



# MEMBER'S MANUAL

## AMENDMENT PAGES

2011: No. 4 December

### Highlights

**Law Society Rules:** The Territorial Mobility Agreement, which was due to expire on January 1, 2012, has been renewed indefinitely (definitions of “National Mobility Agreement,” “reciprocating governing body” and “Territorial Mobility Agreement” and Rule 2-10.1: pp. 13, 14.1 and 34); to ensure Law Society operations continue in the absence of the president, the powers of the president may be exercised by a vice-president or a designated member of the Executive Committee (Rule 1-3(8): p. 14.5); terminology around fees now clarifies that the fee is paid for the benefit of making an application and having it processed, and not necessarily for the end product (Rules 2-11(2), 2-18(1), 2-23.5, 2-27(3), 2-33(1), 2-42(1), 2-49(1), 2-49.3(1), 2-52(1) and (2.1), 2-55(1), 2-71.1 and Schedule 1: pp. 37, 38.2, 42.2, 42.7, 46, 50, 51, 53, 54, 57, 60.3 and 129); the Benchers no longer need to approve annually the minimum CPD hours required (Rule 3-18.3: p. 69); the late fee structure for not reporting or completing the required CPD is revised (Rule 3-18.4(1) and (3): p. 70.01); the required contents of a conduct review subcommittee report are clarified to reflect the informal nature of the conduct review process (Rule 4-9(1): p. 98); 2012 fees and assessments are set out in Schedules 1, 2 and 3 (pp. 129-132).

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

Manual section	Existing pages to be removed	Amendment pages to be inserted
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After filing, insert this sheet at the front of the *Manual* for reference.

**Updates:** This amendment package updates the *Member's Manual* to **December 5, 2011**. The previous amendment package was 2011: No. 3 September.

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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 Rody van Vianen in the Communications department: telephone 604.697.5838 or toll-free in BC 1.800.903.5300 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 and Resources 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).

Refer to the Law Society website for the most current version of the Act, Rules and Handbook.

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*Updated to December 5, 2011*

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## 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;

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

**“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, articled 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;
- “reciprocating governing body”**
- (a) means a governing body that has signed the National Mobility Agreement, and adopted regulatory provisions giving effect to the requirements of the National Mobility Agreement, and
  - (b) includes a governing body that has signed the Territorial Mobility Agreement and adopted regulatory provisions giving effect to the requirements of the Territorial Mobility Agreement;
- “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;
- “Territorial Mobility Agreement”** means the 2006 Territorial Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time.
- “training course”** includes any assessments, examinations and remedial work taken during or after the training course, or an educational program required by the Credentials Committee;

## LAW SOCIETY RULES

**“trust funds”** includes funds received in trust by a lawyer acting

- (a) in the capacity of a lawyer, including funds
  - (i) received from a client for services to be performed or for disbursements to be made on behalf of the client, or
  - (ii) belonging partly to a client and partly to the lawyer if it is not practicable to split the funds, and
- (b) as a personal representative of a person or at the request of a person, or as a trustee under a trust established by a person, if the lawyer’s appointment derived from a solicitor-client relationship;

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

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

[amended 09/1999; 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; “National Mobility Agreement,” “reciprocating governing body” and “Territorial Mobility Agreement” added 12/2011]



## 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) In the absence of the President, the powers of the President may be exercised by a Vice-President or another member of the Executive Committee designated by the President.

[(8) amended 07/2007; 10/2011]

### **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,
    - (b) a statement by the President or Vice-President, as the case may be, stating why he or she should not be removed from office, if that person wishes to have such a statement sent to each member, and
    - (c) voting materials as required in Rule 1-26.

## LAW SOCIETY RULES

- (5) The President or Vice-President in respect of whom the referendum is conducted may attend personally or by agent during proceedings under this Rule.
- (6) After the counting of the voting papers is completed, the Executive Director must declare whether the President or Vice-President, as the case may be, ceases to hold office.

### **Bencher ceasing to be member**

- 1-5** A Bencher, other than an appointed Bencher, must be a member of the Society in good standing to take or hold office as a Bencher.

[amended 09/2009]

**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 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;

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

[added 11/99; amended effective 07/03; amended 11/06; 12/2011]

**Inter-jurisdictional practice without a permit**

- 2-10.2** (1) Subject to the other requirements of this Rule, a visiting lawyer may provide legal services without a permit
- (a) in the case of a visiting lawyer who is entitled to practise law in the jurisdiction of a reciprocating governing body of which the visiting lawyer is a member, for a maximum of 100 business days in any calendar year, or
  - (b) in all other cases, on not more than 10 legal matters and for not more than 20 business days in total during any 12-month period.
- (2) A visiting lawyer must not hold himself or herself out or allow himself or herself to be held out as willing or qualified to provide legal services, except as a visiting lawyer.

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- (f) service tribunals as defined in the *National Defence Act*;
  - (g) the Court Martial Appeal Court of Canada.
- (2) Subrule (1) applies when a visiting lawyer is preparing for an appearance allowed under that subrule and otherwise furthering the matter giving rise to the appearance.

