

MEMBER'S MANUAL

The Law Society
of British Columbia



AMENDMENT PAGES

2017: No. 2 June

Highlights

Law Society Rules 2015:* The Rules are amended to give effect to the resolution passed at the October 2016 annual general meeting, which authorized the Benchers to provide for online voting at general meetings. Members attending in person or by telephone will continue to have full speaking rights, but there is currently no technology to make that possible by way of the internet (Rules 1-9(1), (1.1) to (1.3), (5), (6.1) and (7) and 1-13(1.1) and (15.1): pp. 23 and 25); amendments ensure compliance with section 30 of the *Legal Profession Act*, which requires lawyers to maintain trust protection insurance as well as professional liability insurance. Also, the language in the Rules is made consistent with that in the Act (Rules 2-16(3) and (6), 2-19(3), 2-22(3), 2-32, 2-40(2), 2-49(1), 2-77(1), 2-79(1), 2-82(1), 2-117(1), 3-39 heading and (3), 3-39.1, 3-43 heading, 3-44(1) and (2), and 3-46(1) to (3) and (5): pp. 46, 48, 49, 54, 59, 63, 79, 81, 83, 85, 100, 120, 122 and 123); the qualifications required to act as a principal to an articulated student have been amended, including reducing the period of qualification from 7 of the previous 10 years to 5 of the previous 6 years, including prorated credit for part-time practice (Rule 2-57(1), (1.1), (2) and (2.1): p. 67); the table of contents is updated (pp. 1-10).

**Historical notes are published only in the website version of the Rules.*

Code of Professional Conduct for British Columbia: The table of contents is updated (pp. i-vi).

Filing: File the amended pages in your *Member's Manual* as follows:

Manual section	Existing pages to be removed	Amendment pages to be inserted
Law Society Rules	1 – 10 23 – 26 45 – 54 59 – 68 79 – 86 99 – 100 119 – 124 141 – 142	1 – 10 23 – 26, 26.1 – 26.2 45 – 54 59 – 68 79 – 86 99 – 100 119 – 124 141 – 142
Code of Professional Conduct for British Columbia	i – vi	i – vi

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

Updates: This amendment package updates the *Member's Manual* to **May 19, 2017**. The previous amendment package was 2017: No. 1 March.

[continued over]

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 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 *Code of Professional Conduct for British Columbia* can be accessed in the Support & Resources for Lawyers section of the Law Society website at www.lawsociety.bc.ca in both HTML (for online use) and PDF (for printout, including printout of *Member's Manual* replacement pages).

Refer to the Law Society website for the most current versions of the Act, Rules and Code.

MEMBER'S MANUAL CONTENTS CHECKLIST

2017: No. 2 June

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

Section of Manual	Pages	Dated	Section of Manual	Pages	Dated
Divider tab: LEGAL PROFESSION ACT			Text (<i>continued</i>)	187 – 188	[06/2016]
Title page	—	—		189 – 190	[06/2015]
Table of Contents	1 – 8	[06/2016]		191 – 192	[09/2016]
	9 – 14	[12/2012]		193 – 194	[06/2016]
	15 – 16	[06/2016]		195 – 200	[09/2016]
	17 – 20	[12/2012]		201 – 212	[06/2015]
	21 – 22	[06/2016]		213 – 214	[09/2016]
	23 – 24	[12/2012]		215 – 216	[06/2015]
	25 – 26	[06/2016]		217 – 222	[12/2016]
	27 – 30	[12/2012]		223 – 224	[06/2015]
	31 – 34	[06/2016]			
	34.1 – 34.6	[12/2012]	Divider tab: CODE OF PROFESSIONAL CONDUCT /		
	35 – 36	[09/2011]	PROFESSIONAL CONDUCT HANDBOOK		
	36.1 – 36.2	[07/07]	Title page	—	—
	37 – 38	[12/98]	Table of Contents	i – vi	[06/2017]
	39 – 42	[12/2012]	Introduction	vii – viii	[03/2017]
	43 – 44	[03/2013]	Text	1 – 2	[12/2013]
	45 – 46	[07/2010]		3 – 10	[12/2012]
	47 – 48	[06/2016]		11 – 12	[12/2016]
	49 – 50	[12/98]		13 – 14	[12/2013]
	51 – 58	[12/2012]		14.1 – 14.2	[03/2017]
	59 – 60	[09/2014]		15 – 16	[06/2013]
				17 – 24	[12/2012]
Divider tab: LAW SOCIETY RULES				24.1 – 24.2	[12/2016]
Title page	—	—		25 – 32	[12/2012]
Table of Contents	1 – 10	[06/2017]		33 – 38, 38.1 – 38.4	[12/2016]
Text	11 – 16	[06/2015]		39 – 40	[06/2013]
	17 – 22	[12/2015]		41 – 42	[12/2012]
	23 – 26, 26.1 – 26.2	[06/2017]		43 – 44	[06/2013]
	27 – 28	[06/2015]		45 – 46	[06/2015]
	29 – 38	[12/2015]		47 – 48	[12/2015]
	39 – 42	[06/2015]		49 – 52	[12/2012]
	43 – 44	[03/2017]		53 – 56	[03/2017]
	45 – 54	[06/2017]		57 – 58	[12/2014]
	55 – 58	[06/2015]		59 – 62	[12/2012]
	59 – 68	[06/2017]		63 – 64, 64.1 – 64.2	[03/2017]
	69 – 78	[06/2015]		65 – 70	[12/2012]
	79 – 86	[06/2017]		71 – 72	[09/2014]
	87 – 88	[06/2015]		73 – 74	[12/2012]
	89 – 94	[09/2016]		75 – 76	[12/2015]
	95 – 98	[06/2015]		76.1 – 76.2	[06/2013]
	99 – 100	[06/2017]		77 – 82	[12/2012]
	101 – 116	[06/2015]		83 – 84, 84.1 – 84.2	[12/2013]
	117 – 118	[03/2017]		85 – 96	[12/2012]
	119 – 124	[06/2017]		97 – 98	[06/2016]
	125 – 128	[06/2015]		99 – 100	[12/2012]
	129 – 132	[09/2016]		101 – 102	[03/2013]
	133 – 134	[06/2015]		102.1 – 102.4	[12/2015]
	135 – 136	[12/2015]		103 – 106	[03/2015]
	137 – 140	[06/2015]		107 – 108	[12/2016]
	141 – 142	[06/2017]		109 – 112	deleted
	143 – 144	[12/2015]		113 – 114	[12/2012]
	145 – 148	[06/2015]		115 – 116	[12/2015]
	149 – 150	[03/2017]			
	151 – 154	[06/2015]	Divider tab: INSURANCE POLICIES		
	155 – 156	[12/2015]	Policy No. LPL 17-01-01	1 – 28	[12/2016]
	157 – 164	[06/2015]			
	165 – 166	[09/2016]	Divider tab: ARTICLING		
	167 – 172	[06/2015]	Text	1 – 2	[06/03]
	173 – 180	[09/2016]		3 – 4	[07/09]
	181 – 186	[06/2015]		5 – 8	[06/03]

CONTENTS

<i>Rule</i>		<i>Page</i>
1	Definitions	11
PART 1 – ORGANIZATION		
Division 1 – Law Society		
Benchers		
1-1	Term of office	19
1-2	Term limits	19
1-3	Oath of office	19
1-4	Life Benchers	20
1-5	President and Vice-Presidents	20
1-6	Removal of the President or a Vice-President	21
1-7	Bencher ceasing to be member	22
Meetings		
1-8	Annual general meeting	22
1-9	Telephone and internet connections	23
1-10	Auditors	23
1-11	Special general meeting	25
1-12	Quorum	25
1-13	Procedure at general meeting	25
1-14	Bencher meetings	26.1
1-15	Notice of Bencher meeting	26.1
1-16	Procedure at Bencher meeting	27
1-17	Quorum for committee meetings	28
1-18	Procedure for committee meetings	28
Elections		
1-19	Second Vice-President-elect	28
1-20	Bencher elections	28
1-21	Regional election of Benchers	29
1-22	Qualifications of candidate	29
1-23	Nomination	30
1-24	Acclamation	30
1-25	Eligibility and entitlement to vote	30
1-26	Voter list	31
1-27	Voting procedure	31
1-27.1	Electronic voting	32
1-28	Order of names on ballot	32
1-29	Rejection of ballots	33
1-30	Alternative vote ballot	33
1-31	Scrutineers	34
1-32	Counting of votes	34
1-33	Attendance of candidate	34
1-34	Declaration of candidates elected	34
1-35	Election record and disclosure of votes received	35
1-36	Review by Executive Committee	35
1-37	Retention of documents	35

Law Society Rules

1-38	Bencher by-election	35
1-39	Appointment of Bencher to represent a district	36
1-40	Referendum ballots	36
1-41	Election of Executive Committee	36
1-42	Date falling on Saturday, Sunday or holiday	37
1-44	Extension of dates	37
General		
1-45	Seal	37
1-46	Laying of information	38
1-47	<i>Freedom of Information and Protection of Privacy Act</i>	38
1-48	Appointment of Law Society counsel	38
Division 2 – Committees		
1-49	Committees of the Benchers	38
1-50	Executive Committee	38
1-51	Powers and duties	39
Division 3 – Law Society Rules		
1-52	Act, Rules and Code	39
PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW		
Division 1 – Practice of Law		
Members		
2-1	Categories of membership	41
2-2	Member in good standing	41
2-3	Non-practising members	41
2-4	Retired members	41
2-5	Release from undertaking	42
2-6	Legal services by non-practising and retired members	42
2-7	Certificates and permits	42
Member information		
2-8	Annual practice declaration	43
2-9	Definitions	43
2-10	Business address	43
2-11	Residential address	43
2-12	Practice history	44
Paralegals		
2-13	Supervision of limited number of designated paralegals	44
Unauthorized practice		
2-14	Unauthorized practice of law	44
Inter-jurisdictional practice		
2-15	Definitions	45
2-16	Inter-jurisdictional practice without a permit.....	45
2-17	Disqualifications	47
2-18	Federal jurisdiction	47
2-19	Inter-jurisdictional practice permit	48
2-20	Application for inter-jurisdictional practice permit	48
2-21	Non-practising and retired members	49
2-22	Expiry and renewal of inter-jurisdictional practice permit	49
2-23	Responsibilities of visiting lawyer	50

Contents

2-24	Enforcement	50
2-25	Trust funds	51
2-26	Dispute resolution	51
2-27	National Registry of Practising Lawyers	51
Practitioners of foreign law		
2-28	Definitions	51
2-29	Practitioners of foreign law	52
2-30	Conditions and limitations	53
2-31	Providing foreign legal services without a permit	53
2-32	Dual qualification	54
2-33	Marketing of legal services by practitioners of foreign law	55
2-34	Renewal of permit	55
Canadian legal advisors		
2-35	Scope of practice	56
2-36	Requirements.....	56
Non-resident partners		
2-37	Inter-jurisdictional law firms	56
Multi-disciplinary practice		
2-38	Definition and application	57
2-39	Conditions for MDP	57
2-40	Application to practise law in MDP	58
2-41	Consideration of MDP application	59
2-42	Changes in MDP	60
2-43	Cancellation of MDP permit	60
2-44	Lawyer's professional duties	61
2-45	Privilege and confidentiality	62
2-46	Conflicts of interest	62
2-47	Liability insurance	62
2-48	Trust funds	62
2-49	Notifying the Society	63
Division 2 – Admission and Reinstatement		
Credentials Committee		
2-50	Credentials Committee	63
2-51	Referral to Credentials Committee	63
2-52	Powers of Credentials Committee	64
Application for enrolment, admission or reinstatement		
2-53	Disclosure of information.....	64
Admission program		
2-54	Enrolment in the admission program	65
2-55	Re-enrolment	66
2-56	Consideration of application for enrolment	66
2-57	Principals	67
2-58	Hiring articulated students	68
2-59	Articling term	69
2-60	Legal services by articulated students	69
2-61	Mid-term report	70
2-62	Part-time articles	71
2-63	Law clerks	71
2-64	Articles in another Canadian jurisdiction	72

