108 (7);*
 - (c) *Rule 3-80 (4).*
22. *The following rules are amended by striking out “his or her” and substituting “the applicant’s”:*
 - (a) *Rule 2-62 (1);*
 - (b) *2-79 (7).*

23. ***The following rules are amended by striking out “his or her principal” and substituting “a principal”:***
- (a) ***Rule 2-63 (2);***
 - (b) ***Rule 2-69 (1).***
24. ***Rule 2-66 (1) is rescinded and the following is substituted:***
- (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..
25. ***Rule 2-69 (8) and (9) is amended by striking out “within 2 years of his or her enrolment” and substituting “within 2 years of enrolment”.***
26. ***The following rules are amended by striking out “he or she” where it occurs and substituting “the applicant”:***
- (a) ***Rule 2-79 (1), (4) and (7);***
 - (b) ***Rule 2-81 (3).***
27. ***Rule 2-81 (2) is rescinded and the following is substituted:***
- (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..
28. ***Rule 2-82 (3) is rescinded and the following is substituted:***
- (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..
29. ***Rule 2-87 (1) is amended by striking out “a lawyer who was a judge or a master must restrict his or her practice of law” and substituting “the practice of law by a lawyer who was a judge or a master is restricted”.***
30. ***The following rules are amended by striking out “his or her” and substituting “the President’s”:***
- (a) ***Rule 2-96 (1);***
 - (b) ***Rule 9-10.***

31. *The following rules are amended by striking out “he or she” and substituting “the lawyer”:*
- (a) *Rule 3-6 (1);*
 - (b) *Rule 3-51 (1);*
 - (c) *Rule 3-108;*
 - (d) *Rule 3-109 (1);*
 - (e) *Rule 4-13 (1).*
32. *Rule 3-11 (2) is amended by striking out “to complete his or her articles” and substituting “to complete articles”.*
33. *Rule 3-12 (4) is rescinded and the following is substituted:*
- (4) The lawyer or articled student and counsel for the lawyer or articled student may be present at a proceeding under this rule..
34. *Rule 3-51 (2) is amended by striking out “has conducted himself or herself in a manner unbecoming the profession” and substituting “has committed conduct unbecoming the profession”.*
35. *Rule 3-72 (2) is amended*
- (a) *in the preamble by striking out “in his or her general account records” and substituting “in general account records”, and*
 - (b) *in paragraph (b) by striking out “his or her” and substituting “the lawyer’s”.*
36. *Rule 3-75 (2) and (3) is rescinded and the following is substituted:*
- (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..

37. ***Rule 3-87 (2) (c) is rescinded and the following is substituted:***
- (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..
38. ***Rule 3-90 (3) is amended by striking out "he or she" and substituting "the Executive Director".***
39. ***Rule 4-5 (1) is amended by striking out "him or her" and substituting "the chair".***
40. ***Rule 4-26 (7) is amended***
- (a) ***by striking out "his or her" and substituting "the person's", and***
 - (b) ***by striking out "he or she" and substituting "the person".***
41. ***Rule 4-38 (7) is rescinded and the following is substituted:***
- (7) The Benchers 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..
42. ***Rule 5-25 (7) is rescinded and the following is substituted:***
- (7) The Benchers 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..
43. ***Rule 9-2 (3) is amended by striking "his or her decision" and substituting "the decision".***
44. ***Rule 9-15 is amended***
- (a) ***in subrule (1) by striking out "he or she" and substituting "the person", and***
 - (b) ***in subrule (3) by striking out "Each partner is personally liable for his or her own actions" and substituting "Partners are personally liable for their own actions".***

45. Rule 10-4 is amended

(a) by rescinding subrule (1) and substituting the following:

- (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., *and*

(b) by rescinding subrule (2) (a) and substituting the following:

- (a) the lawyer has lost custody or control of any records related to the lawyer's practice for any reason.,

REQUIRES 2/3 MAJORITY OF BENCHERS PRESENT



CEO's Report to the Benchers

May 28, 2021

Prepared for: Benchers

Prepared by: Don Avison, QC

1. Law Society Governance Review

Following the April 23, 2021 decision by Benchers to initiate a governance review of the Law Society, a request for proposals was communicated to a number of professionals/entities with established governance expertise. The deadline for the submission of proposals was Friday, May 14, 2021.