[added 11/1999; heading and rule amended 05/2003, effective July 1, 2003; amended, (2) added 06/2003, effective July 1, 2003]

**Inter-jurisdictional practice permit**

**2-11** (1) A visiting lawyer who does not qualify to provide legal services without a permit under Rule 2-10.2 or is disqualified under Rule 2-10.21 may apply for a permit.

(1.1) A permit allows a visiting lawyer to provide legal services as follows:

- (a) in the case of a visiting lawyer who is entitled to practise law in the jurisdiction of a reciprocating governing body of which the visiting lawyer is a member, for a maximum of 100 business days;
- (b) in all other cases, for a specific legal matter.

(2) A visiting lawyer applying under subrule (1) must deliver to the Executive Director

- (a) a completed permit application in a form approved by the Credentials Committee, including a written consent for the release of relevant information to the Society,
- (b) the application fee or renewal fee specified in Schedule 1,
- (c) certificates of standing dated not more than 30 days before the date of application and in a form acceptable to the Credentials Committee, issued by each governing body of which the visiting lawyer is a member,
- (d) proof of professional liability insurance as required under Rule 2-10.2(3)(a), and
- (e) proof that the visiting lawyer has the defalcation coverage required under Rule 2-10.2(3)(b).

(3) [rescinded]

(4) Paragraph (2)(b) does not apply to an application made by a visiting lawyer who is a member of a governing body in a jurisdiction in which

- (a) the visiting lawyer is entitled to practise law, and
- (b) the governing body does not charge members of the Society a fee for the equivalent of a permit.

[amended, (3) rescinded 11/1999; amended 06/2001; (1) amended, (1.1) added 05/2003, effective July 1, 2003; (2) amended 12/2011]

**Consideration of an application for inter-jurisdictional practice permit**

- 2-12** (1) On receipt of an application for a permit, the Executive Director must
- (a) issue or renew the permit, or
  - (b) refer the application to the Credentials Committee.
- (2) If an application is referred to the Credentials Committee under subrule (1), the Committee must direct the Executive Director to
- (a) issue or renew a permit, subject to any conditions or limitations the Committee may direct, or
  - (b) reject the application.
- (3) If an application is rejected, the Credentials Committee must, at the written request of the person applying under Rule 2-11(1), give written reasons for the decision.

[(1) and (2) amended 11/1999]

**Non-practising and retired members**

- 2-13** (1) If a permit is issued under Rule 2-12 to a non-practising member or a retired member, the member is released from the undertaking given under Rule 2-3 or 2-4 only for the purpose allowed by the permit.
- (2) If a non-practising member or a retired member qualifies to provide legal services as a visiting lawyer without a permit under Rule 2-10.2, the member is released from the undertaking given under Rule 2-3 or 2-4 only for the purpose of providing legal services under Rule 2-10.2.

[amended, (2) added 11/1999; (2) amended 05/2003, effective July 1, 2003]

**Expiry and renewal of inter-jurisdictional practice permit**

- 2-14** (1) Subject to subrules (1.1), (2) and (3), a permit issued or renewed under Rule 2-12 is valid for one year from the date it was issued.
- (1.1) In the case of a visiting lawyer who is not entitled to practise law in the jurisdiction of a reciprocating governing body of which the visiting lawyer is a member, the permit expires on the completion of the legal matter for which the permit was granted.
- (2) A permit ceases to be valid if the holder of the permit
- (a) is not a practising member in good standing of a governing body,
  - (b) fails to maintain professional liability insurance as described in Rule 2-11(2)(d), or
  - (c) is suspended or disbarred by any governing body.
- (3) Before expiry of a permit under subrule (1), the holder of the permit may apply under Rule 2-11 for its renewal.

[amended 11/1999; (2) amended 06/2001; (1) amended, (1.1) added 05/2003, effective July 1, 2003]



**Responsibilities of visiting lawyer**

- 2-14.1** (1) The Act, these Rules and the *Professional Conduct Handbook* apply to and bind a visiting lawyer providing legal services.
- (2) It is the responsibility of a visiting lawyer providing legal services to
- (a) record and verify the number of business days in which he or she provides legal services, and
  - (b) prove that he or she has complied with these Rules.

[added effective 07/2003]

**Enforcement**

- 2-15** (1) On the request of a governing body that is investigating the conduct of a lawyer, former lawyer or visiting lawyer or has initiated disciplinary proceedings against a lawyer, former lawyer or visiting lawyer, the Executive Director must provide all relevant information.
- (1.1) When the Executive Director provides information to a governing body under subrule (1), the Executive Director may inform any person whose personal, confidential or privileged information may be included of that fact and the reasons for it.
- (2) A fine imposed on a lawyer or former lawyer by a governing body may be enforced under Rule 4-36(4).
- (3) [rescinded]
- (4) A lawyer who practises law in another Canadian jurisdiction must comply with the applicable legislation, regulations, rules and *Professional Conduct Handbook* of that jurisdiction.
- (5) The Executive Director may require a visiting lawyer to
- (a) account for and verify the number of business days spent providing legal services, and
  - (b) verify compliance with any Rules specified by the Executive Director.
- (6) If a visiting lawyer fails or refuses to comply with a requirement under subrule (5) within 20 days, or such longer time that the Executive Director may allow in writing,
- (a) the visiting lawyer is prohibited from providing legal services without a permit,
  - (b) any permit issued to the visiting lawyer under Rule 2-11 is rescinded, and
  - (c) the Executive Director must advise each of the governing bodies of which the visiting lawyer is or has been a member, of the visiting lawyer's failure to comply and the consequences.
- (7) A visiting lawyer who is affected by subrule (6) may apply to the Credentials Committee for restoration of any or all rights lost under that subrule and the Committee may, in its discretion, grant the application, subject to any conditions it considers to be in the public interest.

