

# MEMBER'S MANUAL

The Law Society  
of British Columbia



## AMENDMENT PAGES

2010: No. 1 March

### Highlights

**Legal Profession Act:** A heading is updated (s. 5: p. 8); the Table of Contents is updated (p. 1).

**Law Society Rules:** The rules are amended to give effect to the member referenda on Benchers terms of office and term limits (Rules 1-1(1) and (1.1), 1-1.1, 1-2 and 1-21(2): pp. 13, 14 and 22); Benchers will take an oath of office (Rule 1-1.2: p. 13); the process of electing an Appointed Benchers to the Executive Committee will more closely parallel that of elected Benchers (Rule 1-39(7) to (9) and (12): p. 28); lawyers returning to practice are required to make up any outstanding CPD credits (Rule 3-18.3(6.1) and (7): p. 69); an allegation of breach of a hearing panel order may proceed to a summary hearing (Rule 4-24.1(1): p. 104); anonymous publication of discipline decisions is permitted only when identification would cause harm to an individual other than the respondent (Rules 4-38(1) and (2) and 4-38.1(2) to (5), (7) and (8): pp. 110.1-110.2); consequential amendments are made to Rules 2-26.1(5) and 2-32(4): pp. 42.7 and 45; the Table of Contents is updated (pp. 1-9).

**Professional Conduct Handbook:** The Table of Contents is updated (pp. 1-9).

**Insurance Policies:** Insurance Policy No. LPL 10-01-01 replaces Insurance Policy No. LPL 09-01-01.

**Multi-disciplinary practice (effective July 1, 2010):** The Benchers also amended the Law Society Rules and the *Professional Conduct Handbook* to permit lawyers to form partnerships with non-lawyers in limited circumstances. Lawyers must have actual control over the delivery of legal services and the services provided by non-lawyers must support or supplement the delivery of legal services to clients of the law partnership. The new rules are effective on July 1, 2010, following development by the Credentials Committee of the necessary forms by which partners of a firm may apply to become a multi-disciplinary partnership. (In the Rules see Rules 1 (definitions of “firm,” “multi-disciplinary practice” and “professional corporation,” 2-10(1), 2-23.1 to 2-23.12, 3-44(2), 3-57(1), 9-15(2.11) and Schedule 1 L: pp. 8, 9, 11, 33, 41 to 42.5, 78, 85, 125 and 130. In the *Professional Conduct Handbook*, see Chapter 6, Rule 7.1, Chapter 9, Rules 6 and 6.1, Chapter 12, Rules 1, 3, 4, 5, 5.1 and 6, Chapter 13, Rule 5 and Chapter 14, Rules 10, 23 and 24: pp. 16.2, 16.7, 26, 26.1, 35, 36, 38, 40, 43 and 44: pp. 16.2, 26, 26.1, 35, 36, 38, 40, 43 and 44.)

**Note:** *The MDP rules take effect on July 1, 2010. You may wish to retain the current pages for reference in the interim, or refer to the Law Society website for both the current and amended versions of the rules.*

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

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Insurance Policies	Policy No. LPL 09-01-01 (1 – 22)	Policy No. LPL 10-01-01 (1 – 22)

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

**Updates:** This amendment package updates the *Member's Manual* to **February 5, 2010**. The previous amendment package was 2009: No. 4 December.

To check that your copy of the *Manual* is up to date, consult the contents checklist on the next page. If you have further questions about updating your *Manual*, contact Robin Pollak in the Law Society Communications Department: telephone 604-697-5821 or toll-free in BC 1-800-903-5300, telefax 604-646-5913 or email [communications@lsbc.org](mailto: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 [lawsociety.bc.ca](http://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

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## **PART 1 – ORGANIZATION**

### **Division 1 – Law Society**

#### **Incorporation**

- 2 (1) The Law Society of British Columbia is continued.
- (2) For the purposes of this Act, the society has all the powers and capacity of a natural person.

#### **Public interest paramount**

- 3 It is the object and duty of the society
  - (a) to uphold and protect the public interest in the administration of justice by
    - (i) preserving and protecting the rights and freedoms of all persons,
    - (ii) ensuring the independence, integrity and honour of its members, and
    - (iii) establishing standards for the education, professional responsibility and competence of its members and applicants for membership, and
  - (b) subject to paragraph (a),
    - (i) to regulate the practice of law, and
    - (ii) to uphold and protect the interests of its members.

#### **Benchers**

- 4 (1) The following are benchers:
  - (a) the Attorney General;
  - (b) the persons appointed under section 5;
  - (c) the lawyers elected under section 7;
  - (d) the president, first vice-president and second vice-president.
- (2) The benchers govern and administer the affairs of the society and may take any action they consider necessary for the promotion, protection, interest or welfare of the society.
- (3) The benchers may take any action consistent with this Act by resolution.
- (4) Subsections (2) and (3) are not limited by any specific power or responsibility given to the benchers by this Act.
- (5) The benchers may
  - (a) use the fees, assessments and other funds of the society, including funds previously collected or designated for a special purpose before this Act came into force, for the purposes of the society,
  - (b) raise funds by the issue of debentures, with or without a trust deed, for the purposes of the society,

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- (c) provide for a pension scheme for its officers and employees out of the funds of the society, and
- (d) approve forms to be used for the purposes of this Act.

### Appointed benchers

- 5**
- (1) The Lieutenant Governor in Council may appoint up to 6 persons to be benchers.
  - (2) Members and former members of the society are not eligible to be appointed under this section.
  - (3) A bencher appointed under this section has all the rights and duties of an elected bencher, unless otherwise stated in this Act.
  - (4) If a bencher appointed under this section fails to complete a term of office, the Lieutenant Governor in Council may appoint a replacement to hold office for the balance of the term of the bencher who left office.
  - (5) A bencher appointed under this section is not eligible to hold the position of president, first vice-president or second vice-president.

[heading updated 2009]

### Meetings

- 6**
- (1) The benchers may make rules respecting meetings of the benchers, including rules providing for the practice and procedure of proceedings before the benchers.
  - (2) For a quorum at a meeting of the benchers, at least 7 benchers must be present and a majority of those present must be members of the society.
  - (3) A motion assented to in writing by at least 75% of the benchers has the same effect as a resolution passed at a regularly convened meeting of the benchers.

### Elections

- 7**
- (1) The benchers may make rules respecting the election of benchers and of the second vice-president.
  - (2) The rules made under subsection (1) must be consistent with the following:
    - (a) voting is by secret ballot;
    - (b) the right of each member to vote for a bencher or the second vice-president carries the same weight as any other member who is entitled to vote for that bencher or the second vice-president;
    - (c) only members in good standing are entitled to vote.
  - (3) Section 11 (4) applies to the rules made under subsection (1) of this section unless they deal directly with a matter referred to in section 12.
  - (4) Section 12 applies to the rules made under subsection (1) of this section that deal directly with a matter referred to in that section.



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LAW SOCIETY RULES

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## DEFINITIONS

### Definitions

1 In these Rules, unless the context indicates otherwise:

“**Act**” means the *Legal Profession Act*, S.B.C. 1998, c. 9;

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

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

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

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

“**applicant**” means a person who has applied under Part 2 for enrolment as an articulated student, for call and admission or for reinstatement;

“**appointed Bencher**” means a person appointed as a Bencher under section 5;

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

“**articling agreement**” means a contract in a form approved by the Credentials Committee executed by an applicant for enrolment and his or her prospective principal;

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

“**articling term**” means the 9 month period referred to in Rule 2-32;

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

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

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

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

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

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

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

“**costs**” includes costs assessed under Rule 3-18 or 3-74.1 or Part 5;

“**disbarred lawyer**” means a person to whom section 15(3) of the Act applies;

## LAW SOCIETY RULES

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

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

**“enrolment start date”** means the date on which an articulated student’s enrolment in the admission program becomes effective;

**“Executive Committee”** means the Committee elected under Rule 1-39;

**“Executive Director”** includes a person designated by the Executive Director to perform any of the duties assigned to the Executive Director in these Rules;

**“firm”** includes one lawyer or two or more lawyers practising together, including in the following arrangements:

- (a) a sole proprietorship;
- (b) a partnership, including a limited liability partnership or a partnership of law corporations;
- (c) an arrangement for lawyers to share certain common expenses but otherwise practise as independent practitioners;
- (d) a law corporation;
- (e) a public body such as government or a Crown corporation;
- (f) a corporation that is not a law corporation, or other private body;
- (g) a multi-disciplinary practice;

**“foreign jurisdiction”** means a country other than Canada or an internal jurisdiction of a country other than Canada;

**“Foundation”** means the Law Foundation of British Columbia continued under section 58 (1) of the Act;

**“funds”** includes current coin, government or bank notes, bills of exchange, cheques, drafts, money orders, charge card sales slips, credit slips and electronic transfers;

**“general”** in relation to accounts, books, records and transactions means those pertaining to general funds;

**“general funds”** means funds other than trust funds, received by a lawyer in relation to the practice of law;

**“governing body”** means the governing body of the legal profession in another province or territory of Canada;

## DEFINITIONS

**“insolvent lawyer”** means a lawyer who

- (a) is the respondent of a petition for a receiving order under section 43,
  - (b) has made an assignment of all his or her property for the general benefit of the lawyer’s creditors under section 49,
  - (c) has made a proposal under section 50 or 66.11,
  - (d) has filed a notice of intention to make a proposal under section 50.4, or
  - (e) has applied for a consolidation order under section 219
- of the *Bankruptcy and Insolvency Act*, S.C. 1992, c. 27;

**“inter-jurisdictional law firm”** means a firm carrying on the practice of law in British Columbia and in one or more other Canadian or foreign jurisdictions, unless all lawyers in all offices of the firm are practising lawyers;

**“inter-jurisdictional practice”** includes practice by a member of the Society in another Canadian jurisdiction;

**“investigate”** includes authorizing an investigation and continuing an investigation in progress;

**“law clerk”** means a law clerk employed by a judge appointed under section 96 of the *Constitution Act, 1867*, or a judge of the Supreme Court of Canada, the Federal Court of Canada or the Tax Court of Canada;

**“lawyer”** means a member of the Society;

**“limited liability partnership”** or **“LLP”** means a limited liability partnership under Part 6 of the *Partnership Act*, including an extraprovincial limited liability partnership registered under that Part;

**“multi-disciplinary practice”** or **“MDP”** means a partnership, including a limited liability partnership or a partnership of law corporations, that is owned by at least one lawyer or law corporation and at least one individual non-lawyer or professional corporation that is not a law corporation, and that provides to the public legal services supported or supplemented by the services of another profession, trade or occupation;

**“net interest”** means the total interest earned on a pooled trust account, minus any service charges and transmittal fee that the savings institution charges to that account;

**“officer”** means the Executive Director, a Deputy Executive Director or other person appointed as an officer by the Benchers;

**“Ombudsperson”** means a person appointed by the Executive Director to provide confidential dispute resolution and mediation assistance to lawyers, articulated students, law students and support staff of legal employers, regarding allegations of harassment or discrimination by lawyers on the basis of race, national or ethnic origin, colour, religion, sex, sexual orientation, marital or family status, disability or age, and includes anyone employed by the Ombudsperson to assist in that capacity;

## LAW SOCIETY RULES

- “panel”** means a panel established in accordance with Part 5;
- “practice review”** means an investigation into a lawyer’s competence to practise law ordered under Rule 3-12(3)(d) or 3-13(1);
- “practice year”** means the period beginning on January 1 and ending on December 31 in a year;
- “practitioner of foreign law”** means a person qualified to practise law in a country other than Canada or in an internal jurisdiction of that country, who gives legal advice in British Columbia respecting the laws of that country or of the internal jurisdiction in which that person is qualified;
- “principal”** means a lawyer who is qualified to employ and employs an articulated student;
- “professional conduct record”** means a record of all or some of the following information respecting a lawyer:
- (a) an order under Rule 2-30(4), prohibiting the lawyer from acting as a principal for an articulated student;
  - (b) any conditions or limitations of practice or articles accepted or imposed under the Act or these Rules;
  - (c) a decision by a panel or the Benchers to reject an application for enrolment, call and admission or reinstatement;
  - (c.1) a decision by the Credentials Committee to reject an application for an inter-jurisdictional practice permit;
  - (c.2) any suspension or disbarment under the Act or these Rules;
  - (d) recommendations made by the Practice Standards Committee under Rule 3-14;
  - (d.1) to (f) [rescinded 11/08]
  - (g) an admission accepted by the Discipline Committee under Rule 4-21;
  - (h) an admission and consent to disciplinary action accepted by a hearing panel under Rule 4-22;
  - (i) any Conduct Review Subcommittee report delivered to the Discipline Committee under Rule 4-9, and any written dispute of that report considered by the Committee;
  - (j) a decision made under section 38(4)(b) or (c) of the Act;
  - (k) an action taken under section 38(5), (6) or (7) of the Act;
  - (l) an action taken by the Benchers under section 47 of the Act;
  - (m) and (n) [rescinded 11/08]
  - (o) a payment made under section 31 of the Act on account of misappropriation or wrongful conversion by the lawyer;
  - (p) an order for costs made against the lawyer under Part 5;
  - (p.1) any failure to pay any fine, costs or penalty imposed under the Act or these Rules by the time that it is to be paid;

## DEFINITIONS

- (q) the outcome of an application made by the lawyer under the *Judicial Review Procedure Act* concerning a decision taken under the Act or these Rules, including a predecessor of either;
  - (r) the outcome of an appeal taken by the lawyer under section 48 of the Act;
  - (s) any disciplinary or remedial action taken by a governing body or body regulating the legal profession in any other jurisdiction;
- “professional corporation”** includes a law corporation and means a corporation that is a company, as defined in the *Business Corporations Act*, and that is in good standing under that Act or that is registered under Part 10 of the *Business Corporations Act*, through which a member of a profession, trade or occupation is authorized under a statute governing the profession, trade or occupation to carry on the business of providing services to the public;
- “Protocol”** means the Inter-Jurisdictional Practice Protocol signed on behalf of the Society on February 18, 1994, as amended from time to time;
- “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;
- “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;

## LAW SOCIETY RULES

**“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 09/1999; 11/1999; 05/2000; 06/2001; 03/2003; effective 08/2003; 12/2003; 05/2004; 09/2004; “firm” amended and “limited liability partnership” added effective January 17, 2005; amended 02/2006; 06/2006; 10/2006; 09/2007; 04/2008; “professional conduct record” amended 11/2008; “statement of agreed facts” deleted and “agreed statement of facts” added 04/2009; “appointed Benchers” added 09/2009; “firm” amended and “multi-disciplinary practice” and “professional corporation” added 12/2009, effective 07/2010]



## PART 1 – ORGANIZATION

### Division 1 – Law Society

#### Benchers

##### Term of office

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

[ (1) amended 12/1999; 09/2009; (1) amended, (1.1) added 12/2009 ]

##### Term limits

- 1-1.1** (1) A Bencher is ineligible to be elected or appointed as a Bencher if
- (a) at the conclusion of the Bencher's term of office, he or she will have served as a Bencher for more than 7 years, whether consecutive or not, or
  - (b) the Bencher has been elected Second Vice-President-elect.
- (2) Despite subrule (1)(a) but subject to subrule (1)(b), a Bencher who was a Bencher on January 10, 1992 and who, at the conclusion of his or her term of office, will not have served as a Bencher for more than 11 years, whether consecutive or not, is eligible to be elected or appointed as a Bencher.

[added effective January 2, 2010]

##### Oath of office

- 1-1.2** (1) At the next regular meeting of the Benchers attended by a Bencher after being elected or appointed as a Bencher or taking office as President or a Vice-President, the Bencher must take an oath of office in the following form:

I, [name] do swear or solemnly affirm that:

I will abide by the *Legal Profession Act*, the Law Society Rules and the *Professional Conduct Handbook*, and I will faithfully discharge the duties of [a Bencher/President/First or Second Vice-President], according to the best of my ability; and

I will uphold the objects of the Law Society and ensure that I am guided by the public interest in the performance of my duties.

- (2) An oath under this Rule must be taken before a judge of the Provincial Court or a superior court in British Columbia, the President or a Life Bencher.

[added 12/2009]

**Life Benchers**

- 1-2** (1) A person, including the Attorney General, who is ineligible for further election or appointment as a Bencher under Rule 1-1.1 is a Life Bencher on leaving office as a Bencher.
- (2) [rescinded]
- (3) A Life Bencher
- (a) may attend and speak at meetings of the Benchers,
  - (b) has no vote in Bencher meetings,
  - (c) except as a member of a committee under Rule 1-47, may not exercise any of the powers of a Bencher, and
  - (d) is ineligible to be elected or appointed as a Bencher.
- (4) A Bencher who was a Bencher on January 10, 1992 and who has served for at least 7 years as a Bencher is a Life Bencher on leaving office as a Bencher.
- (5) A person who was a Life Bencher on January 1, 2010 continues to be a Life Bencher.

