LAW SOCIETY RULES 2015

Adopted by the Benchers of the Law Society of British Columbia
under the authority of the *Legal Profession Act*, S.B.C. 1998, c. 9

Effective date: July 1, 2015

CONTENTS

Rule		*Page*
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	19
1-5	President and Vice-Presidents	20
1-6	Removal of the President or a Vice-President	21
1-7	Bencher ceasing to hold office	21
Meetings		
1-8	Annual general meeting	22
1-9	Telephone and internet connections	23
1-9.1	Annual general meeting by internet connection	24
1-10	Auditors	24
1-11	Special general meeting	25
1-12	Quorum	26
1-13	Procedure at general meeting	26
1-13.1	Voting in advance of general meeting	26.1
1-13.2	Voting at general meeting	26.2
1-14	Bencher meetings	26.2
1-15	Notice of Bencher meeting	26.2
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	29
1-24	Acclamation	30
1-25	Eligibility and entitlement to vote	30
1-26	Voter list	30
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
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

1-44.1 Executive Director's delegate 37
1-45 Seal 38
1-46 Laying of information 38
1-47 *Freedom of Information and Protection of Privacy Act* 38
1-48 Appointment of Law Society counsel 38

Division 2 – Committees

1-49 Committees of the Benchers 38
1-50 Executive Committee 39
1-51 Powers and duties 39

Division 3 – Law Society Rules

1-52 Act, Rules and Code 40

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 42
2-9 Definitions 43
2-10 Business address 43
2-11 Residential address 43
2-12 Practice history 44

Law firms

2-12.1 Definitions and application 44
2-12.2 Registration 44
2-12.3 Self-assessment report 44.1
2-12.4 Late delivery 44.1
2-12.5 Designated representative 44.1

Paralegals

2-13 Supervision of limited number of designated paralegals 44.2

Unauthorized practice

2-14 Unauthorized practice of law 44.2

Inter-jurisdictional practice
2-15 Definitions ... 44.2
2-16 Inter-jurisdictional practice without a permit ... 45
2-17 Disqualifications ... 46
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 ... 49
2-24 Enforcement ... 50
2-25 Trust funds ... 50
2-26 Dispute resolution ... 51
2-27 National Registry of Practising Lawyers ... 51

Information sharing
2-27.1 Sharing information with a governing body ... 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 ... 55
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 ... 59
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 indemnification ... 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 articled students 68
2-59 Articling term 69
2-60 Legal services by articled students 69
2-61 Mid-term report 70
2-62 Part-time articles 70
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 articled students 75
2-72 Training course 76
2-73 Tutorial program 77
2-74 Review of failed standing 77
2-75 Termination of enrolment 78

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 83
2-84 Barristers and solicitors' oath and presentation in court 84

Reinstatement
2-85 Reinstatement of former lawyer 85
2-86 Subsequent application for reinstatement 86

Former judge or master
2-87 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
2-102 Inactive applications 91
2-103 Publication of credentials decision 95
2-104 Anonymous publication 95

Division 3 – Fees and Assessments

2-105 Annual practising and indemnity fee instalments 95
2-105.1 Annual non-practising and retired member fees 96
2-106 Assessments 96
2-107 Application fees 96
2-108 Late payment 96
2-108.1 Failure to pay fees 97
2-109 Definition and application 97
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 Money owed to the Society 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
3-7.1 Resolution by consent agreement 104
3-7.2 Breach of consent agreement 105
3-7.3 Amending consent agreement 106
3-7.4 Publication of consent agreement 106
3-8 Action on a complaint 106.1
3-9 Notice 106.1

Division 1.01 – Health issues

3-9.1 Proceeding on health issue 106.2
3-9.2 Risk mitigation 106.2
3-9.3 Health information 106.2
3-9.4 Consent agreement 106.3
3-9.5 Practice conditions and limitations 106.4
3-9.6 Amending consent agreement 106.4
3-9.7 Breach of consent agreement 106.5
3-9.8 Records and confidentiality 106.5
3-9.9 Referral to complaint investigation process 106.6
3-9.10 Dispute resolution 106.6

Division 1.1 – Extraordinary action to protect public

3-10 Interim suspension or practice conditions 106.7
3-11 Medical examination 106.8
3-12 Public protection proceeding 107
3-12.1 Notice to lawyer or articled student 108
3-12.2 Non-disclosure 108
3-12.3 Review of interim suspension or practice conditions 108.1

Division 1.2 – Complainants' Review Committee
3-13 Appointment of Complainants' Review Committee 108.2
3-14 Review by Complainants' Review Committee 108.2