[(3) and (4) added 11/1999; (1) and (2) amended 06/2001; (3) rescinded, (5) to (7) added effective 07/2003; (1) and (2) amended, (1.1) added 10/2003]

**Trust funds and compensation fund**

- 2-16** (1) A visiting lawyer providing legal services must not maintain a trust account in British Columbia, and must
- (a) promptly remit funds received in trust to the visiting lawyer's trust account in the home jurisdiction, or
  - (b) ensure that trust funds received are handled
    - (i) by a practising lawyer in a trust account controlled by the practising lawyer, and
    - (ii) in accordance with the Act and these Rules.
- (2) The provisions of the Protocol concerning claims for compensation for misappropriation apply to a claim under Rule 3-30 involving inter-jurisdictional practice.

[amended, (1) added 11/1999; (1) amended 06/2001; effective 07/2003]

**Dispute resolution**

- 2-17** If a dispute arises with a governing body concerning any matter under the Protocol, the Credentials Committee may do one or both of the following:
- (a) agree with a governing body to refer the matter to a single mediator;
  - (b) submit the dispute to arbitration under Appendix 5 of the Protocol.

**National Registry of Practising Lawyers**

- 2-17.1** (1) The Executive Director must provide to the National Registry the current and accurate information about practising lawyers required under the National Mobility Agreement.
- (2) No one may use or disclose information obtained from the National Registry except for a purpose related to enforcement of the Act and these Rules.

[added effective 07/2003]

**Practitioners of foreign law**

**Practitioners of foreign law**

- 2-18** (1) A person who qualifies under section 17 of the Act may apply to the Executive Director for a permit to act as a practitioner of foreign law in British Columbia by delivering to the Executive Director
- (a) a completed permit application in a form approved by the Credentials Committee, including a written consent for the release of relevant information to the Society, and
  - (b) the application fee specified in Schedule 1.

[(1) amended 12/2011]

**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 application fee specified in Schedule 1.
- (3) Any number of lawyers practising law in an MDP may notify the Executive Director jointly under subrule (1) or (2).

[added 12/2009, effective 07/2010; (2) amended 12/2011]

**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.

- (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) An applicant may make an application 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 application fee specified in Schedule 1.

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- (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; 12/2011]

### **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]

**Legal services by articulated students**

- 2-32.01** (1) Subject to any prohibition in law, an articulated student may provide all legal services that a lawyer is permitted to provide, but the student's principal or another practising lawyer supervising the student must ensure that the student is
- (a) competent to provide the services offered,
  - (b) supervised to the extent necessary in the circumstances, and
  - (c) properly prepared before acting in any proceeding or other matter.
- (2) An articulated student must not
- (a) appear as counsel without the student's principal or another practising lawyer in attendance and directly supervising the student in the following proceedings:
    - (i) an appeal in the Court of Appeal, the Federal Court of Appeal or the Supreme Court of Canada;
    - (ii) a civil or criminal jury trial;
    - (iii) a proceeding on an indictable offence, unless the offence is within the absolute jurisdiction of a provincial court judge,
  - (b) give an undertaking unless the student's principal or another practising lawyer supervising the student has also signed the undertaking, or
  - (c) accept an undertaking unless the student's principal or another practising lawyer supervising the student also accepts the undertaking.

[added 05/2011, effective 09/2011]

**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 application fee specified in Schedule 1;

[(1) amended 12/2011]



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- (4) If the proposed principal is qualified to act as principal to an articled student, the Executive Director may approve an application under this Rule.
- (5) If the Executive Director refers an application under this Rule to the Credentials Committee, the Committee must consider the student's submissions, and may
  - (a) approve the application without conditions or limitations,
  - (b) approve the application, subject to any conditions or limitations it considers appropriate, or
  - (c) reject the application.
- (6) An application under this Rule may be approved effective on or after the date on which the articled student began employment at the office of a new principal.

### **Other employment**

**2-40** During the articling period and the training course, an articled student is not permitted to accept employment from any person other than the student's principal or the person to whom the student's articles are seconded under Rule 2-38, except with the approval of the Executive Director.

### **Leave during articles**

- 2-41** (1) In the period from an articled student's enrolment start date until call and admission, the student may take a leave of absence from articles, provided
- (a) the total time of leaves of absence, other than maternity and parental leaves, during the period does not exceed 22 working days,
  - (b) the leave of absence does not affect the student's attendance at the training course as required, and
  - (c) if any part of the leave is to take place when the student is required to work in the office of his or her principal, the principal consents to the leave in advance.
- (2) Any time taken for a leave of absence under this Rule is not part of the articling period.
- (3) An articled student who becomes a natural or adoptive parent during or within 12 weeks before the articling period is entitled to 12 weeks or, if the student is the primary caregiver of the child, 16 weeks parental leave.
- (4) An articled student is entitled to 18 weeks maternity leave during the period from 11 weeks before to 17 weeks after giving birth, in addition to her entitlement under subrule (3).
- (5) If maternity or parental leave causes an articled student to fail to attend any part of the training course, the Credentials Committee may require the student to attend all or part of the course at a session held after the completion of the student's maternity or parental leave.
- (6) An articled student who takes a leave of absence under subrule (1) must notify the Executive Director in writing in advance.

