



Returning to Practice

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Who is subject to the returning to practice rules?

If you apply to change your practising or insured status, you may be subject to the Law Society's returning to practice rules. These rules are triggered in the following cases:

- you are a non-practising or a retired member and would like to return to practice;
- you are applying for reinstatement and would like to return to practice;
- you are currently exempt from liability insurance and are now applying for insurance; or
- you are currently insured for part-time practice and are now applying for full-time practice insurance.

Do I need to apply for returning to practice?

The returning to practice provisions are automatically triggered as part of your application if you are applying for reinstatement or a change in your insured status.

If you are a non-practising or a retired member applying to be released from your non-practising or retired undertaking, you must submit the following:

- Application for Returning to Practice; and
- non-refundable application fee of \$73.50 (\$70, plus GST).

What are the returning to practice conditions?

The conditions of returning to practice relate to your recent practice history, specifically, the length of time you have been engaged in the practice of law or “equivalent practice,” and the length of time you have been absent from practice. For the purposes of returning to practice, the “practice of law” is as defined in section 1 of the *Legal Profession Act* and for an average of at least one day per week.

You may submit a request to the Credentials Committee to determine whether your employment history constitutes the “practice of law” or “equivalent practice.”

These are the criteria for condition on returning to practice pursuant to Rules 2-88 to 2-90:

Practice history of applicant	Returning to practice requirements
Called to the BC Bar within the last 3 years	No examinations or practice conditions required (Rule 2-89)
Called to the BC bar more than 3 years ago and out of practice for no more than 3 years within the last 5 years	No examinations or practice conditions required (Rule 2-89)
Called to the BC bar more than 3 years ago and out of practice for more than 3 years within the last 5 years	Must pass the qualification examinations unless you have already done so within the last three years (Rules 2-89 and 2-89(6))
Called to the BC bar at least 7 years ago and has not practised law within the last 7 years	Must apply to the Credentials Committee and comply with any conditions it imposes, which may include: <ul style="list-style-type: none"> • Completion of the Law Society Admission Program • Completion of all or part of the PLTC • Restrictions on practice (Rule 2-90)

Will I need to re-article?

If you have been out of the practice of law or equivalent practice for over seven years, the Credentials Committee has the discretion to impose conditions of returning to practice that include completing the Law Society Admission Program, completing the Professional Legal Training Course (PLTC), or having restrictions on your practice: see Rule 2-90.

The Law Society Admission Program is a 12-month training program supervised by the Credentials Committee. It consists of nine months of articling and 10 weeks of full-time attendance at PLTC. For more information, please see the information sheet *Law Society Admission Program*.

The restrictions on practice that can be imposed by the Credentials Committee include:

- practising law in British Columbia immediately following returning to practice;
- not practising law as a sole practitioner;
- practising law only in a situation approved by the Committee, for a period of up to two years;
- practising only in specified areas of law, or not practising in specified areas of law.

What are the qualification examinations?

If you have been out of the practice of law or equivalent practice for more than three years in the last five-year period, you must pass the “qualification examinations,” unless you have already done so within the last three years: see Rule 2-89.

There are two qualification examinations, which are based on the *Practice Material* used in the Professional Legal Training Course. These examinations may be written any time at a cost of \$341.25 (\$325, plus GST).

Where and when can I write the qualification examinations?

Once you have been advised that you must successfully complete the qualification examinations as a condition of returning to practice, you may make arrangements to write them at either the Law Society of BC office, the office of a Bencher of the Law Society or another provincial law society office. If you prefer to write in a location other than the Law Society office, you must make the arrangements and provide us with notice at least three weeks prior to your first scheduled examination in order that we have sufficient time to forward your examinations to the appropriate location/contact person.

The examinations may be written at any time, but the two examinations must be written within two weeks of each other.

Are study materials available?

The PLTC *Practice Material*, on which the qualification examinations are based, can be ordered by completing the order form for the *Practice Material* (available on the Law Society website at www.lawsociety.bc.ca). The *Practice Material* will provide you with the substantive and procedural knowledge you need to practise law in British Columbia. It will also serve as a good reference source while you are in practice. When you order your materials, you will receive three volumes of *Practice Material*.

You are responsible for obtaining updated information on significant statutory or case law changes that come into effect after the *Practice Material* is published. Occasionally, updates are prepared and made available to applicants, but the final responsibility for keeping up to date with the law lies with each applicant.

For the most recent version of the *Practice Material*, contact the Assistant Editor, PLTC:

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Vancouver, BC V6B 4Z9

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Fax: 604.669.5232

BC Toll-free: 1.800.903.5300

Email: pparker@lsbc.org

What content do the qualification examinations cover?