[amended, (2) rescinded, (5) added effective January 2, 2010]

**President, First Vice-President and Second Vice-President**

- 1-3** (1) The term of office for the President, First Vice-President and Second Vice-President is from January 1 to December 31 of each year.
- (2) Subject to subrule (7), on January 1 of each year,
- (a) the First Vice-President becomes President,
  - (b) the Second Vice-President becomes First Vice-President, and
  - (c) the Second Vice-President-elect becomes Second Vice-President.
- (3) Each year, the members must elect a Bencher who is a member of the Society as the Second Vice-President-elect in accordance with Rule 1-18.
- (4) Without further election by the district, the Bencher elected by the members under subrule (3) holds office as a Bencher representing the district that last elected the Bencher until he or she completes a term as President.
- (5) If there is a vacancy in the office of President or a Vice-President for any reason, including the operation of this subrule or the failure of a Bencher to take office under this Rule, the Bencher who would have assumed the office at the end of the term immediately assumes the vacant office.

## PART 1 – ORGANIZATION

- (6) If a vacancy under subrule (5) occurs when there is no Bencher elected by the members to assume the office,
  - (a) the Benchers may elect a Bencher who is a member of the Society to act in the vacant office until a mail ballot of all members, the next general meeting or December 31, whichever comes first, and
  - (b) if the next general meeting or a mail ballot takes place before December 31, the members must elect a Bencher who is a member of the Society to the vacant office for the remainder of the year, and a Second Vice-President-elect.
- (7) If the First Vice-President assumes the office of President under subrule (5) on or after July 1, subrule (2) does not operate on January 1 of the following year and the President and the Vice-Presidents continue in office for an additional full year.
- (8) The powers of the President under Rules 2-64, 2-69, 4-2, 4-19, 4-28, 5-2 or 5-10 may be exercised by a Vice-President or the Executive Director.

[(8) amended 07/2007]

### **Removal of the President or a Vice-President**

- 1-4** (1) On a resolution of a majority of the Benchers to remove the President or a Vice-President from office, the Executive Director must conduct a referendum of all members of the Society to determine if the President or Vice-President, as the case may be, should be removed from office.
- (2) If a 2/3 majority of the members voting in a referendum under this Rule vote to remove the President or a Vice-President from office, he or she ceases to hold that office and ceases to be a Bencher.
- (3) Before conducting a referendum under subrule (1), the Executive Director must notify the President or Vice-President who is affected.
- (4) Within 30 days after the Benchers pass a resolution under subrule (1), the Executive Director must mail to each member of the Society in good standing
  - (a) a notice stating
    - (i) that the Benchers have resolved to remove from office the President or a Vice-President, as the case may be,
    - (ii) the reasons for the Benchers' resolution,
    - (iii) that a referendum from among the membership is being conducted to determine if the President or Vice-President, as the case may be, should be removed from office, and
    - (iv) the date on which the referendum votes will be counted,

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## Elections

### Second Vice-President-elect

- 1-18** (1) The election of a Second Vice-President-elect is held at the annual general meeting each year.
- (2) A nomination for election as Second Vice-President-elect is valid only if
- (a) the nominator is a member of the Society in good standing,
  - (b) the candidate is a Bencher and a member of the Society in good standing, and
  - (c) the candidate consents to the nomination.
- (3) All members of the Society in good standing in attendance are entitled to vote for Second Vice-President-elect.
- (4) A vote for Second Vice-President-elect must be conducted by secret ballot.
- (5) If only one candidate is nominated, the President must declare that candidate the Second Vice-President elect.

### Bencher elections

- 1-19** (1) Elections for the office of Bencher in all districts are held on November 15 of each odd-numbered year.
- (2) An election in the district represented by the President are held on November 15 of each even-numbered year.
- (3) The Bencher elected under subrule (2) holds office for one year starting on the following January 1.

### Regional representation by Benchers

- 1-20** (1) Benchers are elected from electoral districts as follows:
- (a) 13 Benchers from District No. 1, the County of Vancouver;
  - (b) 2 Benchers from District No. 2, the County of Victoria;
  - (c) one Bencher from District No. 3, the County of Nanaimo;
  - (d) 3 Benchers from District No. 4, the County of Westminster;
  - (e) one Bencher from District No. 5, the County of Kootenay;
  - (f) one Bencher from District No. 6, Okanagan, being those parts of the County of Yale
    - (i) east of 120 degrees west longitude and south of the northernmost point of Okanagan Lake, or
    - (ii) west of 120 degrees west longitude and south of 50 degrees north latitude;
  - (g) 2 Benchers from District No. 7, the County of Cariboo;
  - (h) one Bencher from District No. 8, the County of Prince Rupert;
  - (i) one Bencher from District No. 9, Kamloops, being that part of the County of Yale not included in District No. 6, Okanagan.
- (2) The number of Benchers to be elected from each district is reduced by one for each Bencher from that district who holds office as First Vice-President, Second Vice-President or Second Vice-President-elect.

**Qualifications of candidate for Bencher**

- 1-21** (1) To be eligible to be a candidate for election as a Bencher, a member of the Society must
- (a) be in good standing at the time of nomination,
  - (b) have been in good standing for at least 7 years,
  - (c) if a practising lawyer, maintain his or her chief place of practice or employment in the district in which he or she seeks to be a candidate, and
  - (d) if a retired or non-practising member, reside in the district in which he or she seeks to be a candidate.
- (2) An incumbent Bencher who qualifies under subrule (1) and is not disqualified under Rule 1-1.1 is eligible to be nominated as a candidate for re-election as a Bencher.

[(2) amended effective January 2, 2010]

**Nomination**

- 1-22** The nomination of a candidate for election as a Bencher is valid only if
- (a) it is in writing, signed by at least 2 members of the Society in good standing who are eligible to vote in the district in which the nominee seeks to be a candidate,
  - (b) the nominee consents in writing to the nomination, and
  - (c) the nomination and consent are received by the Executive Director on or before October 15 before the election is to take place.

**Acclamation**

- 1-23** If the number of candidates nominated does not exceed the number to be elected in a district, the Executive Director must declare that those nominated are elected as Benchers for that district.

**Eligibility and entitlement to vote**

- 1-24** (1) A member of the Society in good standing is eligible to vote in an election for Benchers.
- (2) Only those members of the Society whose names appear on the voter list prepared under Rule 1-25, as corrected, are entitled to vote in an election for Benchers.
- (3) A non-resident member may vote
- (a) in the district in which the member was last eligible to vote as a resident member, or
  - (b) if paragraph (a) does not apply, in District No. 1.
- (4) A resident member of the Society may vote only in the district in which the member maintains his or her
- (a) chief place of practice or employment, in the case of a practising member, or
  - (b) residence, in the case of a retired or non-practising member.

## PART 1 – ORGANIZATION

### Retention of documents

- 1-35** The Executive Director must retain the voting papers and other documents of an election for at least 14 days after the election or, if a review is taken under Rule 1-34, until that review has been completed.

### Bencher by-election

- 1-36** (1) If an elected Bencher ceases to hold office in an even numbered year or before July 1 of an odd numbered year, a by-election must be held to fill the vacancy for the remainder of the term of office.
- (2) When a Bencher by-election is required under subrule (1), the Executive Committee must set a date for the prompt holding of the by-election.
- (3) Rules 1-20 to 1-35 apply to a by-election under subrule (1), except that the Executive Director may change the dates referred to in Rules 1-22(c), 1-25(1) and 1-26(1).

### Referendum ballots

- 1-37** (1) The Benchers may direct the Executive Director to conduct a referendum ballot of all members of the Society or of all members in one or more districts.
- (2) The Rules respecting the election of Benchers apply, with the necessary changes and so far as they are applicable, to a referendum under this Rule, except that the voting paper envelopes need not be separated by districts.

### Appointment of Bencher to represent a district

- 1-38** (1) The Benchers may fill a vacancy by appointment in the following circumstances:
- (a) an elected Bencher ceases to hold office on or after July 1 of an odd-numbered year;
  - (b) an electoral district fails to nominate enough candidates at an election to elect the required number of Benchers;
  - (c) an amendment to Rule 1-20 increases the number of Benchers to be elected from a district.
- (2) A Bencher appointed under subrule (1) takes office on appointment and continues in office until the end of the current term.
- (3) The Benchers may appoint any member of the Society in good standing eligible to be a candidate for Bencher in the district concerned.
- (4) When the Benchers appoint a Bencher under this Rule, they may conduct a non-binding plebiscite of the members of the Society in the district concerned.

[ (2) amended 10/2001 ]

### Election of Executive Committee

- 1-39** (1) The Benchers must elect 3 Benchers to serve as members of the Executive Committee for each calendar year.
- (2) All persons elected as a Bencher for a term that includes the calendar year for which members of the Executive Committee are to be elected are eligible for election under subrule (1).
- (3) Nominations for election to the Executive Committee must be made by November 22.

## LAW SOCIETY RULES

- (4) If more than 3 Benchers are nominated under subrule (3), the Executive Director must conduct a ballot.
- (5) The Executive Director must specify a date no later than December 6 for the return of the ballots, and a ballot returned after that date is not valid.
- (6) All Benchers in office on the date specified under subrule (5) are eligible to vote for the Executive Committee.
- (7) [rescinded]
- (8) At the last regular meeting of the Benchers in each calendar year, the appointed Benchers must elect one appointed Bencher to serve as a member of the Executive Committee for the following calendar year.
- (9) All Benchers appointed, or eligible to be appointed, for a term that includes all or part of the calendar year for which members of the Executive Committee are to be elected are eligible for election to the Executive Committee under subrule (8).
- (10) All appointed Benchers present are entitled to vote for the member of the Executive Committee under subrule (8).
- (11) If a vote is required for an election under this Rule,
  - (a) it must be conducted by secret ballot,
  - (b) a ballot must be rejected unless it contains votes for the same number of candidates as there are positions to be filled, and
  - (c) when more than one Bencher is to be elected, the candidates with the most votes, up to the number of positions to be filled, are elected.
- (12) If, because of a tie vote or for any other reason, the Benchers fail to elect 3 members of the Executive Committee under subrules (4) and (5), or if a vacancy occurs in any position elected under this rule, the Benchers or the appointed Benchers, as the case may be, must hold an election to fill the vacancy at the next regular meeting of the Benchers.

[(2) to (5), (8) and (11) amended 11/2007; (8) to (10) amended 09/2009; (7) rescinded,  
(8) and (9) amended, (12) added 12/2009]

### **Date falling on Saturday, Sunday or other holiday**

**1-40** If the time for doing an act in this Division falls or expires on a day when the Society office is not open during regular business hours, the time is extended to the next day that the office is open.

### **Interruption of postal service**

**1-41** If an interruption of postal service makes it impracticable to conduct an election according to the schedule set by this Part, the Executive Committee may

- (a) postpone the election,
- (b) extend the time for the doing of an act, or
- (c) make special arrangements for the delivery and receipt of notices and ballots.

### **Extension of dates**

**1-42** The Executive Committee may, on application by the Executive Director, extend any date stated in Rule 1-18 to 1-42.



## General

### Seal

- 1-43** (1) Subject to subrule (2), the seal of the Society may be affixed to a document in the presence of
- (a) 2 persons, one of whom must be the President or a Vice-President, and the other of whom must be an officer of the Society, or
  - (b) one or more persons appointed by resolution of the Executive Committee.
- (2) The seal may be affixed in the presence of any one of the persons referred to in subrule (1) in the case of
- (a) a certificate, or
  - (b) a document that certifies true copies of any document or resolution.
- (3) The person or persons in whose presence the seal is affixed must sign the certificate or document of certification.

[(1) amended 07/2004]

### Laying of information

- 1-44** Any information alleging an offence against the Act may be laid in the name of the Society on oath of an officer of the Society or a member of the Executive Committee.

### *Freedom of Information and Protection of Privacy Act*

- 1-45** The Executive Director is designated as the head of the Society for the purposes of the *Freedom of Information and Protection of Privacy Act*.

[amended 09/2008]

### Appointment of Law Society counsel

- 1-46** (1) Subject to Rule 1-49(a), the Executive Director may appoint an employee of the Society or retain another lawyer to advise or represent the Society in any legal matter.
- (2) When Rule 1-49(a) applies and it is not practicable to call a meeting of the Executive Committee before the advice of counsel is required, the Executive Director may appoint counsel on an interim basis.

## Division 2 – Committees

### Committees of the Benchers

- 1-47** Subject to these Rules, the President may
- (a) appoint any person as a member of a committee of the Benchers, and
  - (b) terminate the appointment.

## LAW SOCIETY RULES

### **Executive Committee**

**1-48** The Executive Committee consists of the following Benchers:

- (a) the President;
- (b) the First and Second Vice-Presidents;
- (c) the Second Vice-President-elect, if not elected under paragraph (d);
- (d) 3 other Benchers elected under Rule 1-39(1);
- (e) one appointed Bencher elected under Rule 1-39(8).

[amended 09/2009]

### **Powers and duties**

**1-49** The powers and duties of the Executive Committee are as follows:

- (a) authorizing appointment of counsel to advise or represent the Society when the Society is a plaintiff, petitioner or intervenor in an action or proceeding;
- (b) authorizing the execution of documents relating to the business of the Society;
- (c) approving the remuneration and benefits paid to the Executive Director;
- (d) assisting the President and Executive Director in establishing the agenda for Bencher meetings and the annual general meeting;
- (e) planning of Bencher meetings or retreats held to consider a policy development schedule for the Benchers;
- (f) assisting the Benchers and the Executive Director on establishing relative priorities for the assignment of Society financial, staff and volunteer resources;
- (g) recommending to the appointing bodies on Law Society appointments to outside bodies;
- (h) approving the termination of the appointment of a panel under Rule 5-2(8);
- (i) appointing members of the Board of Governors of the Foundation under section 59 of the Act;
- (j) other functions authorized or assigned by these Rules or the Benchers.

## **Division 3 – Law Society Rules**

### **Act, Rules and Handbook**

**1-50** The Executive Director must provide each lawyer and each articulated student with a copy of the *Legal Profession Act*, all Rules made by the Benchers, and the *Professional Conduct Handbook*.

**Residential address**

**2-9** A lawyer who ceases to have a place of business separate from the lawyer's residence must provide the following information to the Executive Director immediately:

- (a) the address of the lawyer's residence;
- (b) any change in the address of the lawyer's residence;
- (c) on return to practice, employment or other business, the address of the lawyer's place of business.

**Practice history**

**2-9.1** (1) In this Rule “**practice history**” means a record of

- (a) the dates and places that a lawyer or former lawyer has practised law or been enrolled in the admission program, including the name of the firms through which the lawyer or former lawyer practised law, and
  - (b) dates of any periods since call and admission during which the lawyer or former lawyer has been a non-practising or retired member or a former member.
- (2) On request by any person, the Executive Director may disclose all or part of the practice history of any member or former member of the Society.

[added 10/2004]

**Unauthorized practice**

**Unauthorized practice of law**

**2-10** (1) A lawyer must not knowingly facilitate by any means the practice of law by a person who is not a practising lawyer or otherwise permitted to practise law under sections 15 to 17 of the Act or Rule 2-23.2.

- (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 name to be used or held out in any way that enables a person to engage in the unauthorized practice of law;
  - (b) send a process or other document to a person or do any other act that enables a person to engage in the unauthorized practice of law;
  - (c) open or maintain an office for the practice of law unless the office is under the personal and actual control and management of a practising lawyer.
- (3) When the Society obtains a court order or an agreement restraining a person who is not a practising lawyer from the practice of law, the Executive Director may publish generally a summary of the circumstances and of the order or agreement, in a form that appears appropriate to the Executive Director.

[(3) amended 02/2006; (1) amended 12/2009, effective 07/2010]

## Inter-jurisdictional practice

### Definitions

**2-10.1** In Rules 2-10.1 to 2-17.1,

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

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

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

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

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

**“National Mobility Agreement”** means the 2002 National Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;

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

**“permit”** means an inter-jurisdictional practice permit issued under Rule 2-11;

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

- (a) physically in British Columbia, except with respect to the law of a home jurisdiction, or
- (b) with respect to the law of British Columbia physically in any jurisdiction, and includes to provide legal services respecting federal jurisdiction in British Columbia;

- (5) A practitioner of foreign law must notify the Executive Director promptly if he or she
- (a) is the subject of criminal or professional discipline proceedings in any jurisdiction,
  - (b) ceases to be a member in good standing of the legal profession in any jurisdiction, or
  - (c) fails to complete satisfactorily any continuing legal education program required of the practitioner of foreign law as a member of the legal profession in a foreign jurisdiction.

**Dual qualification**

- 2-20** A lawyer, other than a retired or non-practising member, who is qualified to practise law in a foreign jurisdiction may act as a practitioner of foreign law in British Columbia without obtaining a permit, provided the lawyer holds liability insurance that
- (a) specifically extends to the lawyer’s activities as a practitioner of foreign law in British Columbia, and
  - (b) is in a form and amount at least reasonably comparable to that required of lawyers under Rule 3-21(1).