2-65	Practice experience in a common law jurisdiction outside Canada	72
2-66	Secondment of articles	72
2-67	Assignment of articles	72
2-68	Other employment	73
2-69	Leave during articles	73
2-70	Temporary articles	74
2-71	Court and tribunal appearances by temporary articulated students	75
2-72	Training course	76
2-73	Tutorial program	77
2-74	Review by Credentials Committee	77
2-75	Termination of enrolment	79
Call and admission		
2-76	Call and admission	79
2-77	First call and admission	79
2-78	Law school faculty	80
2-79	Transfer from another Canadian jurisdiction	80
2-80	In-house counsel	82
2-81	Transfer under National Mobility Agreement and Territorial Mobility Agreement....	82
2-82	Transfer as Canadian legal advisor	83
2-83	Consideration of application for call and admission	84
2-84	Barristers and solicitors' roll and oath	84
Reinstatement		
2-85	Reinstatement of former lawyer	85
2-86	Subsequent application for reinstatement	86
2-87	Reinstatement of former judge or master	87
Returning to practice		
2-88	Definition and application	88
2-89	Returning to practice after an absence	88
2-90	Conditions on returning to practice	89
Credentials hearings		
2-91	Notice to applicant	90
2-92	Security for costs	90
2-93	Law Society counsel	91
2-94	Preliminary questions	91
2-95	Compelling witnesses and production of documents	91
2-96	Pre-hearing conference	92
2-97	Appointment of panel	93
2-98	Adjournment of hearing	93
2-99	Attendance at the hearing	93
2-100	Onus and burden of proof	93
2-101	Procedure	93
2-102	Inactive applications	94
2-103	Publication of credentials decision	95
2-104	Anonymous publication	95
Division 3 – Fees and Assessments		
2-105	Annual practising fees	96
2-106	Assessments	96
2-107	Application fees	96
2-108	Late payment	96
2-109	Definition and application	97

Contents

2-110 Trust administration fee 98
2-111 Late payment of trust administration fee 98
2-112 Executive Director’s discretion 98
2-113 Referral to Executive Committee 98
2-114 Taxes payable 99
2-115 Refund when lawyer does not practise law 99
2-116 Refund on exemption during practice year 99
2-117 Failure to pay fine, costs or penalty 100
2-118 No refund on suspension 100

PART 3 – PROTECTION OF THE PUBLIC

Division 1 – Complaints

3-1 Application 101
3-2 Complaints 101
3-3 Confidentiality of complaints 101
3-4 Consideration of complaints and other information 102
3-5 Investigation of complaints 102
3-6 Failure to produce records on complaint investigation 104
3-7 Resolution by informal means 104
3-8 Action after investigation 104
3-9 Notifying the parties 105
3-10 Extraordinary action to protect public 105
3-11 Medical examination 106
3-12 Procedure 106
3-13 Appointment of Complainants’ Review Committee 107
3-14 Review by Complainants’ Review Committee 108

Division 2 – Practice Standards

3-15 Practice Standards Committee 108
3-16 Objectives 109
3-17 Consideration of complaints 109
3-18 Practice review 110
3-19 Action by Practice Standards Committee 110
3-20 Conditions or limitations on practice 111
3-21 Referral to Discipline Committee 112
3-22 Remedial program 113
3-23 Confidentiality of Practice Standards Committee deliberations 113
3-24 Report to complainant 114
3-25 Costs 114

Division 3 – Education

3-26 Definitions 114
3-27 Application 115
3-28 Small firm course 115
3-29 Professional development 115
3-30 Mentoring 116
3-31 Late completion of professional development 117
3-32 Failure to complete professional development 118

Division 4 – Specialization and Restricted Practice

3-33 Definitions 118
3-34 Advertising 118
3-35 Family law mediators 118

3-36	Family law arbitrators	119
3-37	Parenting coordinators	119
3-38	Professional development for family law neutrals	120
Division 5 – Insurance		
3-39	Compulsory professional liability insurance	120
3-39.1	Compulsory trust protection insurance	120
3-40	Annual insurance fee	121
3-41	Payment of annual insurance fee by instalments	121
3-42	Insurance fee credit	122
3-43	Exemption from professional liability insurance	122
3-44	Deductible, surcharge and reimbursement	123
3-45	Application for insurance coverage	123
3-46	Confidentiality of insurance claims	123
Division 6 – Financial Responsibility		
3-47	Definitions	124
3-48	Application	125
3-49	Standards of financial responsibility	125
3-50	Failure to satisfy judgment	126
3-51	Insolvent lawyer	126
3-52	Consideration by Discipline Committee	127
Division 7 – Trust Accounts and Other Client Property		
3-53	Definitions	128
3-54	Personal responsibility	128
3-55	Fiduciary property	128
3-56	Designated savings institutions	129
3-57	Removal of designation	129
3-58	Deposit of trust funds	129
3-59	Cash transactions	130
3-60	Pooled trust account	131
3-61	Separate trust account	132
3-62	Cheque endorsed over	132
3-63	Trust account balance	132
3-64	Withdrawal from trust	132
3-65	Payment of fees from trust	133
3-66	Withdrawal from separate trust account	135
3-67	Accounting records	136
3-68	Trust account records	137
3-69	General account records	137
3-70	Records of cash transactions	138
3-71	Billing records	139
3-72	Recording transactions	139
3-73	Monthly trust reconciliation	139
3-74	Trust shortage	140
3-75	Retention of records	140
3-76	Executive Director’s modification	141
3-77	Annual CDIC report	141
3-78	Lawyer’s right to claim funds	141
3-79	Trust report	141
3-80	Late filing of trust report	142
3-81	Failure to file trust report	142

Contents

3-82	Accountant’s report	143
3-83	Exceptions and qualifications	144
3-84	Former lawyers	144
3-85	Compliance audit of books, records and accounts	144
3-86	Failure to produce records on compliance audit	145
3-87	Disposition of files, trust money and other documents and valuables	145
Division 8 – Unclaimed Trust Money		
3-88	Definition	147
3-89	Payment of unclaimed trust funds to the Society	147
3-90	Investigation of claims	147
3-91	Adjudication of claims	148
3-92	Calculation of interest	149
3-93	Efforts to locate the owner of funds	149
3-94	Payment to the Law Foundation	149
Division 9 – Real Estate Practice		
3-95	Definitions	149
3-96	Report of failure to cancel mortgage	150
Division 10 – Criminal Charges		
3-97	Reporting criminal charges	150
Division 11 – Client Identification and Verification		
3-98	Definitions	151
3-99	Application	152
3-100	Client identification	153
3-101	Exemptions.....	153
3-102	Verification	154
3-103	Identifying directors, shareholders and owners	155
3-104	Client identification and verification in non-face-to-face transactions	155
3-105	Timing of verification for individuals	156
3-106	Timing of verification for organizations	156
3-107	Record keeping and retention	157
3-108	Existing matters	157
3-109	Criminal activity	157
PART 4 – DISCIPLINE		
4-1	Interpretation and application	159
4-2	Discipline Committee	159
4-3	Consideration of complaints by Committee	159
4-4	Action on complaints	160
4-5	Consideration of complaints by chair	160
4-6	Continuation of membership during investigation or disciplinary proceedings	160
4-7	Notification	161
4-8	Confidentiality of Discipline Committee deliberations	161
4-9	Conduct letter from the chair	162
4-10	Conduct meeting	162
4-11	Conduct Review Subcommittee	163
4-12	Conduct review	163
4-13	Conduct Review Subcommittee report	163
4-14	Privilege and confidentiality	164
4-15	Publication and disclosure	164
4-16	Evidence of conduct review at the hearing of a citation.....	165

4-17	Direction to issue, expand or rescind citation	165
4-18	Contents of citation	165
4-19	Notice of citation	165
4-20	Disclosure of citation	166
4-21	Amending an allegation in a citation	166
4-22	Severance and joinder	166
4-23	Interim suspension or practice conditions	167
4-24	Notification of respondent	168
4-25	Disclosure	168
4-26	Review of interim suspension or practice conditions	169
4-27	Appointment of discipline counsel	170
4-28	Notice to admit	170
4-29	Conditional admissions	171
4-30	Conditional admission and consent to disciplinary action	172
4-31	Rejection of admissions	172
4-32	Notice of hearing	173
4-33	Summary hearing	173
4-34	Demand for disclosure of evidence	174
4-35	Application for details of the circumstances	174
4-36	Preliminary questions	175
4-37	Compelling witnesses and production of documents	175
4-38	Pre-hearing conference	176
4-39	Appointment of panel	177
4-40	Adjournment	177
4-41	Preliminary matters	178
4-42	Evidence of respondent	178
4-43	Submissions and determination	178
4-44	Disciplinary action	178
4-45	Discipline proceedings involving members of other governing bodies	180
4-46	Discipline involving lawyers practising in other jurisdictions	180
4-47	Public notice of suspension or disbarment	181
4-48	Publication of disciplinary action	182
4-49	Anonymous publication	183
4-50	Disclosure of practice restrictions	183
4-51	Disbarment	184
4-52	Conviction	184
4-53	Notice	184
4-54	Summary procedure	184
4-55	Investigation of books and accounts	185

PART 5 – HEARINGS AND APPEALS

5-1	Application	187
5-2	Hearing panels	187
5-3	Panel member unable to continue	188
5-4	Disqualification	188
5-5	Compelling witnesses and production of documents	188
5-6	Procedure	189
5-7	Communication with Ombudsperson confidential	189
5-8	Public hearing	190
5-9	Transcript and exhibits	190
5-10	Decision	191

Contents

5-11	Costs of hearings	191
5-12	Application to vary certain orders	192
5-13	Failure to pay costs or fulfill practice condition	193
5-14	Recovery of money owed to the Society	193
Reviews and appeals		
5-15	Review by review board	193
5-16	Review boards	194
5-17	Disqualification	194
5-18	Review board member unable to continue	194
5-19	Initiating a review	195
5-20	Stay of order pending review	195
5-21	Notice of review	195
5-22	Record of credentials hearing	195
5-23	Record of discipline hearing	196
5-24	Record of an order for costs by the Practice Standards Committee	196
5-24.1	Preparation and delivery of record	197
5-24.2	Notice of review hearing	197
5-25	Pre-review conference	198
5-26	Adjournment	199
5-27	Decision on review	199
5-28	Inactive reviews	199
5.29	Appeal to Court of Appeal	200
PART 6 – CUSTODIANSHIPS		
6-1	Co-operation in conduct of custodianship	201
6-2	Report of possible claim	201
6-3	Acting for lawyer’s clients	201
6-4	Acquiring lawyer’s practice	201
6-5	Notice of custodianship order	201
PART 7 – LAW FOUNDATION		
[no rules]		
PART 8 – LAWYERS’ FEES		
8-1	Reasonable remuneration	203
8-2	Maximum remuneration in personal injury actions	203
8-3	Form and content of contingent fee agreements	203
8-4	Statement of rules in contingent fee agreements	204
PART 9 – INCORPORATION AND LIMITED LIABILITY PARTNERSHIPS		
Division 1 – Law Corporations		
9-1	Corporate name	205
9-2	Corporate name certificate	205
9-3	Review of Executive Director’s decision	205
9-4	Law corporation permit	206
9-5	Issuance of permit	206
9-6	Change of corporate name	206
9-7	Public disclosure of corporate status	207
9-8	Corporate information	207
9-9	Disclosure of corporate information	207
9-10	Notice of change in corporate information	208
9-11	Revocation of permits	208