Division 2 – Practice Standards
3-15 Practice Standards Committee 108.3
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 Practice management course 115
3-28.1 Indigenous intercultural course 116
3-28.11 Late completion of Indigenous intercultural course 116
3-28.2 Failure to complete Indigenous intercultural course 116
3-29 Professional development 116.1
3-30 Mentoring 116.2
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 – Indemnification
3-39 Compulsory professional liability indemnification 120
3-39.1 Compulsory trust protection indemnification 121
3-40 Annual indemnity fee 121
3-42 Indemnity fee credit 121
3-43 Exemption from professional liability indemnification 122
3-44 Deductible, surcharge and reimbursement 123
3-45 Application for indemnity coverage 123
3-46 Confidentiality of indemnity 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 ... 127
3-54 Personal responsibility ... 129
3-55 Fiduciary property ... 129
3-56 Designated savings institutions ... 130
3-57 Removal of designation ... 130
3-58 Deposit of trust funds ... 130
3-58.1 Trust account only for legal services ... 131
3-59 Cash transactions ... 131
3-60 Pooled trust account ... 132
3-61 Separate trust account ... 133
3-62 Cheque endorsed over ... 133
3-63 Trust account balance ... 134
3-64 Withdrawal from trust ... 134
3-64.1 Electronic transfers from trust ... 135
3-64.2 Electronic deposits into trust ... 136.1
3-64.3 Withdrawal from trust by bank draft ... 136.1
3-65 Payment of fees from trust ... 136.2
3-66 Withdrawal from separate trust account ... 136.3
3-67 Accounting records ... 136.3
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 Canada Deposit Insurance Corporation ... 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
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 money 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
3-96.1 Electronic submission of documents 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 Requirement to identify client 152
3-101 Exemptions 153
3-102 Requirement to verify client identity 154
3-103 Requirement to identify directors, shareholders and owners 155
3-104 Use of an agent for client verification 156
3-105 Timing of verification for individuals 157
3-106 Timing of verification for organizations 157
3-107 Record keeping and retention 157
3-108 Existing matters 158
3-109 Criminal activity, duty to withdraw 158
3-110 Monitoring 158

PART 4 – DISCIPLINE
4-1 Interpretation and application 159

Division 1 – Discipline Committee
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 Publication of citation 166
4-20.1 Anonymous publication of citation 166
4-27 Appointment of Law Society counsel 167
4-29 Conditional admission 167
4-45 Discipline proceedings involving members of other governing bodies 168
4-46 Discipline involving lawyers practising in other jurisdictions 169

Division 2 – Disclosure and publication
4-47 Public notice of suspension or disbarment 169
4-48 Publication of discipline decisions 170
4-49 Anonymous publication 171
4-50 Disclosure of practice restrictions 171
4-51 Disbarment 172

Division 3 – Criminal conviction
4-52 Conviction 172
4-53 Notice 172
4-54 Summary procedure 173

Division 4 – Investigation
4-55 Investigation of books and accounts 173

Division 5 – Enforcement
4-56 Failure to pay fine, costs or administrative penalty or fulfill practice condtion 174
4-57 Recovery of money owed to the Society 174

Division 6 – Administrative penalty
4-58 Application 174.1
4-59 Administrative penalty 174.1
4-60 Review and order 174.2

PART 5 – TRIBUNAL, HEARINGS AND APPEALS
5-1 Application 175

The Tribunal
5-1.1 Tribunal 175
5-1.2 Service, filing and communication 175
5-1.3 Tribunal Chair 176
5-1.4 Practice directions 176

Hearing panels
5-2 Appointment of hearing panel 176
5-3 Panel member unable to continue 177
5-4 Disqualification 177

Practice and procedure before a hearing panel
5-4.1 Hearing date and notice 178
5-4.2 Amending an allegation in a citation 178
5-4.3 Preliminary questions 178
5-4.4 Severance and joinder 179
5-4.5 Summary hearing 179
5-4.6 Demand for disclosure of evidence 179
5-4.7 Application for details of the circumstances 180
5-4.8 Notice to admit 180
5-5 Compelling witnesses and production of documents 181
5-5.1 Pre-hearing conference 182
5-5.2 Adjournment 184
5-5.3 Application moot 184
5-6 Procedure 184
5-6.1 Preliminary matters 185
5-6.2 Burden of proof 186
5-6.3 Submissions and determination 186
5-6.4 Disciplinary action 186
5-6.5 Admission and consent to disciplinary action 187