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

- 2-21** 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 *Professional Conduct Handbook*, Chapter 14, Rule 2:
- (a) use the term “practitioner of foreign law;”
  - (b) state the foreign jurisdiction in which he or she holds professional legal qualifications, and the professional title used in that jurisdiction;
  - (c) not use any designation or make any representation from which a recipient might reasonably conclude that the practitioner of foreign law is a member of the Society.

**Renewal of permit**

- 2-22** (1) In order to renew a practitioner of foreign law permit, a practitioner of foreign law must apply to the Executive Director for a renewal of the permit before his or her permit expires.
- (2) A renewal application must include
- (a) a completed permit renewal application in a form approved by the Credentials Committee, including a written consent for the release of relevant information to the Society,
  - (b) evidence satisfactory to the Executive Director that the practitioner of foreign law continues to comply with the requirements set out in Rule 2-18(2), and
  - (c) the renewal fee specified in Schedule 1.

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- (3) The Executive Director may renew the permit of a practitioner of foreign law who has complied with the Act and these Rules.
- (4) Subject to subrule (5), a permit renewed under subrule (3) is valid for one year.
- (5) Rule 2-18(6) applies to a permit renewed under subrule (3).
- (6) A practitioner of foreign law who fails to pay when due the fee for renewal of a permit under subrule (2), including applicable taxes, or any part of it, must pay the late payment fee specified in Schedule 1.

### **Non-resident partners**

#### **Inter-jurisdictional law firms**

- 2-23** (1) A lawyer who practises law as a member of an inter-jurisdictional law firm must ensure that the firm does the following respecting the firm's practice of law in British Columbia:
- (a) complies with the Part 3, Division 7 of these Rules;
  - (b) makes its books, records and accounts, wherever they are located, available on demand by the Society or its designated agent.
- (2) An inter-jurisdictional law firm is subject to discipline under Part 4 in the same way as a law corporation, except that the penalties that a panel may impose are the following:
- (a) a reprimand of the firm;
  - (b) a fine in an amount not exceeding \$100,000;
  - (c) an order prohibiting members of the firm who are not members of the Society from practising in British Columbia.
- (3) On certification by a governing body that an inter-jurisdictional law firm has failed to pay, by the date on which it was due, a fine imposed under a provision similar to subrule (2), the Credentials Committee may make an order prohibiting lawyers from practising as members of the firm.

[ (3) added 11/1999; (1) amended 12/2003 ]

## Multi-disciplinary practice

### Definition and application

**2-23.1** (1) In Rules 2-23.1 to 2-23.12,

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

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

(2) The responsibilities imposed under Rules 2-23.1 to 2-23.12 are not affected by the fact that a member of an MDP is carrying on the practice of a profession, trade or occupation or participating in the MDP as an employee, shareholder, officer, director or contractor of a professional corporation or on its behalf.

[added 12/2009, effective 07/2010]

### Conditions for multi-disciplinary practice

**2-23.2** (1) A lawyer must not practise law in an MDP unless

- (a) the lawyer and all members of the MDP are in compliance with Rules 2-23.1 to 2-23.12 and the *Professional Conduct Handbook*,
- (b) all lawyers who are members of the MDP have obtained express permission under this Division to practise law in the MDP,
- (c) all non-lawyer members of the MDP are of good character and repute,
- (d) all members of the MDP agree in writing
  - (i) that practising lawyers who are members of the MDP will have actual control over the delivery of legal services by the MDP,
  - (ii) that non-lawyer members of the MDP will not interfere, directly or indirectly with the lawyer’s
    - (A) obligation to comply with the Act, these Rules and the *Professional Conduct Handbook*, and
    - (B) exercise of independent professional judgement,
  - (iii) to comply with the Act, these Rules and the *Professional Conduct Handbook*, and
  - (iv) to cooperate with and assist the Society or its agents in the conduct of a practice review, examination or investigation, and
- (e) all members of the MDP who are governed by the regulatory body of another profession agree to report to the MDP any proceedings concerning their conduct or competence.

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

[added 12/2009, effective 07/2010]

**Application to practise law in multi-disciplinary practice**

**2-23.3** (1) Before a lawyer may practise law in an MDP, the lawyer must submit the following to the Executive Director:

- (a) an application in a form approved by the Credentials Committee;
- (b) the application fee specified in Schedule 1 for each lawyer member of the proposed MDP;
- (c) the investigation fee specified in Schedule 1 for each non-lawyer member of the proposed MDP;
- (d) copies of all partnership agreements and other contracts that the lawyer proposes to enter into with other members of the proposed MDP.

(2) In addition to any other requirement determined by the Credentials Committee, in the form referred to in subrule (1), the lawyer must report full details of the arrangements that the lawyer has made to ensure that

- (a) no non-lawyer member of the MDP provides services to the public, except
  - (i) those services that support or supplement the practice of law by the MDP, and
  - (ii) under the supervision of a practising lawyer,
- (b) privileged and confidential information is protected under Rule 2-23.8,
- (c) all members of the MDP comply with the rules respecting conflicts of interest as required under Rule 2-23.9,
- (d) every member of the MDP obtains and maintains liability insurance as required under Rule 2-23.10,
- (e) the lawyer and the MDP maintain trust accounts and trust accounting records in accordance with Rule 2-23.11, and
- (f) all non-lawyer members of the MDP enter into the agreements required under Rules 2-23.2.

(3) Any number of lawyers proposing to practise law together in an MDP may submit a joint application under this Rule.

[added 12/2009, effective 07/2010]



**Consideration of application to engage in multi-disciplinary practice**

- 2-23.4** (1) On receipt of an application under Rule 2-23.3, the Executive Director must
- (a) grant permission to practise law in the MDP,
  - (b) if the requirements for permission to practise law in an MDP have not been met, refuse permission, or
  - (c) refer the application to the Credentials Committee.
- (2) The Executive Director must not grant permission under subrule (1) unless the Executive Director is satisfied of the following:
- (a) all of the conditions set out in Rule 2-23.2 have been satisfied;
  - (b) the lawyer has made arrangements that will enable the lawyer and the MDP to comply with Rules 2-23.1 to 2-23.12.
- (3) If the lawyer applying for permission under Rule 2-23.3 agrees, the Executive Director may impose restrictions or conditions on permission granted under subrule (1).
- (4) Within 30 days after being notified of the decision of the Executive Director under subrule (1)(b), the lawyer may, by written notice, request a review by the Credentials Committee.
- (5) If an application is referred to the Credentials Committee under subrule (1)(c) or a review is requested under subrule (4), the Credentials Committee must direct the Executive Director to
- (a) grant permission to practise law in an MDP, with or without restrictions or conditions, or
  - (b) reject the application.
- (6) If an application is rejected or if restrictions or conditions are imposed, the Credentials Committee must, on the written request of the lawyer applying, give written reasons for the decision.

[added 12/2009, effective 07/2010]

**Changes in MDP**

- 2-23.5** (1) A lawyer practising in an MDP must immediately notify the Executive Director when
- (a) ceasing to practise law in the MDP for any reason,
  - (b) any new person proposes to become a member of the MDP,
  - (c) any member of the MDP ceases to be a member of the MDP or to be actively involved in the MDP's delivery of services to clients or in the management of the MDP, or
  - (d) there is any change in the terms of the partnership agreement or other contract affecting the conditions under which members of the MDP participate in the MDP.

- (2) When a new non-lawyer proposes to become a member of an MDP, the lawyer practising in the MDP must do the following at least 60 days before the proposed membership takes effect:
  - (a) notify the Executive Director in a form approved by the Credentials Committee;
  - (b) pay the investigation fee specified in Schedule 1.
- (3) Any number of lawyers practising law in an MDP may notify the Executive Director jointly under subrule (1) or (2).

[added 12/2009, effective 07/2010]

**Cancellation of permission to practise law in an MDP**

**2-23.6** (1) If for any reason the Executive Director, in his or her sole discretion, is not satisfied that the lawyer is complying and will continue to comply with Rules 2-23.1 to 2-23.12, the Executive Director must cancel the permission granted under Rule 2-23.4.

- (2) A cancellation under subrule (1) takes effect
  - (a) after 30 days notice to all lawyers who are current members of the MDP affected by the cancellation, or
  - (b) without notice or on notice less than 30 days on the order of the Credentials Committee.
- (3) A lawyer who is notified of a cancellation under this Rule may apply within 30 days to the Credentials Committee for a review of the Executive Director's decision.
- (4) When a lawyer applies for a review under subrule (3), the Credentials Committee must consider all the information available to the Executive Director, as well as submissions from or on behalf of the lawyer applying and the Executive Director and must
  - (a) confirm the decision of the Executive Director,
  - (b) direct the Executive Director to reinstate the permission, with or without restrictions or conditions specified by the Credentials Committee, or
  - (c) order a hearing before a panel under Part 5.
- (5) The lawyer applying under subrule (3) or the Executive Director may initiate a review by the Benchers on the record of a decision under subrule (4) by delivering to the President and the other party a Notice of Review.
- (6) Rules 5-15 and 5-17 to 5-21 apply to a review under this Rule, insofar as they are applicable and with the necessary changes.
- (7) A lawyer who has applied for a review under subrule (3) may apply to the President for a stay of the cancellation pending the decision of the Credentials Committee on the review.
- (8) The person who applies for a review under subrule (5) may apply to the President for a stay of the cancellation pending the decision of the Benchers on the review.

- (9) When considering an application for a stay under subrule (8), the President must consider all the information available to the Executive Director, as well as submissions from or on behalf of the Executive Director and the lawyer concerned and must
  - (a) refuse the stay, or
  - (b) grant the stay, with or without restrictions and conditions.
- (10) On an application under subrule (7) or (8), the President may designate another Bencher to make a determination under subrule (9).
- (11) When a lawyer's permission to practise law in an MDP is cancelled under this Rule, the lawyer must immediately cease practising law in the MDP.

[added 12/2009, effective 07/2010]

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

- 2-23.7** (1) Except as provided in Rules 2-23.1 to 2-23.12, the *Act*, these Rules and the *Professional Conduct Handbook* apply to lawyers who practise in an MDP.
- (2) A lawyer practising law in the MDP must take all steps reasonable in the circumstances to ensure that the non-lawyer members of the MDP
  - (a) practise their profession, trade or occupation with appropriate skill, judgement and competence,
  - (b) comply with the Act, these Rules and the *Professional Conduct Handbook*, and
  - (c) provide no services to the public except
    - (i) those services that support or supplement the practice of law by the MDP, and
    - (ii) under the supervision of a practising lawyer, as required under Chapter 12 of the *Professional Conduct Handbook*.
- (3) A lawyer practising in an MDP must not permit any member or employee of the MDP to direct or control the professional judgement of the lawyer or to cause the lawyer or other members of the MDP to compromise their duties under the Act, these Rules or the *Professional Conduct Handbook*.

[added 12/2009, effective 07/2010]

#### **Privilege and confidentiality**

- 2-23.8** A lawyer practising law in an MDP must take all steps reasonable in the circumstances, including the implementation of screening measures if necessary, to ensure that no improper disclosure of privileged or confidential information is made to any person, including a person appointed by the regulatory body of another profession in relation to the practice of another member or employee of the MDP.

[added 12/2009, effective 07/2010]

**Conflicts of interest**

- 2-23.9** (1) A lawyer practising law in an MDP must take all steps reasonable in the circumstances to ensure that the other members of the MDP will comply with the provisions of the Act, these Rules and the *Professional Conduct Handbook* respecting conflicts of interest as they apply to lawyers.
- (2) This Rule applies when the MDP has provided legal services to a client or when a potential client has sought legal services from the MDP.

[added 12/2009, effective 07/2010]

**Liability insurance**

- 2-23.10** (1) A lawyer practising law in an MDP must ensure that every non-lawyer member of the MDP providing services directly or indirectly to the public on behalf of the MDP
- (a) maintains professional liability insurance
    - (i) on the terms and conditions offered by the Society through the Lawyers Insurance Fund and pays the insurance fee, and
    - (ii) in an amount equivalent to the total amount of coverage that the MDP maintains in excess of that required under Rule 3-21(1), and
  - (b) complies with the provisions of Part 3, Division 4 of these Rules as if the non-lawyer were a lawyer.
- (2) If a non-lawyer member of an MDP agrees in writing, in a form approved by the Executive Committee, to engage in activities on behalf of the MDP for an average of 25 hours or less per week, the applicable insurance base assessment is the part-time insurance fee specified in Schedule 1.

[added 12/2009, effective 07/2010]

**Trust funds**

- 2-23.11** (1) A lawyer practising law in an MDP that accepts any funds in trust from any person must maintain a trust account and a trust accounting system
- (a) in accordance with Part 3, Division 7 of these Rules, and
  - (b) that are within the exclusive control of lawyers practising law in the MDP.
- (2) A lawyer practising law in an MDP must ensure that all funds received by the MDP that would, if received by a lawyer, constitute trust funds, are handled through a trust account and accounting system that complies with these Rules.

[added 12/2009, effective 07/2010]

**Notifying the Law Society**

- 2-23.12** (1) Each lawyer who practises law in an MDP must report to the Executive Director in a form approved by the Credentials Committee concerning the following:
- (a) non-lawyer members of the MDP providing services to the public;
  - (b) the reasonable steps taken to protect privileged and confidential information under Rule 2-23.8;
  - (c) compliance with the rules respecting conflicts of interest;
  - (d) liability insurance maintained by non-lawyers under Rule 2-23.10;
  - (e) trust accounts and trust accounting records maintained under Rule 2-23.11;
  - (f) the agreements required under Rule 2-23.2 between the lawyer and all non-lawyer members of the MDP;
  - (g) any other matter required by the Credentials Committee.
- (2) The report required under this rule must be made annually on a date determined by the Executive Director, or more frequently as determined by the Credentials Committee.

[added 12/2009, effective 07/2010]

**Division 2 – Admission and Reinstatement**

**Credentials Committee**

**Credentials Committee**

- 2-24** (1) For each calendar year, the President must appoint a Credentials 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 Credentials Committee to replace a Committee member who resigns or otherwise ceases membership in the Committee, or to increase the number of members of the Committee.

**Referral to Credentials Committee**

- 2-25** (1) The Executive Director may refer any matter for decision under this Division to the Credentials Committee.
- (2) On the written request of a lawyer, former lawyer, articulated student or applicant affected by a decision made by the Executive Director under this Division, the Executive Director must refer the matter to the Credentials Committee.
- (3) When a matter is referred to the Credentials Committee under this Rule, the Committee may make any decision open to the Executive Director under this Division and may substitute its decision for that of the Executive Director.

**Powers of the Credentials Committee**

- 2-26** (1) The Credentials Committee may
- (a) and (b) [rescinded]
  - (c) exercise the authority of the Benchers to call and admit barristers and solicitors,
  - (d) implement, administer and evaluate a training course and examinations, assignments and assessments for all articulated students,
  - (e) establish standards for passing the training course and examinations, assignments and assessment,
  - (f) establish procedures to be applied by the Executive Director and faculty of the training course for
    - (i) the deferral, review or appeal of failed examinations, assignments and assessments, and
    - (ii) remedial work in the training course or examinations, assignments and assessments, and
  - (g) review, investigate and report to the Benchers on all aspects of legal education leading to call and admission.
- (2) When the Credentials Committee is empowered to order a hearing under this Division, it may do so even though the application has been withdrawn.
- (3) The Credentials Committee may, with the consent of the person concerned, vary or remove practice conditions or limitations made under this Division or imposed by the Benchers on a review under Rule 5-13.

[(1) amended 11/1999; 03/2003]

**Application for enrolment, admission or reinstatement**

**Disclosure of information**

- 2-26.1** (1) When an application has been made under this Division, the Executive Director may
- (a) disclose the fact that the application has been made and the status of the application, and
  - (b) on the request of a governing body, provide to the governing body copies of all or part of the contents of the application and related material.
- (2) For the purpose of subrule (1)(a), the status of an application is its stage of progress in processing the application, including, but not limited to the following:
- (a) received and under review;
  - (b) granted, with or without limitations and conditions;
  - (c) referred to the Credentials Committee;
  - (d) hearing ordered, whether or not a hearing has been scheduled;
  - (e) withdrawn;
  - (f) refused.

- (3) Before the Executive Director sends material to a governing body under subrule (1)(b), the Executive Director must be satisfied that privacy of the applicant will be protected where possible, unless the material has been put in evidence in a public hearing.
- (4) With the consent of the Credentials Committee, the Executive Director may deliver to a law enforcement agency any information or documents obtained under this Division that the Committee reasonably believes may disclose evidence of an offence.
- (5) The Executive Director may disclose the existence and nature of a condition or limitation imposed or agreed to under this Division if the condition or limitation
  - (a) is ordered as a result of a hearing under this Division,
  - (b) restricts or prohibits a lawyer's practice in one or more areas of law, or
  - (c) is imposed by Rule 2-48.1, 2-49.1 or 2-54.
- (6) If the Executive Director discloses the existence of a condition or limitation under subrule (5) by means of the Society's website, the Executive Director must remove the information from the website within a reasonable time after the condition or limitation ceases to be in force.