Division 2 – Limited Liability Partnerships		
9-12	Definition	209
9-13	Practice through a limited liability partnership	209
9-14	LLP name	209
9-15	Notice of application for registration	209
9-16	Review of Executive Director’s decision	210
9-17	Disclosure of LLP status	210
9-18	Change in LLP information and annual reports	211
9-19	Disclosure of LLP information	212
9-20	Notification of non-compliance	212
PART 10 – GENERAL		
10-1	Service and notice	213
10-2	Duty not to disclose	214
10-3	Records	214
10-4	Security of records	215
SCHEDULES		
Schedule 1 – Law Society Fees and Assessments		217
Schedule 2 – Prorated Fees and Assessments for Practising Lawyers		220
Schedule 3 – Prorated Fees for Non-Practising and Retired Members		221
Schedule 4 – Tariff for Hearing and Review Costs		222
Schedule 5 – Form of Summons		224

Telephone and internet connections

- 1-9** (1) The Benchers may conduct a general meeting by joining any number of locations by
- (a) telephone, or
 - (b) internet connection.
- (1.1) Persons participating in and entitled to vote at a general meeting who are connected by telephone or internet connection must be able to hear all others participating in person or by telephone.
- (1.2) Persons participating in and entitled to vote at a general meeting who are connected by telephone must be able to speak at the meeting if recognized by the President.
- (1.3) Persons participating in and entitled to vote at a general meeting who are connected by the internet must be able to vote in real time when called upon by the President to do so.
- (2) The Executive Director may appoint a Bencher or a member of the Society in good standing to act as local chair of a location where the President is not present.
- (3) The local chair must record the names of those in attendance and, unless the Executive Director directs otherwise, may dispense with registration and voting and student cards under Rule 1-13 [*Procedure at general meeting*].
- (4) A person participating in a general meeting at any location connected under subrule (1) is present at the meeting for the purpose of Rule 1-13 [*Procedure at general meeting*] and the calculation of a quorum.
- (5) The Executive Committee must designate locations to be joined to the annual general meeting by telephone, including at least the following locations:
- (a) one in District No. 1, County of Vancouver, or District No. 4, County of Westminster;
 - (b) one in District No. 2, County of Victoria;
 - (c) one in District No. 3, County of Nanaimo;
 - (d) one in District No. 5, County of Kootenay;
 - (e) one in District No. 6, Okanagan;
 - (f) 2 in District No. 7, County of Cariboo;
 - (g) one in District No. 8, County of Prince Rupert;
 - (h) one in District No. 9, Kamloops.
- (6) As an exception to subrule (5), if, 7 days before an annual general meeting, fewer than 15 members of the Society have indicated to the Executive Director an intention to attend the meeting at any location announced under Rule 1-8 (7) [*Annual general meeting*], the Executive Committee may cancel that location.

- (6.1) The Executive Director
- (a) may retain a contractor to assist in any part of a general meeting conducted by way of the internet,
 - (b) must ensure that votes cast electronically in a secret ballot remain secret, and
 - (c) must take reasonable security measures to ensure that only members entitled to vote can do so.
- (7) A technical failure that prevents any member from participating in or voting at a general meeting does not invalidate anything done at the general meeting.

Auditors

- 1-10** (1) At each annual general meeting, the members of the Society must appoint an auditor.
- (2) The auditor appointed under subrule (1) must be a qualified CPA.
- (3) A Bencher, Life Bencher or an employee of the Society is not eligible to be appointed auditor under subrule (1).
- (4) A member of the Society may require the attendance of the auditor at the meeting at the expense of the Society by giving notice in writing to the Executive Director at least 10 days before a meeting at which the financial statements of the Society are to be considered or the auditor is to be appointed or removed, and, in that case, the auditor must attend the meeting.
- (5) The auditor of the Society is entitled to
- (a) attend any general meeting of the Society and to receive every notice and other communication relating to the meeting that a member of the Society is entitled to receive, and
 - (b) be heard at any general meeting that the auditor attends on any part of the business of the meeting that concerns the auditor or the financial statements of the Society.
- (6) At any general meeting, the auditor, if present, must answer enquiries directed to the auditor concerning the financial statements of the Society and the opinion on them stated in his or her report.
- (7) The auditor is entitled at all times to have access to every record of the Society and is entitled to require from the Benchers, officers and employees of the Society information and explanations that the auditor considers necessary to enable the auditor to prepare his or her report.

Special general meeting

- 1-11** (1) The Benchers may at any time convene a special general meeting of the Society.
- (2) The Benchers must convene a special general meeting of the Society on a written request
- (a) delivered to the Executive Director,
 - (b) stating the nature of the business that is proposed to be considered for the meeting, and
 - (c) signed by 5 per cent of the members of the Society in good standing at the time the request is received by the Executive Director.
- (3) The Benchers must convene a special general meeting within 60 days of the receipt of a request under subrule (2).
- (4) Subject to subrule (3), a special general meeting must be held at a time and place that the Benchers may determine.
- (5) At least 21 days before a special general meeting, the Executive Director must, by electronic or other means, distribute to Benchers and members of the Society in good standing a notice of the meeting stating the business that will be considered at the meeting.
- (6) The accidental omission to give notice of a special general meeting to any Bencher or member of the Society, or the non-receipt of that notice, does not invalidate anything done at the meeting.
- (7) No business other than the business stated in the notice under subrule (5) may be considered at a special general meeting.

Quorum

- 1-12** At a general meeting of the Society, 50 members of the Society in good standing constitute a quorum.

Procedure at general meeting

- 1-13** (1) Benchers, members of the Society in good standing and articulated students are entitled to be present and to speak at a general meeting.
- (1.1) Despite subrule (1), a person participating in a general meeting by way of internet connection is not entitled to speak at the meeting.
- (2) The Executive Director must register all persons attending a general meeting as follows:
- (a) members of the Society in good standing, who must be given a voting card;
 - (b) articulated students, who must be given a student card;
 - (c) appointed Benchers and persons given permission to attend the meeting by the President, who may be given a card for identification only.

- (3) As an exception to subrule (2), the Executive Committee may authorize the Executive Director to dispense with registration or voting and student cards at a special general meeting.
- (4) At a general meeting, the President may allow a person not in possession of a voting or student card to speak.
- (5) Subject to subrules (6) and (7), in the absence of the President, the First Vice-President or the Second Vice-President must preside at a general meeting and assume the duties of the President under Rules 1-8 to 1-13.
- (6) In the absence of the President and Vice-Presidents, one of the other Benchers present must preside at a general meeting and assume the duties of the President under Rules 1-8 to 1-13.
- (7) The members of the Society present at a general meeting must choose one of their number to preside at the meeting if
 - (a) no Bencher is present 30 minutes after the time appointed for holding the meeting, or
 - (b) all Benchers present are unwilling to preside.
- (8) At the beginning of the meeting, the President must declare whether or not a quorum is present.
- (9) If a quorum is not present 30 minutes after the time appointed for a general meeting, the meeting
 - (a) if convened at the written request of members, is terminated, or
 - (b) in any other case, may be adjourned to a specified place and a new date within one week, as determined by the President.
- (10) No business, other than the election of a presiding Bencher and the adjournment or termination of the meeting, can be begun unless and until a quorum is present.
- (11) If the President has declared that a quorum is present, a quorum is deemed to remain present until a member present at the meeting challenges the quorum.
- (12) The Executive Committee is authorized to set the agenda for a general meeting.
- (13) A dispute concerning the procedure to be followed at a general meeting not provided for in the Act or these Rules is to be resolved in accordance with the most recent edition of *Robert's Rules of Order Newly Revised*.
- (14) When a decision of the President is appealed, the President must call a vote of all members present, without debate, on whether they are in favour of or opposed to sustaining the President's decision.
- (15) A member of the Society in good standing who is present at a general meeting is entitled to one vote.

- (15.1) A member of the Society must not
 - (a) cast a vote or attempt to cast a vote that he or she is not entitled to cast, or
 - (b) enable or assist a person
 - (i) to vote in the place of the member, or
 - (ii) to cast a vote that the person is not entitled to cast.
- (16) Voting at a general meeting must be by show of voting cards, or by show of hands if voting cards have not been issued, unless the President orders a secret ballot.
- (17) A member of the Society is not entitled to vote by proxy.
- (18) A general meeting may be adjourned from time to time and from place to place, but no business can be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Bencher meetings

- 1-14** (1) Bencher meetings are held in British Columbia, unless the Benchers direct otherwise.
- (2) The President or any 2 Benchers may call a special meeting of the Benchers.
- (3) At a meeting of the Benchers, 7 Benchers constitute a quorum, provided that a majority of the Benchers present are members of the Society.

Notice of Bencher meeting

- 1-15** (1) The Executive Director must notify the Benchers of the date, time and place of the next Bencher meeting or of an adjourned Bencher meeting.
- (2) The Executive Director must notify the Benchers under subrule (1) at least 48 hours before the meeting, or within less time if that is reasonable in the circumstances.

[This page is intentionally left blank.]

Inter-jurisdictional practice

Definitions

2-15 In Rules 2-15 to 2-27,

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

“**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 2-19 [*Inter-jurisdictional practice permit*];

“**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).

Inter-jurisdictional practice without a permit

2-16 (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.

- (3) Subject to subrule (4), to qualify to provide legal services on a temporary basis under this rule, a visiting lawyer must at all times
 - (a) maintain professional liability insurance that
 - (i) is reasonably comparable in coverage and limits to that required of lawyers under Rule 3-39 (1) [*Compulsory professional liability insurance*], and
 - (ii) extends to the visiting lawyer's temporary practice in British Columbia,
 - (b) maintain trust protection insurance or other defalcation compensation coverage from a governing body that extends to the visiting lawyer's temporary practice in British Columbia,
 - (c) not be subject to conditions of or restrictions on the visiting lawyer's practice or membership in the governing body in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency or capacity,
 - (d) not be the subject of criminal or disciplinary proceedings in any jurisdiction,
 - (e) have no disciplinary record in any jurisdiction, and
 - (f) not establish an economic nexus with British Columbia, contrary to Rule 2-17 [*Disqualifications*].
- (4) On application of a visiting lawyer who otherwise qualifies under subrule (3), the Executive Director may allow the visiting lawyer to provide legal services without a permit beyond the limits set in subrule (1).
- (5) At the written request of a visiting lawyer affected by a decision made by the Executive Director under subrule (4), the Credentials Committee may
 - (a) confirm the decision, or
 - (b) substitute its decision.
- (6) The requirement in subrule (3) (a) does not apply to a visiting lawyer who is exempt from professional liability insurance under Rule 3-43 [*Exemption from professional liability insurance*] with respect to legal services to be provided in British Columbia.
- (7) A visiting lawyer who provides legal services without a permit must, on request,
 - (a) provide evidence to the Executive Director that the visiting lawyer has complied with and continues to comply with this rule, and
 - (b) disclose to the Executive Director each governing body of which the visiting lawyer is a member.
- (8) Notwithstanding Rules 2-15 to 2-27, a member of the Canadian Forces who is entitled to practise law in a home jurisdiction in which he or she is a member of the governing body
 - (a) may provide legal services for or on behalf of the Office of the Judge Advocate General without a permit, and

- (b) does not establish an economic nexus with British Columbia under Rule 2-17 [*Disqualifications*], provided that he or she provides legal services exclusively for or on behalf of the Office of the Judge Advocate General.

