



MEMBER'S MANUAL

AMENDMENT PAGES

2006: No. 3 September

Highlights: Law Society Rules:

- **Credentials:** No member or former member who has not practised law for a defined period of time may return to the practice of law without passing the qualification examinations or obtaining the permission of the Credentials Committee. This now includes a member who had continued to pay as a “practising member” with full-time insured status, but who had not been actively practising law. However, any lawyer who is not now practising law, but who continues to pay full membership and insurance, has until January 1, 2009 to start practising law again without having to meet the requirements to return to practice. (Rule 2-4.1 is added; definition of “qualification examination” and Rules 2-49(2), (3), (5) and (6), 2-52(2), 2-55, 2-57, 2-58, 2-59(1), (2) and (4) and 3-27 are amended; definition of “requalification” and Rules 2-56 (Application for requalification) and 2-60 (Fees on requalification) are rescinded: see pp. 11, 32, 51, 55, 57-58, 70.2.)
- **Miscellaneous:** A lawyer or former lawyer must reimburse the Society for payments made under Part B of the professional liability insurance policy (Rules 2-77(1) and 3-26(2): see pp. 62.2 and 70.1); a new rule governs disclosure of information about claims under Part A and Part B of the professional liability insurance policy (Rule 3-27.1: see p. 70.2); amendments to Rules governing LLPs permit law corporations operating in other jurisdictions to be partners in an LLP (Rule 9-15(2.1): see p. 125) and correct an inconsistency in the Rules concerning non-lawyer partners in other jurisdictions (Rule 9-16(2): see p. 126); GST on fees is reduced from 7% to 6% on July 1 (Schedule 3: see p. 132).

Filing: Please file the enclosed sheet in your *Member's Manual* as follows:

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

Updates: This amendment package updates the *Member's Manual* to **August 17, 2006**. The previous amendment package was 2006: No. 2 April.

To check that your copy of the *Manual* is up to date, please consult the contents checklist on the back of this filing sheet. If you have further questions about updating your *Manual*, please contact Donna Kokot in the Law Society Communications Department: telephone 604 443-5768 or toll-free in BC 1-800-903-5300, by telefax 604 646-5913 or by email to communications@lsbc.org.

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

MEMBER'S MANUAL CONTENTS CHECKLIST

Updated to August 17, 2006

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DEFINITIONS

- “Protocol”** means the Inter-Jurisdictional Practice Protocol signed on behalf of the Society on February 18, 1994, as amended from time to time;
- “qualification examination”** means an examination set by the Executive Director for the purposes of Rule 2-57;
- “remedial program”** includes anything that may be recommended by the Practice Standards Committee under Rule 3-14(1)(b);
- “respondent”** means a person whose conduct or competence is
- (a) the subject of a citation directed to be issued under Rule 4-13(1), or
 - (b) under review by the Benchers under section 47 of the Act;
- “Rule”** or **“subrule”** means a rule or subrule contained in these Rules;
- “Second Vice-President-elect”** means the Benchers elected under Rule 1-18, from the time of the election until he or she takes office as Second Vice-President;
- “section”** means a section of the *Legal Profession Act*;
- “Society”** means the Law Society of British Columbia continued under section 2(1) of the Act;
- “statement of agreed facts”** means a written statement of facts signed by discipline counsel and by or on behalf of the respondent;
- “suspension”** means temporary disqualification from the practice of law;
- “training course”** includes any assessments, examinations and remedial work taken during or after the training course, or an educational program required by the Credentials Committee;
- “trust funds”** includes funds received in trust by a lawyer acting
- (a) in the capacity of a lawyer, including funds
 - (i) received from a client for services to be performed or for disbursements to be made on behalf of the client, or
 - (ii) belonging partly to a client and partly to the lawyer if it is not practicable to split the funds, and
 - (b) as a personal representative of a person or at the request of a person, or as a trustee under a trust established by a person, if the lawyer’s appointment derived from a solicitor-client relationship;
- “vice chair”** means a person appointed to preside at meetings of a committee in the absence of the chair;
- “visiting lawyer”** means a member of a governing body who is qualified to practise law in another Canadian jurisdiction.

[amended 09/99; 11/99; 05/00; 06/01; 03/03; amended effective 08/03; amended 12/03; 05/04; 09/04; definition of “firm” amended and definition of “limited liability partnership” added 09/04, effective January 17, 2005; amended 02/06; 06/06]

LAW SOCIETY RULES

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PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 1 – Practice of Law

Members

Categories of membership

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

- (a) practising lawyers, as defined in section 1 of the Act;
- (b) retired members;
- (c) non-practising members.

Member in good standing

2-2 A member of the Society is a member in good standing unless suspended under section 38(5)(d) of the Act or under Rules 2-77(2), 3-46(4), 4-17 or 4-40.