[added 02/2004; (1) amended, (5) and (6) added 06/2005; (5) amended 12/2009]

## **Admission program**

### **Enrolment in the admission program**

- 2-27** (1) An applicant for enrolment in the admission program may apply for enrolment at any time.
- (2) [rescinded]
  - (3) Application is made under subrule (1) by delivering to the Executive Director the following:
    - (a) a completed application for enrolment in a form approved by the Credentials Committee, including a written consent for the release of relevant information to the Society;
    - (b) proof of academic qualification under subrule (4);
    - (c) an articling agreement stating a proposed enrolment start date not less than 30 days from the date that the application is received by the Executive Director;
    - (d) other documents or information that the Credentials Committee may reasonably require;
    - (e) the fee specified in Schedule 1.

## LAW SOCIETY RULES

- (4) Each of the following constitutes academic qualification under this Rule:
  - (a) successful completion of the requirements for a bachelor of laws or the equivalent degree from a common law faculty of law in a Canadian university;
  - (b) a Certificate of Qualification issued under the authority of the Federation of Law Societies of Canada;
  - (c) approval by the Credentials Committee of the qualifications of a full-time lecturer at the faculty of law of a university in British Columbia.
- (5) An official transcript of the applicant's grades at each faculty of law at which the applicant studied is proof of academic qualification under subrule (4)(a).
- (6) The Credentials Committee may approve academic qualifications under subrule (4)(c) if the applicant
  - (a) has been a full-time lecturer at a common law faculty of law in a Canadian university for at least 5 of the last 8 years, and
  - (b) has been found by the Credentials Committee to have an adequate knowledge of the common law.

[(1) and (3) amended, (2) rescinded 11/1999; (4) amended 09/2001; (3) amended 03/2003]

### **Re-enrolment**

- 2-28** (1) This Rule applies to a person
- (a) whose application for enrolment has been rejected because he or she has not satisfied a panel that he or she is of good character and repute and fit to become a barrister and solicitor of the Supreme Court,



- (3) The Credentials Committee may designate an offer date in each calendar year.
- (4) A lawyer must not offer articles to a student of any law school who has not begun the third year of studies unless the offer is to remain open at least until the offer date designated under subrule (3).
- (5) As an exception to subrule (4), the Credentials Committee may allow a lawyer to withdraw an offer of articles before the offer date designated under subrule (3).

**Articling term**

- 2-32** (1) Unless the articling period is changed under Rules 2-32 to 2-37, an articulated student must work in the office of his or her principal for a period of not less than 9 months.
- (2) Unless otherwise permitted in this Division, the articling term must be continuous, except that this period may be interrupted by
    - (a) attendance at the training course,
    - (b) annual vacation of up to 10 working days at the discretion of the principal, or
    - (c) a leave of absence as permitted under Rule 2-41.
  - (3) Any time taken for matters referred to in subrule (2) must not be included in the calculation of the articling term.
  - (4) The articling term cannot be reduced by more than 5 months by any other Rule or the combined effect of any Rules.
  - (5) The Credentials Committee may increase the articling term to not more than 2 years if
    - (a) the articulated student's performance has been unsatisfactory,
    - (a.1) the articulated student has not completed his or her obligations under the articling agreement, or
    - (b) other circumstances justify an increase.
  - (6) If it would result in the articulated student qualifying for call and admission within 2 years of the student's first enrolment start date, a student enrolled for a second time is entitled to credit for
    - (a) successful completion of the training course, and
    - (b) time spent in articles.
  - (7) If an articulated student is enrolled for a second or subsequent time, the Credentials Committee may grant credit for successful completion of the training course and some or all time spent in articles when the articulated student was previously enrolled.

[(5) amended 03/2003; (4) amended 12/2009]

**Mid-term report**

- 2-32.1** (1) This Rule does not apply to
  - (a) temporary articles under Rule 2-42, or
  - (b) articles when the term is less than 6 months.

- (2) Before the student has completed 60 percent of his or her articling term, the principal and the student must deliver to the Executive Director a joint report on the student's progress to date in articles in a form approved by the Credentials Committee.
- (3) A report under this Rule must include a plan for completing the obligations of the principal and student under the articling agreement.

[added 03/2003]

**Part-time articles**

- 2-33** (1) An applicant for enrolment may apply to complete some or all of his or her articles part-time by submitting the following to the Executive Director not less than 2 months before the enrolment start date:
- (a) the documents and information required under Rule 2-27(3);
  - (b) the fee for enrolment specified in Schedule 1;
  - (c) an articling agreement that includes all of the following:
    - (i) the prospective principal's express approval of the part-time arrangements;
    - (ii) the type of experience to be provided to the applicant;
    - (iii) the hours per day to be worked by the applicant;
    - (iv) the length of the proposed articling term.
- (2) An articulated student may apply to change his or her articles to part-time articles by submitting to the Executive Director the articling agreement referred to in subrule (1)(c).
- (3) The Executive Director may approve an application made under subrule (1) or (2) if
- (a) the proposed articling term is a continuous period that would give work experience in the office of the principal equivalent to that required under Rule 2-32(1), and
  - (b) the student or applicant's articles will be completed within 2 years of the articling start date.
- (4) The part-time equivalent of the articling period is calculated on the following basis:
- (a) 8 hours of scheduled work equals one day of articles;
  - (b) no additional credit is allowed for more than 8 hours per day.
- (5) If the Executive Director refers an application under this Rule to the Credentials Committee, the Committee must consider the applicant's submissions and may
- (a) approve the application without conditions or limitations,
  - (b) approve the application, subject to any conditions or limitations it considers appropriate, or
  - (c) reject the application.

[(1) amended 03/2003]

**Small firm course**

- 3-18.2** (1) Within 6 months after and not more than 12 months before the date on which this Rule applies to a lawyer, the lawyer must
- (a) successfully complete the small firm course, and
  - (b) certify to the Executive Director in a form approved by the Executive Director that the lawyer has successfully completed the small firm course.
- (2) A lawyer who is in breach of subrule (1) has failed to meet a minimum standard of practice, and the Executive Director may refer the matter to the Discipline Committee or the Chair of the Discipline Committee.

[added effective 01/2007; (2) amended 07/2007; (1) amended 10/2007; (1) amended 07/2008]

**Professional development**

- 3-18.3** (1) Before the commencement of each calendar year, the Benchers must determine the minimum number of hours of continuing education that is required of a practising lawyer in the following calendar year.
- (2) When making the determination required under subrule (1), the Benchers may prescribe circumstances in which a class of practising lawyer may be excused from completing all or part of the required professional development.
- (3) In each calendar year, a practising lawyer must
- (a) complete the required professional development, and
  - (b) certify to the Executive Director in a form approved by the Executive Director that the lawyer has completed the required professional development.
- (4) Despite subrule (3), a practising lawyer need not complete the required professional development in a calendar year in which the lawyer has successfully completed the admission program or the equivalent in another Canadian jurisdiction.
- (5) On written application by a practising lawyer who has refrained from the practice of law for a minimum of 60 consecutive days in a calendar year, the Executive Director may reduce the required professional development for that lawyer.
- (6) The Executive Director must not reduce the amount of required professional development under subrule (5)
- (a) by an amount greater than that proportionate to the part of the calendar year in which the lawyer refrained from the practice of law, or
  - (b) by any amount if the lawyer refrained from the practice of law as a result of suspension, disbarment or other disciplinary proceedings.
- (6.1) A lawyer who ceases to be a practising lawyer without completing all required professional development must complete the uncompleted portion in the next calendar year in which the lawyer is a practising lawyer, in addition to the required professional development for that calendar year.

- (7) A practising lawyer who is in breach of this Rule has failed to meet a minimum standard of practice, and the Executive Director may refer the matter to the Discipline Committee or the Chair of the Discipline Committee.

[added 07/2008; (6.1) added, (7) amended 12/2009]

### **Mentoring**

- 3-18.31** (1) The Benchers may allow credit as a mentor, subject to any conditions that the Benchers consider appropriate.

- (2) To qualify to receive credit as a mentor, a lawyer must
- (a) have engaged in the active practice of law in Canada for 7 of the 10 years immediately preceding the calendar year, and
  - (b) not be the subject of an order of the Credentials Committee under subrule (4)(c).
- (3) On a referral by the Executive Director or on the recommendation of the Discipline Committee or the Practice Standards Committee, or on its own motion, the Credentials Committee may inquire into a lawyer's suitability to receive credit as a mentor and may do any of the following:
- (a) conduct or authorize any person to conduct an investigation concerning the fitness of the lawyer to act as a mentor;
  - (b) require the lawyer to appear before the Credentials Committee and to respond to questions of the Committee;
  - (c) order the lawyer to produce any documents, records or files that the Credentials Committee may reasonably require.
- (4) After allowing the lawyer to make submissions, the Credentials Committee may do any of the following:
- (a) permit the lawyer to receive credit as a mentor;
  - (b) permit the lawyer to receive credit as a mentor subject to conditions or limitations;
  - (c) order that the lawyer not receive credit as a mentor.
- (5) The onus is on the lawyer to show cause why an order should not be made under subrule (4)(b) or (c).

[added 11/2009]

### **Late completion of professional development**

- 3-18.4** (1) A practising lawyer who fails to comply with Rule 3-18.3 by December 31 is deemed to have been in compliance with the Rules during the calendar year if the lawyer does all of the following before April 1 of the following year:
- (a) completes the remainder of the required professional development;

- (2) A lawyer who has not repaid the full amount ordered paid under subrule (1)(a) by the date set or extended by the Special Compensation Fund Committee is in breach of these Rules and, if any part of the amount owing remains unpaid by December 31 following the making of the order, the Executive Director must not issue a practising certificate to the lawyer.

### **Division 6 – Financial Responsibility**

#### **Application**

**3-43** This Division applies to the following as it does to a lawyer, with the necessary changes and so far as it is applicable:

- (a) a non-practising member;
- (b) a retired member;
- (c) an articled student;
- (d) a practitioner of foreign law;
- (e) a visiting lawyer permitted to practise law in British Columbia under Rules 2-10.2 to 2-12;
- (f) a law corporation.

[amended 11/1999]

#### **Standards of financial responsibility**

**3-43.1** Instances in which a lawyer has failed to meet a minimum standard of financial responsibility include, but are not limited to, the following:

- (a) a lawyer against whom a monetary judgment is entered and who does not satisfy the judgment within 7 days after the date of entry;
- (b) an insolvent lawyer;
- (c) a lawyer who does not produce and permit the copying of records and other evidence or provide explanations as required under Rule 3-79(2)(b);
- (d) a lawyer who does not deliver a trust report as required under Rule 3-72 or 3-75(4);
- (e) a lawyer who does not report and pay the trust administration fee to the Society as required under Rule 2-72.2.

[added 09/2006]

#### **Failure to satisfy judgment**

**3-44** (1) A lawyer against whom a monetary judgment is entered and who does not satisfy the judgment within 7 days after the date of entry must immediately notify the Executive Director in writing of

- (a) the circumstances of the judgment, including whether the judgment creditor is a client or former client of the lawyer, and
- (b) his or her proposal for satisfying the judgment.

- (2) Monetary judgments referred to in subrule (1) include
  - (a) an order nisi of foreclosure,
  - (b) any certificate, final order or other requirement under a statute that requires payment of money to any party,
  - (c) a garnishment order under the *Income Tax Act* (Canada) if a lawyer is the tax debtor, and
  - (d) a judgment of any kind against an MDP in which the lawyer has an ownership interest.
- (3) Subrule (1) applies whether or not any party has commenced an appeal from the judgment.
- (4) If a lawyer fails to deliver a proposal under subrule (1)(b) that is adequate in the discretion of the Executive Director, the Executive Director may refer the matter to the Discipline Committee or the Chair of the Discipline Committee.

[ (2) amended 12/2003; (4) added 05/2005; (1) amended 09/2006; (4) amended 07/2007;  
(2) amended 12/2009, effective 07/2010 ]

#### **Insolvent lawyer**

**3-45** (1) [rescinded]

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

PART 3 – PROTECTION OF THE PUBLIC

- (5) A transfer of funds from a pooled trust account to a separate trust account must be authorized by the client and approved in writing signed by a lawyer.

[(1), (2) and (5) amended, (1.1), (1.2) and (3.1) added 02/2003; (2) and (4) amended, (1.3) and (3.2) added 03/2004; (3.2) amended 05/2004; (1.3) amended 06/2005; (3.1) amended 07/2009; (1.3) amended 11/2009]

**Payment of fees from trust**

- 3-57** (1) In this Rule, “fees” means fees for services performed by a lawyer or a non-lawyer member of the lawyer’s MDP, and taxes on those fees.
- (2) A lawyer who withdraws or authorizes the withdrawal of trust funds under Rule 3-56 in payment for the lawyer’s fees must first prepare a bill for those fees and immediately deliver the bill to the client.
- (3) A bill or letter is delivered within the meaning of this Rule if it is
- (a) mailed by regular or registered mail to the client at the client’s last known address,
  - (b) delivered personally to the client,
  - (c) transmitted by electronic facsimile to the client at the client’s last known electronic facsimile number, or
  - (d) transmitted by electronic mail to the client at the client’s last known electronic mail address.
- (4) As an exception to subrule (2), a lawyer need not deliver a bill if the client instructs the lawyer otherwise in writing.
- (5) A lawyer must not take fees from trust funds when the lawyer knows that the client disputes the right of the lawyer to receive payment from trust funds, unless
- (a) the client has agreed that the lawyer may take funds from trust to satisfy the lawyer’s account and the client has acknowledged that agreement in writing or the lawyer has confirmed the client’s agreement in a letter delivered to the client,
  - (b) a bill has been delivered under subrule (3), whether or not the client has directed otherwise under subrule (4),
  - (c) the lawyer has given the client written notice that the fees will be taken from trust unless, within one month, the client commences a fee review under section 70 of the Act or an action disputing the lawyer’s right to the funds, and
  - (d) the client has not commenced a fee review under section 70 of the Act or an action at least one month after written notice is given under paragraph (c).
- (6) Despite subrule (5), if a lawyer knows that the client disputes a part of the lawyer’s account, the lawyer may take from trust funds fees that are not disputed.
- (7) A lawyer must not take fees from trust funds impressed with a specific purpose, if the object of the trust has not been fulfilled, without the express consent of the client or another person authorized to give direction on the application of the trust funds.

[(3) amended 03/2002; (1) amended 12/2009, effective 07/2010]

**Withdrawal from separate trust account**

- 3-58** (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 pooled trust account.
- (2) Rules 3-56 and 3-57 apply to funds that have been transferred into a pooled trust account in accordance with subrule (1).
- (3) A lawyer who disburses trust funds received with instructions under Rule 3-51(3) must keep a written record of the transaction.

[ (3) amended 02/2006 ]

**Accounting records**

- 3-59** (1) A lawyer must record all funds received and disbursed in connection with his or her law practice by maintaining the records required under this Division.
- (2) A lawyer must maintain accounting records in
- (a) legibly handwritten form, in ink or other duplicated or permanent form,
  - (b) printed form, or
  - (c) an electronic form that can readily be transferred to printed form on demand.
- (3) A lawyer must record transactions in accounting records in chronological order and in an easily traceable form.
- (4) A lawyer must retain all supporting documents for both trust and general accounts, including but not limited to the following:
- (a) validated deposit receipts;
  - (b) periodic bank statements;
  - (c) passbooks;
  - (d) cancelled and voided cheques;
  - (e) bank vouchers and similar documents and invoices.

[ heading and rule amended, (4) added 12/2003; (4) amended 05/2004 ]

**Trust account records**

- 3-60** A lawyer must maintain at least the following trust account records:
- (a) a book of entry or data source showing all trust transactions, including the following:
    - (i) the date and amount of receipt or disbursements of all funds;
    - (ii) the source and form of the funds received;
    - (iii) the identity of the client on whose behalf trust funds are received or disbursed;
    - (iv) the cheque or voucher number for each payment out of trust;
    - (v) the name of each recipient of money out of trust;
  - (b) a trust ledger, or other suitable system, showing separately for each client on whose behalf trust funds have been received, all trust funds received and disbursed, and the unexpended balance;



## PART 4 – DISCIPLINE

- (3) The Discipline Committee may, in its discretion,
  - (a) accept the conditional admission,
  - (b) accept the conditional admission subject to any undertaking that the Committee requires the respondent to give in order to protect the public interest, or
  - (c) reject the conditional admission.
- (4) If the Discipline Committee accepts a conditional admission tendered under this Rule,
  - (a) those parts of the citation to which the conditional admission applies are resolved,
  - (b) the Executive Director must
    - (i) record the respondent's admission on the respondent's professional conduct record, and
    - (ii) notify the respondent and the complainant of the disposition, and
  - (c) subject to solicitor and client privilege and confidentiality, the Executive Director may disclose the reasons for the Committee's decision.
- (5) A respondent who undertakes under this Rule not to practise law is a person who has ceased to be a member of the Society as a result of disciplinary proceedings under section 15(3) of the Act.