The qualification examinations are primarily based on the following:

- those parts of the *Practice Material* specified in the Reading List of Examinable Sections sent to you by PLTC;

- Statutes relevant to those parts; and
- *Member's Manual*, which contains the *Legal Profession Act*, Law Society Rules and *Code of Professional Conduct for BC*.

The areas covered by the qualification examinations are:

Examination 1	Examination 2
<ul style="list-style-type: none"> • Business • Real Estate • Wills • Practice Management 	<ul style="list-style-type: none"> • Civil Procedure • Family Practice • Criminal Procedure • Practice Management

Please note:

- Questions on Ethics will be posed within any subject area.
- Knowledge of one subject may be required to answer a related question in another subject. For example, Family Law has Civil Procedure aspects, and so on.
- All segments of the examinations have roughly equal weight in the marking (about 24 to 26 marks per segment). Marks allocated to each of Law Office Management, Professional Responsibility and Taxation will not exceed 10 -12 marks on each examination.

How long are the examinations, and what format do they take?

Each examination is three hours long and is approximately equal in length and difficulty. Questions are mostly short answer with some true/false and multiple choice. They are grouped by subject area, and primarily examine the Practice Material and Statutory Material. Sample questions will be provided when you purchase the Practice Material. The number of marks are shown beside each question and marks for each subject are roughly equal.

Are materials permitted during the examinations?

You may bring only the *Practice Material*, the *Member's Manual*, *Criminal Code* and your own notes into the examinations. Since the examinations are comprehensive, all applicants should have a good understanding of the *Practice Material* before writing these examinations.

What is the passing mark on the examinations?

The passing mark on each examination is 60%. Every effort will be made to mark your examinations and notify you about the results within two weeks of the date of your last exam.

Can I re-write the examinations if I fail?

If you fail one or both examinations on your first attempt, you may re-write at any time. If you are still unsuccessful on the second attempt, you must wait one year before re-writing both examinations, unless the Credentials Committee grants permission pursuant to Rule 2-79(7)(c). Unsuccessful applicants may review the failed examination(s) at the offices of the Law Society or, with permission, the office of a Bencher of the Law Society. Re-reads of a failed examination are available upon request.

How can I obtain more information?

If you have any questions about returning to practice, please contact:

Member Services

Law Society of British Columbia

8th Floor, 845 Cambie Street

Vancouver, BC V6B 4Z9

Tel.: 604.605.5311

BC Toll-free: 1.800.903.5300

Fax: 604.687.0135

Email: memberinfo@lsbc.org

The information in this package is based on the Law Society Rules as they exist at this time. You must comply with the Rules that are in effect at the time you apply and with any changes in the Rules that may occur while you are in the process of returning to practice. If you have any questions about returning to practice, contact a Member Services Representative at the Law Society of British Columbia.

Returning to practice

Definition and application

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

Returning to practice after an absence

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

Conditions on returning to practice

- 2-90** (1) A lawyer or applicant who has spent a period of 7 years or more not engaged in the practice of law must not practise law without the permission of the Credentials Committee.
- (2) Subrule (1) applies

- (a) despite any other rule, and
 - (b) whether or not the lawyer holds or is entitled to hold a practising certificate.
- (3) A lawyer or applicant must apply in writing to the Credentials Committee for permission to practise law under subrule (1).
- (4) An application under subrule (3) may be combined with an application under Rule 2-89 (3) [*Returning to practice of law after an absence*].
- (5) As a condition of permission to practise law under subrule (1), the Credentials Committee may require one or more of the following:
- (a) successful completion of all or part of one or more of the following:
 - (i) the admission program;
 - (ii) another course offered by the Society or a provider approved by the Society;
 - (b) a written undertaking to do any or all of the following:
 - (i) practise law in British Columbia immediately on being granted permission;
 - (ii) not practise law as a sole practitioner;
 - (iii) practise law only in a situation approved by the Committee for a period set by the Committee, not exceeding 2 years;
 - (iv) successfully complete the training course or a part of the training course within a period set by the Committee, not exceeding one year from the date permission is granted;
 - (v) practise law only in specified areas;
 - (vi) not practise law in specified areas.
- (6) Despite Rule 2-52 (3) [*Powers of Credentials Committee*], the Credentials Committee may vary a condition under subrule (5) (a) without the consent of the lawyer concerned.
- (7) On the written application of the lawyer, the Credentials Committee may allow a variation of an undertaking given under subrule (5) (b).