Non-practising members

2-3 (1) Any member of the Society in good standing may become a non-practising member by

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

(2) Non-practising members must pay the annual fee specified in Schedule 1 by the preceding November 30.

[(2) amended 07/04]

Retired members

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

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

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

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

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- (3) Retired members must pay the annual fee specified in Schedule 1 by the preceding November 30.
- (4) The Benchers may, by resolution, waive payment of the annual fee by a retired member or group of retired members.

[(1) and (3) amended, (4) added 07/04]

Release from undertaking

- 2-4.1** (1) A retired or non-practising member may apply for release from an undertaking given under Rule 2-3 or 2-4 by delivering to the Executive Director an application in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society.
- (2) The Executive Director must not grant a release from undertaking under this Rule unless satisfied that the lawyer is not prohibited from practising law under Rule 2-57.

[added 06/06]

Certificates and permits

- 2-5** The Executive Director may approve the form of
- (a) practising certificate issued under section 23 of the Act,
 - (b) retired membership certificate issued under Rule 2-4,
 - (c) non-practising membership certificate issued under Rule 2-3,
 - (d) practitioner of foreign law permit issued under Rule 2-18, and
 - (e) inter-jurisdictional practice permit issued under Rule 2-12.

[amended 11/99]

Member information

Annual practice declaration

- 2-6** (1) In this Rule, “**declaration**” means the Annual Practice Declaration in a form approved by the Executive Committee.
- (2) A practising lawyer must complete and deliver a declaration to the Executive Director in each calendar year.
- (2.1) A declaration is not delivered under this Rule unless it is
- (a) complete to the satisfaction of the Executive Director,
 - (b) received by the Executive Director by the date set by the Executive Director, and
 - (c) signed by the practising lawyer.
- (3) The Executive Director must not issue a practising certificate to a lawyer who fails to deliver a declaration as required under this Rule, unless the Credentials Committee directs otherwise.

[(2) and (3) amended, (2.1) added 09/03]

Definition

2-7 In Rules 2-8 and 2-9, “**address**” includes

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

Business address

2-8 (1) A lawyer must advise the Executive Director of the address of all of the lawyer’s places of business and inform the Executive Director immediately of a change of any of the lawyer’s places of business.

(2) For the purpose of this Rule, a lawyer’s place of business includes the place of business and registered and records office of a law corporation of which the lawyer is a voting shareholder.

[(2) added 09/03]

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- (3) If an articulated student fails to meet the requirements of this Rule, including the delivery of all documents specified, the Executive Director must summarily
 - (a) reject the application for call and admission, and
 - (b) terminate the student's enrolment.
- (4) When the Credentials Committee has initiated a review under Rule 5-13 of a hearing panel's decision to enrol an articulated student, the articulated student is not eligible for call and admission until the Benchers have issued a final decision on the review or the review is withdrawn by the Credentials Committee.

[(2) amended 11/99; (4) added 05/02; (1) amended 03/03]

Transfer from another Canadian jurisdiction

- 2-49** (1) An applicant for call and admission on transfer from another jurisdiction in Canada must deliver the following to the Executive Director:
- (a) an application for call and admission on transfer in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
 - (b) a certificate of character;
 - (c) a certificate of standing from each body regulating the legal profession, in any jurisdiction, in which the applicant is or has been a member of the legal profession;
 - (d) an errors and omissions insurance application or exemption form;
 - (e) proof of academic qualification as required of applicants for enrolment under Rule 2-27(4);
 - (f) the following fees:
 - (i) the investigation fees and call and admission fees specified in Schedule 1;
 - (ii) the prorated practice fee specified in Schedule 2;
 - (iii) the prorated annual insurance fee specified in Schedule 2, unless exempt under Rule 3-25;
 - (iv) the prorated Special Compensation Fund assessment specified in Schedule 2;
 - (g) any other information and documents required by the Act or these Rules that are requested by the Credentials Committee or the Benchers.
- (2) An applicant under this Rule must not be called and admitted unless the Executive Director is satisfied that the lawyer is not prohibited from practising law under Rule 2-57.
- (3) Unless Rule 2-49.2 applies, an applicant under this Rule must pass an examination on jurisdiction-specific substantive law, practice and procedure set by the Executive Director.

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- (4) An applicant who does not satisfy the Executive Director that he or she has an adequate knowledge of the English language must complete satisfactorily the training required by the Credentials Committee.
- (5) An applicant required to write an examination under this Rule or Rule 2-57 must pass the required examination within 12 months after the Executive Director's decision to permit the applicant to write the examination.
- (6) At least 30 days before writing the first examination, an applicant who is required to write an examination under this Rule or Rule 2-57 must pay the fee specified for the examination in Schedule 1.
- (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 failure,
 - (b) may re-write the examination
 - (i) at any time, provided he or she has not failed the examination before, or
 - (ii) after a period of one year from the date of the failure if he or she has previously failed the examination, or
 - (c) may be permitted to write the examination for a third or subsequent time at any time despite subparagraph (b)(ii) on application to the Credentials Committee in writing stating
 - (i) compassionate grounds, supported by medical or other evidence, or
 - (ii) other grounds based on the applicant's past performance.

