

MEMBER'S MANUAL

The Law Society
of British Columbia



AMENDMENT PAGES

2012: No. 2 June

Highlights

Legal Profession Act: The *Legal Profession Amendment Act, 2012* was passed by the BC Legislature on May 9, 2012 and has received Royal Assent. Many amendments made by the new Act are now in effect; others will come into effect on proclamation, which will take place over the next several months. For the time being, lawyers should refer to the Law Society website for the current version of the Act (see Publications and Resources / Legal Profession Act); amendment pages will be mailed to print subscribers later this year. Also see the Law Society website for highlights of the amendments.

Law Society Rules: A tariff of costs now applies to discipline hearings, bringing the Law Society in line with the law of costs governing administrative tribunals (Rule 5-9(1.1) to (3.1) and Schedule 4: pp. 114 and 133).

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

Manual section	Existing pages to be removed	Amendment pages to be inserted
Legal Profession Act	[See above note]	
Law Society Rules	113 – 114 –	113 – 114 133 – 134

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

Updates: This amendment package updates the *Member's Manual* to **May 31, 2012**. The previous amendment package was 2012: No. 1 March.

To check that your copy of the *Manual* is up to date, consult the contents checklist on the back of this filing 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 1.800.903.5300 or email 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 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.

MEMBER'S MANUAL CONTENTS CHECKLIST

Updated to May 31, 2012

The following list of pages and tabs can be used to verify that your *Member's Manual* is complete and up to date.

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Divider tab: LEGAL PROFESSION ACT			Text (<i>continued</i>)	70.1 – 70.2	[03/2012]
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	36.1 – 36.2	[07/07]		110.9 – 110.10	[03/2011]
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PART 5 – HEARINGS AND APPEALS

- (5) The panel may make inquiries of a witness as it considers desirable.
- (6) The hearing panel may accept any of the following as evidence:
 - (a) an agreed statement of facts;
 - (a.1) oral evidence;
 - (a.2) affidavit evidence;
 - (b) evidence tendered in a form agreed to by the respondent or applicant and Society counsel;
 - (c) any other evidence it considers appropriate.

[(6) amended 04/2009; (2) and (6) amended 10/2010]

Public hearing

- 5-6** (1) Every hearing is open to the public, but the panel may exclude some or all members of the public in any circumstances it considers appropriate.
- (2) On application by anyone, or on its own motion, the panel may make the following orders to protect the interests of any person:
- (a) an order that specific information not be disclosed;
 - (b) any other order regarding the conduct of the hearing necessary for the implementation of an order under paragraph (a).
- (3) Despite the exclusion of the public under subrule (1) in a hearing on a citation, the complainant and one other person chosen by the complainant may remain in attendance during the hearing, unless the panel orders otherwise.
- (4) Except as required under Rule 5-7, when a hearing is proceeding, no one is permitted to possess or operate any device for photographing, recording or broadcasting in the hearing room without the permission of the panel, which the panel in its discretion may refuse or grant, with or without conditions or restrictions.

[(2) amended, (4) added 05/2003]

Transcript and exhibits

- 5-7** (1) All proceedings at a hearing must be recorded by a court reporter and any person may obtain, at his or her expense, a transcript pertaining to any part of the hearing that he or she was entitled to attend.
- (2) Subject to solicitor-client privilege or an order under Rule 5-6(2), any person may obtain, at his or her own expense, a copy of an exhibit entered in evidence when a hearing is open to the public.

[heading amended, (2) added 05/2003]

Decision

- 5-8** (1) A decision of a hearing panel is made by majority vote.
- (2) On request, the Executive Director must disclose a panel's written reasons for its decision, subject to the protection of solicitor and client privilege and confidentiality.

- (3) When a hearing panel gives written reasons for its decision, it must not disclose in those reasons any information that is confidential or subject to solicitor and client privilege.

[(2) and (3) amended 05/2003]

Costs of hearings

5-9 (0.1) A panel may order that an applicant or respondent pay the costs of a hearing referred to in Rule 5-1, and may set a time for payment.

(0.2) The Benchers may order that an applicant or respondent pay the costs of a review under section 47 of the Act, and may set a time for payment.

(1) [rescinded]

(1.1) Subject to subrule (1.2), the panel or the Benchers must have regard to the tariff of costs in Schedule 4 to these Rules in calculating the costs payable by a respondent or the Society in respect of a hearing on a citation or a review of a decision in a hearing on a citation.