5-6.6 Rejection of admission 188
5-8 Public hearing 188
5-9 Transcript and exhibits 189
5-10 Decision 189
5-11 Costs of hearings 189
5-12 Application to vary order 190

The review board

5-15 Review by review board 192
5-16 Review boards 192
5-17 Disqualification 193
5-18 Review board member unable to continue 193

Practice and procedure before a review board

5-19 Initiating a review 193
5-19.1 Extension of time to initiate a review 194
5-20 Stay of order pending review 194
5-21 Notice of review 194
5-22 Record of credentials hearing 194
5-23 Record of discipline hearing 195
5-24 Record of an order for costs by the Practice Standards Committee 195
5-24.1 Preparation and delivery of record 195
5-24.2 Notice of review hearing 196
5-25 Pre-review conference 196
5-26 Adjournment 197
5-27 Decision on review 197
5-28 Inactive reviews 198

Corrections

5-28.1 Slip rule 198

Appeals

5.29 Appeal to Court of Appeal 198

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 211
9-18 Change in LLP information and annual reports 212
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
10-2.1 Communication with Equity Advisor confidential 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

[This page is intentionally left blank.]

RULE 1 – DEFINITIONS

Definitions

1 In these rules, unless the context indicates otherwise:

"Act" means the *Legal Profession Act*, SBC 1998, c. 9;

"admission program" means the program for articled students administered by the Society or its agents, commencing on an articled student's enrolment start date and including the period during which the student is

(a) articled to a principal, or

(b) registered in the training course;

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

"agreed statement of facts" means a written statement of facts signed by Law Society counsel and by or on behalf of an applicant or respondent;

"applicant" means a person who has applied under Part 2 *[Membership and Authority to Practise Law]* for enrolment as an articled student, for call and admission or for reinstatement;

"appointed Bencher" means a person appointed as a Bencher under section 5 *[Appointed benchers]*;

"articled student" means a person who is enrolled in the admission program;

"articling agreement" means a contract in the prescribed form executed by an applicant for enrolment and the applicant's prospective principal;

"articling start date" means the date on which an articled student begins employment with the student's principal;

"articling term" means the 9 month period referred to in Rule 2-59 *[Articling term]*;

"Barreau" means the Barreau du Québec;

"Bencher" does not include the Attorney General unless expressly stated;

"chair" means a person appointed to preside at meetings of a committee, panel or review board;

"Chambre" means the Chambre des notaires du Québec;

"clerkship term" means the period during which a law clerk is employed to work for a judge, not including any period of vacation or leave of absence;

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

"complainant" means a person who has delivered a complaint about a lawyer or a law firm to the Society under Rule 3-2 *[Complaints]*;

"complaint" means an allegation that a lawyer or a law firm has committed a discipline violation;

"conduct unbecoming the profession" includes a matter, conduct or thing that is considered, in the judgment of the Benchers, a panel or a review board,

(a) to be contrary to the best interest of the public or of the legal profession, or

(b) to harm the standing of the legal profession;

"costs" includes costs assessed under Rule 3-25 *[Costs]* or 3-81 *[Failure to file trust report]* or Part 5 *[Tribunal, Hearings and Appeals]*;

"disbarred lawyer" means a person to whom section 15 (3) *[Authority to practise law]* applies;

"disciplinary record" includes any of the following, unless reversed on appeal or review:

(a) any action taken by a governing body as a result of

(i) professional misconduct,

(ii) incompetence,

(iii) conduct unbecoming the profession,

(iv) lack of physical or mental capacity to engage in the practice of law, or

(v) any other breach of a lawyer's professional responsibilities;

(b) disbarment;

(c) a lawyer's resignation or otherwise ceasing to be a member of a governing body as a result of disciplinary proceedings, including resignation as a term of a consent agreement;

(d) restrictions or limits on a lawyer's entitlement to practise, other than those imposed as a result of failure to pay fees to a governing body, insolvency or bankruptcy or other administrative matter;

(e) any interim suspension or restriction or limits on a lawyer's entitlement to practise imposed pending the outcome of a disciplinary hearing.