[(2) amended 11/99; (2) and (3) amended effective 07/03; (2), (3), (5) and (6) amended 06/06]

In-house counsel

- 2-49.1** (1) An applicant under Rule 2-49 may apply to the Credentials Committee for call and admission as in-house counsel.
- (2) On an application under this Rule, the Credentials Committee may exempt an applicant from the requirements to write and pass the transfer examination or the qualification examination or complete the requirement under Rule 2-49.2(3).
 - (3) A lawyer who is called and admitted as in-house counsel must practise law in British Columbia only on behalf of the lawyer's employer or one of its subsidiaries or affiliates.
 - (4) On application of a lawyer called and admitted as in-house counsel, the Credentials Committee may relieve the lawyer of the restriction under subrule (3), on the lawyer
 - (a) writing and passing the required examination under Rule 2-49, or

- (b) completing the requirements under Rule 2-49.2(3), if the lawyer
 - (i) has practised law full-time in British Columbia for 2 years, or the equivalent in part-time practice, immediately preceding the application,
 - (ii) is entitled to practise law in the jurisdiction of a reciprocating governing body of which the applicant is a member, or
 - (iii) was, when called and admitted in British Columbia, entitled to practise law in the jurisdiction of a governing body that is now a reciprocating governing body, of which the applicant was a member.

[added 11/99; (2) and (3) amended, (4) added 07/04]

Transfer under National Mobility Agreement

- 2-49.2** (1) This Rule applies to an applicant for transfer from another Canadian jurisdiction, provided that the applicant is entitled to practise law in the jurisdiction of a reciprocating governing body of which the applicant is a member.
- (2) An applicant under this Rule must fulfil all of the requirements in Rule 2-49 for call and admission on transfer from another Canadian jurisdiction, except that he or she need not pass any transfer examination.
- (3) To qualify for call and admission, an applicant under this Rule must certify in a prescribed form that he or she has reviewed and understands all of the materials reasonably required by the Executive Director.
- (4) A lawyer called and admitted under this Rule has no greater rights as a member of the Society than
- (a) the lawyer has as a member of the governing body of his or her home jurisdiction, or
 - (b) any other member of the Society in similar circumstances.

[added effective 07/03]

Consideration of application for call and admission

- 2-50** (1) The Executive Director must consider an application for call and admission by a person meeting the requirements under this division, and may conduct or authorize any person to conduct an investigation concerning the application.
- (2) On an application for call and admission, the Executive Director may
- (a) authorize the call and admission of the applicant without conditions or limitations, or
 - (b) refer the application to the Credentials Committee.
- (3) When an application is referred to the Credentials Committee under subrule (2), the Committee may
- (a) authorize the call and admission of the applicant without conditions or limitations,

- (b) authorize the call and admission of the applicant with conditions or limitations on the practice of the applicant, if the applicant consents in writing to those conditions or limitations, or
- (c) order a hearing.

Barristers and solicitors' roll and oath

- 2-51** (1) The Executive Director must maintain the barristers and solicitors' roll in paper or electronic form, or a combination of both.
- (2) Every lawyer who is called to the Bar of British Columbia and admitted as a solicitor of the Supreme Court must,
- (a) before beginning the practice of law, take the barristers and solicitors' oath in a form approved by the Benchers before a judge of the Provincial Court or a superior court in British Columbia or before a practising lawyer, and
 - (b) be presented in open court before one or more of the judges of the Supreme Court.
- (3) The Executive Director must enter in the barristers and solicitors' roll the full names of all persons who are called as barristers and admitted as solicitors.
- (4) On proof that an applicant who has otherwise qualified for call and admission has taken the oath required under subrule (2)(a), the Executive Director must issue to the applicant a practising certificate or a non-practising certificate, as the case may be.
- (5) The Executive Director must not renew a practising certificate issued under subrule (4) unless the lawyer has been presented in open court as required under subrule (2)(b).
- (6) As an exception to subrule (5), the Executive Director may renew a certificate issued under subrule (2)(b) within four months of its expiry date.

[(1) and (2) amended, (4) to (6) added 11/99]

Reinstatement

Reinstatement of a former lawyer

- 2-52** (1) A former lawyer may apply for reinstatement as a member of the Society by delivering the following to the Executive Director:
- (a) an application for reinstatement in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
 - (b) the appropriate reinstatement fee specified in Schedule 1.