Four comprehensive proposals have been received and are currently under review. The Executive Committee is expected to make a decision regarding the successful proponent at its June meeting.

The commencement of the review remains to be determined as it will depend, in part, on the availability of the proponent ultimately selected by the Executive Committee. However, we expect that a completed report would be available for consideration by the Benchers no later than the end of the second quarter of 2022.

2. Cullen Commission Completes Evidence Phase

The evidence component of the Cullen Commission came to a close on May 14 after more than fourteen months of hearings.

The Commission was able to complete this essential part of its work in the face of extraordinary – and unanticipated – circumstances. After only days of in-person testimony the Commission – faced with the realities of a global pandemic – was required to pivot to technology-enabled proceedings and they managed to make this transition in a remarkably seamless way.

The attention of the Commission will now shift to the submissions phase. My understanding is that participants, including the Law Society, will be required to provide written submissions by June 11th. Replies to the submissions of other parties will be expected by June 25th and this will be followed by oral submissions that are now scheduled to take place on July 6, 7, and 8. As Benchers are meeting on July 9, I plan to provide a summary of the positions of the various parties at that meeting.

While much work remains to be done on this very important matter, I do want to acknowledge the excellence of our counsel, Ludmila Herbst, QC and Catherine George, who have represented the interests of the Law Society throughout the course of these proceedings. There are also a number of staff who have made exceptional contributions and I will have much more to say about that when the Commission has completed its work. I would, however, like to acknowledge again the profoundly important contributions of Jennifer Chan. Ms. Chan has provided consistently solid

support throughout the evidence phase and has thoughtfully considered not only the Law Society's interest, but also that of the profession and the broader public interest in her advice and assistance to me and our counsel.

One thing that I did want to mention here is that at various points throughout the course of the proceedings, there was reference from international witnesses regarding the involvement of lawyers in money laundering transactions. What struck me was that many of those jurisdictions, including states like Washington and Oregon, don't have the audit and trust assurance programs – or mandatory insurance programs – that we have long ago accepted as part of the legal culture in British Columbia and in Canada. There is a commitment to oversight and audit here that I believe assists in reducing potential risks. This is an element we are likely to give emphasis to in our submissions to Commissioner Cullen in July.

3. Law Society Retreat

Planning continues for the Law Society Retreat that will take place, either virtually or in-person, from October 14 to 17, 2021.

At this point there appears to be at least some reason for optimism that an in-person meeting will be possible although it is likely that there will still be some restrictions on the size of meetings permitted by the Provincial Health Officer. As you would expect, meeting size limitations may have implications for the numbers of staff and guests able to attend all, or part, of the Retreat sessions and associated events.

Lisa Hamilton, QC will have more to say at the upcoming Benchers Meeting regarding the focus of the retreat program.

4. Federation Fall Conference and Meeting

Plans continue for the October Federation conference but uncertainty remains as to whether this will be an in-person event. Federation staff, together with the Law Society of Saskatchewan are exploring options for holding a hybrid conference where some participants would meet in Saskatoon while others would attend virtually. The program focus is on "Challenges Facing New Entrants to the Profession".

5. Call Ceremonies

Our plan is to return to in-person call ceremonies as soon as it is reasonably appropriate to do so.

We expect to hear from the Government of British Columbia and from the Provincial Health Officer regarding “re-opening” plans and that will assist us – and the Supreme Court of British Columbia – in beginning to set dates and determine the number of applicants and guests that can attend each ceremony.

Given the number of applicants for call and admission, my expectation is that we will conduct multiple ceremonies. Given these pressures it would also be appropriate for Benchers to consider whether the requirement for lawyers transferring from other jurisdictions to make a formal appearance before the Supreme Court should be made optional.