(1.2) If, in the judgment of the panel or the Benchers, it is reasonable and appropriate for the Society or a respondent to recover no costs or costs in an amount other than that permitted by the tariff in Schedule 4, the panel or the Benchers may so order.

(1.3) The cost of disbursements that are reasonably incurred may be added to costs payable under this Rule.

(1.4) In the tariff in Schedule 4,

(a) one day of hearing includes a day in which the hearing or proceeding takes 2 and one-half hours or more, and

(b) for a day that includes less than 2 and one-half hours of hearing, one-half the number of units applies.

(2) [rescinded]

(3) If no adverse finding is made against the applicant, the panel or the Benchers have the discretion to direct that the applicant be awarded costs.

(3.1) If the citation is dismissed or rescinded after the hearing has begun, the panel or the Benchers have the discretion to direct that the respondent be awarded costs in accordance with subrules (1.1) to (1.4).

(4) Costs deposited under Rule 2-62 must be applied to costs ordered under this Rule.

(5) An applicant must not be enrolled, called and admitted or reinstated until the costs ordered under this Rule or the Act are paid in full.

[(1.1) to (1.4) and (3.1) added, (1) and (2) rescinded, (3) amended 04/2012]

SCHEDULE 4 – TARIFF FOR DISCIPLINE HEARING AND REVIEW COSTS

Item no.	Description	Number of units
Citation hearing		
1.	Preparation/amendment of citation, correspondence, conferences, instructions, investigations or negotiations after the authorization of the citation to the completion of the discipline hearing, for which provision is not made elsewhere	Minimum 1 Maximum 10
2.	Proceeding under s. 39 and Rule 4-17 and any application to rescind or vary an order under Rule 4-19, for each day of hearing	30
3.	Disclosure under Rule 4-25	Minimum 5 Maximum 20
4.	Application for particulars/preparation of particulars under Rule 4-26	Minimum 1 Maximum 5
5.	Application to adjourn under Rule 4-29 <ul style="list-style-type: none"> • if made more than 14 days prior to the scheduled hearing date • if made less than 14 days prior to the scheduled hearing date 	1 3
6.	Pre-hearing conference	Minimum 1 Maximum 5
7.	Preparation of agreed statement of facts <ul style="list-style-type: none"> • if signed more than 21 days prior to hearing date • if signed less than 21 days prior to hearing date • delivered to Respondent and not signed 	Min. 5 to max. 15 Min. 10 to max. 20 Min. 10 to max. 20
8.	Preparation of affidavits	Minimum 5 Maximum 20
9.	All process and correspondence associated with retaining and consulting an expert for the purpose of obtaining opinion(s) for use in the proceeding	Minimum 2 Maximum 10
10.	All process and communication associated with contacting, interviewing and issuing summons to all witnesses	Minimum 2 Maximum 10
11.	Interlocutory or preliminary motion for which provision is not made elsewhere, for each day of hearing	10
12.	Preparation for interlocutory or preliminary motion, per day of hearing	20
13.	Attendance at hearing, for each day of hearing, including preparation not otherwise provided for in tariff	30
14.	Written submissions, where no oral hearing held	Minimum 5 Maximum 15

LAW SOCIETY RULES

Item no.	Description	Number of units
S. 47 review		
15.	Giving or receiving notice under Rule 5-15, correspondence, conferences, instructions, investigations or negotiations after review initiated, for which provision is not made elsewhere	Minimum 1 Maximum 3
16.	Preparation and settlement of hearing record under Rule 5-17	Minimum 5 Maximum 10
17.	Pre-review conference	Minimum 1 Maximum 5
18.	Application to adjourn under Rule 5-19 <ul style="list-style-type: none"> • If made more than 14 days prior to the scheduled hearing date • If made less than 14 days prior to the scheduled hearing date 	1 3
19.	Procedural or preliminary issues, including an application to admit evidence under Rule 5-19(2), per day of hearing	10
20.	Preparation and delivery of written submissions	Minimum 5 Maximum 15
21.	Attendance at hearing, per day of hearing, including preparation not otherwise provided for in the tariff	30
Summary hearings		
22.	Each day of hearing	\$2,000
Hearings under Rule 4-22		
23.	Complete hearing, based on the following factors: <ul style="list-style-type: none"> (a) complexity of matter; (b) number and nature of allegations; and (c) the time at which respondent elected to make conditional admission relative to scheduled hearing and amount of pre-hearing preparation required. 	\$1,000 to \$3,500

Value of units:

Scale A, for matters of ordinary difficulty: \$100 per unit
Scale B, for matters of more than ordinary difficulty: \$150 per unit