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- (2) An applicant for reinstatement may apply for the following status on reinstatement:
 - (a) practising lawyer, only if the applicant has met the conditions for practising law under Rule 2-57;
 - (b) non-practising member on compliance with Rule 2-3;
 - (c) retired member if the lawyer is qualified under Rule 2-4(1) and on compliance with Rule 2-4(2) and (3).
- (2.1) On application from an applicant under subrule (2)(c), the Credentials Committee may waive payment of all or part of the reinstatement fee on any conditions that the Committee considers appropriate.
- (3) On reinstatement, an applicant under subrule (2)(a) may be issued a practising certificate on payment of the following:
 - (a) the prorated practice fee specified in Schedule 2;
 - (b) the prorated annual insurance fee specified in Schedule 2, unless exempt under Rule 3-25;
 - (c) the prorated Special Compensation Fund assessment specified in Schedule 2;
 - (d) any surcharge for which the lawyer is liable under Rule 3-26(2).
- (4) On reinstatement, an applicant under subrule (2)(b) or (c) may be issued a non-practising or retired member certificate on payment of the appropriate prorated fee specified in Schedule 3.
- (5) Subject to subrule (5.1), the Executive Director must consider an application for reinstatement of a former lawyer and may conduct or authorize any person to conduct an investigation concerning the application.
- (5.1) The Executive Director must not consider the application of a former lawyer for reinstatement unless the former lawyer has
 - (a) submitted all trust reports required under Rules 3-72 and 3-78(1),
 - (b) [rescinded]
 - (c) paid all assessments accrued under Rule 3-74 before and after the former lawyer ceased to be a member of the Society unless the Discipline Committee orders the assessments need not be paid under Rule 3-74(3), and
 - (d) paid all costs of trust reports ordered under Rule 3-74.1(6).
- (6) If an applicant for reinstatement is a disbarred lawyer, the Executive Director must refer the application to the Credentials Committee.
- (7) On any application for reinstatement to which subrules (5.1) and (6) do not apply, the Executive Director may
 - (a) reinstate the applicant without conditions or limitations, or
 - (b) refer the application to the Credentials Committee for consideration.

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- (8) Subject to subrule (9), when an application for reinstatement is referred to the Credentials Committee under subrule (7), the Committee may
 - (a) reinstate the applicant without conditions or limitations,
 - (b) reinstate the applicant with conditions or limitations on the practice of the applicant if the applicant consents in writing to those conditions or limitations, or
 - (c) order a hearing.
- (9) The Credentials Committee must order a hearing in the following circumstances:
 - (a) section 19(3) of the Act requires that a hearing be ordered;
 - (b) the Committee cannot reach another disposition of the matter under subrule (8);
 - (c) the Committee resolves by simple majority to order a hearing.
- (10) An applicant for reinstatement must give written notice of the application to those persons that the Executive Director may direct, and the persons notified may appear in person or by counsel at the hearing and be heard on the application.
- (11) If a disbarred lawyer is reinstated after a hearing, the Executive Director must publish and circulate to the profession a summary of the circumstances and the panel's reasons for the reinstatement.

[(5) and (7) amended, (5.1) added effective 08/03; (5.1) amended 12/03; (2.1) added 07/04;
(5.1) amended 02/06; (2) amended 06/06]

Subsequent application for reinstatement

2-53 A person whose application for reinstatement is rejected under section 22(3) of the Act may not make a new application for reinstatement until the earlier of the following:

- (a) 2 years after the date on which the application was rejected;
- (b) the date set by the panel when the application was rejected or by the Benchers on a review under Part 5.

Reinstatement of former judge or master

2-54 (1) Subject to subrules (2) and (3) a reinstated lawyer who was a judge or a master must restrict his or her practice of law as follows:

- (a) a former judge of a federally appointed court in British Columbia, the Supreme Court of Canada or the Federal Court of Canada must not appear as counsel in any court in British Columbia without first obtaining the approval of the Credentials Committee;
- (b) a former judge of the Provincial Court of British Columbia must not appear as counsel in that Court for 3 years after ceasing to be a judge;
- (c) a former master of the Supreme Court of British Columbia must not appear as counsel before a master, a registrar, a district registrar or a deputy district registrar of the Supreme Court of British Columbia for 3 years after ceasing to be a master.

- (2) The Credentials Committee may impose conditions respecting the practice of a former judge when giving approval for that lawyer to appear as counsel under subrule (1)(a).
- (3) The Credentials Committee may at any time relieve a lawyer of a practice restriction referred to in subrule (1) and may impose conditions respecting the practice of the lawyer concerned.