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- (7) An articled student who takes a leave of absence under subrule (3) or (4) must notify the Executive Director in writing as soon as possible.
- (8) On the written application of an articled student, the Executive Director may allow the student to take a leave of absence that is not otherwise authorized by this Rule, provided that the articled student will be eligible for call and admission within 2 years of his or her enrolment in the admission program.
- (9) On the written application of an articled student, the Credentials Committee may allow the student to take a leave of absence that is not approved by the Executive Director, including a leave that will result in the student not being eligible for call and admission within 2 years of his or her enrolment in the admission program.

[(8) amended, (9) added 09/2001]

### Temporary articles

- 2-42** (1) A person may apply for enrolment in temporary articles by filing with the Executive Director, not less than 30 days before the enrolment start date,
- (a) an 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) an articling agreement in a form approved by the Credentials Committee, and
  - (c) the application fee for temporary articles specified in Schedule 1.
- (2) The Executive Director may enrol the following in temporary articles:
- (a) a student at a common law faculty of law in a Canadian university;
  - (b) a person whose application for enrolment as an articled student has been approved, but whose articling term has not yet begun;
  - (c) a person who is qualified to practise law in a Commonwealth country and has actually practised law in that country for 2 years or more.
- (3) Temporary articles granted under subrule (2)(a) are void if the student ceases to be a student at a common law faculty of law in Canada.
- (4) The Executive Director may only grant temporary articles under Subrule (2)(a) that are subject to a definite termination date.
- (5) The Executive Director must not grant temporary articles under subrule (2)(b) effective more than 6 weeks before the beginning of the person's articling term.
- (6) The Executive Director may not grant temporary articles under subrule (2)(c) for a period exceeding 3 months.
- (7) Time spent in temporary articles is not part of the articling term.
- (8) Except as otherwise specified in these Rules, a person enrolled in temporary articles has the rights, privileges and responsibilities of an articled student.
- (9) The Credentials Committee may revoke temporary articles at any time for any reason without giving notice to the temporary articled student and without holding a hearing.

[(2) amended 09/2001; (3) amended 03/2003; (1) amended 12/2011]

**Transfer from another Canadian jurisdiction**

- 2-49** (1) An applicant for call and admission on transfer from another jurisdiction in Canada must deliver the following to the Executive Director:
- (a) an application for call and admission on transfer in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
  - (b) a certificate of character;
  - (c) a certificate of standing from each body regulating the legal profession, in any jurisdiction, in which the applicant is or has been a member of the legal profession;
  - (d) an errors and omissions insurance application or exemption form;
  - (e) proof of academic qualification as required of applicants for enrolment under Rule 2-27(4);
  - (f) the following fees:
    - (i) the application fee and call and admission fees specified in Schedule 1;
    - (ii) the prorated practice fee specified in Schedule 2;
    - (iii) the prorated annual insurance fee specified in Schedule 2, unless exempt under Rule 3-25;
    - (iv) the prorated Special Compensation Fund assessment specified in Schedule 2;
  - (g) any other information and documents required by the Act or these Rules that are requested by the Credentials Committee or the Benchers.
- (2) An applicant under this Rule must not be called and admitted unless the Executive Director is satisfied that the lawyer is not prohibited from practising law under Rule 2-57.
- (3) Unless Rule 2-49.2 applies, an applicant under this Rule must pass an examination on jurisdiction-specific substantive law, practice and procedure set by the Executive Director.
- (4) An applicant who does not satisfy the Executive Director that he or she has an adequate knowledge of the English language must complete satisfactorily the training required by the Credentials Committee.
- (5) An applicant required to write an examination under this Rule or Rule 2-57 must pass the required examination within 12 months after the Executive Director's decision to permit the applicant to write the examination.
- (6) At least 30 days before writing the first examination, an applicant who is required to write an examination under this Rule or Rule 2-57 must pay the fee specified for the examination in Schedule 1.
- (7) An applicant who fails the transfer or qualification examination
- (a) is entitled to a formal re-read of the examination on application to the Executive Director in writing within 30 days of notification of his or her failure,

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- (b) may re-write the examination
  - (i) at any time, provided he or she has not failed the examination before, or
  - (ii) after a period of one year from the date of the failure if he or she has previously failed the examination, or
- (c) may be permitted to write the examination for a third or subsequent time at any time despite subparagraph (b)(ii) on application to the Credentials Committee in writing stating
  - (i) compassionate grounds, supported by medical or other evidence, or
  - (ii) other grounds based on the applicant's past performance.