Disqualifications

- 2-17** (1) A visiting lawyer who has established an economic nexus with British Columbia is not permitted to provide legal services without a permit under Rule 2-16 [*Inter-jurisdictional practice without a permit*].
- (2) For the purposes of this rule, an economic nexus is established by actions inconsistent with a temporary basis for providing legal services, including but not limited to doing any of the following in British Columbia:
- (a) providing legal services beyond 100 business days, or longer period allowed under Rule 2-16 (4) [*Inter-jurisdictional practice without a permit*];
 - (b) opening an office from which legal services are offered or provided to the public;
 - (c) becoming resident;
 - (d) opening or operating a trust account, or accepting trust funds, except as allowed under Rule 2-25 [*Trust funds*];
 - (e) holding oneself out or allowing oneself to be held out as willing or qualified to provide legal services, except as a visiting lawyer.
- (3) A visiting lawyer who provides legal services in or from an office affiliated with the visiting lawyer's law firm in his or her home jurisdiction does not, for that reason alone, establish an economic nexus with British Columbia.
- (4) A visiting lawyer who becomes disqualified under this rule must cease providing legal services forthwith, but may apply under Rule 2-19 [*Inter-jurisdictional practice permit*] for an inter-jurisdictional practice permit or under Rule 2-79 [*Transfer from another Canadian jurisdiction*] for call and admission.
- (5) On application by a visiting lawyer, the Executive Director may allow the visiting lawyer to continue to provide legal services pending consideration of an application under Rule 2-19 [*Inter-jurisdictional practice permit*] or 2-79 [*Transfer from another Canadian jurisdiction*].

Federal jurisdiction

- 2-18** (1) Despite Rule 2-16 [*Inter-jurisdictional practice without a permit*], a visiting lawyer who is not disqualified under Rule 2-17 (2) (b) to (e) [*Disqualifications*] may appear before any of the following tribunals without a permit:
- (a) the Supreme Court of Canada;
 - (b) the Federal Court of Appeal;
 - (c) the Federal Court;
 - (d) the Tax Court of Canada;

- (e) a federal administrative tribunal;
 - (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.

Inter-jurisdictional practice permit

- 2-19** (1) A visiting lawyer who does not qualify to provide legal services without a permit under Rule 2-16 [*Inter-jurisdictional practice without a permit*] or is disqualified under Rule 2-17 [*Disqualification*] may apply for a permit.
- (2) 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.
- (3) 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 2-16 (3) (a) [*Inter-jurisdictional practice without a permit*], and
 - (e) proof that the visiting lawyer maintains the trust protection insurance or other defalcation coverage required under Rule 2-16 (3) (b) [*Inter-jurisdictional practice without a permit*].
- (4) Subrule (3) (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.

Application for inter-jurisdictional practice permit

- 2-20** (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 the Executive Director refers an application to the Credentials Committee under subrule (1), the Committee must
 - (a) issue or renew a permit, subject to any conditions or limitations the Committee may direct, or
 - (b) reject the application.
- (3) If the Credentials Committee rejects an application, the Committee must, at the written request of the person applying under Rule 2-19 (1) [*Inter-jurisdictional practice permit*], give written reasons for the decision.

Non-practising and retired members

- 2-21** (1) If a permit is issued under Rule 2-20 [*Application for inter-jurisdictional practice permit*] to a non-practising member or a retired member, the member is released from the undertaking given under Rule 2-3 [*Non-practising members*] or 2-4 [*Retired members*] 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 2-16 [*Inter-jurisdictional practice without a permit*], the member is released from the undertaking given under Rule 2-3 [*Non-practising members*] or 2-4 [*Retired members*] only for the purpose of providing legal services under Rule 2-16.

Expiry and renewal of inter-jurisdictional practice permit

- 2-22** (1) Subject to subrules (2) to (4), a permit issued or renewed under Rule 2-20 [*Application for inter-jurisdictional practice permit*] is valid for one year from the date it was issued.
- (2) 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.
- (3) 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 2-19 (3) (d) [*Inter-jurisdictional practice permit*],
 - (b.1) fails to maintain the trust protection insurance or other defalcation coverage described in Rule 2-16 (3) (b) [*Inter-jurisdictional practice without a permit*],
or
 - (c) is suspended or disbarred by any governing body.
- (4) Before expiry of a permit under subrule (1), the holder of the permit may apply under Rule 2-19 [*Inter-jurisdictional practice permit*] for its renewal.

Responsibilities of visiting lawyer

- 2-23** (1) The Act, these rules and the *Code of Professional Conduct* 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.

Enforcement

- 2-24** (1) At 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.
- (2) 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.
- (3) A fine imposed on a lawyer or former lawyer by a governing body may be enforced under Rule 4-45 (4) [*Discipline proceedings involving members of other governing bodies*].
- (4) A lawyer who practises law in another Canadian jurisdiction must comply with the applicable legislation, regulations, rules and *Code of Professional Conduct* 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 2-19 [*Inter-jurisdictional practice permit*] 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 or limitations it considers to be in the public interest.

Trust funds

- 2-25** 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.

Dispute resolution

- 2-26** 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

- 2-27** (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.

Practitioners of foreign law

Definitions

- 2-28** In Rules 2-28 to 2-34,
- “**business day**” means any calendar day or part of a calendar day in which a practitioner of foreign law provides foreign legal services;
- “**permit**” means a practitioner of foreign law permit issued under Rule 2-29 [*Practitioners of foreign law*];
- “**resident**” has the meaning respecting a province or territory that it has with respect to Canada in the *Income Tax Act* (Canada).

Practitioners of foreign law

- 2-29** (1) A person who qualifies under section 17 [*Practitioners of foreign law*] 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.
- (2) The Executive Director may issue a permit to a person applying under subrule (1) if satisfied that the person
- (a) is a member of the legal profession in one or more foreign jurisdictions,
 - (b) is not suspended or disbarred and has not otherwise ceased, for disciplinary reasons, to be a member of a governing body or of the legal profession in any foreign jurisdiction,
 - (c) is a person of good character and repute,
 - (d) has practised the law of a foreign jurisdiction for at least 3 of the past 5 years, or undertakes in writing to act as a practitioner of foreign law in British Columbia only under the direct supervision of a practitioner of foreign law who has practised law in that foreign jurisdiction for at least 3 of the past 5 years,
 - (e) carries professional liability insurance or a bond, indemnity or other security
 - (i) in a form and amount at least reasonably comparable to that required of lawyers under Rule 3-39 (1) [*Compulsory professional liability insurance*], and
 - (ii) that specifically extends to services rendered by the practitioner of foreign law while acting as such in British Columbia.
- (3) Subject to subrule (4), the Executive Director may attach conditions or limitations to a permit issued or renewed under this rule.
- (4) The Executive Director may only attach under subrule (3) conditions or limitations that are authorized by the Credentials Committee.
- (5) A permit issued under subrule (2) is valid for one year from the issue date shown on it.
- (6) Despite subrule (5), a practitioner of foreign law permit ceases to be valid if the practitioner of foreign law
- (a) is suspended as a result of proceedings taken under Part 4 [*Discipline*], or
 - (b) ceases to comply with any of the requirements of this Part.

Conditions and limitations

- 2-30** (1) Subject to Rule 2-31 [*Providing foreign legal services without a permit*], no one may provide foreign legal services or market a foreign legal practice in British Columbia without a permit issued under Rule 2-29 (2) [*Practitioners of foreign law*].
- (2) A practitioner of foreign law who holds a current permit may provide foreign legal services in British Columbia respecting
- (a) the law of a foreign jurisdiction in which the practitioner of foreign law is fully licensed to practise law, and
 - (b) trans-jurisdictional or international legal transactions.
- (3) A practitioner of foreign law must not
- (a) provide advice respecting the law of British Columbia or another Canadian jurisdiction, or
 - (b) deal in any way with funds that would, if accepted, held, transferred or otherwise dealt with by a lawyer, constitute trust funds, except money received on deposit for fees to be earned in the future by the practitioner of foreign law.
- (4) The Act, these rules and the *Code of Professional Conduct* apply to and bind a practitioner of foreign law.
- (5) A practitioner of foreign law must notify the Executive Director promptly if he or she
- (a) is the subject of criminal or professional discipline proceedings in any jurisdiction,
 - (b) ceases to be a member in good standing of the legal profession in any jurisdiction, or
 - (c) fails to complete satisfactorily any continuing legal education program required of the practitioner of foreign law as a member of the legal profession in a foreign jurisdiction.

Providing foreign legal services without a permit

- 2-31** (1) Subject to the other requirements of this rule, a practitioner of foreign law may provide foreign legal services without a permit for a maximum of 30 business days in any calendar year.
- (2) Subject to subrule (3), to qualify to provide foreign legal services without a permit, a practitioner of foreign law must at all times
- (a) qualify for a permit under Rule 2-29 (2) [*Practitioners of foreign law*],
 - (b) comply with Rules 2-30 (3) to (5) [*Conditions and limitations*],
 - (c) not be subject to conditions of or restrictions on his or her membership in the governing body or his or her qualification to practise law in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency or capacity,

- (d) not be the subject of criminal or disciplinary proceedings in any jurisdiction,
 - (e) have no criminal or disciplinary record in any jurisdiction, and
 - (f) not establish an economic nexus with British Columbia.
- (3) A practitioner of foreign law who provides foreign legal services without a permit must, on request,
- (a) provide evidence to the Executive Director that the practitioner of foreign law has complied with and continues to comply with this rule, and
 - (b) disclose to the Executive Director each governing body of which the practitioner of foreign law is a member.
- (4) For the purposes of this rule, an economic nexus is established by actions inconsistent with a temporary basis for providing foreign legal services, including but not limited to doing any of the following in British Columbia:
- (a) providing foreign legal services beyond 30 business days in a calendar year;
 - (b) opening an office from which foreign legal services are offered or provided to the public;
 - (c) becoming resident;
 - (d) holding oneself out or allowing oneself to be held out as willing or qualified to provide legal services, except as a practitioner of foreign law without a permit.
- (5) A practitioner of foreign law who practises law in a law firm in his or her home jurisdiction and provides legal services in or from an office in British Columbia affiliated with that firm does not, for that reason alone, establish an economic nexus with British Columbia.
- (6) A practitioner of foreign law who becomes disqualified under subrule (4) must cease providing foreign legal services forthwith, but may apply under Rule 2-29 [*Practitioners of foreign law*] for a permit.
- (7) On application by a practitioner of foreign law, the Executive Director may allow the practitioner of foreign law to begin or continue to provide foreign legal services pending consideration of an application under Rule 2-29 [*Practitioners of foreign law*].