Returning to practice

Definitions

- 2-55** (1) In Rules 2-55 to 2-59, unless the context indicates otherwise, “**lawyer**” includes a former lawyer or applicant; “**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;
 - (d) in the case of a practising lawyer who has paid the full-time insurance fee since January 1, 2006, the time since that date.
- (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 2-51(4).

[heading and rule amended 06/06]

2-56 [rescinded 06/06]

Returning to the practice of law after an absence

- 2-57** (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 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 Committee for permission to practise law without passing the qualification examination.

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- (4) On an application under subrule (3), the 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 Committee may require the lawyer to enter into a written undertaking to do any of the things set out in Rule 2-59(2)(b).

[(1.1) added 11/99; (2) amended, (3) to (5) added 05/00; heading and rule amended, (1.1) rescinded 06/06]

Qualification examination fee

- 2-58** A lawyer who is required to write the qualification examination under Rule 2-57(1) must pay, at least 30 days before writing the first examination, the fee specified in Schedule 1.

[heading and rule amended, (1) rescinded 06/06]

Conditions on returning to the practice of law

- 2-59** (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) As a condition of permission to practise law under subrule (1), the Credentials Committee may require one or more of the following in addition to passing the qualification examination:
- (a) successful completion of
 - (i) the admission program,
 - (ii) the training course, or
 - (iii) a part of the training course;
 - (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 only in specified areas of law;
 - (vi) not practise in specified areas of law.

- (3) Despite Rule 2-26(3), the Credentials Committee may vary a condition under subrule (2)(a) without the consent of the lawyer concerned.
- (4) On the written application of the lawyer, the Credentials Committee may allow a variation of an undertaking given under subrule (2)(b).

[heading and (1), (2) and (4) amended 06/06]

2-60 [rescinded 06/06]

Credentials hearings

Notice to applicant

- 2-61** (1) When a hearing is ordered under this Division, the Executive Director must promptly notify the applicant in writing of
- (a) the purpose of the hearing,
 - (b) the date, time and place of the hearing,
 - (c) the circumstances to be inquired into at the hearing, and
 - (d) the amount of security for costs set by the Credentials Committee under Rule 2-62.
- (2) The Executive Director must serve the notice referred to in subrule (1)
- (a) in accordance with Rule 10-1, and
 - (b) not less than 30 days before the date set for the hearing, unless the applicant consents in writing to a shorter period.

Security for costs

- 2-62** (1) When a hearing is ordered under this Division, the Credentials Committee must set an amount to be deposited by the applicant as security for costs.
- (2) In setting the amount to be deposited as security for costs under this Rule, the Credentials Committee may take into account the circumstances of the matter, including but not limited to, the applicant's
- (a) ability to pay, and
 - (b) likelihood of success in the hearing.
- (3) The amount to be deposited as security for costs cannot exceed an amount that approximates the amount that the panel may order to be paid under Rule 5-9.
- (4) The Credentials Committee may vary the amount set to be deposited as security for costs under this Rule on application by the applicant or counsel for the Society.
- (5) If the amount set for security for costs under this Rule has not been deposited with the Executive Director 15 days before the date set for a hearing, the hearing is adjourned.

LAW SOCIETY RULES

- (6) Before the time set for depositing security for costs under subrule (5), an applicant may apply to the Credentials Committee for extension of time, and the Committee may, in its discretion, grant all or part of the extension applied for.

[(5) amended, (6) added 06/03]

Refund when lawyer does not practise law

- 2-74** (1) A lawyer who has paid the annual fee for a practice year but who satisfies the Executive Director that the lawyer has totally abstained from practice in British Columbia during that year through disability other than a suspension is entitled to a refund of
- (a) the difference between the practice fee set by the members of the Society under section 23(1)(a) of the Act and the non-practising member fee specified in Schedule 1,
 - (b) the Special Compensation Fund assessment set by the Benchers under section 23(1)(b) of the Act, and
 - (c) a portion of the annual insurance fee set under section 30(3)(a) of the Act, in an amount determined by the Executive Director.
- (2) On payment of the refund under subrule (1), the lawyer
- (a) immediately ceases to be qualified to practise law, and
 - (b) on compliance with Rule 2-3, becomes a non-practising member.
- (3) A lawyer who qualifies under Rule 2-4 to be a retired member and complies with that Rule, may elect to become a retired member rather than a non-practising member under subrule (2)(b) and receive a refund of the difference between the non-practising member fee and the retired member fee specified in Schedule 1, in addition to the refund under subrule (1).