Don Avison, QC
Chief Executive Officer

Proposed Rule Amendment to provide for Bencher Resignation

Governance Committee

Jeevyn Dhaliwal, QC (Chair)
Christopher A. McPherson, QC (Vice-Chair)
Pinder K. Cheema, QC
Dr. Jan Lindsay
Linda I. Parsons, QC
Michael F. Welsh, QC
Guangbin Yan

Date: May 28, 2021

Prepared for: Benchers

Prepared by: Staff

Purpose: Decision

Background

1. Under the current Rules, there are four ways one can cease to be a Benchers. The first is to reach the term limit set out in Rule 1-2. The second is to not run for re-election or decline to be reappointed. The third is, in the case of elected Benchers, to cease to be a member of the Law Society as set out in Rule 1-7. The fourth and most dramatic is to not get re-elected or reappointed. There is, however, no provision for the resignation of a Benchers.
2. When Benchers have resigned, the Law Society has taken the resignation at face value and accepted that the individual has ceased to be Benchers. However, as the Benchers by-election Rule 1-38(1) requires that “*an elected Benchers ceases to hold office*”, the question of how and when a Benchers might cease to hold office is more than academic.

Discussion

3. At the April 2021 Governance Committee meeting, the Committee noted that the Rules do not provide any direction or procedure for the resignation of a Benchers and that the uncertainty this creates should be addressed by amending the Rules.

Recommendation

4. The Committee recommends that the Benchers approve in principle amending the Rules to provide for the resignation of a Benchers and refer the matter to the Act and Rules Committee.

To Michelle Stanford QC, benchers and to the Benchers of LSBC

The undersigned asks the benchers to pass a resolution at the benchers table adopting the resolution passed by the members at the 2018 AGM requiring lawyers only to provide family law advice.

Lawyers provide free advice (pro bono) and often provide advice below cost. This is not well understood by the public and LSBC can and should educate the public about the good works of lawyers.

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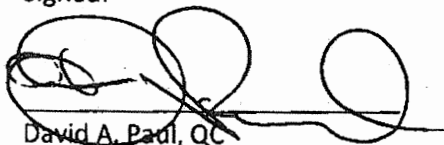
See pages 86 to 95 of the agenda

https://www.lawsociety.bc.ca/Website/media/Shared/docs/about/agendas/2020-09-25_agenda.pdf

We ask the benchers to adopt the 2018 members resolution. The sandbox should be restricted to areas of proven unmet need and family law must be excluded.

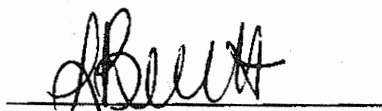
We hope that this issue will be at the benchers table by the May meeting.

Signed:



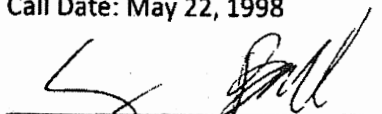
David A. Paul, QC
Call Date: June 12, 1987

Date Feb 8, 2021



Lorianna Bennett
Call Date: May 22, 1998

Date Feb 9, 2021




Jeanine L. Ball
Call Date: May 19, 2017

Date February 8, 2021



Natalie L. Paul
Call Date: May 17, 2019

Date Feb 9, 2021



Alex Marr
Call Date: May 27, 2019

Date Feb 8, 2021

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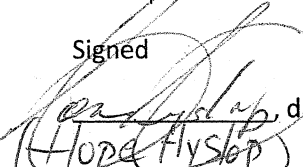
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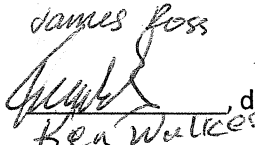
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Signed

 date Feb 22/21 date _____, date _____

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 11
Kevin A. Wake

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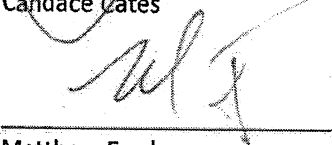
Signed


Christopher Soll

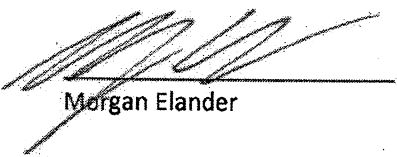
Feb 19, 2021
Date


Candace Gates

Feb 19, 2021
Date


Matthew Ford

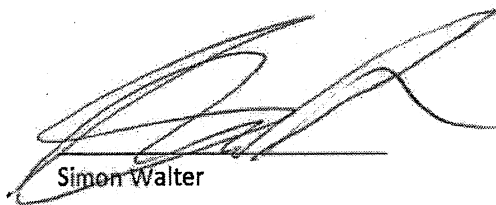
February 19, 2021
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Morgan Elander