Dual qualification

- 2-32** A lawyer, other than a retired or non-practising member, who is qualified to practise law in a foreign jurisdiction may act as a practitioner of foreign law in British Columbia without obtaining a permit, provided the lawyer maintains professional liability insurance that
- (a) specifically extends to the lawyer's activities as a practitioner of foreign law in British Columbia, and
 - (b) is in a form and amount at least reasonably comparable to that required of lawyers under Rule 3-39 (1) [*Compulsory professional liability insurance*].

- (b) privileged and confidential information is protected under Rule 2-45 [*Privilege and confidentiality*],
 - (c) all members of the MDP comply with the rules respecting conflicts of interest as required under Rule 2-46 [*Conflicts of interest*],
 - (d) every member of the MDP obtains and maintains professional liability insurance as required under Rule 2-47 [*Liability insurance*],
 - (e) the lawyer and the MDP maintain trust accounts and trust accounting records in accordance with Rule 2-48 [*Trust funds*], and
 - (f) all non-lawyer members of the MDP enter into the agreements required under Rule 2-39 [*Conditions for MDP*].
- (3) Any number of lawyers proposing to practise law together in an MDP may submit a joint application under this rule.

Consideration of MDP application

- 2-41** (1) On receipt of an application under Rule 2-40 [*Application to practise law in MDP*], 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 satisfied of the following:
- (a) all of the conditions set out in Rule 2-39 [*Conditions for MDP*] have been satisfied;
 - (b) the lawyer has made arrangements that will enable the lawyer and the MDP to comply with Rules 2-38 to 2-49.
- (3) If the lawyer applying for permission under Rule 2-40 [*Application to practise law in MDP*] agrees, the Executive Director may impose conditions or limitations 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 the Executive Director refers an application to the Credentials Committee under subrule (1) (c) or a review is requested under subrule (4), the Credentials Committee must
- (a) grant permission to practise law in an MDP, with or without conditions or limitations, or
 - (b) reject the application.

- (6) If an application is rejected or if conditions or limitations are imposed, the Credentials Committee must, at the written request of the lawyer applying, give written reasons for the decision.

Changes in MDP

- 2-42** (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).

Cancellation of MDP permit

- 2-43** (1) If, for any reason, the Executive Director, in his or her sole discretion, is not satisfied that a lawyer is complying and will continue to comply with Rules 2-38 to 2-49, the Executive Director must cancel the permission granted under Rule 2-41 [*Consideration of MDP application*].
- (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 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,
 - (b) reinstate the permission, with or without conditions or limitations specified by the Credentials Committee, or
 - (c) order a hearing before a panel under Part 5 [*Hearings and Appeals*].
- (5) The lawyer applying under subrule (3) or the Executive Director may initiate a review by a review board on the record of a decision under subrule (4) by delivering to the President and the other party a notice of review.
- (6) Rules 5-21 [*Notice of review*] and 5-23 to 5-28 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 review board.
- (9) When considering an application for a stay under subrule (8), the President must consider all the information available to the Executive Director, as well as submissions from or on behalf of the Executive Director and the lawyer concerned and must
- (a) refuse the stay, or
 - (b) grant the stay, with or without conditions or limitations.
- (10) On an application under subrule (7) or (8), the President may designate another Benchler to make a determination under subrule (9).
- (11) When a lawyer's permission to practise law in an MDP is cancelled under this rule, the lawyer must immediately cease practising law in the MDP.

Lawyer's professional duties

- 2-44** (1) Except as provided in Rules 2-38 to 2-49, the Act, these rules and the *Code of Professional Conduct* apply to lawyers who practise in an MDP.
- (2) A lawyer practising law in an MDP must take all steps reasonable in the circumstances to ensure that the non-lawyer members of the MDP
- (a) practise their profession, trade or occupation with appropriate skill, judgement and competence,
 - (b) comply with the Act, these rules and the *Code of Professional Conduct*, and
 - (c) provide no services to the public except
 - (i) those services that support or supplement the practice of law by the MDP, and
 - (ii) under the supervision of a practising lawyer, as required the *Code of Professional Conduct*, section 6.1 [*Supervision*].

- (3) A lawyer practising in an MDP must not permit any member or employee of the MDP to direct or control the professional judgment of the lawyer or to cause the lawyer or other members of the MDP to compromise their duties under the Act, these rules or the *Code of Professional Conduct*.

Privilege and confidentiality

- 2-45** A lawyer practising law in an MDP must take all steps reasonable in the circumstances, including the implementation of screening measures if necessary, to ensure that no improper disclosure of privileged or confidential information is made to any person, including a person appointed by the regulatory body of another profession in relation to the practice of another member or employee of the MDP.

Conflicts of interest

- 2-46** (1) A lawyer practising law in an MDP must take all steps reasonable in the circumstances to ensure that the other members of the MDP will comply with the provisions of the Act, these rules and the *Code of Professional Conduct* respecting conflicts of interest as they apply to lawyers.
- (2) This rule applies when the MDP has provided legal services to a client or when a potential client has sought legal services from the MDP.

Liability insurance

- 2-47** (1) A lawyer practising law in an MDP must ensure that every non-lawyer member of the MDP providing services directly or indirectly to the public on behalf of the MDP
- (a) maintains professional liability insurance
 - (i) on the terms and conditions offered by the Society through the Lawyers Insurance Fund and pays the insurance fee, and
 - (ii) in an amount equivalent to the total amount of coverage that the MDP maintains in excess of that required under Rule 3-39(1) [*Compulsory professional liability insurance*], and
 - (b) complies with the provisions of Part 3, Division 5 [*Insurance*] as if the non-lawyer were a lawyer.
- (2) If a non-lawyer member of an MDP agrees in writing, in a form approved by the Executive Committee, to engage in activities on behalf of the MDP for an average of 25 hours or less per week, the applicable insurance base assessment is the part-time insurance fee specified in Schedule 1.

Trust funds

- 2-48** (1) A lawyer practising law in an MDP that accepts any funds in trust from any person must maintain a trust account and a trust accounting system that are
- (a) in compliance with Part 3, Division 7 [*Trust Accounts and Other Client Property*], and
 - (b) within the exclusive control of lawyers practising law in the MDP.

- (2) A lawyer practising law in an MDP must ensure that all funds received by the MDP that would, if received by a lawyer, constitute trust funds, are handled through a trust account and accounting system that complies with these rules.

Notifying the Society

- 2-49** (1) Each lawyer who practises law in an MDP must report to the Executive Director in a form approved by the Credentials Committee concerning the following:
- (a) non-lawyer members of the MDP providing services to the public;
 - (b) the reasonable steps taken to protect privileged and confidential information under Rule 2-45 [*Privilege and confidentiality*];
 - (c) compliance with the rules respecting conflicts of interest;
 - (d) professional liability insurance maintained by non-lawyers under Rule 2-47 [*Liability insurance*],
 - (e) trust accounts and trust accounting records maintained under Rule 2-48 [*Trust funds*];
 - (f) the agreements required under Rule 2-39 [*Conditions for MDP*] between the lawyer and all non-lawyer members of the MDP, and
 - (g) any other matter required by the Credentials Committee.
- (2) The report required under this rule must be made annually on a date determined by the Executive Director, or more frequently as determined by the Credentials Committee.

Division 2 – Admission and Reinstatement

Credentials Committee

Credentials Committee

- 2-50** (1) For each calendar year, the President must appoint a Credentials Committee, including a chair and vice chair, both of whom must be Benchers.
- (2) The President may remove any person appointed under subrule (1).
- (3) At any time, the President may appoint a person to the Credentials Committee to replace a Committee member who resigns or otherwise ceases membership in the Committee, or to increase the number of members of the Committee.

Referral to Credentials Committee

- 2-51** (1) The Executive Director may refer any matter for decision under this division to the Credentials Committee.
- (2) At the written request of a lawyer, former lawyer, articled student or applicant affected by a decision made by the Executive Director under this division, the Executive Director must refer the matter to the Credentials Committee.

- (3) When the Executive Director refers a matter to the Credentials Committee under this rule, the Committee may make any decision open to the Executive Director under this division and may substitute its decision for that of the Executive Director.

Powers of Credentials Committee

- 2-52** (1) The Credentials Committee may
- (a) exercise the authority of the Benchers to call and admit barristers and solicitors,
 - (b) implement, administer and evaluate a training course and examinations, assignments and assessments for all articled students,
 - (c) establish standards for passing the training course and examinations, assignments and assessment,
 - (d) establish procedures to be applied by the Executive Director and faculty of the training course for
 - (i) the deferral, review or appeal of failed examinations, assignments and assessments, and
 - (ii) remedial work in the training course or examinations, assignments and assessments, and
 - (e) review, investigate and report to the Benchers on all aspects of legal education leading to call and admission.
- (2) When the Credentials Committee is empowered to order a hearing under this division, it may do so even though the application has been withdrawn.
- (3) The Credentials Committee may, with the consent of the person concerned, vary or remove practice conditions or limitations imposed by the Committee under this division.

Application for enrolment, admission or reinstatement

Disclosure of information

- 2-53** (1) When a person makes an application under this division, the Executive Director may
- (a) disclose the fact that the application has been made and the status of the application, and
 - (b) at the request of a governing body, provide to the governing body copies of all or part of the contents of the application and related material.
- (2) For the purpose of subrule (1) (a), the status of an application is its stage of progress in processing the application, including, but not limited to the following:
- (a) received and under review;
 - (b) granted, with or without conditions or limitations;
 - (c) referred to the Credentials Committee;
 - (d) hearing ordered, whether or not a hearing has been scheduled;

- (e) withdrawn;
 - (f) refused.
- (3) Before the Executive Director sends material to a governing body under subrule (1) (b), the Executive Director must be satisfied that privacy of the applicant will be protected where possible, unless the material has been put in evidence in a public hearing.
- (4) With the consent of the Credentials Committee, the Executive Director may deliver to a law enforcement agency any information or documents obtained under this division that the Committee reasonably believes may disclose evidence of an offence.
- (5) The Executive Director may disclose the existence and nature of a condition or limitation imposed or agreed to under this division if the condition or limitation
- (a) is ordered as a result of a hearing under this division,
 - (b) restricts or prohibits a lawyer's practice in one or more areas of law, or
 - (c) is imposed by Rule 2-78 [*Law school faculty*], 2-80 [*In-house counsel*] or 2-87 [*Reinstatement of former judge or master*].
- (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.

Admission program

Enrolment in the admission program

- 2-54** (1) An applicant may apply for enrolment in the admission program at any time 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 (2);
 - (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.
- (2) 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 an approved 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.
- (3) For the purposes of this rule, a common law faculty of law is approved if it has been approved by the Federation of Law Societies of Canada unless the Benchers adopt a resolution declaring that it is not or has ceased to be an approved faculty of law.
- (4) An official transcript of the applicant's grades at each approved faculty of law at which the applicant studied is proof of academic qualification under subrule (2) (a).
- (5) The Credentials Committee may approve academic qualifications under subrule (2) (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.