Refund on exemption during practice year

- 2-75** (1) A lawyer who has paid the annual fee for a practice year and ceases to practise for any reason other than suspension or becomes exempt under Rule 3-25 during that year, is entitled to a refund of a portion of the annual insurance fee in an amount determined by the Executive Director.
- (2) If a lawyer becomes a non-practising or retired member during a year for which the lawyer has paid the practice fee, the Executive Director must apply a prorated portion of the practice fee, excluding any portion of the practice fee collected on behalf of the Canadian Bar Association, to the prorated non-practising or retired member fee and refund the difference, if any, to the lawyer.
- (3) A lawyer who ceases practising law under any of the following circumstances is entitled to a refund of the unused portion of the practice fee, excluding any portion of the practice fee collected on behalf of the Canadian Bar Association, less the administration fee specified in Schedule 1:
- (a) judicial appointment;
 - (b) death;
 - (c) total incapacity such that the lawyer is incapable of applying for non-practising status.

[(2) and (3) amended 05/04]

2-76 [rescinded 11/99]

LAW SOCIETY RULES

Failure to pay fine, costs or penalty

2-77 (1) The Executive Director must apply any money received from or on behalf of a lawyer or former lawyer to payment of the following due and owing by the lawyer or former lawyer before any fees or assessments:

- (a) a fine;
 - (b) costs;
 - (c) a penalty;
 - (d) a deductible amount paid under the Society's insurance program on behalf of the lawyer;
 - (e) reimbursement for payment made on behalf of the lawyer or former lawyer under Part B of the policy of professional liability insurance.
- (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.

[amended 12/03; (1) amended 03/05; 07/06]

No refund on suspension

2-78 A lawyer who is suspended

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

Insurance fee credit

- 3-24** (1) The Benchers may approve an annual insurance fee credit and set the conditions that a lawyer must meet to be entitled to the credit.
- (2) When a lawyer is entitled to an annual insurance fee credit, the first instalment of the insurance fee payable by the lawyer is reduced by the amount of the credit.

Exemption from liability insurance

- 3-25** (1) A lawyer is exempt from the requirement to maintain professional liability insurance and pay the insurance fee if the lawyer is
- (a) not engaged in the practice of law anywhere in his or her capacity as a member of the Society, or
 - (b) employed by one of the following and is not engaged in the practice of law except in the course of that employment:
 - (i) a government department;
 - (ii) a corporation other than a law corporation;
 - (iii) a society, trade union or a similar organization.
- (2) A lawyer is not exempt under subrule (1)(b) if the lawyer engages in the practice of law in any way other than as described in those provisions.
- (3) Subrule (4) applies to a lawyer who is entitled to practise law in the jurisdiction of a reciprocating governing body of which the lawyer is a member.
- (4) A lawyer may apply to the Executive Director for exemption from the requirement to maintain professional liability insurance and pay the insurance fee, if, in another Canadian jurisdiction in which the governing body allows a similar exemption for members of the Society, the lawyer
- (a) is resident, and
 - (b) maintains the full mandatory professional liability insurance coverage required in the other jurisdiction that is reasonably comparable in coverage and limits to that required of lawyers in British Columbia and extends to the lawyer's practice in British Columbia.

[(3) and (4) added effective 07/03]

Deductible, surcharge and reimbursement

- 3-26** (1) If a deductible amount has been paid under the Society's insurance program on behalf of a lawyer, the lawyer must reimburse the Society in full.
- (2) If indemnity has been paid under the Society's insurance program, the lawyer on whose behalf it is paid must
- (a) pay the insurance surcharge specified in Schedule 1 for each of the next 5 years in which the lawyer is a member of the Society and not exempt from the insurance fee, and
 - (b) if the payment was made under Part B of the policy of professional liability insurance, reimburse the Society in full on demand, for all amounts paid under Part B.

LAW SOCIETY RULES

- (3) The Executive Director may, in the Executive Director's discretion, extend the time for a lawyer to reimburse the Society under subrule (1) or (2), or pay a surcharge under subrule (2) or, in extraordinary circumstances, waive payment altogether.

[heading, (2) and (3) amended 03/05; (2) amended 07/06]

Application for insurance coverage

- 3-27** (1) A lawyer may apply for insurance coverage by delivering to the Executive Director
- (a) an application for insurance coverage, and
 - (b) the prorated insurance fee as specified in Schedule 2.
- (2) A lawyer who is insured for part-time practice may apply for insurance coverage for full-time practice by delivering to the Executive Director
- (a) an application for full-time insurance coverage, and
 - (b) the difference between the prorated full-time insurance fee specified in Schedule 2 and any payment made for part-time insurance coverage for the current year.
- (3) The Executive Director must not grant the insurance coverage applied for under subrule (1) or (2) unless satisfied that the lawyer is not prohibited from practising law under Rule 2-57.