"discipline violation" means any of the following:

(a) professional misconduct;

(b) conduct unbecoming the profession;

(c) a breach of the Act or these rules;

(d) incompetent performance of duties undertaken by a lawyer in the capacity of a lawyer;

(e) conduct that would constitute professional misconduct, conduct unbecoming the profession or a contravention of the Act or these rules if done by a lawyer or law firm;

"enrolment start date" means the date on which an articled student's enrolment in the admission program becomes effective;

"Equity Advisor" means any person employed by the Society to provide, or to assist such Advisor in providing, advice and mediation assistance to lawyers, articled students, law students and support staff of legal employers, regarding allegations of harassment or discrimination by lawyers;

"Executive Committee" means the Committee elected under Rule 1-41 *[Election of Executive Committee]*;

"Executive Director" [rescinded]

"fiduciary property" means

(a) funds, other than trust funds, and valuables for which a lawyer is responsible in a representative capacity or as a trustee, if the lawyer's appointment is derived from a solicitor-client relationship,

but does not include

(b) any funds and valuables that are subject to a power of attorney granted to the lawyer if the lawyer has not taken control of or otherwise dealt with the funds or valuables;

"firm" [rescinded – see "law firm"]

"foreign jurisdiction" means a country other than Canada or an internal jurisdiction of a country other than Canada;

"Foundation" means the Law Foundation of British Columbia continued under section 58 (1) *[Law Foundation of British Columbia]*;

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

"general" in relation to accounts, books, records and transactions means those pertaining to general funds;

"general funds" means funds received by a lawyer in relation to the practice of law, but does not include

(a) trust funds, or

(b) fiduciary property;

"governing body" means the governing body of the legal profession in another province or territory of Canada;

"interim action board" means a board appointed under Rule 3-10 *[Interim suspension or practice conditions]*;

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

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

"investigate" includes authorizing an investigation and continuing an investigation in progress;

"law clerk" means a law clerk employed to work for a judge appointed under section 96 of the *Constitution Act, 1867*, or a judge of the Supreme Court of Canada, the Federal Court, the Federal Court of Appeal or the Tax Court of Canada;

"law firm" or **"firm"** means a legal entity or combination of legal entities carrying on the practice of law;

"lawyer" means a member of the Society;

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

"metadata" includes the following information generated in respect of an electronic record:

(a) creation date;

(b) modification dates;

(c) printing information;

(d) pre-edit data from earlier drafts;

(e) identity of an individual responsible for creating, modifying or printing the record;

"motions adjudicator" means the Tribunal Chair or a lawyer designated by the Tribunal Chair to decide a matter or conduct a pre-hearing or pre-review conference under these rules;

"multi-disciplinary practice" or **"MDP"** means a partnership, including a limited liability partnership or a partnership of law corporations, that

(a) is owned by at least one lawyer or law corporation and at least one individual non-lawyer or professional corporation that is not a law corporation, and

(b) provides to the public legal services supported or supplemented by the services of another profession, trade or occupation;

"National Mobility Agreement" means the National Mobility Agreement, 2013, of the Federation of Law Societies of Canada, as amended from time to time;

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

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

"Ombudsperson" [rescinded – see "Equity Advisor"]

"panel" means a panel established in accordance with Part 5 *[Tribunal, Hearings and Appeals]*;

"Practice Advisor" means any person employed by the Society to provide, or to assist such Advisor in providing, confidential advice to lawyers and articled students on issues of ethics, professional conduct and practice management;

"practice management course" means a course of study designated as such and administered by the Society or its agents and includes any assignment, examination or remedial work taken during or after the course of study;

"practice review" means an investigation into a lawyer's competence to practise law ordered under Rule 3-17 (3) (d) *[Consideration of complaints]* or 3-18 (1) *[Practice review]*;

"practice year" means the period beginning on January 1 and ending on December 31 in a year;

"practitioner of foreign law" means a person qualified to practise law in a foreign jurisdiction who provides foreign legal services respecting the laws of that foreign jurisdiction;

"prescribed form" means a form approved by the Executive Director;

"principal" means a lawyer who is qualified to employ and employs an articled student;

"pro bono legal services" means the practice of law not performed for or in the expectation of a fee, gain or reward;

"professional conduct record" means a record of all or some of the following information respecting a lawyer:

(a) an order under Rule 2-57 (5) *[Principals]*, prohibiting the lawyer from acting as a principal for an articled student;

(b) any conditions or limitations of practice or articles accepted or imposed under the Act or these rules;

(c) a decision by a panel or a review board to reject an application for enrolment, call and admission or reinstatement;

(d) a decision by the Credentials Committee to reject an application for an inter-jurisdictional practice permit;

(d.1) a consent agreement to resolve a complaint under Rule 3-7.1 *[Resolution by consent agreement]*;

(d.2) an administrative penalty assessed under Rule 4-59 *[Administrative penalty]* unless cancelled under Rule 4-60 *[Review and order]*;