[(3) and (4) amended, (5) added 02/2003; (4) amended 05/2003; 10/2007]

### **Consent to disciplinary action**

- 4-22** (1) A respondent may, at least 14 days before the date set for a hearing under this Part, tender to the Discipline Committee a conditional admission of a discipline violation and the respondent's consent to a specified disciplinary action.
- (2) The chair of the Discipline Committee may waive the 14-day limit in subrule (1).
  - (3) The Discipline Committee may, in its discretion, accept or reject a conditional admission and proposed disciplinary action.
  - (4) If the Discipline Committee accepts the conditional admission and proposed disciplinary action, it must instruct discipline counsel to recommend its acceptance to the hearing panel.
  - (5) If the panel accepts the respondent's proposed disciplinary action it must
    - (a) instruct the Executive Director to record the lawyer's admission on the lawyer's professional conduct record,
    - (b) impose the disciplinary action that the respondent has proposed, and
    - (c) notify the respondent and the complainant of the disposition.

[(5) amended 10/2007]

### **Rejection of admissions**

- 4-23** (1) A conditional admission tendered under Rule 4-21 must not be used against the respondent in any proceeding under this Part or Part 5 unless the admission is accepted by the Discipline Committee.

- (2) A conditional admission tendered under Rule 4-22 must not be used against the respondent in any proceeding under this Part unless
  - (a) the admission is accepted by the Discipline Committee, and
  - (b) the admission and proposed disciplinary action is accepted by a hearing panel.
- (3) If a panel rejects the respondent's proposed disciplinary action tendered in accordance with Rule 4-22, it must advise the chair of the Discipline Committee of its decision and proceed no further with the hearing of the citation.
- (4) On receipt of a notification under subrule (3), the chair of the Discipline Committee must instruct discipline counsel to proceed to set a date for the hearing of the citation.
- (5) When a panel rejects a proposed disciplinary action tendered in accordance with Rule 4-22, no member of that panel is permitted sit on the panel that subsequently hears the citation.

[(1) amended 02/2003]

#### **Setting a date for the hearing**

- 4-24** (1) The date, time and place for the hearing must be set
  - (a) by agreement between discipline counsel and the respondent, or
  - (b) failing agreement, by the Executive Director.
- (2) The Executive Director must notify the following in writing of the date, time and place of the hearing:
  - (a) the respondent, when the hearing has been scheduled under subrule (1)(b);
  - (b) the complainant.

#### **Summary hearing**

- 4-24.1** (1) This Rule may be applied in respect of the hearing of a citation comprising only allegations that the respondent has done one or more of the following:
  - (a) breached a Rule;
  - (b) breached an undertaking given to the Society;
  - (c) failed to respond to a communication from the Society;
  - (d) breached an order made by a hearing panel.
- (2) Despite Rule 4-27(5), the Benchers presiding at a pre-hearing conference may order that the conference not consider any or all of the matters referred to in that subrule.
- (3) Unless the panel rules otherwise, the respondent and discipline counsel may adduce evidence by
  - (a) affidavit, or
  - (b) an agreed statement of facts.
- (4) Despite Rules 4-34 and 4-35, the panel may consider facts, verdict, penalty and costs and make one decision respecting all aspects of the proceeding.

[added 07/2007; (3) amended 04/2009; (1) amended 12/2009]

**Public notice of suspension or disbarment**

- 4-37** (1) When a person is suspended under this Part or Part 5 or becomes a disbarred lawyer, the Executive Director must immediately give effective public notice of the suspension, disbarment or resignation by means including but not limited to the following:
- (a) publication of a notice in
    - (i) the *British Columbia Gazette*,
    - (ii) a newspaper of general circulation in each municipality and each district referred to in Rule 1-20, in which the person maintained a law office, and
    - (iii) the Society website;
  - (b) notifying the following:
    - (i) the Registrar of the Supreme Court;
    - (ii) the Public Guardian and Trustee.
- (2) When a person is suspended under Part 2 or 3, the Executive Director may take any of the steps referred to in subrule (1).
- (3) A lawyer who is suspended under this Part or Part 5 must inform all clients who reasonably expect the lawyer to attend to their affairs during the period of the suspension and clients or prospective clients who inquire about the availability of the lawyer's services during the suspension period of the following:
- (a) the period the lawyer will not be practising;
  - (b) the arrangements the lawyer has put in place to protect the clients' interests during the time the lawyer will not be practising;
  - (c) the fact that the lawyer is not practising during the relevant period because of the suspension.
- (4) A panel that suspends a lawyer may relieve the lawyer of any of the obligations set out in subrule (3) if the panel is satisfied that it is consistent with the public interest and imposing the obligation would be unreasonable in the circumstances.

[amended 03/1999; amended effective February 28, 2000; amended 10/2006;  
(1) amended, (2) added 04/2007; (3) and (4) added 11/2007]

**Publication of disciplinary action**

- 4-38** (1) The Executive Director must publish and circulate to the profession a summary of the circumstances and of any decision, reasons and action taken
- (a) at the conclusion of the facts and verdict portion of a hearing on a citation,
    - (a.1) at the conclusion of the penalty portion of a hearing on a citation,
    - (a.2) at the conclusion of a hearing on a citation under Rule 4-24.1.
  - (b) at the conclusion of a hearing before the Benchers under section 47 of the Act,

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- (c) at the conclusion of an appeal to the Court of Appeal under section 48 of the Act,
  - (d) when an order is made or refused under Rule 4-19(13) or (14),
  - (e) when a lawyer or former lawyer is suspended or disbarred under Rule 4-40, or
  - (f) when an admission is accepted under Rule 4-21 or 4-22.
- (2) The Executive Director may publish and circulate to the profession a summary of any decision, reasons and action taken not enumerated in subrule (1), other than
- (a) a decision not to accept a conditional admission under Rule 4-21 or 4-22, or
  - (b) any decision under Rule 4-17(1).
- (3) When a publication is required under subrule (1), the Executive Director may also publish generally
- (a) a summary of the circumstances of the decision, reasons and action taken,
  - (b) all or part of the report of the hearing panel, or
  - (c) in the case of a conditional admission that is accepted under Rule 4-21, all or part of an agreed statement of facts.
- (4) When the Executive Director publishes a document under this Rule by means of the Society's website, the Executive Director must remove the publication from the part of the website for current decisions and may relocate it to an archive part of the website when
- (a) 6 months have elapsed from the decision of the hearing panel, and
  - (b) all aspects of the penalty imposed have been completed.
- (5) This Rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

[heading and (1) amended, (2) and (3) rescinded and replaced, (4) and (5) added 05/2003; (1) and (2) amended 10/2006; (1) amended 07/2007; (1) and (2) amended 12/2009]

### **Anonymous publication**

- 4-38.1** (1) Except as allowed under this Rule, a publication under Rule 4-38 must identify the respondent.
- (2) If all allegations in the citation are dismissed by a panel, the publication must not identify the respondent unless the respondent consents in writing.
- (3) On an application under subrule (4) or on its own motion, the panel may order that publication not identify the respondent if
- (a) the panel has imposed a penalty that does not include a suspension or disbarment, and
  - (b) publication of the identity of the respondent could reasonably be expected to identify an individual, other than the respondent, and that individual would suffer serious prejudice as a result.

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- (4) An individual affected, other than the respondent, may apply to the panel for an order under subrule (3) before the written report on findings of fact and verdict is issued or oral reasons are delivered.
- (5) [rescinded]
- (6) If a panel orders that a respondent's identity not be disclosed under subrule (3), the panel must state in writing the specific reasons for that decision.
- (7) and (8) [rescinded]

[added 05/2003; (4) amended 02/2004; (8) added 10/2006; (2) to (4) amended, (5), (7) and (8) rescinded 12/2009]

### **Disclosure of practice restrictions**

- 4-38.2** (1) When, under this Part or Part 4 of the Act, a condition is imposed on the practice of a lawyer or a lawyer is suspended from the practice of law in one or more fields of law, the Executive Director may disclose the fact that the condition or suspension applies and the nature of the condition or suspension.
- (2) If a lawyer gives an undertaking that restricts, limits or prohibits the lawyer's practice in one or more areas of law, the Executive Director may disclose the fact that the undertaking was given and its effect on the lawyer's practice.
- (3) If the Executive Director discloses the existence of a condition or suspension under subrule (1) or an undertaking under subrule (2) by means of the Society's website, the Executive Director must remove the information from the website within a reasonable time after the condition or suspension ceases to be in force.

[added 06/2005]

### **Disbarment**

- 4-39** If a lawyer is disbarred, the Executive Director must strike the lawyer's name from the barristers and solicitors' roll.

### **Conviction**

- 4-40** (1) On proof that a lawyer or former lawyer has been convicted of an offence that can only be prosecuted by way of indictment, the Benchers may, without following the procedure provided for in the Act or these Rules, summarily suspend or disbar the lawyer or former lawyer.
- (2) If the Discipline Committee is satisfied that a lawyer or former lawyer has been convicted of an offence that can only be prosecuted by way of indictment, the Committee may refer the matter to the Benchers under subrule (1).

### **Notice**

- 4-41** (1) Before the Benchers proceed under Rule 4-40, the Executive Director must notify the lawyer or former lawyer in writing that
- (a) proceedings will be taken under that Rule, and
  - (b) the lawyer or former lawyer may, by a specified date, make written submissions to the Benchers.

## LAW SOCIETY RULES

- (2) The notice referred to in subrule (1) may be served by mailing it by registered mail to the last known address of the lawyer or former lawyer.
- (3) In extraordinary circumstances, the Benchers may proceed without notice to the lawyer or former lawyer under subrule (1).

### **Summary procedure**

- 4-42** (1) This Rule applies to summary proceedings before the Benchers under Rule 4-40.
- (2) The Benchers may, in their discretion, hear oral submissions from the lawyer or former lawyer.
  - (3) Subject to the Act and these Rules, the Benchers may determine practice and procedure.

### **Investigation of books and accounts**

- 4-43** (1) If the chair, vice chair or another Bencher member of the Discipline Committee believes that a lawyer or former lawyer may have committed a discipline violation, that Bencher may order that an investigation be made of the books, records and accounts of the lawyer or former lawyer.
- (2) When an order is made under subrule (1),
    - (a) the Executive Director must designate one or more persons to conduct the investigation, and
    - (b) the lawyer or former lawyer concerned must immediately produce and permit the copying of all files, vouchers, records, accounts, books and any other evidence and must provide any explanations that the persons designated by the Executive Director under paragraph (a) require for the purpose of the investigation.

## 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 09/2004, 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 09/2004, effective January 17, 2005; amended 04/2005]

### LLP name

**9-14** A limited liability partnership must not use a name contrary to Chapter 14, Rule 4(e) of the *Professional Conduct Handbook* (“Marketing of Legal Services”).

[added 09/2004, effective January 17, 2005; amended 11/2009]

### 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.

(2.11) Despite subrule (2.1), an LLP that is an MDP in which a lawyer has permission to practise law under Rules 2-23.1 to 2-23.12 may include non-lawyer members as permitted by those Rules.

## LAW SOCIETY RULES

- (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 09/2004, effective January 17, 2005; (2) amended, (2.1) to (2.3) added 04/2005; (2.1) amended 07/2006; (2.11) added 12/2009, effective 07/2010]

### **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 09/2004, effective January 17, 2005; (2) amended 07/2006]

### **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.
- (6) The notice required under subrule (2) or (4) may be
  - (a) mailed by regular or registered mail to the client at the client's last known address,
  - (b) delivered personally to the client,
  - (c) transmitted by electronic facsimile to the client at the client's last known electronic facsimile number,
  - (d) transmitted by electronic mail to the client at the client's last known electronic mail address, or
  - (e) published in a newspaper distributed in the area in which the client resides or carries on business.

[added 09/2004, effective January 17, 2005; (3) amended 12/2004]

#### **Change in LLP information and annual reports**

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

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

[added 09/2004, effective January 17, 2005]

#### **Disclosure of LLP information**

**9-19** (1) All information and documents received by the Society under this Division are confidential, and no person is permitted to disclose them to any person.

- (2) As an exception to subrule (1), the Society may
  - (a) use information and documents for a purpose consistent with the Act and these Rules,
  - (b) disclose information and documents to a governing body, and
  - (c) disclose to any person on request the name and place of business of a limited liability partnership.

[added 09/2004, effective January 17, 2005]

#### **Notification of non-compliance**

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

[added 09/2004, effective January 17, 2005]

**PART 10 – GENERAL**

**Service and notice**

- 10-1** (1) A lawyer, former lawyer, articled student or applicant may be served with a notice or other document personally or by
- (a) mailing it by registered mail to his or her last known address, or
  - (b) serving it as directed by the Supreme Court.
- (2) A document may be served on the Society or on the Benchers by
- (a) leaving it at or mailing it by registered mail to the principal offices of the Society, or
  - (b) personally serving it on an officer of the Society.
- (3) A document served by registered mail is deemed to be served 7 days after it is mailed.
- (4) A complainant or other person may be notified of any matter by ordinary mail to the person's last known address.

[heading amended, (4) added 10/2007]

**Duty not to disclose**

- 10-2** A person performing any duty or fulfilling any function under the Act or these Rules who receives or becomes privy to any confidential information, including privileged information,
- (a) has the same duty that a lawyer has to a client not to disclose that information, and
  - (b) must not disclose and cannot be required to disclose that information except as authorized by the Act, these Rules or an order of a court.

**10-3** [rescinded 07/2008]

## SCHEDULE 1 – 2010 LAW SOCIETY FEES AND ASSESSMENTS

<b>A. Annual fee</b>	<b>\$</b>
1. Practice fee set by members (Rule 2-70) .....	1,633.50
2. Special Compensation Fund assessment (Rule 2-70) .....	50.00
3. Liability insurance base assessment (which may be increased or decreased in individual cases in accordance with Rule 3-22(1)):	
(a) member in full-time practice .....	1,600.00
(b) member in part-time practice .....	800.00
4. Liability insurance surcharge (Rule 3-26(2)) .....	1,000.00
5. Late payment fee for practising members (Rule 2-72(3)) .....	100.00
6. Retired member fee (Rule 2-4(3)) .....	75.00
7. Late payment fee for retired members (Rule 2-72(4)).....	nil
8. Non-practising member fee (Rule 2-3(2)) .....	300.00
9. Late payment fee for non-practising members (Rule 2-72(5)) .....	25.00
10. Administration fee (Rule 2-75(3)) .....	50.00
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1. Each client matter subject to fee (Rule 2-72.2(1)) .....	10.00
 <b>B. Special assessments</b>	
 <b>C. Articled student fees</b>	
1. Enrolment in admission program (Rules 2-27(3)(e) and 2-33(1)(b)) .....	250.00
2. Temporary articles fee (Rule 2-42(1)(c)) .....	125.00
3. Temporary articles (legal clinic) fee (Rule 2-42(1)(c)) .....	25.00
4. Training course registration (Rule 2-44(4)(a)) .....	2,250.00
5. Remedial work (Rule 2-45(7)):	
(a) for each piece of work .....	50.00
(b) for repeating the training course .....	3,500.00
 <b>D. Investigation and examination fees</b>	
1. Transfer from another Canadian province or territory – investigation fee (Rule 2-49(1)(f)) .....	1,125.00
2. Transfer or qualification examination (Rules 2-49(6) and 2-58(2)) .....	300.00
 <b>E. Call and admission fees</b>	
1. After enrolment in admission program (Rule 2-48(1)(d)) .....	200.00
2. After transfer from another Canadian province or territory (Rule 2-49(1)(f))....	200.00
 <b>F. Reinstatement fees</b>	
1. Following disbarment, resignation or other cessation of membership as a result of disciplinary proceedings (Rule 2-52(1)(b)) .....	600.00
1.1 Following 3 years or more as a former member (Rule 2-52(1)(b)) .....	500.00
2. All other cases (Rule 2-52(1)(b)) .....	415.00

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<b>G. Application fees</b>	<b>\$</b>
1. Application to become retired member (Rule 2-4(2)(b)) .....	30.00
2. Application to become non-practising member (Rule 2-3(1)(b)) .....	60.00
3. Non-practising or retired member applying for practising certificate (Rule 2-56(b)) .....	60.00
<b>H. Inter-jurisdictional practice fees</b>	
1. Original application for permit (Rule 2-11(2)(b)) .....	500.00
2. Renewal of permit (Rule 2-11(2)(b)) .....	100.00
<b>I. Corporation and limited liability partnership fees</b>	
1. Permit fee for law corporation (Rule 9-4(c)) .....	300.00
2. New permit on change of name fee (Rule 9-6(4)(c)) .....	75.00
3. LLP registration fee (Rule 9-15(1)) .....	300.00
<b>J. Practitioners of foreign law</b>	
1. Permit fee for practitioners of foreign law (Rule 2-18(1)(b)) .....	600.00
2. Permit renewal fee for practitioners of foreign law (Rule 2-22(2)(c)) .....	125.00
3. Late payment fee (Rule 2-22(6)) .....	100.00
<b>K. Late filing fees</b>	
1. Trust report (Rule 3-74(2)) .....	200.00
2. Professional development (Rule 3-18.4(1)(c)) .....	200.00
<b>L. Multi-disciplinary practice fees</b> [effective 07/2010]	
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**Note:** The federal goods and services tax applies to Law Society fees and assessments.