[(2) amended 11/1999; (2) and (3) amended effective 07/2003; (2), (3), (5) and (6) amended 06/2006; (1) amended 12/2011]

### **In-house counsel**

- 2-49.1** (1) An applicant under Rule 2-49 may apply to the Credentials Committee for call and admission as in-house counsel.
- (2) On an application under this Rule, the Credentials Committee may exempt an applicant from the requirements to write and pass the transfer examination or the qualification examination or complete the requirement under Rule 2-49.2(3).
  - (3) A lawyer who is called and admitted as in-house counsel must practise law in British Columbia only on behalf of the lawyer's employer or one of its subsidiaries or affiliates.
  - (4) On application of a lawyer called and admitted as in-house counsel, the Credentials Committee may relieve the lawyer of the restriction under subrule (3), on the lawyer
    - (a) writing and passing the required examination under Rule 2-49, or
    - (b) completing the requirements under Rule 2-49.2(3), if the lawyer
      - (i) has practised law full-time in British Columbia for 2 years, or the equivalent in part-time practice, immediately preceding the application,
      - (ii) is entitled to practise law in the jurisdiction of a reciprocating governing body of which the applicant is a member, or
      - (iii) was, when called and admitted in British Columbia, entitled to practise law in the jurisdiction of a governing body that is now a reciprocating governing body, of which the applicant was a member.

[added 11/1999; (2) and (3) amended, (4) added 07/2004]

### **Transfer under National Mobility Agreement and Territorial Mobility Agreement**

- 2-49.2** (1) This Rule applies to an applicant for transfer from another Canadian jurisdiction, provided that the applicant is entitled to practise law in the jurisdiction of a reciprocating governing body of which the applicant is a member.
- (2) An applicant under this Rule must fulfil all of the requirements in Rule 2-49 for call and admission on transfer from another Canadian jurisdiction, except that he or she need not pass any transfer examination.

- (3) To qualify for call and admission, an applicant under this Rule must certify in a prescribed form that he or she has reviewed and understands all of the materials reasonably required by the Executive Director.
- (4) A lawyer called and admitted under this Rule has no greater rights as a member of the Society than
  - (a) the lawyer has as a member of the governing body of his or her home jurisdiction, or
  - (b) any other member of the Society in similar circumstances.

[added effective 07/2003; heading amended 11/2006]

**Transfer as Canadian legal advisor**

**2-49.3** (1) Subject to subrule (3), a member of the Barreau du Québec may apply for call and admission on transfer as a Canadian legal advisor by delivering to the Executive Director the following:

- (a) a completed application for call and admission as a Canadian legal adviser in a form approved by the Credentials Committee, including written consent for the release of relevant information to the Society;
  - (b) a certificate of character;
  - (c) a certificate of standing from the Barreau du Québec and each other body regulating the legal profession, in any jurisdiction, in which the applicant is or has been a member of the legal profession;
  - (d) an errors and omissions insurance application or exemption form;
  - (e) the following fees:
    - (i) the application fee and call and admission fees;
    - (ii) a prorated practice fee;
    - (iii) a prorated annual insurance fee, unless exempt under Rule 3-25;
    - (iv) a prorated Special Compensation Fund assessment;
  - (f) any other information and documents required by the Act or these Rules that are requested by the Credentials Committee or the Benchers.
- (2) Subject to subrule (1), Rules 2-49 to 2-51 apply, with any necessary changes, to an application for call and admission on transfer as a Canadian legal advisor.
- (3) This Rule does not apply to a member of the Barreau du Québec unless he or she has earned a bachelor's degree in civil law in Canada or a foreign degree and a certificate of equivalency from the Barreau.

[added effective 07/2010; (1) amended 12/2011]

**Consideration of application for call and admission**

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

- (b) refer the application to the Credentials Committee.
- (3) When an application is referred to the Credentials Committee under subrule (2), the Committee may
  - (a) authorize the call and admission of the applicant without conditions or limitations,
  - (b) authorize the call and admission of the applicant with conditions or limitations on the practice of the applicant, if the applicant consents in writing to those conditions or limitations, or
  - (c) order a hearing.

**Barristers and solicitors' roll and oath**

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

[(1) and (2) amended, (4) to (6) added 11/1999; (4) and (5) amended effective 07/2010]

**Reinstatement**

**Reinstatement of a former lawyer**

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

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

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

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

[(5) and (7) amended, (5.1) added effective 08/2003; (5.1) amended 12/2003; (2.1) added 07/2004; (5.1) amended 02/2006; (2) amended 06/2006; (1) and (2.1) amended 12/2011]

### **Subsequent application for reinstatement**

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

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

### **Reinstatement of former judge or master**

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

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



- (2) The Credentials Committee may impose conditions respecting the practice of a former judge when giving approval for that lawyer to appear as counsel under subrule (1)(a).
- (3) The Credentials Committee may at any time relieve a lawyer of a practice restriction referred to in subrule (1) and may impose conditions respecting the practice of the lawyer concerned.
- (4) A lawyer who has served as a judge or master in any court must not use any judicial title or otherwise allude to the lawyer's former status in any marketing activity.
- (5) Subrule (4) does not preclude a lawyer who has served as a judge or master from referring to the lawyer's former status in
  - (a) a public announcement that the lawyer has resumed the practice of law or joined a law firm,
  - (b) a public speaking engagement or publication that does not promote the lawyer's practice or firm,
  - (c) seeking employment, partnership or appointment other than the promotion of the lawyer's practice or firm, or
  - (d) informal conversation or correspondence.
- (6) For the purpose of this rule, it is not the promotion of a lawyer's practice or firm to provide, on request, a curriculum vitae or other statement of experience that refers to the lawyer's former status as a judge or master.