Re-enrolment

- 2-55** (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,
 - (b) whose enrolment has been set aside by a panel under section 38 (6) (d) [*Discipline hearings*], or
 - (c) who has failed to complete the training course satisfactorily.
- (2) A person referred to in subrule (1) (a) or (b) may not apply for enrolment until the earlier of
- (a) the date set by a panel acting under subrule (1) (a) or (b), or
 - (b) 2 years after the date of the event referred to in subrule (1) (a) or (b).
- (3) A person referred to in subrule (1) (c) may not apply for enrolment for 1 year after the later of
- (a) the date on which the Executive Director issued the transcript of failed standing, or
 - (b) the failed standing is confirmed under Rule 2-74 (7) (a) [*Review by Credentials Committee*].

Consideration of application for enrolment

- 2-56** (1) The Executive Director must consider an application for enrolment by a person meeting the academic qualifications established under Rule 2-54 [*Enrolment in the admission program*], and may conduct or authorize any person to conduct an investigation concerning the application.

- (2) On an application for enrolment as an articled student, the Executive Director may
 - (a) enrol the applicant without conditions or limitations effective the enrolment start date proposed in the application, or
 - (b) refer the application to the Credentials Committee.
- (3) When the Executive Director refers an application to the Credentials Committee under subrule (2), the Committee may
 - (a) enrol the applicant effective on or after the proposed enrolment start date without conditions or limitations,
 - (b) enrol the applicant effective on or after the proposed enrolment start date with conditions or limitations on the activities of the applicant as an articled student, if the applicant consents in writing to those conditions or limitations, or
 - (c) order a hearing.

Principals

- 2-57** (1) A lawyer engaged in full-time practice may act as principal to no more than 2 articled students at one time.

- (1.1) In this rule

“associated activities” includes practice management, administration and promotion and voluntary activities associated with the practice of law;

“full-time practice” means the practice of law and associated activities for an average of more than 25 hours per week;

“part-time practice” means the practice of law and associated activities for an average of not more than 25 hours per week.

- (2) Subject to subrules (2.1) and (3), to qualify to act as a principal, a lawyer must have
- (a) engaged in full-time practice in Canada for 5 of the 6 years immediately preceding the articling start date, and
 - (b) spent at least 3 years of the time engaged in the practice of law required under paragraph (a) in
 - (i) British Columbia, or
 - (ii) Yukon while the lawyer was a member of the Society.

- (2.1) When a lawyer engages in part-time practice

- (a) any period in which the lawyer engages in part-time practice is counted at a rate of 50 per cent for the purposes of the full-time practice requirement in subrule (2), and
- (b) the 6-year period in subrule (2) (a) is extended by the length of the period in which the lawyer engages in part-time practice, provided that the aggregate time in which the lawyer is not engaged in the practice of law does not exceed 24 months in the entire period.

- (3) In exceptional circumstances, the Credentials Committee may allow a lawyer
 - (a) who does not qualify under subrule (2) to act as principal to an articulated student, or
 - (b) to act as principal to more than 2 articulated students at one time, despite subrule (1).
- (4) On the recommendation of the Discipline Committee or Practice Standards Committee, or on its own motion, the Credentials Committee may inquire into a lawyer's suitability to act or to continue to act as principal to an articulated student 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 principal;
 - (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.
- (5) After allowing the lawyer to make submissions, the Credentials Committee may do any of the following:
 - (a) permit the lawyer to act as a principal to an articulated student;
 - (b) permit the lawyer to act as a principal to an articulated student subject to conditions or limitations;
 - (c) order that the lawyer not act as a principal to an articulated student.
- (6) The onus is on the lawyer to show cause why an order should not be made under subrule (5) (b) or (c).

Hiring articulated students

- 2-58** (1) This rule does not apply to temporary articles under Rule 2-70 [*Temporary articles*].
- (2) This rule applies to all lawyers practising in a firm that maintains an office in the city of Vancouver north of False Creek and west of Carrall Street.
 - (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).

- (9) The Executive Director must deliver a transcript stating the student's standing and the extent to which any standards or conditions set by the Credentials Committee have been met to
- (a) each student whom the Committee has required to do anything under subrule (7), and
 - (b) each such student's principal.

Termination of enrolment

- 2-75** (1) An articulated student is no longer enrolled in the admission program if the principal or the student has terminated the student's articles for any reason and no assignment of the student's articles is approved within 30 days.
- (2) The 30-day period referred to in subrule (1) does not run while the student is registered in and attending the training course.
- (3) A person whose enrolment has ceased under subrule (1) may apply for enrolment under Rule 2-54 (1) [*Enrolment in the admission program*].

Call and admission

Call and admission

- 2-76** To qualify for call and admission, an articulated student must complete the following satisfactorily:
- (a) the articling term;
 - (b) the training course;
 - (c) any other requirements of the Act or these rules imposed by the Credentials Committee or the Benchers.

First call and admission

- 2-77** (1) An articulated student who applies for call and admission must deliver to the Executive Director
- (a) the following in the form approved by the Credentials Committee:
 - (i) a petition for call and admission;
 - (ii) a declaration of the principal;
 - (iii) a declaration of the applicant;
 - (iv) a joint report of the principal and the applicant certifying completion of their obligations under the articling agreement;
 - (v) a completed questionnaire;
 - (vi) written consent for the release of relevant information to the Society,
 - (b) a professional liability insurance application or exemption form,

- (c) the following fees:
 - (i) the 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 3-43 [*Exemption from professional liability insurance*], and
 - (d) any other information and documents required by the Act or these rules that the Credentials Committee or the Benchers may request.
- (2) An articled student may apply under this rule at any time.
 - (3) If an articled student fails to meet the requirements of this rule, including the delivery of all documents specified, the Executive Director must summarily
 - (a) reject the application for call and admission, and
 - (b) terminate the student's enrolment.
 - (4) When the Credentials Committee has initiated a review under Rule 5-19 [*Initiating a review*] of a hearing panel's decision to enrol an articled student, the articled student is not eligible for call and admission until the review board has issued a final decision on the review or the Committee withdraws the review.

Law school faculty

- 2-78** (1) A full-time lecturer in a faculty of law of a university in Canada who has the academic qualifications required under Rule 2-54 [*Enrolment in the admission program*] may apply for call and admission without completing the admission program.
- (2) On an application under this rule, the Credentials Committee may approve the application subject to the condition specified in subrule (3).
- (3) A lawyer called and admitted under this rule who ceases to be a full-time lecturer in a faculty of law of a university in Canada must complete the admission program unless the Credentials Committee otherwise orders.
- (4) The Benchers may require a lawyer who fails to comply with subrule (3) to resign from the Society.

Transfer from another Canadian jurisdiction

- 2-79** (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) a professional liability insurance application or exemption form;
 - (e) proof of academic qualification
 - (i) as required of applicants for enrolment under Rule 2-54 (2) [*Enrolment in the admission program*], or;
 - (ii) for a member of the Barreau, proof that he or she has earned
 - (A) a bachelor's degree in civil law in Canada, or
 - (B) a foreign degree and a certificate of equivalency from the Barreau;
 - (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 3-43 [*Exemption from professional liability insurance*];
 - (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 2-89 [*Returning to practice after an absence*].
- (3) Unless Rule 2-81 [*Transfer under National Mobility Agreement and Territorial Mobility Agreement*] 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 satisfactorily complete the training required by the Credentials Committee.
- (5) An applicant who is required to write an examination under this rule or Rule 2-89 [*Returning to practice after an absence*] 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 2-89 [*Returning to practice after an absence*] must pay the fee specified in Schedule 1 for the examination.
- (7) An applicant who fails the transfer or qualification examination
- (a) is entitled to a formal re-read of the examination on application to the Executive Director in writing within 30 days of notification of his or her failure,
 - (b) may re-write the examination
 - (i) at any time, provided he or she has not failed the examination before, or
 - (ii) after a period of one year from the date of the failure if he or she has previously failed the examination, or

- (c) may be permitted to write the examination for a third or subsequent time at any time despite paragraph (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.

In-house counsel

- 2-80** (1) An applicant under Rule 2-79 [*Transfer from another Canadian jurisdiction*] 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 2-81 (3) [*Transfer under National Mobility Agreement and Territorial Mobility Agreement*].
- (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 2-79 [*Transfer from another Canadian jurisdiction*], or
 - (b) completing the requirements under Rule 2-81 (3) [*Transfer under National Mobility Agreement and Territorial Mobility Agreement*], 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.

Transfer under National Mobility Agreement and Territorial Mobility Agreement

- 2-81** (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 fulfill all of the requirements in Rule 2-79 [*Transfer from another Canadian jurisdiction*] 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.

Transfer as Canadian legal advisor

- 2-82** (1) Subject to subrule (3), a member of the Chambre 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 Chambre 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) a professional liability insurance application or exemption form;
 - (e) 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 3-43 [*Exemption from professional liability insurance*];
 - (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 2-79 to 2-84 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 Chambre 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 Chambre.

Consideration of application for call and admission

- 2-83** (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 the Executive Director refers an application 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 applicant's practice, if the applicant consents in writing to those conditions or limitations, or
 - (c) order a hearing.

Barristers and solicitors' roll and oath

- 2-84** (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.

Reinstatement

Reinstatement of former lawyer

- 2-85** (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.
- (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 2-89 [*Returning to practice after an absence*];
 - (b) non-practising member on compliance with Rule 2-3 [*Non-practising members*];
 - (c) retired member if the lawyer is qualified under Rule 2-4 (1) [*Retired members*] and on compliance with Rule 2-4 (2) and (3).
- (3) On an application under subrule (2) (c), the Executive Director may waive payment of all or part of the application fee on any conditions that the Executive Director considers appropriate.
- (4) The Executive Director may issue a practising certificate to an applicant on reinstatement 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 3-43 [*Exemption from professional liability insurance*];
 - (c) any surcharge for which the lawyer is liable under Rule 3-44 (2) [*Deductible, surcharge and reimbursement*].
- (5) The Executive Director may issue a non-practising or retired member certificate to an applicant on reinstatement on payment of the appropriate prorated fee specified in Schedule 3.
- (6) Subject to subrule (7), 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.

- (7) The Executive Director must not consider an application for reinstatement of a former lawyer unless the former lawyer has
 - (a) submitted all trust reports required under Rules 3-79 [*Trust report*] and 3-84 (1) [*Former lawyers*],
 - (b) paid all assessments accrued under Rule 3-80 [*Late filing of trust report*] 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 3-80 (3), and
 - (c) paid all costs of trust reports ordered under Rule 3-81 (6) [*Failure to file trust report*].
- (8) If an applicant for reinstatement is a disbarred lawyer, the Executive Director must refer the application to the Credentials Committee.
- (9) On an application for reinstatement to which subrules (7) and (8) 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.
- (10) Subject to subrule (11), when the Executive Director refers an application for reinstatement to the Credentials Committee under subrule (9), the Committee may
 - (a) reinstate the applicant without conditions or limitations,
 - (b) reinstate the applicant with conditions or limitations on the applicant's practice if the applicant consents in writing to those conditions or limitations, or
 - (c) order a hearing.
- (11) The Credentials Committee must order a hearing in the following circumstances:
 - (a) section 19(3) applies;
 - (b) the Committee cannot reach another disposition of the matter under subrule (10);
 - (c) the Committee resolves to order a hearing.
- (12) An applicant for reinstatement must give written notice of the application as directed by the Executive Director, and persons so notified may appear in person or by counsel at the hearing and be heard on the application.

Subsequent application for reinstatement

- 2-86** A person whose application for reinstatement is rejected under section 22 (3) [*Credentials hearings*] 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 review board on a review under Part 5 [*Hearings and appeals*].