February 19, 2021
Date

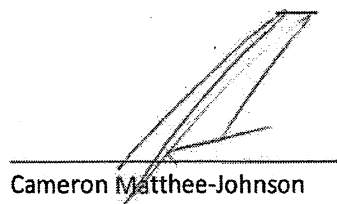

Aachal Soll

February 19, 2021
Date



Simon Walter

Feb 19, 2021
Date



Cameron Matthee-Johnson

Feb 19, 2021
Date

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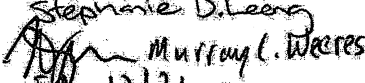
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Signed

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JOAQUIN MARIONA

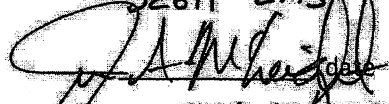
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Stephanie D. Leong

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Michael S. Hanson

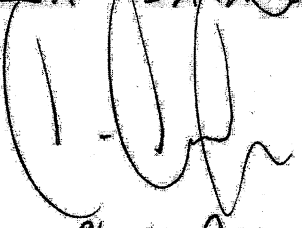
 date Feb. 12/21, date _____ date
Murray L. Weeres


 date 12 Feb 21
SCOTT ELLIS

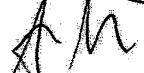
 date Feb 12/21, date _____ date
Mike Sutherland

 date FEB. 12/2021
JAMES A. MCCREIGHT

_____, date _____ date

 date February 12, 2021
Chris Cavanagh

 date Feb. 12, 2021
Luke G. Bergerman

 date Feb 12, 2021.
A.M.

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Signed *Kathleen Kendall*

_____, date _____, date Feb.16/2021, date

_____, date _____, date _____, date

_____, date _____, date _____, date

_____, date _____, date _____, date



Notice to the Profession

2018 Annual General Meeting of the Law Society of British Columbia Tuesday, October 30, 2018

This year, members can participate online or in person.

If you are planning to attend the meeting, online or in person, it is **important** that you RSVP at the earliest opportunity by logging in to the Law Society's Member Portal.

For those planning on attending in person, please note that seating at each of the nine meeting venues is limited. Early confirmation by RSVP will assist in accommodating those who plan to attend. You will also be asked to register on arrival. Please bring at least one piece of photo ID and your member number with you to speed up registration.

For those attending online, registration will be available through the Law Society Member Portal on October 30th.

Members may not register both online and in person.

Online Registration:	starts at 12:00 pm PDT
Registration in Vancouver:	starts at 11:30 am
Registration at all other locations:	starts at 11:45 am PDT

Call to order: 12:30 pm PDT

Main location: Vancouver Convention Centre, Exhibition Hall A
1055 Canada Place, Vancouver

Audio-conference locations: Victoria • Nanaimo • Castlegar
Kelowna • Prince George • Dawson Creek • Smithers • Kamloops

Business of the meeting

The business of the 2018 Annual General Meeting will be the following:

- Election of Second Vice-President for 2019
- Benchers' report of proceedings since last meeting
- Resolution 1: Appointment of Law Society auditors for 2018
- Resolution 2: Mandatory Pro Bono Legal Aid Services
- Resolution 3: Withdrawal of Requested Legislative Amendments to the Legal Profession Act
Regarding Non-Lawyer Legal Service Providers
- Resolution 4: Mandatory 10 Hours of Pro Bono per Calendar Year

Election of Second Vice-President for 2019

Each year at the AGM, a Benchers is elected by the attending members to serve as Second Vice-President for the following year, pursuant to Law Society Rule 1-19. The Benchers are pleased to announce their nomination of Dean Lawton, QC to serve as Second Vice-President in 2019, and invite the profession to support Mr. Lawton's nomination.



Dean Lawton, QC

Dean Lawton, QC is a partner with Carfra Lawton LLP in Victoria.