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## CONFLICTS OF INTEREST BETWEEN CLIENTS

- (b) the matters are substantially unrelated and the lawyer does not possess confidential information arising from the representation of one client that might reasonably affect the other representation.

[added 07/2001]

6.4 For the purposes of Rule 6.3, the consent of a client to the lawyer acting for another client adverse in interest may be inferred in the absence of contrary instructions if, in the reasonable belief of the lawyer, the client would consent in the matter in question because the client has

- (a) previously consented to the lawyer, or another lawyer, acting for another client adverse in interest,
- (b) commonly permitted a lawyer to act against the client while retaining the same lawyer in other matters to act on the client's behalf, or
- (c) consented, generally, to the lawyer acting for another client adverse in interest.

[added 07/2001]

### **Acting against a former client**

7. Subject to Rule 7.4, a lawyer must not represent a client for the purpose of acting against the interests of a former client of the lawyer unless:

- (a) the former client is informed that the lawyer proposes to act for a client adverse in interest to the former client and the former client consents to the new representation, or
- (b) the new representation is substantially unrelated to the lawyer's representation of the former client, and the lawyer does not possess confidential information arising from the representation of the former client that might reasonably affect the new representation.

[amended 02/1995; 07/2001]

### **Limited representation**

7.01 In Rules 7.01 to 7.04,<sup>4</sup> **“limited legal services”** means advice or representation of a summary nature provided by a lawyer to a client under the auspices of a not-for-profit organization with the expectation by the lawyer and the client that the lawyer will not provide continuing representation in the matter.

[added 01/2009]

## PROFESSIONAL CONDUCT HANDBOOK

- 7.02 A lawyer must not provide limited legal services if the lawyer is aware of a conflict of interest and must cease providing limited legal services if at any time the lawyer becomes aware of a conflict of interest.

[added 01/2009]

- 7.03 A lawyer may provide limited legal services notwithstanding that another lawyer has provided limited legal services under the auspices of the same not-for-profit organization to a client adverse in interest to the lawyer's client, provided no confidential information about a client is available to another client from the not-for-profit organization.

[added 01/2009]

- 7.04 If a lawyer keeps information obtained as a result of providing limited legal services confidential from the lawyer's partners and associates, the information is not imputed to the partners or associates, and a partner or associate of the lawyer may

- (a) continue to act for another client adverse in interest to the client who is obtaining or has obtained limited legal services, and
- (b) act in future for another client adverse in interest to the client who is obtaining or has obtained limited legal services.

[added 01/2009]

### **Conflicts arising as a result of transfer between law firms**

- 7.1 In Rules 7.1 to 7.9 and Appendix 5:

**“client”** includes anyone to whom a lawyer owes a duty of confidentiality, whether or not a solicitor-client relationship exists between them;

**“confidential information”** means information not generally known to the public that is obtained from a client;

**“law firm”** includes one or more lawyers practising:

- (a) in a sole proprietorship,
- (b) in a partnership,
- (c) in an arrangement for sharing space,<sup>5</sup>
- (d) as a law corporation,
- (e) in a government, a Crown corporation or any other public body,<sup>6</sup>
- (f) in a corporation or other body,<sup>7</sup> and
- (g) in a multi-disciplinary practice (MDP);<sup>7.1</sup>

[amended 12/2009, effective 07/2010]

## CONFLICTS OF INTEREST BETWEEN CLIENTS

7. Rules 7.1 to 7.9 treat as one “law firm” such entities as the various legal services units of a government, a corporation with separate regional legal departments, an inter-provincial law firm and a legal aid program with many community law offices. The more autonomous that each such unit or office is, the easier it should be, in the event of a conflict, for the new firm to obtain the former client’s consent.

[added 02/1995; renumbered 05/1996; 01/09; amended 02/2009]

- 7.1 See the definition of “**MDP**” in Rule 1 and Rules 2-23.1 to 2-23.12 of the Law Society Rules.

[added 12/2009, effective 07/2010]

8. Rules 7.1 to 7.9 are intended to regulate lawyers and articulated students who transfer between law firms. They also impose a general duty on lawyers to exercise due diligence in the supervision of non-lawyer staff, to ensure that they comply with the Rules and with the duty not to disclose confidences of clients of:

- (a) the lawyer’s firm, or
- (b) other law firms in which the non-lawyer staff have worked.

[added 02/1995; renumbered and amended 05/1996; renumbered 01/2009]

9. Appendix 5 to this *Handbook* may be helpful in determining what constitutes “reasonable measures” in this context.

Issues arising as a result of a transfer between law firms should be dealt with promptly. A lawyer’s failure to promptly raise any issues identified may prejudice clients and may be considered sharp practice.

[added 02/1995; amended 06/1995; renumbered and amended 05/1996; renumbered 01/2009; amended 02/2009]

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## CHAPTER 9

### FEES

#### Definition

- 0.1 In this chapter, “**another lawyer**” includes a lawyer who is:
- (a) a member of a recognized legal profession in any other jurisdiction, and
  - (b) acting in compliance with the law and any rules of the legal profession of the other jurisdiction.

[added 03/2004]

#### Excessive fees

1. A lawyer must not charge an excessive fee.

[amended 03/2004]

#### Referral fees

2. A lawyer must not:
- (a) pay any remuneration to a person, other than another lawyer, in exchange for that person referring a client to the lawyer, or
  - (b) act for a client if, to the lawyer’s knowledge, a person other than another lawyer was paid any remuneration by the client in exchange for being referred to the lawyer.

[amended 05/1998; 03/2004]

3. A lawyer acting for a client who was referred to the lawyer by another lawyer may pay that other lawyer remuneration for the referral only if, at the commencement of the retainer, the lawyer fully discloses the remuneration to the client and the client consents in writing to its payment.

[amended 03/2004]

**Prepaid legal services plan**

4. A lawyer who accepts a client referred by a prepaid legal services plan must advise the client in writing of:
  - (a) the scope of work to be undertaken by the lawyer under the plan, and
  - (b) the extent to which a fee or disbursement will be payable by the client to the lawyer.

[amended 03/2004]

**Apportionment of fees**

5. A lawyer who acts for two or more clients in the same matter must apportion the fees and disbursements equitably among them, in the absence of an agreement to the contrary.

[amended 03/2004]

**Sharing fees**

6. Subject to Rule 6.1, a lawyer must not split, share or divide a client's fee with any person other than another lawyer.<sup>1</sup>

[amended 05/1998; 03/2004; 12/2009, effective 07/2010]

- 6.1 A lawyer permitted to practise in a multi-disciplinary practice (MDP) under the Rules may share fees, profits or revenue from the practice of law in the MDP with a non-lawyer member of the MDP only if all the owners of the MDP are individuals or professional corporations<sup>2</sup> actively involved in the MDP's delivery of legal services to clients or in the management of the MDP.<sup>3</sup>

[added 12/2009, effective 07/2010]

**Hidden fees**

7. A lawyer must fully disclose, to the client or to any other person who is paying part or all of the lawyer's fee, any fee that is being charged or accepted.

[amended 03/2004]

8. A lawyer must take no fee, reward, costs, commission, interest, rebate, agency or forwarding allowance or other compensation whatsoever related to the lawyer's professional employment from anyone other than the client or the person who is paying part or all of the lawyer's fee on behalf of the client, without full disclosure to and consent of the client or that other person.

[amended 03/2004]

## FEEES

9. A lawyer who is financially interested in the person to whom disbursements are made or by whom services are performed, such as an investigating, brokerage or copying company, must expressly disclose this fact to the client.

[amended 03/2004]

### FOOTNOTES:

1. This provision does not prohibit a lawyer from paying an employee for services other than referring clients based on the revenue of the lawyer's firm or practice.

[added 05/1998]

2. See the definition of "professional corporation" in Rule 1 of the Law Society Rules.

[added 12/2009, effective 07/2010]

3. This rule also allows a lawyer to share fees or profits of an MDP with a non-lawyer for the purpose of paying out the ownership interest of the non-lawyer acquired by the non-lawyer's active participation in the MDP's delivery of services to clients or in the management of the MDP.

See also the definition of "**MDP**" in Rule 1 and Rules 2-23.1 to 2-23.12 of the Law Society Rules.

[added 12/2009, effective 07/2010]

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## CHAPTER 12

### SUPERVISION OF EMPLOYEES

#### **Responsibility for all business entrusted to lawyer**

1. A lawyer is completely responsible for all business entrusted to the lawyer. The lawyer must maintain personal and actual control and management of each of the lawyer's offices. While tasks and functions may be assigned to staff and assistants such as students, clerks and legal assistants, or to non-lawyer members of a multi-disciplinary practice (MDP),<sup>1</sup> the lawyer must maintain direct supervision over each non-lawyer staff member.

[amended 05/2000; 12/2009, effective 07/2010]

#### **Matters requiring professional skill and judgement**

2. A lawyer must ensure that all matters requiring a lawyer's professional skill and judgement are dealt with by a lawyer and that legal advice is not given by unauthorized persons, whether in the lawyer's name or otherwise.

[amended 05/2000]

#### **Signing correspondence**

3. Letters on the letterhead of a law firm, including an MDP, when signed by a person other than a practising lawyer, must indicate the status or designation of the signing person for the information of the recipient.

[amended 05/2000; 12/2009, effective 07/2010]

#### **Legal services performed by non-lawyers**

4. There are many tasks that can be performed by an appropriately trained and experienced non-lawyer working under the supervision of a lawyer. This includes qualified legal assistants employed by the lawyer or the lawyer's firm, as well as members of an MDP in which the lawyer practises.

It is in the interests of the profession and the public for the delivery of more efficient, comprehensive and better quality legal services that the training and employment of legal assistants be encouraged.

[amended 05/2000; heading and rule amended 12/2009, effective 07/2010]

5. Subject to this chapter, an appropriately trained and experienced non-lawyer may perform any task assigned and supervised by a lawyer, but the lawyer must maintain a direct relationship with the client and has full professional responsibility for the work.

[amended 05/2000; 12/2009, effective 07/2010]

## PROFESSIONAL CONDUCT HANDBOOK

- 5.1 A lawyer may assign tasks or functions to a non-lawyer if
- (a) the training and experience of the non-lawyer is appropriate to protect the interests of the client, and
  - (b) provision is made for the professional legal judgement of the lawyer to be exercised whenever it is required.

[added 05/2000; amended 12/2009, effective 07/2010]

6. Except as permitted under the *Legal Services Society Act*, section 12, a lawyer must not permit a non-lawyer to:
- (a) perform any function reserved to lawyers, including but not limited to
    - (i) giving legal advice,
    - (ii) giving or receiving undertakings, and
    - (iii) appearing in court or actively participating in legal proceedings on behalf of a client, except in a support role to the lawyer appearing in the proceedings,
  - (b) do anything that a lawyer is not permitted to do,
  - (c) act finally and without reference to the lawyer in matters involving professional legal judgement, or
  - (d) be held out as a lawyer, or be identified other than as a non-lawyer when communicating with clients, lawyers, public officials or with the public generally.

[amended 05/2000; 02/2009; 12/2009, effective 07/2010]

7. A lawyer who employs a legal assistant must ensure that the assistant is adequately trained and supervised for the tasks and functions delegated to the assistant.

[amended 05/2000]

8. This rule is subject to Rule 5.1. It illustrates, but does not limit, the general effect of that rule.

The following are examples of tasks and functions that legal assistants may perform with proper training and supervision:

- (a) attending to all matters of routine administration,
- (b) drafting or conducting routine correspondence,
- (c) drafting documents, including closing documents and statements of accounts,
- (d) drafting documentation and correspondence relating to corporate proceedings and corporate records, security instruments and contracts of all kinds, including closing documents and statements of account,

## SUPERVISION OF EMPLOYEES

- (e) collecting information and drafting documents, including wills, trust instruments and pleadings,
- (f) preparing income tax, succession duty and estate tax returns and calculating such taxes and duties,
- (g) drafting statements of account, including executors' accounts,
- (h) attending to filings,
- (i) researching legal questions,
- (j) preparing memoranda,
- (k) organizing documents and preparing briefs for litigation,
- (l) conducting negotiations of claims and communicating directly to the client, provided that the lawyer reviews proposed terms before the legal assistant offers or accepts a settlement.

[amended 05/2000]

9. The following are examples of tasks and functions that a lawyer must attend to personally and that legal assistants must not perform. This list illustrates, but does not limit, the general effect of Rule 6:

- (a) attending on the client to advise and taking instructions on all substantive matters,
- (b) reviewing title search reports,
- (c) conducting all negotiations with third parties or their lawyers, except as permitted in Rule 8,
- (d) reviewing documents before signing,
- (e) attending on the client to review documents,
- (f) reviewing and signing the title opinion and/or reporting letter to the client following registration,
- (g) reviewing all written material prepared by the legal assistant before it leaves the lawyer's office, other than documents and correspondence relating to routine administration,
- (h) signing all correspondence except as permitted in this chapter,
- (i) attending at any hearing before the court, a registrar or an administrative tribunal or at any examination for discovery except in support of a lawyer also in attendance.

[added 05/2000]

## PROFESSIONAL CONDUCT HANDBOOK

### Real estate assistants

10. In Rules 10 to 12,

“**purchaser**” includes a lessee or person otherwise acquiring an interest in a property;

“**sale**” includes lease and any other form of acquisition or disposition;

“**show,**” in relation to marketing real property for sale, includes:

- (a) attending at the property for the purpose of exhibiting it to members of the public;
- (b) providing information about the property, other than preprinted information prepared or approved by the lawyer; and
- (c) conducting an open house at the property.

[added 10/2004]

11. A lawyer may employ an assistant in the marketing of real property for sale in accordance with this chapter, provided:

- (a) the assistant is employed in the office of the lawyer; and
- (b) the lawyer personally shows the property.

[added 10/2004]

12. A real estate marketing assistant may:

- (a) arrange for maintenance and repairs of any property in the lawyer’s care and control;
- (b) place or remove signs relating to the sale of a property;
- (c) attend at a property without showing it, in order to unlock it and let members of the public, real estate licensees or other lawyers enter; and
- (d) provide members of the public with preprinted information about the property prepared or approved by the lawyer.

[added 10/2004]

### FOOTNOTE:

- 1. See the definition of “**MDP**” in Rule 1 and Rules 2-23.1 to 2-23.12 of the Law Society Rules. The definition of “**member of an MDP**” in Rule 2-23.1 applies in the context of this chapter.

[added 12/2009, effective 07/2010]

## CHAPTER 13

### RESPONSIBILITY TO THE LAW SOCIETY

#### **Reporting another lawyer to the Law Society**

1. Subject to Rule 2, a lawyer must report to the Law Society another lawyer's:
  - (a) breach of undertaking that has not been consented to or waived by the recipient of the undertaking,
  - (b) shortage of trust funds,<sup>1</sup> and
  - (c) other conduct that raises a substantial question as to the other lawyer's honesty or trustworthiness as a lawyer.

[amended 05/2004]

2. In making a report under Rule 1, a lawyer must not disclose any confidential information respecting the lawyer's client acquired in the course of the professional relationship or any privileged communications between them, unless the client expressly or implicitly consents.

[amended 05/2004]

#### **Responding to Law Society correspondence**

3. A lawyer must reply promptly to any communication from the Law Society.

[amended 05/2004]

#### **The Law Society's disciplinary and competence procedures**

4. A lawyer must not use the Law Society's disciplinary and competence procedures, or suggest to a client that such procedures be used, vexatiously or solely to further the client's civil claim against another lawyer.

[amended 05/2004]

**Associating with a person whose character and fitness are in question**

5. Except with the written approval of the Law Society, a lawyer must not employ, retain or otherwise associate in any capacity having to do with the practice of law with a person who, in any jurisdiction:
- (a) is suspended from the practice of law,
  - (b) is disbarred,
  - (c) as a result of disciplinary proceedings, is no longer permitted to practise law,
  - (c.1) failed to complete a Bar admission program for reasons relating to lack of good character and repute or fitness to be a member of the Bar,
  - (d) has been the subject of a hearing ordered, whether commenced or not, with respect to an application for enrolment as an articled student, call and admission or reinstatement, unless the person was subsequently enrolled, called and admitted or reinstated in the same jurisdiction, or
  - (e) was required to withdraw or was expelled from a Bar admission program.