[(3) amended 06/06]

Confidentiality of insurance claims

- 3-27.1** (1) In this Rule, “**claim**” means a claim or potential claim reported under the policy of professional liability insurance.
- (2) No one is permitted to disclose any information or records associated with a claim.
- (3) Despite subrule (2), the Executive Director may do any of the following:
- (a) disclose information about a claim with the consent of the lawyer;
 - (b) if a claim has become known to the public, disclose
 - (i) the existence of the claim,
 - (ii) its subject matter,
 - (iii) its status, including, if the claim is closed, the general basis on which it was closed, and
 - (iv) any additional information necessary to correct inaccurate information.

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- (4) For the purpose of subrule (3)(b)(iii), the status of a claim is its stage of progress through the claims handling process, including, but not limited to the following:
 - (a) opened;
 - (b) under investigation;
 - (c) the stage of any litigation commenced;
 - (d) closed.
- (5) In the case of a claim under Part B of the policy of professional liability insurance, the Executive Director may do any of the following:
 - (a) publish the name of a lawyer or former lawyer and the circumstances of a claim when a panel or the Benchers acting under Part 4 or 5 or a court has found that the lawyer or former lawyer has misappropriated property of a claimant;
 - (b) disclose the name of a lawyer or former lawyer and the circumstances of a claim when
 - (i) the lawyer’s misappropriation is known to the public,
 - (ii) the claim arises from part of a scheme considered by a panel or the Benchers or a court in the written reasons for a decision, or
 - (iii) the facts are not disputed or are admitted by the lawyer or former lawyer;
 - (c) with the consent of the Discipline Committee, deliver to a law enforcement agency any information or documents that the Committee reasonably believes may be evidence of an offence.
- (6) This Rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

[added 07/06]

Division 5 – Special Compensation Fund

Definitions and interpretation

- 3-28** (1) In this Division, unless the context indicates otherwise,
- “**claim**” means a claim for compensation made under Rule 3-30;
 - “**claimant**” means the person who has made a claim for compensation under Rule 3-30;
 - “**subcommittee**” means a subcommittee of the Committee established under Rule 3-34.
- (2) Money or property entrusted to or received by a lawyer as trustee is not entrusted to or received by the lawyer in the lawyer’s capacity as a member of the Society if the lawyer has no responsibility in the lawyer’s capacity as a barrister or solicitor in connection with the money or property entrusted to the lawyer.
- (3) This Division is subject to the provisions of the Protocol regarding claims for compensation for misappropriation involving inter-jurisdictional practice.

[(3) amended 06/01]

Special Compensation Fund Committee

- 3-29** (1) For each calendar year, the President must appoint a Special Compensation Fund Committee consisting of
- (a) a chair and vice-chair, both of whom must be Benchers, and
 - (b) other Benchers and lawyers.
- (2) The President may remove any person appointed under subrule (1).
- (3) At any time, the President may appoint a lawyer or Bencher to the Special Compensation Fund Committee to replace a Committee member who resigns or otherwise ceases membership in the Committee, or to increase the number of members of the Committee.
- (4) Despite subrules (1) to (3), the President must appoint members to the Special Compensation Fund Committee so that the majority of the Committee consists of Benchers at all times.
- (5) The Special Compensation Fund Committee may invest the Fund and the proceeds from it in any securities and in the manner the Committee sees fit.

Claim for compensation

- 3-30** (1) A claimant may make a claim for compensation by delivering it to the Executive Director in the form approved by the Special Compensation Fund Committee.
- (2) A claimant must provide the Executive Director with information and documents relating to the claim that the Executive Director reasonably requires.

Investigation of claim

- 3-31** (1) The Executive Director may conduct or authorize an investigation of a claim as the Executive Director considers necessary or advisable and consider any available relevant information, documents or other evidence.
- (2) The Executive Director must refer all claims made in accordance with Rule 3-30 to the Special Compensation Fund Committee for consideration and report on any investigation made under subrule (1).

Division 2 – Limited Liability Partnerships

Definition and application

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

[added 09/04, effective January 17, 2005]

Practice through a limited liability partnership

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

[added 09/04, effective January 17, 2005; amended 04/05]

LLP name

9-14 A limited liability partnership must not use a name contrary to Chapter 14, Rule 9 of the *Professional Conduct Handbook* (“Marketing of Legal Services”).

[added 09/04, effective January 17, 2005]

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 of the *Partnership Act*, the person applying must

- (a) submit to the Executive Director a copy of the registration statement that he or she intends to file under that Act,
- (b) pay the LLP registration fee specified in Schedule 1, and
- (c) receive a statement of approval of LLP registration from the Executive Director.

- (2) On receipt of a submission under subrule (1), the Executive Director must issue a statement of approval of LLP registration if the Executive Director is satisfied that
 - (a) the intended name complies with Rule 9-14, and
 - (b) membership in the partnership complies with subrules (2.1) and (2.2).