Elected a Benchers for 2014, Dean is currently Chair of the Lawyer Education Advisory Committee, and a member of the Executive Committee, Discipline Committee, Recruitment and Nominating Advisory Committee and Truth and Reconciliation Advisory Committee. In 2014, he was appointed as a Benchers representative to the Continuing Legal Education Society's Board of Directors. He has also served as a guest judge at practice advocacy sessions for the Professional Legal Training Program. In 2018, he was appointed by the Federation of Law Societies of Canada as the western Canada (BC, Alberta and Saskatchewan) Benchers representative on the Federation's Truth and Reconciliation Calls to Action Advisory Committee.

Dean has been a sessional lecturer in civil procedure and insurance law at the University of Victoria; co-author of CLEBC publication Advising BC Business, Chapter 13, Insurance Basics 2006, revised 2008; past member of editorial advisory panel for CLEBC publication, CIVJI, 2008 revised; a past contributor to CLEBC programs; executive member (2001-2002), President (2003) and Treasurer (2004) of the Victoria Bar Association; and a member of Mediate BC since 2007.

Benchers' report: Proceedings since last meeting

Pursuant to Rule 1-8(4), on behalf of the Benchers, President Miriam Kresivo, QC will provide a brief outline of Law Society proceedings since October, 2017.

Resolutions

Resolution 1: Appointment of Law Society auditors for 2018

BE IT RESOLVED that PricewaterhouseCoopers be appointed as the Law Society auditors for the year ending December 31, 2018.

Resolution 2: Member resolution submitted by Kevin McCullough and Danielle Young

WHEREAS the Law Society of British Columbia recognizes that access to justice is a fundamental human right, and that without meaningful access to justice the rule of law is threatened;

AND WHEREAS currently access to justice for the majority of British Columbians is at a crisis level and needs to be immediately addressed;

AND WHEREAS First Nations Peoples are particularly disadvantaged by the access to justice crisis in British Columbia;

AND WHEREAS the provision of mandatory pro bono legal services by the legal profession will promote greater access to justice and uphold the rule of law.

THEREFORE BE IT RESOLVED that:

1) The Benchers are directed to amend the Rules of the Law Society to include a professional obligation on all practising lawyers to perform a minimum level of pro bono Legal Services Society legal services.

2) The Rules shall provide that mandatory pro bono service would be completed by contacting the Legal Services Society for assignment of a case as per the following:

(i) A lawyer who, without payment, assumes conduct of a summarily proceeding criminal matter assigned by the Legal Services Society will be deemed to have completed the professional obligation for pro bono Legal Aid services for a period of 2 years.\

(ii) A lawyer who, without payment, assumes conduct of a Family Law Act proceeding assigned by the Legal Services Society will be deemed to have completed the professional obligation for pro bono Legal Aid services for a period of 4 years.

(iii) A lawyer who, without payment, assumes conduct of a Child Family and Community Service Act proceeding assigned by the Legal Services Society will be deemed to have completed the professional obligation for pro bono Legal Aid services for a period of 4 years.

(iv) A lawyer who, without payment, assumes conduct of an immigration refugee claim assigned by the Legal Services Society will be deemed to have completed the professional obligation for pro bono Legal Aid services for a period of 3 years.

3) The Rules shall also provide that practising lawyers may opt out of performing the mandatory pro bono legal services requirement with some form of penalty.

Commentary:

The Benchers have previously considered whether requiring members to make a contribution of pro bono legal services is an appropriate regulatory requirement for the Benchers to implement. The conclusion has been that the provision of pro bono legal services is a tradition within the legal profession that is to be strongly encouraged but not a professional responsibility.