Taxes payable

- 2-114** Any fee or assessment on which any government tax is payable is not paid unless that tax is also paid.

Refund when lawyer does not practise law

- 2-115** (1) A lawyer who has paid the annual fee for a year but who satisfies the Executive Director that the lawyer has totally abstained from practice in British Columbia during that year through disability, other than a suspension, is entitled to a refund of
- (a) the difference between the practising fee set by the Benchers under section 23 (1) (a) [*Annual fees and practising certificate*] and the non-practising member fee specified in Schedule 1, and
 - (b) a portion of the annual insurance fee set under section 30 (3) (a) [*Insurance*], in an amount determined by the Executive Director.
- (2) On payment of the refund under subrule (1), the lawyer
- (a) immediately ceases to be qualified to practise law, and
 - (b) on compliance with Rule 2-3 [*Non-practising members*], becomes a non-practising member.
- (3) A lawyer who qualifies under Rule 2-4 [*Retired members*] to be a retired member and complies with that rule may elect to become a retired member, rather than a non-practising member under subrule (2) (b), and receive a refund of the difference between the non-practising member fee and the retired member fee specified in Schedule 1, in addition to the refund under subrule (1).

Refund on exemption during practice year

- 2-116** (1) A lawyer who has paid the annual insurance fee for a year and ceases to practise for any reason other than suspension or who becomes exempt under Rule 3-43 [*Exemption from professional liability insurance*] during that year, is entitled to a refund of a portion of the fee in an amount determined by the Executive Director.
- (2) If a lawyer becomes a non-practising or retired member during a year for which the lawyer has paid the annual practising fee, the Executive Director must apply a prorated portion of the practising fee to the prorated non-practising or retired member fee and refund the difference, if any, to the lawyer.
- (3) A lawyer who ceases practising law under any of the following circumstances is entitled to a refund of the unused portion of the annual practising fee, less the administration fee specified in Schedule 1:
- (a) judicial appointment;
 - (b) death;
 - (c) total incapacity such that the lawyer is incapable of applying for non-practising status.

Failure to pay fine, costs or penalty

- 2-117** (1) The Executive Director must apply any money received from or on behalf of a lawyer or former lawyer to payment of the following due and owing by the lawyer or former lawyer before any fees or assessments:
- (a) a fine;
 - (b) costs;
 - (c) a penalty;
 - (d) a deductible amount paid on behalf of the lawyer under the Society's insurance program;
 - (e) reimbursement for payment made on behalf of the lawyer or former lawyer under trust protection insurance.
- (2) If a lawyer fails to pay, by the time that it is required to be paid, any of the amounts referred to in subrule (1), the Credentials Committee may suspend the lawyer until the amount is paid.
- (3) The Executive Director may approve the form of certificate to be filed in the Supreme Court under section 27 [*Practice standards*], 38 [*Discipline hearings*] or 46 [*Costs*].

No refund on suspension

- 2-118** A lawyer who is suspended
- (a) is not entitled to a refund of any part of the annual practising fee for the period of the suspension or any special assessment that the lawyer has paid, and
 - (b) must pay the annual practising fee or special assessment when it is due.

- (c) is in compliance with Rule 3-38 (3) [*Professional development for family law neutrals*].
- (2) A lawyer who has been accredited by the Society as a family law mediator may so state in any marketing activity.
- (3) The Credentials Committee may allow a lawyer previously accredited by the Society as a family law mediator time in which to comply with any changes to the requirements under subrule (1) (b).

Family law arbitrators

- 3-36** (1) A lawyer may act as a family law arbitrator only if the lawyer
- (a) possesses sufficient knowledge, skills and experience relevant to family law to carry out the function of an arbitrator in a fair and competent manner,
 - (b) has, for a total of at least 10 years, engaged in the full-time practice of law or the equivalent in part-time practice or sat as a judge or master,
 - (c) has completed a course of study in family law arbitration approved by the Credentials Committee, and
 - (d) is in compliance with Rule 3-38 (3) [*Professional development for family law neutrals*].
- (2) A lawyer who has been accredited by the Society as a family law arbitrator may so state in any marketing activity.
- (3) The Credentials Committee may allow a lawyer who has previously acted as a family law arbitrator time in which to comply with any changes to the requirements under subrule (1) (c).

Parenting coordinators

- 3-37** (1) A lawyer may act as a parenting coordinator only if the lawyer
- (a) possesses sufficient knowledge, skills and experience relevant to family law to carry out the function of a parenting coordinator in a fair and competent manner,
 - (b) has, for a total of at least 10 years, engaged in the full-time practice of law or the equivalent in part-time practice or sat as a judge or master, including considerable family law experience dealing with high conflict families with children,
 - (c) has completed a course of study in parenting coordination approved by the Credentials Committee, and
 - (d) is in compliance with Rule 3-38 (3) [*Professional development for family law neutrals*].
- (2) A lawyer who has been accredited by the Society as a parenting coordinator may so state in any marketing activity.

- (3) The Credentials Committee may allow a lawyer who has previously acted as a parenting coordinator time in which to comply with any changes to the requirements under subrule (1) (c).

Professional development for family law neutrals

- 3-38**
- (1) The Credentials Committee may determine the minimum number of hours of professional development that is required of a family law mediator, arbitrator or parenting coordinator in each calendar year.
 - (2) The requirements under subrule (1) may be different for each of family law mediators, arbitrators or parenting coordinators.
 - (3) In each calendar year, a family law mediator, arbitrator or parenting coordinator 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 professional development required under this rule.
 - (4) Professional development completed under this rule may also be reported under Rule 3-29 [*Professional development*] if it meets the requirements of that rule.
 - (5) Despite subrule (3), a family law mediator, arbitrator or parenting coordinator need not complete the required professional development in a calendar year in which the lawyer has successfully completed the course of study required under Rules 3-35 to 3-37.

Division 5 – Insurance

Compulsory professional liability insurance

- 3-39**
- (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 3-40 [*Annual insurance fee*], unless the lawyer is exempt or ineligible under Rule 3-43 [*Exemption from professional liability insurance*].
 - (2) A lawyer is bound by and must comply with 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 professional liability insurance under this division that affects the limits of liability or scope of coverage.

Compulsory trust protection insurance

- 3-39.1**
- (1) A lawyer must maintain trust protection insurance on the terms and conditions offered by the Society through the Lawyers Insurance Fund and pay any fee for trust protection insurance set under Rule 3-40 [*Annual insurance fee*].

- (2) A lawyer is bound by and must comply with the terms and conditions of trust protection insurance maintained under subrule (1).

Annual insurance fee

- 3-40** (1) The insurance fee to be paid under section 23 (1) (c) [*Annual fees and practising certificate*] is calculated as follows:
- (a) the appropriate base assessment as specified in Schedule 1; plus
 - (b) any surcharge for which the lawyer is liable under Rule 3-44 [*Deductible, surcharge and reimbursement*]; minus
 - (c) any credit to which the lawyer is entitled under Rule 3-42 [*Insurance fee credit*].
- (2) If a lawyer undertakes, in a form approved by the Executive Committee, to engage in the practice of law and associated activities for an average of 25 hours or less per week, the applicable base assessment is the part-time insurance fee specified in Schedule 1.
 - (3) Subject to subrule (6), a lawyer is not eligible to pay the part-time insurance fee under subrule (2) for 5 years in practice after the Society pays an indemnity claim in respect of the lawyer.
 - (4) For a lawyer who does not give the undertaking referred to in subrule (2), the appropriate base assessment is the full-time insurance fee specified in Schedule 1.
 - (5) For the purpose of this rule,
 - (a) the average number of hours per week that a lawyer engages in the practice of law and associated activities is calculated over successive 6 months periods, beginning on the effective date of the undertaking referred to in subrule (2), and
 - (b) “**associated activities**” includes practice management, administration and promotion and voluntary activities associated with the practice of law.
 - (6) The Executive Director may, in the Executive Director’s discretion, reduce the time that a lawyer is not eligible under subrule (3) to pay the part-time insurance fee or, in extraordinary circumstances, allow the lawyer to pay the part-time insurance fee despite subrule (3).

Payment of annual insurance fee by instalments

- 3-41** (1) A lawyer must pay the insurance fee in two equal annual instalments as follows:
- (a) the first instalment on or before November 30 of the year preceding the year for which it is paid;
 - (b) the second instalment on or before June 30 of the year for which it is paid.
- (2) A lawyer who fails to pay the second instalment by the date prescribed in subrule (1) must immediately cease the practice of law in accordance with section 30 (7) [*Insurance*] and surrender to the Executive Director his or her practising certificate and any proof of professional liability insurance issued by the Society.

Insurance fee credit

- 3-42** (1) The Benchers may approve an annual insurance fee credit and set the conditions that a lawyer must meet to be entitled to the credit.
- (2) When a lawyer is entitled to an annual insurance fee credit, the first instalment of the insurance fee payable by the lawyer is reduced by the amount of the credit.

Exemption from professional liability insurance

- 3-43** (1) A lawyer is exempt from the requirement to maintain professional liability insurance and pay the insurance fee if the lawyer is
- (a) not engaged in the practice of law, other than pro bono legal services, anywhere in his or her capacity as a member of the Society, or
 - (b) employed by one of the following and is not engaged in the practice of law, other than pro bono legal services, except in the course of that employment:
 - (i) a government department;
 - (ii) a corporation other than a law corporation;
 - (iii) a society, trade union or a similar organization.
- (2) A lawyer is not exempt under subrule (1) (b) if the lawyer engages in the practice of law, other than pro bono legal services, in any way other than as described in those provisions.
- (3) Subrule (4) applies to a lawyer who is entitled to practise law in the jurisdiction of a reciprocating governing body of which the lawyer is a member.
- (4) A lawyer may apply to the Executive Director for exemption from the requirement to maintain professional liability insurance and pay the insurance fee, if, in another Canadian jurisdiction in which the governing body allows a similar exemption for members of the Society, the lawyer
- (a) is resident or is deemed resident under the National Mobility Agreement, and
 - (b) maintains the full mandatory professional liability insurance coverage required in the other jurisdiction that is reasonably comparable in coverage and limits to that required of lawyers in British Columbia and extends to the lawyer's practice in British Columbia.
- (5) A Canadian legal advisor may apply to the Executive Director for exemption from the requirement to maintain professional liability insurance and pay the insurance fee.
- (6) On an application under subrule (5), the Executive Director must grant the exemption, provided the Canadian legal advisor maintains the full mandatory professional liability insurance coverage required by the Chambre that extends to the Canadian legal advisor's practice in British Columbia.

Deductible, surcharge and reimbursement

- 3-44** (1) On demand, a lawyer must pay in full to the Society any of the following amounts paid under the Society’s insurance program on behalf of the lawyer:
- (a) a deductible amount;
 - (b) any other amount that the lawyer is required to repay or reimburse the insurer under professional liability insurance.
- (2) If indemnity has been paid under the Society’s insurance program, the lawyer on whose behalf it is paid must
- (a) pay the insurance surcharge specified in Schedule 1 for each of the next 5 years in which the lawyer is a member of the Society and not exempt from the insurance fee, and
 - (b) if the payment was made under trust protection insurance, reimburse the Society in full on demand, for all amounts paid.
- (3) The Executive Director may, in the Executive Director’s discretion, extend the time for a lawyer to reimburse the Society under subrule (1) or (2), or pay a surcharge under subrule (2) or, in extraordinary circumstances, waive payment altogether.