[amended 07/1997; 05/2004; heading and rule amended 12/2009, effective 07/2010]

**Apparent partnerships and associations**

6. Any lawyer held out as practising in partnership or association with one or more lawyers has the same professional responsibilities to the general public, other lawyers and to the Law Society, for the actions of any lawyer or lawyers with whom he or she is practising in an apparent partnership or association, as the lawyer would have if carrying on practice with such lawyer or lawyers in a partnership.

[amended 05/2004]

**FOOTNOTE:**

1. Law Society Rule 3-66 imposes additional duties on lawyers respecting their own trust shortages or their inability to deliver up trust funds when due.

[updated 12/1999; amended 05/2004]

## Designation

10. A lawyer must not list a person not entitled to practise law in British Columbia on any letterhead or in any other marketing activity without making it clear in the marketing activity that the person is not entitled to practise law in British Columbia.

In particular, a person who fits one or more of the following descriptions must not be listed without an appropriate indication of the person's status:

- (a) a retired member,
- (a.1) a non-practising member,
- (b) a deceased member,
- (c) an articled student,
- (d) a legal assistant or paralegal,
- (e) a patent agent, if registered as such under the *Patent Act*,
- (f) a trademark agent, if registered as such under the *Trade-marks Act*,
- (g) a practitioner of foreign law, if that person holds a valid permit issued under Law Society Rule 2-18, or
- (h) a qualified member of another profession, trade or occupation, provided that the lawyer and the other person are members of a multi-disciplinary practice (MDP)<sup>1</sup> permitted under the Rules.

[amended 03/1994; updated 12/1999; amended 06/2001; 05/2009; 12/2009, effective 07/2010]

11 to 13.1, 14 and 15. [rescinded 05/2009]

## Preferred areas of practice

16. A lawyer may state in any marketing activity a preference for practice in any one or more fields of law if the lawyer regularly practises in each field of law in respect of which the lawyer wishes to state a preference.

[amended effective 01/2000; amended 05/2009]

17. [rescinded 05/09]

## Specialization

18. Unless otherwise authorized by the *Legal Profession Act*, the Rules, or this *Handbook* or by the Benchers, a lawyer must:
- (a) not use the title "specialist" or any similar designation suggesting a recognized special status or accreditation in any marketing activity, and

## PROFESSIONAL CONDUCT HANDBOOK

- (b) take all reasonable steps to discourage use, in relation to the lawyer by another person, of the title “specialist” or any similar designation suggesting a recognized special status or accreditation in any marketing activity.

[amended effective 01/2000; amended 05/2009]

19. [moved to Law Society Rule 3-20 05/2009]

20 and 21. [rescinded 05/2009]

### **Real estate sales**

22. When engaged in marketing of real property for sale or lease, a lawyer must include in any marketing activity:

- (a) the name of the lawyer or the lawyer’s firm, and
- (b) if a telephone number is used, only the telephone number of the lawyer or the lawyer’s firm.

[added 10/2004]

### **Multi-disciplinary practice**

23. Unless permitted to practise law in an MDP under the Law Society Rules, a lawyer must not, in any marketing activity

- (a) use the term multi-disciplinary practice or MDP, or
- (b) state or imply that the lawyer’s practice or law firm is an MDP.

[added 12/2009, effective 07/2010]

24. A lawyer practising law in an MDP must ensure that all marketing activity for the firm indicates that the firm is an MDP.

[added 12/2009, effective 07/2010]

### FOOTNOTE:

- 1 See the definition of “**MDP**” in Rule 1 and Rules 2-23.1 to 2-23.12 of the Law Society Rules. The definition of “**member of an MDP**” in Rule 2-23.1 applies in the context of this chapter.

[added 12/2009, effective 07/2010]

[The next page is page 49.]



**BC LAWYERS' COMPULSORY PROFESSIONAL  
LIABILITY INSURANCE  
POLICY NUMBER: LPL 10-01-01**

INSURER:

**THE LSBC CAPTIVE INSURANCE COMPANY LTD.  
(the "Company")**

Administrative Offices, 5th Floor, 845 Cambie Street  
Vancouver, BC V6B 4Z9

ADMINISTRATOR:

**THE LAW SOCIETY OF BRITISH COLUMBIA  
(the "Law Society")**

INSURANCE CONSULTANT:

**JARDINE LLOYD THOMPSON CANADA INC.**

**DECLARATIONS**

- |    |                           |   |
|----|---------------------------|---|
| 1. | <b>Individual Insured</b> | As defined in this policy.  |
| 2. | <b>Policy Period</b>      | From January 1, 2010 to January 1, 2011 (12:01 a.m. standard time).   |
| 3. | Limits of Liability       | PART A:<br><br>(a) \$1,000,000 All <b>claims</b> arising out of an <b>error</b> for <b>damages, claims expenses</b> and deductibles.<br><br>(b) \$2,000,000 Annual Aggregate Limit for <b>damages, claims expenses</b> and deductibles.<br><br>PART B:<br><br>(c) \$300,000 All <b>claims</b> for <b>damages</b> by a <b>claimant</b> arising out of an <b>error</b> or <b>related errors</b> |

## INSURANCE POLICIES

except for inter-jurisdictional practice as provided in Conditions 1.4.3 and 1.6.

- (d) \$17,500,000 Profession-Wide Aggregate Limit for all **claims** for **damages** and **claims expenses**.

4. Deductible

Applicable to PART A only

- (a) \$5,000 Each **error** resulting in the payment of **damages**, except an **error** arising out of your performance of **sanctioned services** or a **protocol error**.

- (b) \$10,000 Each additional **error** reported within a three year period resulting in the payment of **damages**, except an **error** arising out of your performance of **sanctioned services** or a **protocol error**.

5. Insurance Fee

As agreed between the **Company** and the **Law Society**.

**This policy governs claims and potential claims reported in 2010 — read carefully.**

## INSURANCE POLICIES

### DEFINITIONS

For convenience, all defined words are in bold print. We, us or our refers to the **Company**. You, your or the **Insured** refers in Part A to the **Individual Insured** or the **Additional Insured**, and in Part B to the **Individual Insured** or the **Innocent Insured**. Unless otherwise indicated, all specific statutory references are to statutes of British Columbia. In this policy:

**Additional Insured** means:

- (a) each **law firm** in which the **Individual Insured** is or was a partner, employee or associate counsel or that is or was liable for the **Individual Insured**;
- (b) each **law corporation**, law office management corporation and law office management limited partnership, which is or was owned wholly or partly, directly or indirectly, by the **Individual Insured** or his or her spouse, and each present or former officer, director, shareholder or limited partner thereof;
- (c) each present or former **member** who, at the time of the **error**, was insured by us and was the **Individual Insured's** partner or liable for the **Individual Insured**; and
- (d) each present or former employee of the **Individual Insured**, or of any **law firm, law corporation, law office management corporation** and law office management limited partnership described in (a) or (b) above, provided such employee was acting within the scope of his or her duties and acting under the supervision of, in a supporting role to and not independent of the **Individual Insured**.

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

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

**Claim** means: a demand for money, an action, a claim or institution of proceedings against you.

**Claimant** means:

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

**Claims expenses** means:

- (a) fees and disbursements charged by defence counsel appointed by us; and

## INSURANCE POLICIES

- (b) all other fees, costs and expenses incurred by us, or by you with our written consent, resulting from the investigation, adjustment, defence and appeal of a **claim** or potential **claim**, including all sums payable under Insuring Agreements A 2 and B 2. **Claims expenses** does not include salaries of our officers, directors and employees, or those of the **Law Society**.

**Common-law spouse** means: a person not married to the **Individual Insured**, who has lived with the **Individual Insured** in a marriage-like relationship, including a similar relationship between persons of the same gender, for a period of not less than one year.

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

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

**Damages** means:

- (a) under Part A: any compensatory damages, including any pre-judgment interest, post-judgment interest or costs awarded thereon, or settlement or **repair costs**, relating to covered allegations. **Damages** does not include:
- (i) an order of set-off or any order for the return or reimbursement of, or accounting for or disgorgement of, any property, benefit, legal fees or disbursements that you received, even if claimed as general damages;
  - (ii) any order for punitive, exemplary or aggravated damages;
  - (iii) any fine, sanction or penalty; or
  - (iv) any costs ordered as special costs or ordered pursuant to Rule 57(37) of the Supreme Court Rules or Rule 71 of the Court of Appeal Rules or their equivalents as amended from time to time; or
- (b) under Part B: any monetary award, including any pre-judgment interest, post-judgment interest or costs awarded thereon, or settlement, for the direct loss only of no more than the value of money or the **deemed value** of other property dishonestly appropriated. **Damages** does not include:
- (i) any amount for which the **claimant** or **Insured**:
    - a. is entitled to claim indemnity under any other policy or form of insurance (including title insurance); or
    - b. has recourse through any **compensation program** or other source of recovery including set-offs whether legal or equitable;

## INSURANCE POLICIES

that would cover such loss in whole or in part in the absence of this policy as this coverage is intended to be last-resort insurance; or

- (ii) any costs ordered as special costs or ordered pursuant to Rule 57(37) of the Supreme Court Rules or Rule 71 of the Court of Appeal Rules or their equivalents as amended from time to time.

**Deemed individual coverage period** means: any period after January 1, 2002, 12:01 a.m. standard time during which the **Individual Insured** was a **member** and was performing **sanctioned services**.

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

**Error** means:

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

regardless of whether they are made by more than one **Insured** or by **Insured(s)** acting in more than one capacity, occur at different times or in the course of more than one professional service, retainer or client matter, or give rise to **claims** by more than one **claimant**; or

- (b) under Part B: a dishonest appropriation of money or other property, whether to the use of the **Individual Insured** or a third party, which was entrusted to and received by the **Individual Insured** in his or her capacity as a barrister and solicitor and in relation to the provision of **professional services** to others.

**Family** means: spouse (including **common-law spouse**), children, parents or siblings.

**Individual coverage period** means: any period prior to January 1, 1971, 12:01 a.m. standard time during which the **Individual Insured** was a **member**, any period between January 1, 1971, 12:01 a.m. standard time and January 1, 1998, 12:01 a.m. standard time during which the **Individual Insured** was a **member** and held a **certificate**, and any period after January 1, 1998, 12:01 a.m. standard time for which the **Individual Insured** has paid the annual insurance fee.

## INSURANCE POLICIES

**Individual Insured** means: each **member** or former **member** who made or allegedly made the **error**.

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

**Innocent Insured** means: each present or former **member** who:

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

**Insured** means:

- (a) under Part A: an **Individual Insured** or **Additional Insured**; or
- (b) under Part B: an **Individual Insured** or **Innocent Insured**.

**Law corporation** means: a law corporation as defined in the *Legal Profession Act*.

**Law firm** means: a sole proprietorship owned by a **member**, a **law corporation**, a partnership of **members** or **law corporations** or a combination thereof, or an **apparent partnership**.

**Member** means: a member in good standing shown on the records of the **Law Society**.

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

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

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

**Professional services** means:

- (a) the practice of law as defined in the *Legal Profession Act*;
- (b) *pro bono* legal services;
- (c) acting as an Official Administrator, a custodian under Part 8 of the *Legal Profession Act*, an arbitrator, mediator or conciliator, by a **member**;
- (d) acting as:
  - (i) an administrator, executor, guardian, trustee or committee or in any similar fiduciary capacity;
  - (ii) a patent or trademark agent; or

## INSURANCE POLICIES

(iii) agent for any record keeping or filing duty imposed by any provincial or federal statute;

provided that such services are connected with and incidental to the **Individual Insured's** practice of law and, for the purposes of Part B of this policy only, the **Individual Insured** is also providing legal services; or

(e) performing any other activity deemed to be the practice of law by the **Law Society**.

**Professional services** does not include the mere receipt and/or distribution of funds, from trust or otherwise.

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

**Related claimants** in Part B means: **claimants** are related if the money or other property dishonestly appropriated was jointly provided or jointly owned by the **claimants**.

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

**Reciprocal Jurisdiction** means: the province or territory of a reciprocating governing body as defined in Rule 2.10.1 of the **Law Society** Rules.

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

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

**Unauthorized practice** means: the practice of law by an **Individual Insured**:

- (a) in breach of an undertaking given to the **Law Society** or in contravention of a condition or limitation of practice imposed or agreed to under the **Law Society** Rules, for the purposes of Condition 3.3; or
- (b) in contravention of the rules of any other law society or bar, for the purposes of Exclusion 9.

This policy is a contract between each **Insured** and the **Company**.

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

## INSURANCE POLICIES

### INSURING AGREEMENTS

#### PART A: PROFESSIONAL LIABILITY

##### 1. INSURING AGREEMENT A 1

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

##### 2. INSURING AGREEMENT A 2

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

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

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

(a) settle the **claim** without your consent and you will remain liable to pay the deductible stated in Declaration 4; or

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

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

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

2.2.2 if we elect not to investigate, settle or defend a **claim** or suit, you will, under our supervision, investigate and defend as is reasonably necessary and, if we deem prudent you will settle such **claim** or suit. Subject to Insuring Agreement A 2.3, we shall reimburse you for the reasonable cost of such investigation, settlement or defence.



## INSURANCE POLICIES

- 2.3 For any part of a **claim** for which you are not entitled to coverage under Part A of this policy, you agree that you are responsible for:
- 2.3.1 any **claims expenses** that are solely or substantially attributable to that part; and
- 2.3.2 an equal or, if we agree, less than equal share of any **claims expenses** that are attributable both to that part, and any other part of the **claim** for which you are entitled to coverage under Part A.
- 2.4 The allocation of **claims expenses** under Insuring Agreement A 2.3 shall be determined by agreement or action following final determination of the **claim**.
- 2.5 Notwithstanding Insuring Agreement A 2.4 we may, at any time prior to final determination of a **claim**, require that you contribute, on an interim basis, to **claims expenses** in any proportion or amount that we determine is reasonable having regard to Insuring Agreement A 2.3. Any such payment, demand or failure to make a demand by us shall be without prejudice to our respective rights under Insuring Agreement A 2.4.
- 2.6 Any allocation or advancement of **claims expenses** shall not apply to or create any presumption with respect to the allocation between covered and uncovered loss.
- 2.7 Notwithstanding Exclusion 2, we shall have the right and the duty to defend, in accordance with Insuring Agreement A 2.1.2, any **claim** first made against you and reported to us during the **policy period** arising out of a **personal injury** while you were performing or failing to perform **professional services** for others.

### 3. INSURING AGREEMENT A 3

- 3.1 Part A of this policy applies only to **claims** arising out of **errors** that occurred either during the **individual coverage period** or in relation to **sanctioned services** performed during the **deemed individual coverage period**, and provided that:
- 3.1.1 the **claim** or potential **claim** is first made against you during the **policy period** and reported to us in writing during the **policy period**; and
- 3.1.2 you had no knowledge, prior to January 1, 1989 of the **claim** or of an **error** or circumstances occurring prior to January 1, 1986 which you knew or could have reasonably foreseen might be the basis of a **claim**.
- 3.2 A **claim** is first made against you during the **policy period** if during the **policy period**:
- 3.2.1 you become aware of an **error** or any circumstance which could reasonably be expected to be the basis of a **claim**, however unmeritorious; or
- 3.2.2 a **claim** is made against you seeking **damages** for which you are entitled to indemnity under this policy.
- 3.3 If Part A of this policy replaces, without interruption of coverage, a policy issued previously by us then a **claim** which was first made against you after January 1, 1989,

## INSURANCE POLICIES

and reported to us within the **policy period**, will be deemed to be first made against you within the **policy period** of this policy.

- 3.4 Except as provided in Condition 6, if you are not entitled to indemnity or a defence for a **claim**, Part A of this policy will not provide indemnity or a defence for such or similar **claim** to any other **Insured**.
- 3.5 Where the closest and most real connection to a **claim** or potential **claim** is with a **Reciprocal Jurisdiction**, and the scope of coverage provided by the **Reciprocal Jurisdiction's** compulsory lawyers professional liability insurance (the "**Reciprocal Jurisdiction's** policy") is broader than that provided by Part A of this policy, then we shall provide the same scope of coverage as that of the **Reciprocal Jurisdiction's** policy. For clarity, however, all **claims** and potential **claims** reported under Part A of this policy shall remain subject to the limits of liability stated in Condition 1 and the Declarations of this policy.

The determination of whether a **Reciprocal Jurisdiction** has the closest and most real connection to a **claim** or potential **claim** will be made by us, exercising our discretion reasonably, and considering whether at the time you were performing the **professional services** giving rise to the **claim**:

- (a) you were practicing the law of a **Reciprocal Jurisdiction**;
- (b) you were performing the **professional services** in a **Reciprocal Jurisdiction**;
- (c) your client was in a **Reciprocal Jurisdiction**; and
- (d) the subject matter of the **professional services** was located in or emanated from a **Reciprocal Jurisdiction**.