[(4) to (6) added 05/2009]

### Returning to practice

#### Definitions

- 2-55** (1) In Rules 2-55 to 2-59, unless the context indicates otherwise, “**lawyer**” includes a former lawyer or applicant; “**relevant period**” is the shortest of the following periods of time in the immediate past:
- (a) 5 years;
  - (b) the time since the lawyer's first call and admission in any jurisdiction;
  - (c) the time since the lawyer last passed the qualification examination.
- (2) For the purpose of paragraph (b) of the definition of “**relevant period**” in subrule (1), a lawyer is deemed to have been called and admitted as of the date that a practising certificate was issued under Rule 2-51(4).

[heading and rule amended 06/2006; (1) amended 12/2011]

**2-56** [rescinded 06/2006]

**Returning to the practice of law after an absence**

- 2-57** (1) If, for a total of 3 years or more in the relevant period, a lawyer has not engaged in the practice of law, the lawyer must not practise law without first doing one of the following:
- (a) passing the qualification examination;
  - (b) obtaining the permission of the Committee under subrule (3).
- (2) Subrule (1) applies
- (a) despite any other Rule, and
  - (b) whether or not the lawyer holds or is entitled to hold a practising certificate.
- (3) A lawyer may apply in writing to the Committee for permission to practise law without passing the qualification examination.
- (4) On an application under subrule (3), the Committee may approve the application if, in its judgement
- (a) the lawyer has engaged in activities that have kept the lawyer current with substantive law and practice skills, or
  - (b) the public interest does not require the lawyer to pass the qualification examination.
- (5) Before approving an application under subrule (4), the Committee may require the lawyer to enter into a written undertaking to do any of the things set out in Rule 2-59(2)(b).

[ (1.1) added 11/1999; (2) amended, (3) to (5) added 05/2000; heading and rule amended, (1.1) rescinded 06/2006 ]

**Qualification examination fee**

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

[heading and rule amended, (1) rescinded 06/2006]

**Conditions on returning to the practice of law**

- 2-59** (1) A lawyer or applicant who has spent a period of 7 years or more not engaged in the practice of law must not practise law without the permission of the Credentials Committee.
- (1.1) Subrule (1) applies
- (a) despite any other Rule, and
  - (b) whether or not the lawyer holds or is entitled to hold a practising certificate.
- (1.2) A lawyer or applicant must apply in writing to the Committee for permission to practise law under subrule (1).
- (1.3) An application under subrule (1.2) may be combined with an application under Rule 2-57(3).

**Application fees**

**2-71.1** On application from a person who has paid an application fee under these Rules, the Executive Director may refund all or part of the fee if, in the view of the Executive Director, it is fair to make the refund in all the circumstances, including the extent to which Society resources have been expended to process the application for which the fee was paid.

[added 12/2011]

**Late payment**

**2-72** (1) A lawyer who fails to pay fees by the date required under Rule 2-70 but pays all required fees before December 31 of the year preceding the year for which they are payable, together with the late payment fee under this Rule, continues to be a member of the Society.

(2) The Executive Director may extend the time for a lawyer or class of lawyers to pay fees or a special assessment and, if the lawyer pays

(a) the annual fee or special assessment by the date to which the time is extended, and

(b) the late payment fee under this Rule,

the lawyer is deemed to be a member of the Society in good standing and to have been in good standing during the period of time that the lawyer's fee or special assessment was unpaid.

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**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) The Benchers may determine by resolution the minimum number of hours of continuing education that is required of a practising lawyer in each calendar year.
- (2) 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.

## LAW SOCIETY RULES

- (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; (1) and (2) amended 12/2011]

### **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;
  - (b) certifies the completion of the required professional development as required in Rule 3-18.3(3)(b);
  - (c) pays the late completion fee specified in Schedule 1.
- (2) Required professional development completed before April 1 that is applied to the requirement for the previous year cannot be applied to the requirement for the calendar year in which it is completed.
- (3) A practising lawyer who complies with Rule 3-18.3(3)(a) by December 31 but fails to comply with Rule 3-18.3(3)(b) by December 31 is deemed to have been in compliance with the Rules during the calendar year if the lawyer does both of the following before April 1 of the following year:
- (a) certifies the completion of the required professional development as required in Rule 3-18.3(3)(b);
  - (b) pays the late reporting fee specified in Schedule 1.

[added 07/2008; (1) amended, (3) added 12/2011]

**Failure to complete professional development**

- 3-18.5** (1) Subject to subrules (2) and (3), a practising lawyer who fails to comply with Rule 3-18.3 by April 1 of the following year is suspended until all required professional development is completed and completion is certified to the Executive Director as required by Rule 3-18.3.
- (2) When there are special circumstances, the Practice Standards Committee may, in its discretion, order that
- (a) the lawyer not be suspended under subrule (1), or
  - (b) a suspension under subrule (1) be delayed for a specified period of time.
- (3) At least 60 days before a suspension under subrule (1) can take effect, the Executive Director must deliver to the lawyer notice of the following:
- (a) the date on which the suspension will take effect;
  - (b) the reasons for the suspension;
  - (c) the means by which the lawyer may apply to the Practice Standards Committee for an order under subrule (2) and the deadline for making such an application before the suspension is to take effect.