Application for insurance coverage

- 3-45** (1) A lawyer may apply for insurance coverage by delivering to the Executive Director
- (a) an application for insurance coverage, and
 - (b) the prorated insurance fee as specified in Schedule 2.
- (2) A lawyer who is insured for part-time practice may apply for insurance coverage for full-time practice by delivering to the Executive Director
- (a) an application for full-time insurance coverage, and
 - (b) the difference between the prorated full-time insurance fee specified in Schedule 2 and any payment made for part-time insurance coverage for the current year.
- (3) The Executive Director must not grant the insurance coverage applied for under subrule (1) or (2) unless satisfied that the lawyer is not prohibited from practising law under Rule 2-89 [*Returning to practice after an absence*].

Confidentiality of insurance claims

- 3-46** (1) In this rule, “**claim**” means a claim or potential claim reported under the policy of professional liability and trust protection insurance.
- (2) Unless permitted by this rule, no one is permitted to disclose any information or records associated with a claim.
- (3) The Executive Director may do any of the following:
- (a) disclose information about a claim with the consent of the lawyer;
 - (b) if a claim has become known to the public, disclose
 - (i) the existence of the claim,

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

Division 6 – Financial Responsibility

Definitions

3-47 In this Division:

“insolvent lawyer” means a lawyer who

- (a) is the respondent to an application for a bankruptcy 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 66.12,
 - (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*, RSC 1985, c. B-3;

Executive Director's modification

- 3-76** (1) Having regard to the accounting and storage systems employed by a specific lawyer, the Executive Director may modify the requirements of that lawyer under Rules 3-68 to 3-71 or 3-75 [*Retention of records*].
- (2) The Executive Director may, at any time, cancel or amend a modification under subrule (1).
- (3) The Executive Director must make a modification under subrule (1) or a cancellation or amendment of a modification under subrule (2) in writing.
- (4) A lawyer who receives a written modification from the Executive Director under subrule (1) must retain it and any amendment under subrule (2) for as long as
- (a) the books, records and accounts to which it relates are retained, or
 - (b) the lawyer would have been required to retain the books, records and accounts to which it relates, but for the modification and any amendment.

Annual CDIC report

- 3-77** A lawyer who holds pooled trusts funds in a designated savings institution insured by the Canada Deposit Insurance Corporation must file an annual report for each account maintained by the lawyer with that institution in accordance with section 3 (3) of the Schedule to the *Canada Deposit Insurance Corporation Act*, so that each client's funds, rather than the account itself, are insured up to the limit of CDIC insurance.

Lawyer's right to claim funds

- 3-78** Nothing in this division deprives a lawyer of any recourse or right, whether by way of lien, set-off, counterclaim, charge or otherwise, against
- (a) funds standing to the credit of a client in a trust account, or
 - (b) valuables held for a client.

Trust report

- 3-79** (1) Subject to subrules (4) and (6), a lawyer must deliver to the Executive Director completed trust reports for reporting periods of 12 months covering all the time that the lawyer is a member of the Society.
- (2) The date on which a firm ceases to practise law is the end of a reporting period.
- (3) A lawyer must deliver a completed trust report to the Executive Director within 3 months of the end of each reporting period.
- (4) On a written request made before the due date of a trust report, the Executive Director may allow a lawyer to submit a trust report covering a time period other than 12 months.

- (5) A trust report delivered to the Executive Director under this rule must
 - (a) be in a form approved by the Discipline Committee,
 - (b) be complete to the satisfaction of the Executive Director, and
 - (c) include all signatures required in the form.
- (6) A non-practising or retired lawyer or a practising lawyer who is exempt under Rule 3-43 [*Exemption from professional liability insurance*] from the requirement to maintain professional liability insurance and pay the insurance fee, is not required to file a trust report for a reporting period of 12 months during which the lawyer has
 - (a) not received any funds in trust,
 - (b) not withdrawn any funds held in trust, and
 - (c) complied with this division.

Late filing of trust report

- 3-80** (1) A lawyer who does not deliver a trust report as required under Rule 3-79 [*Trust report*] or 3-82 (5) [*Accountant's report*] is in breach of these rules.
- (2) A lawyer who fails to deliver a trust report by the date required under Rule 3-79 [*Trust report*] or 3-82 (5) [*Accountant's report*] is deemed to have been in compliance with the rules during the period of time that the lawyer was late in delivering the report if the lawyer delivers the following to the Executive Director within 30 days of the due date:
 - (a) the required report;
 - (b) the late fee specified in Schedule 1.
- (3) A lawyer who does not deliver a trust report for 30 days after it is required under Rule 3-79 [*Trust report*] or 3-82 (5) [*Accountant's report*] is liable to an assessment of \$400 per month or part of a month until the report is delivered.
- (4) When there are special circumstances, the Discipline Committee may, in its discretion, waive payment of all or part of an assessment made under this rule.

Failure to file trust report

- 3-81** (1) Subject to subrules (3) and (4), a lawyer who does not deliver a trust report under Rule 3-79 [*Trust report*] or 3-82 (5) [*Accountant's report*] for 60 days after it is required, is suspended until the report is completed to the satisfaction of the Executive Director and delivered as required.
- (2) A trust report is not delivered for the purposes of subrules (1) unless all explanations of exceptions required by the Executive Director are delivered to the Executive Director.

Table of Contents

Introduction	vii
Chapter 1 – Interpretation and Definitions	
1. 1 Definitions	1
Chapter 2 – Standards of the Legal Profession	
2.1 Canons of Legal Ethics	
To the state	3
To courts and tribunals	3
To the client	4
To other lawyers	5
To oneself	6
2.2 Integrity	6
Chapter 3 – Relationship to Clients	
3.1 Competence	
Definitions	9
Competence	10
3.2 Quality of service	
Quality of service	12
Limited scope retainers	14
Honesty and candour	14.1
Language rights	14.1
When the client is an organization	14.2
Encouraging compromise or settlement	15
Threatening criminal or regulatory proceedings	15
Inducement for withdrawal of criminal or regulatory proceedings	15
Dishonesty, fraud by client	16
Dishonesty, fraud when client an organization	17
Clients with diminished capacity	19
Restricting future representation	20
3.3 Confidentiality	
Confidential information	20
Use of confidential information	22

Code of Professional Conduct for British Columbia

Lawyers' obligation to claim privilege when faced with requirement to surrender document	23
Future harm / public safety exception	23
3.4 Conflicts	
Duty to avoid conflicts of interest	25
Consent	28
Dispute	30
Concurrent representation with protection of confidential client information	30
Joint retainers	31
Acting against former clients	34
Short-term summary legal services	35
Conflicts from transfer between law firms	36
Application of rule	36
Law firm disqualification	38
Transferring lawyer disqualification	38.2
Lawyer due diligence for non-lawyer staff	38.3
Conflicts with clients	38.4
Doing business with a client	39
Independent legal advice	39
Investment by client when lawyer has an interest	40
Borrowing from clients	41
Certificate of independent legal advice	41
Lawyers in loan or mortgage transactions	42
Guarantees by a lawyer	42
Testamentary instruments and gifts	42
Judicial interim release	42
Space-sharing arrangements	43
3.5 Preservation of clients' property	
Preservation of clients' property	43
Notification of receipt of property	44
Identifying clients' property	44
Accounting and delivery	44
3.6 Fees and disbursements	
Reasonable fees and disbursements	44
Contingent fees and contingent fee agreements	46
Statement of account	46
Joint retainer	47
Division of fees and referral fees	47
Exception for multi-disciplinary practices	48

Table of Contents

Payment and appropriation of funds	49
Prepaid legal services plan	49
3.7 Withdrawal from representation	
Withdrawal from representation	49
Optional withdrawal	51
Non-payment of fees	51
Withdrawal from criminal proceedings	52
Obligatory withdrawal	53
Manner of withdrawal	53
Confidentiality	55
Duty of successor lawyer	55
Chapter 4 – Marketing of Legal Services	
4.2 Marketing	
Application of rule	57
Definitions	57
Content and format of marketing activities	57
Notary public	58
Designation	58
4.3 Advertising nature of practice	
Preferred areas of practice	58
Specialization	59
Real estate sales	59
Multi-disciplinary practice	59
Chapter 5 – Relationship to the Administration of Justice	
5.1 The lawyer as advocate	
Advocacy	61
Incriminating physical evidence	64
Duty as prosecutor	64.2
Disclosure of error or omission	64.2
Courtesy	65
Undertakings	65
Agreement on guilty plea	65
5.2 The lawyer as witness	
Submission of evidence	66
Appeals	66

Code of Professional Conduct for British Columbia

5.3 Interviewing witnesses	
Interviewing witnesses	67
5.4 Communication with witnesses giving evidence	
Communication with witnesses giving evidence	67
5.5 Relations with jurors	
Communications before trial	68
Disclosure of information	69
Communication during trial	69
5.6 The lawyer and the administration of justice	
Encouraging respect for the administration of justice	69
Seeking legislative or administrative changes	70
Security of court facilities	71
5.7 Lawyers and mediators	
Role of mediator	71
Chapter 6 – Relationship to Students, Employees, and Others	
6.1 Supervision	
Direct supervision required	73
Definitions	73
Delegation	74
Suspended or disbarred lawyers	76
Electronic registration of documents	76.1
Real estate assistants	77
6.2 Students	
Recruitment and engagement procedures	78
Duties of principal	78
Duties of articulated student	78
6.3 Harassment and discrimination	78
Chapter 7 – Relationship to the Society and Other Lawyers	
7.1 Responsibility to the society and the profession generally	
Regulatory compliance	81
Meeting financial obligations	81
Duty to report	82
Encouraging client to report dishonest conduct	83

Table of Contents

7.2 Responsibility to lawyers and others	
Courtesy and good faith	83
Communications	84
Inadvertent communications	86
Undertakings and trust conditions	86
Trust cheques	87
Real estate transactions	88
7.3 Outside interests and the practice of law	
Maintaining professional integrity and judgment	88
7.4 The lawyer in public office	
Standard of conduct	89
7.5 Public appearances and public statements	
Communication with the public	90
Interference with right to fair trial or hearing	91
7.6 Preventing unauthorized practice.....	91
7.7 Retired judges returning to practice	91
7.8 Errors and omissions	
Informing client of errors or omission	92
Notice of claim	92
Co-operation	93
Responding to client's claim	93
Appendix A – Affidavits, Solemn Declarations and Officer Certifications	
Affidavits and solemn declarations	95
Witnessing the execution of an instrument	99
Appendix B – Family Law Mediation	
Definitions	101
Disqualifications	102
Obligations of family law mediator or arbitrator or parenting coordinator when participants unrepresented	102
Obligations of family law mediator or parenting coordinator	102.1
Obligations of family law arbitrator	102.1
Lawyer with dual role	102.2

Appendix C – Real Property Transactions

Application	103
Acting for parties with different interests	103
Simple conveyance	103
Advice and consent	105
Foreclosure proceedings	105
Unrepresented parties in a real property transaction	106

Appendix D – Conflicts Arising as a Result of Transfer Between Law Firms

[Appendix D rescinded 11/2016 – see rules 3.4-17 to 3.4-23]

Appendix E – Supervision of Paralegals

Key concepts	113
Best practices for supervising paralegals:	113
Best practices for training paralegals	114
A checklist for assessing the competence of paralegals	114
Screening for family violence	115
Designated paralegals giving legal advice	116