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

This Insuring Agreement applies only if, at the time the **Individual Insured** was performing the **professional services** giving rise to a **claim**, the **Individual Insured** was practicing law in accordance with the inter-jurisdictional practice provisions of the Rules of the **Law Society** and the **Reciprocal Jurisdiction's** law society. This Insuring Agreement does not apply if coverage under Part A of this policy would be excluded or limited in any way by the application of Exclusion 7 to a **claim** or potential **claim**.

## PART B: TRUST PROTECTION

### 1. INSURING AGREEMENT B 1

Notwithstanding Exclusions 1 and 2 of this policy, we shall pay on your behalf all sums which you become legally obligated to pay to a **claimant** as **damages** because of any **claim** first made

## INSURANCE POLICIES

against you and reported to us during the **policy period** arising out of an **error** by the **Individual Insured**, provided that the **error** is the sole cause of the **damages**.

### 2. INSURING AGREEMENT B 2

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

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

2.1.2 if we elect to defend you, we shall have the right to:

(a) select and instruct defence counsel; and

(b) withdraw from the defence of the suit, without seeking or obtaining your consent, at any time that we, in our sole discretion, deem appropriate;

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

2.1.4 we shall have the right to settle any **claim** without seeking or obtaining your consent, on such terms and conditions and at such time as we, in our sole discretion, deem appropriate.

#### Coverage under this Part B shall only apply to:

1. **Claims** arising out of **errors** that occurred while the **Individual Insured** was a **member**, and provided that the **claim** is first made against you during the **policy period** and reported to us during the **policy period**. A **claim** is first made against you during the **policy period** if during the **policy period**:

1.1 an **Innocent Insured** becomes aware of an **error** or any circumstance which could reasonably be expected to be the basis of a **claim**, however unmeritorious, or a **claim** is made against an **Innocent Insured** seeking **damages** that are covered under Part B of this policy;

1.2 a **claim** is made against an **Individual Insured** seeking **damages** that are covered under Part B of this policy, and we deem notice of the **claim** given to us by a third party to be notice given by the **Individual Insured**; or

1.3 the **Law Society** gives notice of a **claim** or potential **claim** against an **Individual Insured**, and we deem such notice to be notice given by the **Individual Insured**.

## INSURANCE POLICIES

2. A **claim** seeking **damages** that are covered under Part B of this policy that is first made against you and of which written notice is given to us by the **claimant** within:
  - 2.1 two (2) years of the **claimant** becoming sufficiently aware of the facts underlying the occurrence of an **error** such that the **claimant** had the means of knowing that an **error** had occurred; and
  - 2.2 in any event, no more than ten (10) years of the time of the **error**.

We may, in our sole discretion, agree to extend the time limits set out in 2.1 and 2.2.

## EXCLUSIONS

This policy does not apply to:

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

individually or collectively, directly or indirectly, had at the time of the **error** or thereafter, effective management or control of the **organization** or beneficial ownership of the **organization** in an amount greater than ten per cent (10%),

## INSURANCE POLICIES

provided that with respect to any payment resulting from a **claim** that falls within Part B of this policy, this Exclusion 6.2 applies only to exclude the **ineligible portion** of such payment.

- 6.3 If a **claim** arises out of an **error** which occurred before January 1, 1991, **family** shall be read without the words “(including **common-law spouse**)” and “parents or siblings”.
7. a **claim** arising out of your activity as an employee, dependent contractor or partner of any **organization** other than:
- 7.1. a **law firm**;
  - 7.2. a trade union, provided that such **claim** is brought against you by a member of the trade union or any employee represented by the trade union;
  - 7.3. a society, provided that such **claim** is brought against you by a member of the society; or
  - 7.4. a not-for-profit **organization** that provides *pro bono* legal services to the public, provided that:
    - 7.4.1 the **claim** arises out of an **error** that occurred during the **individual coverage period**; and
    - 7.4.2 the **claim** is not brought against you by or on behalf of such **organization**;

except a **claim** that falls within Part B of this policy and is not brought against you by or on behalf of such **organization**; or

8. a **claim** against you where the **Individual Insured** is a member of any other law society or bar, except a law society of another province or territory of Canada, arising out of that **Individual Insured's** permanent practice in the other jurisdiction. For the purposes of Part B of this policy, this Exclusion 8 shall be read without the words “except a law society of another province or territory of Canada” and “permanent”.

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

Part A of the policy does not apply to:

- 9. a **claim** against you where the **Individual Insured** is engaged in **unauthorized practice**, arising out of that **unauthorized practice**;
- 10. a **claim** arising out of your provision of investment advice or investment services unless as a direct consequence of the performance of **professional services**; or
- 11. a **claim** that is connected to or arises out of, in whole or in part, the dishonest appropriation of money or other property.

## INSURANCE POLICIES

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

Part B of this policy does not apply to:

12. **claims, errors** or any circumstances that an **Innocent Insured** or **claimant** knew or reasonably ought to have known could form or did form the basis of a **claim** for compensation to a **compensation program** prior to May 1, 2004;
13. a **claim** that is connected to or arises out of, in whole or in part, the wrongful or unlawful conduct, fault or neglect of the **claimant** or the **claimant's** spouse (including **common-law spouse**);
14. a **claim** by an **organization** that is connected to or arises out of, in whole or in part, the wrongful or unlawful conduct, fault or neglect of an officer, director, employee or agent of the **organization** or an individual who had, directly or indirectly, effective management or control of the **organization** or beneficial ownership of the **organization** in an amount greater than ten per cent (10%);
15. a **claim** where the money or property that was dishonestly appropriated had been unlawfully obtained by the **claimant**;
16. a **claim** brought by a **claimant** who:
  - 16.1 knew prior to the time of the **error** of any dishonest act by the **Individual Insured**; or
  - 16.2 committed, participated in committing, consented to expressly or impliedly, acquiesced in or was reckless or willfully blind to the **error**; or
17. a **claim** that is connected to or arises out of, in whole or in part, an investment, a purported investment or a Ponzi scheme.

## CONDITIONS

### 1. LIMITS OF LIABILITY

#### 1.1 LIMIT OF LIABILITY PART A — EACH **ERROR**

- 1.1.1 The limit of liability stated in Declaration 3(a) shall be the maximum amount payable under Part A of this policy for all **damages, claims expenses** and deductibles for all **claims** arising out of an **error**.
- 1.1.2 If a **claim** or potential **claim** is reported to us by or on behalf of any **Insured** during the **policy period**, all additional **claims** or potential **claims** reported subsequently that arise out of the same **error** shall be:
  - (a) part of the **claim** or potential **claim** first made and reported to us; and
  - (b) deemed to be reported within this **policy period**;

## INSURANCE POLICIES

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

### 1.2 LIMIT OF LIABILITY PART A — ANNUAL AGGREGATE LIMIT

1.2.1 The limit of liability stated in Declaration 3(b) is the maximum amount payable under Part A of this policy on behalf of each **Individual Insured**, including all related **Additional Insureds**, for all **damages, claims expenses** and deductibles arising out of all **claims** and potential **claims** first reported during the **policy period**.

1.2.2 All payments of **damages, claims expenses** and deductibles reduce the applicable limit of our liability.

### 1.3 MULTIPLE INSUREDS, CLAIMS OR CLAIMANTS — PART A

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

### 1.4 LIMIT OF LIABILITY PART B — EACH **ERROR**

1.4.1 The limit of liability stated in Declaration 3(c) or, if Condition 1.4.3 applies, then as stated there, shall be the maximum amount payable under Part B of this policy for all **damages** for all **claims** by a **claimant** arising out of an **error** or **related errors**.

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

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

and all such **claims** or potential **claims** shall be subject to the terms of this policy and to the limit of liability stated in Declaration 3(c) or, if Condition 1.4.3 applies, then as stated there, applicable to the **claim** or potential **claim** first reported.

1.4.3 If the **error** or **related errors** arise out of your temporary practice in or with respect to the law of a **Reciprocal Jurisdiction** of which you are not a member the limit of liability stated in Declaration 3(c) shall be \$250,000, and Conditions 1.4.1, 1.4.2 and 1.5 shall be read as if the amount in Declaration 3(c) was \$250,000.

## INSURANCE POLICIES

### 1.5 MULTIPLE INSUREDS, CLAIMS, CLAIMANTS OR ERRORS — PART B

One or more **claims**, resulting from an **error** or **related errors** made by one or more **Insureds**, made against one or more **Insureds** by a **claimant** or by **related claimants**, shall be subject to the one limit of liability stated in Declaration 3(c) or, if Condition 1.4.3 applies, then as stated there. In no case will the limit of coverage for an **error** or **related errors** exceed the limit set out in Declaration 3(c).

### 1.6 LIMIT OF LIABILITY PART B – INTER-JURISDICTIONAL PRACTICE ANNUAL AGGREGATE LIMIT

The limit of liability that is the maximum amount payable under Part B of this policy on behalf of each **Individual Insured**, including all related **Additional Insureds**, for all **damages** arising out of all **claims** and potential **claims** first reported during the **policy period** arising out of your temporary practice in or with respect to the law of a **Reciprocal Jurisdiction** of which you are not a member is \$2,000,000. This limit shall be included within the limit set out in Declaration 3(d).

### 1.7 LIMIT OF LIABILITY PART B — PROFESSION-WIDE AGGREGATE LIMIT

1.7.1 The limit of liability stated in Declaration 3(d) is the maximum amount payable under this policy for the **policy period** on an aggregate basis for all **Insureds** covered by Part B of this policy. For clarity, all **Insureds** covered by Part B of this policy means all present and former **members** of the **Law Society**. All payments by us of **damages** and **claims expenses** arising out of all **claims** and potential **claims** first reported during the **policy period** reduce the Profession-Wide Aggregate Limit for that **policy period** in the amount of the payments.

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

### 1.8 PRIORITY OF PAYMENTS

All **claims expenses** will be subtracted first from the applicable limit of our liability, with the remainder being the amount available to pay **damages**.



## INSURANCE POLICIES

### 1.9 EXHAUSTION OF LIMITS

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

## 2. DEDUCTIBLES

- 2.1 If **damages** are payable pursuant to Part A of this policy, you will pay the deductible stated in Declaration 4.
- 2.2 Our obligation to pay **damages** applies only to **damages** in excess of the deductible and we shall be liable only for the difference between the deductible and the limit of liability.
- 2.3 When one or more **claims** arising out of an **error** are made jointly or severally against two or more **law firms** or **Individual Insureds** at separate **law firms**, the deductible will apply separately to each **law firm**.
- 2.4 All the terms and conditions of this policy apply notwithstanding that the amount of the **claim**, potential **claim** or **damages** may be less than the deductible stated in Declaration 4.
- 2.5 If we request, you will make direct payments for **claims** or potential **claims** within the deductible to us or to other parties.
- 2.6 There is no deductible payable by you if **damages** or **claims expenses** are paid pursuant to Part B of this policy.

## 3. REIMBURSEMENT

- 3.1 We may pay **damages** or **claims expenses** in excess of the limit of liability or within the deductible and you will repay such amounts to us on demand.
- 3.2 If you are not entitled to coverage for a **claim** or any part of a **claim** because of any term, exclusion or breach of a condition of this policy and we pay **damages** or **claims expenses** on behalf of you or any other **Insured** pursuant to this policy, you will reimburse us for all such amounts.
- 3.3 If you are engaged in **unauthorized practice** and a **claim** or any part of a **claim** that falls within Part A of this policy relates to the **unauthorized practice**, and we pay **damages** or **claims expenses** on behalf of you or any other **Insured** pursuant to this policy, the **Individual Insured** will reimburse us for all such amounts.
- 3.4 If we pay **damages** or **claims expenses** on behalf of you or any other **Insured** pursuant to Part B of this policy:

## INSURANCE POLICIES

- 3.4.1 the **Individual Insured** will reimburse us for all such amounts; and
- 3.4.2 if any other **Insured** received a benefit from the **error**, that **Insured** will reimburse us for the portion of the **damages** paid that is commensurate with the amount of the benefit.
- 3.5 If we pay on behalf of two or more of you pursuant to Condition 3.1, 3.2, 3.3 or 3.4, your liability to us will be joint and several.

### 4. NOTICE OF CLAIM OR SUIT

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

Lawyers Insurance Fund  
5<sup>th</sup> Floor, 845 Cambie Street  
Vancouver, BC V6B 4Z9  
Attention: Susan I. Forbes, QC, Director of Insurance  
Fax: 604-682-5842

Such notice is necessary to settle, or defend, any **claim** or anticipated **claim** against you which may be covered under this policy.

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

### 5. ASSISTANCE AND COOPERATION

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

## INSURANCE POLICIES

5.1.5 assist in securing and giving evidence, including obtaining the attendance of witnesses in the conduct of suits; and

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

all without cost to us.

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

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

5.4 We shall keep any information that you provide us confidential in accordance with the **Confidentiality Protocol**. You agree that any disclosure constitutes a limited waiver of privilege only for the purpose for which it is disclosed and does not otherwise constitute a waiver of privilege as regards any third parties.

### 6. INNOCENT ADDITIONAL INSURED

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

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

6.1.2 the failure to give timely notice in accordance with Condition 4;

we shall cover each **Additional Insured** who did not personally commit, participate in committing, acquiesce in or remain passive after having personal knowledge of the act or **error** which is the subject of the Exclusion or the breach of Condition 4 and provided that those **Additional Insureds** who are entitled to the benefit of this Condition comply with all conditions promptly and were **members** at the time of the act or **error**.

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

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

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

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

## INSURANCE POLICIES

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

### 7. CONFLICTS

In any **claim** or suit in which we provide a defence under a reservation of rights or where our interests may be in conflict with yours, each party will have the right to obtain advice from counsel other than counsel we appoint to defend you. In this event, each party will bear its own costs for such advice.

### 8. ARBITRATION OR MEDIATION

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

### 9. OTHER INSURANCE OR RECOURSE

9.1 This insurance is excess over any other valid and collectible insurance, or right of indemnity, whether primary, contributing, contingent or otherwise, and we will not pay any loss or **claim** until such insurance or recourse is exhausted.

9.2 Condition 9.1 does not apply to insurance specifically arranged to apply as excess insurance over the insurance provided by this policy.

9.3 If you or any non-**member** lawyer practising in your law firm has lawyers professional liability insurance (other than insurance specifically arranged to apply as excess insurance over the insurance provided by this or any other Canadian jurisdiction's policy) under another Canadian jurisdiction's policy (or Canadian jurisdictions' policies) that applies to a **claim** covered by this policy, the total amount of insurance provided under these policies, together, will not exceed the total value of the **claim** or the most that is available under either (any one) of these policies alone, whichever is less. The decision as to which of these policies shall respond, or as to any allocation between (or amongst) the policies, shall be made by us together with the other Canadian jurisdiction, and you agree to be bound by the decision. For clarity, a **Reciprocal Jurisdiction** is also a Canadian jurisdiction.

9.4 To further clarify the intent and effect of the definition of **damages** under Part B, if the **Insured, claimant** or any other party at interest in any loss covered by Part B of this policy has any bond, right of indemnity, insurance or recourse to any other source of recovery including set-offs whether legal or equitable, which would cover such loss in whole or in part in the absence of this policy, this policy shall be null and void to the extent of the amount of such other bond, right of indemnity, insurance or recourse to any other source of recovery including set-offs whether legal or equitable; but this policy shall cover such loss, subject to its exclusions, conditions and other terms, only to the extent of the amount of such loss in excess of the amount of such other bond, right of indemnity, insurance or recourse to any other source of recovery including set-offs whether legal or equitable.

## INSURANCE POLICIES

### 10. ACTION AGAINST US

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

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

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

### 12. SUBROGATION

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

### 13. CHANGES

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

### 14. ASSIGNMENT

Your interest in this policy is not assignable.

### 15. RELEASE OF COVERAGE

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

### 16. INSURANCE FEE ADJUSTMENT

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

16.2 If, during the **policy period**, you cease to be a **member** or you are exempted from this compulsory professional liability insurance plan, the insurance fee will be adjusted by the **Law Society** and us on a short-rate basis.

16.3 If you are suspended or disbarred, the insurance fee will be deemed to be fully earned and will not be the subject of adjustment.

## INSURANCE POLICIES

### 17. CANCELLATION OF POLICY

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

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

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

### 18. APPLICABLE LAW

This policy will be exclusively governed by and interpreted in accordance with the laws of British Columbia and any applicable federal laws of Canada, and all disputes arising out of or in connection with this policy, and all **claims** seeking **damages** which would be covered under Part B of this policy, shall be submitted to and be subject to the exclusive jurisdiction of the Courts of British Columbia.

### 19. CURRENCY

The deductibles and limits are expressed in Canadian currency.

### 20. TERRITORY

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

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

LSBC Captive Insurance Company Ltd.



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Susan I. Forbes, QC, Secretary