[added 07/2008]

### **Division 3 – Specialization and Restricted Practice**

#### **Advertising**

**3-19** A lawyer must not advertise any specialization, restricted practice or preferred area of practice except as permitted in the *Professional Conduct Handbook*, Chapter 14, Rules 16 to 18.

#### **Family law mediation**

- 3-20** (1) A lawyer may act as a family law mediator only if the lawyer has
- (a) engaged in the full-time practice of law for at least 3 years or the equivalent in part-time practice, and
  - (b) completed a course of study in family law mediation approved by the Practice Standards Committee.
- (2) The Practice Standards Committee may allow a lawyer with special qualifications or experience to act as a family law mediator without qualifying under subrule (1)(a).
- (3) A lawyer who has been accredited by the Society as a family law mediator may so state in any marketing activity.

[(3) added 05/2009]

### **Division 4 – Professional Liability Insurance**

#### **Compulsory liability insurance**

- 3-21** (1) A lawyer must maintain professional liability insurance on the terms and conditions offered by the Society through the Lawyers Insurance Fund and pay the insurance fee under Rule 3-22, unless the lawyer is exempt or ineligible under Rule 3-25.
- (2) A lawyer is bound by the terms and conditions of professional liability insurance maintained under subrule (1).
- (3) As soon as practicable, the Executive Director must notify all governing bodies of any change to compulsory professional liability insurance under this Division that affects the limits of liability or scope of coverage.

[(3) added 11/1999]



## PART 4 – DISCIPLINE

- (2) As an exception to subrule (1), the Executive Director may disclose information referred to in that subrule, with the consent of the lawyer, in responding to an enquiry made for the purpose of a potential judicial appointment.
- (3) No one is permitted to disclose a direction to issue a citation until the respondent is notified.
- (4) Despite subrule (3), the Executive Director may disclose to the public a direction to issue a citation, its subject matter and its status before the respondent is notified if
  - (a) the identity of the respondent has already been disclosed to the public,
  - (b) the citation is in respect of an offence to which the respondent has pleaded guilty or of which the respondent has been found guilty, or
  - (c) the citation is based on a complaint that has become known to the public.
- (5) Despite subrule (1), with the consent of the Discipline Committee, the Executive Director may deliver to a law enforcement agency any information or documents that the Committee reasonably believes may be evidence of an offence.
- (6) This Rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

[ (4) amended 05/2003; (5) amended 02/2004; (1) and (4) amended 10/2010 ]

### **Conduct letter from the Chair**

- 4-6.1** (1) When a letter authorized under Rule 4-4(1)(a.1) is sent to the lawyer, the Executive Director must provide the complainant with
- (a) a copy of the letter, or
  - (b) if directed by the Discipline Committee, a summary of the letter.
- (2) A letter authorized under Rule 4-4(1)(a.1)
- (a) does not form part of the lawyer's professional conduct record, and
  - (b) is not admissible in the hearing of a citation under this Part.

[added 07/2005]

### **Conduct meeting**

- 4-6.2** (1) A conduct meeting must be held in private.
- (2) No record of an order under Rule 4-4(1)(a.2) or of the conduct meeting forms part of the lawyer's professional conduct record.
  - (3) A Bencher or other lawyer who has participated in a conduct meeting is not permitted to testify in the hearing of a citation as to any statement made by the respondent during the conduct meeting, unless the matter is put in issue by the respondent.

[added 07/2005]

### **Conduct Review Subcommittee**

- 4-7** (1) The Discipline Committee or the chair of the Discipline Committee may appoint a Conduct Review Subcommittee to consider the conduct of a lawyer referred to the Subcommittee under Rule 4-4(1)(b).

- (2) A Conduct Review Subcommittee
  - (a) must include at least one lawyer,
  - (b) may include one or more appointed Benchers, and
  - (c) must be chaired by a Bencher or a Life Bencher.

[(2) amended 09/2009]

**Conduct review meeting**

- 4-8** (1) A conduct review is an informal proceeding at which the lawyer
- (a) must appear personally, and
  - (b) may be represented by counsel.
- (2) Subject to subrule (3), a conduct review must be conducted in private.
- (3) The Conduct Review Subcommittee may, in its discretion, permit the complainant to be present at all or part of the meeting, with or without the right to speak at the meeting.