(2.1) Each partner in an LLP must be

- (a) a member of the Society,
- (b) a member of a recognized legal profession in another jurisdiction,
- (c) a law corporation holding a valid permit under this Part or the equivalent in the jurisdiction in which it provides legal services, or
- (d) a non-lawyer participating in the partnership in another Canadian jurisdiction as permitted in that jurisdiction.

(2.2) At least one partner in an LLP must be a member of the Society or a law corporation holding a valid permit under this Part.

(2.3) If the Executive Director is not satisfied of the matters referred to in subrule (2), the Executive Director must decline to issue a statement of approval.

- (3) The Executive Director must notify the person applying in writing of the Executive Director's decision under subrule (2).

[added 09/04, effective January 17, 2005; (2) amended, (2.1) to (2.3) added 04/05;
(2.1) amended 07/06]

Review of Executive Director's decision

- 9-16** (1) If the Executive Director declines to issue a statement of approval under Rule 9-15, the person applying may apply in writing to the Ethics Committee for a review.
- (2) After considering any submissions received from the partners and from the Executive Director, the Ethics Committee must
- (a) direct the Executive Director to issue a statement of approval if it is satisfied that
- (i) the intended name complies with Rule 9-14, and
- (ii) Rule 9-15(2.1) has been satisfied, or
- (b) reject the application.
- (3) The Ethics Committee must notify the person applying and the Executive Director in writing of its decision under this Rule.

[added 09/04, effective January 17, 2005; (2) amended 07/06]

Disclosure of LLP status

- 9-17** (1) When a firm provides legal services to the public through a limited liability partnership, all advertising for the firm must indicate that the limited liability partnership provides the legal services.
- (2) When a firm is continued as a limited liability partnership, the firm must promptly take reasonable steps to notify in writing each existing client of the firm of the change and the effect of a limited liability partnership in respect of the liability of partners.
- (3) The notice required under subrule (2) must include a statement to the following effect, prominently placed:
- The partners in a limited liability partnership are not personally liable for the negligent acts or omissions of another partner or an employee unless the partner knew of the negligent act or omission and did not take reasonable steps to prevent it. Each partner is personally liable for his or her own actions, and the partnership continues to be liable for the negligence of its partners, associates and employees. Accordingly, there is no reduction or limitation on the liability of the partnership.
- (4) When a firm is registered as an extraprovincial limited liability partnership under Part 6 of the *Partnership Act*, the firm must promptly take reasonable steps to notify in writing each existing client of the firm in British Columbia of the registration and any change, resulting from the registration, in the liability of the partners.
- (5) Subrule (4) does not apply to a client outside of British Columbia if the firm provides legal services to the client primarily through lawyers outside of British Columbia.

SCHEDULES – LAW SOCIETY FEES AND ASSESSMENTS

**SCHEDULE 2 – 2006 PRORATED FEES AND ASSESSMENTS
FOR PRACTISING MEMBERS**

	Law Society fee	Special Compensation Fund	Liability insurance fee	
			Payable prior to call	Payable by June 30
Full-time insurance				
January	1,065.50	600.00	750.00	750.00
February	974.42	550.00	625.00	750.00
March	887.92	500.00	500.00	750.00
April	796.83	450.00	375.00	750.00
May	710.33	400.00	250.00	750.00
June	619.25	350.00	125.00	750.00
July	532.75	300.00	750.00	0.00
August	441.67	250.00	625.00	0.00
September	355.17	200.00	500.00	0.00
October	264.08	150.00	375.00	0.00
November	177.58	100.00	250.00	0.00
December	86.50	50.00	125.00	0.00
Part-time insurance				
January	1,065.50	600.00	375.00	375.00
February	974.42	550.00	312.50	375.00
March	887.92	500.00	250.00	375.00
April	796.83	450.00	187.50	375.00
May	710.33	400.00	125.00	375.00
June	619.25	350.00	100.00	375.00
July	532.75	300.00	375.00	0.00
August	441.67	250.00	312.50	0.00
September	355.17	200.00	250.00	0.00
October	264.08	150.00	187.50	0.00
November	177.58	100.00	125.00	0.00
December	86.50	50.00	100.00	0.00

**SCHEDULE 3 – 2006 PRORATED FEES
FOR NON-PRACTISING AND RETIRED MEMBERS**

	Non-practising members		Retired members	
	Fee	Inc. GST	Fee	Inc. GST
January	300.00	321.00	75.00	80.25
February	275.00	294.25	68.75	73.56
March	250.00	267.50	62.50	66.88
April	225.00	240.75	56.25	60.19
May	200.00	214.00	50.00	53.50
June	175.00	187.25	43.75	46.81
July	150.00	159.00	37.50	39.75
August	125.00	132.50	31.25	33.13
September	100.00	106.00	25.00	26.50
October	75.00	79.50	18.75	19.88
November	50.00	53.00	12.50	13.25
December	25.00	26.50	6.25	6.63