Resolution 3: Member resolution submitted by Peter Leask, QC and Karen Nordlinger, QC

WHEREAS the Law Society since its inception has taken vigorous steps to prevent non-lawyers from practising law;

AND WHEREAS it is the view of the membership that training, experience and qualification as a lawyer is a requirement for the ability to practise law;

AND WHEREAS it is in the public interest that members of the public are not provided with inadequate advice from "legal service providers" as a substitute for fully-qualified lawyers who currently have and should retain the sole right to practise law in this province;

AND WHEREAS a solution to the access to justice issue, with immediate benefit, is an adequately funded legal aid system where people have the benefit of fully-trained lawyers to assist them to resolve their family law disputes;

AND WHEREAS it is not in the public interest to have less qualified persons providing legal advice to members of the public facing family law issues, given the following:

- a. Family law disputes are complex and require lawyers to provide advice or identify critical issues within a wide range of legal fields, including tax, corporate, insurance, contracts, employment, property, immigration, pensions, trusts, estates, criminal law, conflicts of law and bankruptcy;
- b. Legal disputes have very serious and long-lasting financial implications on families, including children;
- c. The outcome of a custody or parenting arrangements application may have a long-term impact upon a child's emotional life and well-being;

THEREFORE BE IT RESOLVED that the membership directs the Benchers to withdraw their application to the provincial government seeking legislative amendments to the *Legal Profession Act*, S.B.C. 1998, c. 9, to enable the Law Society to create, credential and regulate new

categories of non-lawyer legal service providers and directs the Benchers to refrain from any further action to have non-lawyers practise law.

Commentary:

Based on the conclusion that a diversity of qualified legal service providers was in the public interest, in December 2014 the Benchers unanimously approved seeking amendments to the *Legal Profession Act* to permit the Law Society to establish new categories of legal service providers to engage in the practice of law, set the credentialing requirements and educational qualifications for such individuals, and regulate their legal practice. As a result, the Law Society sought the necessary amendments from the provincial government.

Although the *Legal Profession Act* has not been amended to permit the Law Society to establish new categories of legal service providers, earlier this year the Benchers established the Alternate Legal Service Providers Working Group to look at the scope of practice and qualifications that might be required if legal service providers other than lawyers were permitted to provide some legal services in relation to family law matters. To that end, the working group has produced a consultation paper for discussion and comment, which consultation is open until mid-November.

Resolution 4: Member resolution submitted by Amber Prince and Taruna Agrawal

WHEREAS it is a privilege for lawyers to practise law;

AND WHEREAS our province faces serious access to justice problems.

THEREFORE BE IT RESOLVED that lawyers practising in British Columbia be required to perform a minimum of 10 pro bono hours per calendar year in order to maintain their practice status.

Commentary:

The Benchers reiterate the point made in connection with Resolution 2 that the Benchers have previously considered mandatory pro bono and their conclusion has been that the provision of pro bono legal services by the BC legal profession is to be strongly encouraged but that it should not be a professional responsibility.

2018 Annual General Meeting locations

If you are planning on attending the meeting in person at the main location or one of audio-conference locations, it is important that you RSVP at the earliest opportunity by logging in to the Law Society's Member Portal so that we can ensure that each of the nine meeting venues can accommodate those planning to attend.

Email us at AGM@lsbc.org regarding any meeting access / support needs or AGM questions you may have.

Districts	City/town	Location (coffee, tea and water will be available at all AGM locations)
No. 1 - Vancouver	Vancouver	Vancouver Convention Centre, Exhibition Hall A 1055 Canada Place, Vancouver, BC
No. 2 - Victoria	Victoria	Fairmont Empress, Crystal Ballroom 721 Government Street, Victoria, BC
No. 3 - Nanaimo	Nanaimo	Vancouver Island Conference Centre, Dodd Narrows Room A 101 Gordon Street, Nanaimo, BC
No. 5 - Kootenay	Castlegar	Super 8 Castlegar, Boardroom 651 – 18th Street, Castlegar, BC
No. 6 - Okanagan	Kelowna	Coast Capri Hotel, Vineyard Room – Section 4 1171 Harvey Avenue, Kelowna, BC
No. 7 - Cariboo	Prince George	Ramada Inn Prince George, Cedar Boardroom 444 George Street, Prince George, BC
	Dawson Creek	Holiday Inn Express Hotel & Suites, Dawson Room 12217 4th Street, Dawson Creek, BC
No. 8 - Prince Rupert	Smithers	Roadhouse 3711 Alfred Avenue, Smithers, BC
No. 9 - Kamloops	Kamloops	Double Tree by Hilton Kamloops, Coquihalla Room 339 St. Paul Street, Kamloops, BC