[(2) amended 09/1999]

**Conduct Review Subcommittee report**

- 4-9** (1) The Conduct Review Subcommittee must
- (a) prepare a written report of the factual background, the Subcommittee's conclusions and any recommendations, and
  - (b) deliver a copy of that report to the lawyer, together with written notice that the lawyer has 30 days from the date of the notice to notify the chair of the Subcommittee in writing of any dispute as to the contents of the report and the reasons he or she disputes the contents of the report.
- (2) If the Subcommittee considers it necessary for the effective consideration of the lawyer's dispute, it may order a further meeting.
- (3) If a further meeting is ordered under subrule (2), Rule 4-8 applies.
- (4) The Subcommittee must consider the lawyer's dispute and
- (a) amend its report as it considers appropriate, or
  - (b) forward its report to the Discipline Committee without amendment.
- (5) The Subcommittee must notify the lawyer in writing of its decision under subrule (4) and, if the report is amended, provide a copy of the amended report to
- (a) the lawyer, and
  - (b) the Discipline Committee.
- (6) After considering the Conduct Review Subcommittee's report, the Discipline Committee must do one or more of the following:
- (a) decide to take no further action on the complaint;
  - (b) refer the lawyer to the Practice Standards Committee;

[(1) amended 10/2011]

## SCHEDULE 1 – 2012 LAW SOCIETY FEES AND ASSESSMENTS

<b>A. Annual fee</b>	<b>\$</b>
1. Practice fee set by members (Rule 2-70) .....	1,840.41
2. Special Compensation Fund assessment (Rule 2-70) .....	1.00
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 .....	1,750.00
(b) member in part-time practice .....	875.00
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
 <b>A.1 Trust administration fee</b>	
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. Application fee for enrolment in admission program (Rules 2-27(3)(e) and 2-33(1)(b)) .....	250.00
2. Application fee for temporary articles (Rule 2-42(1)(c)) .....	125.00
3. Application fee for temporary articles (legal clinic) (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. Transfer fees</b>	
1. Application fee for 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

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<b>F. Reinstatement fees</b>	<b>\$</b>
1. Application fee following disbarment, resignation or other cessation of membership as a result of disciplinary proceedings (Rule 2-52(1)(b)) .....	600.00
1.1 Application fee following 3 years or more as a former member (Rule 2-52(1)(b)) .....	500.00
2. Application fee in all other cases (Rule 2-52(1)(b)) .....	415.00
 <b>G. Change of status fees</b>	
1. Application fee to become retired member (Rule 2-4(2)(b)) .....	30.00
2. Application fee to become non-practising member (Rule 2-3(1)(b)) .....	60.00
3. Application fee for non-practising or retired member applying for practising certificate (Rule 2-56(b)) .....	60.00
 <b>H. Inter-jurisdictional practice fees</b>	
1. Application fee (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. Application fee for practitioners of foreign law (Rule 2-18(1)(b)) .....	600.00
2. Permit renewal fee for practitioners of foreign law (Rules 2-18(1)(b) and 2-22(2)(c)) .....	125.00
3. Late payment fee (Rule 2-22(6)) .....	100.00
 <b>K. Late fees</b>	
1. Trust report late filing fee (Rule 3-74(2)) .....	200.00
2. Professional development late completion fee (Rule 3-18.4(1)(c)) .....	500.00
2. Professional development late reporting fee (Rule 3-18.4(3)(b)) .....	200.00
 <b>L. Multi-disciplinary practice fees</b>	
1. Application fee (Rule 2-23.3(1)).....	300.00
2. Application fee per proposed non-lawyer member of MDP (Rules 2-23.3(1) and 2-23.5(2)) .....	1,125.00

**Note:** The harmonized sales tax applies to Law Society fees and assessments.

SCHEDULES – LAW SOCIETY FEES AND ASSESSMENTS

**SCHEDULE 2 – 2012 PRORATED FEES AND ASSESSMENTS  
FOR PRACTISING MEMBERS**

	Law Society fee	Special Com- pensation Fund assessment	Liability insurance assessment	
			Payable prior to call	Payable by June 30
<b>Full-time insurance</b>				
January	1,840.41	1.00	875.00	875.00
February	1,684.76	0.92	729.17	875.00
March	1,533.67	0.83	583.33	875.00
April	1,378.01	0.75	437.50	875.00
May	1,226.94	0.67	291.67	875.00
June	1,071.27	0.58	145.83	875.00
July	920.21	0.50	875.00	0.00
August	764.56	0.42	729.17	0.00
September	613.47	0.33	583.33	0.00
October	547.81	0.25	437.50	0.00
November	306.74	0.17	291.67	0.00
December	151.07	0.08	145.83	0.00
<b>Part-time insurance</b>				
January	1,840.41	1.00	437.50	437.50
February	1,684.76	0.92	364.58	437.50
March	1,533.67	0.83	291.67	437.50
April	1,378.01	0.75	218.75	437.50
May	1,226.94	0.67	145.83	437.50
June	1,071.27	0.58	100.00	437.50
July	920.21	0.50	437.50	0.00
August	764.56	0.42	364.58	0.00
September	613.47	0.33	291.67	0.00
October	547.81	0.25	218.75	0.00
November	306.74	0.17	145.83	0.00
December	151.07	0.08	100.00	0.00

**Note:** The harmonized sales tax applies to Law Society fees and assessments.

LAW SOCIETY RULES

**SCHEDULE 3 – 2012 PRORATED FEES  
FOR NON-PRACTISING AND RETIRED MEMBERS**

	<b>Non-practising members fee</b>	<b>Retired members fee</b>
January	300.00	75.00
February	275.00	68.75
March	250.00	62.50
April	225.00	56.25
May	200.00	50.00
June	175.00	43.75
July	150.00	37.50
August	125.00	31.25
September	100.00	25.00
October	75.00	18.75
November	50.00	12.50
December	25.00	6.25

**Note:** The harmonized sales tax applies to Law Society fees and assessments.