(e) any suspension or disbarment under the Act or these rules, including resignation requiring consent under Rule 4-6 *[Continuation of membership during investigation or disciplinary proceedings]*;

(f) recommendations made by the Practice Standards Committee under Rule 3-19 *[Action by Practice Standards Committee]*;

(g) an admission accepted by the Discipline Committee under Rule 4-29 *[Conditional admission]*;

(h) an admission accepted and disciplinary action imposed by a hearing panel under Rule 5-6.5 *[Admission and consent to disciplinary action]*;

(i) any Conduct Review Subcommittee report delivered to the Discipline Committee under Rule 4-13 *[Conduct Review Subcommittee report]*, and any written dispute of that report considered by the Committee;

(j) a decision made under section 38 (4) (b) *[Discipline hearings]*;

(k) an action taken under section 38 (5), (6) or (7);

(l) an action taken by a review board under section 47 *[Review on the record]*;

(m) a payment made from the former special compensation fund on account of misappropriation or wrongful conversion by the lawyer;

(n) an order for costs made against the lawyer under Part 5 *[Tribunal, Hearings and Appeals]*;

(o) any failure to pay any fine, costs or penalty imposed under the Act or these rules by the time that it is to be paid;

(p) the outcome of an application made by the lawyer under the *Judicial Review Procedure Act* concerning a decision taken under the Act or these rules, including a predecessor of either;

(q) the outcome of an appeal under section 48 *[Appeal]*;

(r) any disciplinary or remedial action taken by a governing body or body regulating the legal profession in any other jurisdiction;

(s) a decision of or action taken by the Benchers on a review of a decision of a hearing panel;

"professional corporation" includes a law corporation and means a corporation that is a company, as defined in the *Business Corporations Act*, and that is in good standing under that Act or that is registered under Part 11 *[Extraprovincial Companies]* of the *Business Corporations Act*, through which a member of a profession, trade or occupation is authorized under a statute governing the profession, trade or occupation to carry on the business of providing services to the public;

"Protocol" means the Inter-Jurisdictional Practice Protocol signed on behalf of the Society on February 18, 1994, as amended from time to time;

"provide foreign legal services" means give legal advice in British Columbia respecting the laws of a foreign jurisdiction in which the person giving the advice is qualified;

"qualification examination" means an examination set by the Executive Director that may be required by the Credentials Committee as a condition for a lawyer's or applicant's return to practice;

"qualified CPA" means a person in public accounting practice who is permitted to perform audit engagements by the Organization of Chartered Professional Accountants of British Columbia;

"reciprocating governing body"

(a) means a governing body that has signed the National Mobility Agreement, and adopted regulatory provisions giving effect to the requirements of the National Mobility Agreement, and

(b) includes a governing body that has signed the Territorial Mobility Agreement and adopted regulatory provisions giving effect to the requirements of the Territorial Mobility Agreement;

"record" includes metadata associated with an electronic record;

"remedial program" includes anything that may be recommended by the Practice Standards Committee under Rule 3-19 (1) (b) *[Action by Practice Standards Committee]*;

"respondent" means a person whose conduct or competence is

(a) the subject of a citation directed to be issued under Rule 4-17 (1) *[Direction to issue, expand or rescind citation]*, or

(b) under review by a review board under section 47 *[Review on the record]*

and includes a representative of a respondent law firm;

"review board" means a review board established in accordance with Part 5 *[Tribunal, Hearings and Appeals]*;

"rule" or **"subrule"** means a rule or subrule contained in these rules;

"Second Vice-President-elect" means the Bencher elected under Rule 1-19 *[Second Vice-President-elect]*, from the time of the election until the Bencher takes office as Second Vice-President;

"section" means a section of the *Legal Profession Act*;

"Society" means the Law Society of British Columbia continued under section 2 (1) *[Incorporation]*;

"suspension" means temporary disqualification from the practice of law;

"Territorial Mobility Agreement" means the 2006 Territorial Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;

"training course" includes any assessments, examinations or remedial work taken during or after the training course, or an educational program required by the Credentials Committee;

"Tribunal" means persons or bodies performing the adjudicative function of the Society or providing legal or administrative support to that function;

"Tribunal Chair" means the practising lawyer appointed under Rule 5-1.3 *[Tribunal Chair]*;

"Tribunal Office" means the principal place of business of the Tribunal;

"trust funds" means funds directly related to legal services provided by a lawyer or law firm received in trust by the lawyer or law firm acting in that capacity, including funds

(a) received from a client for services to be performed or for disbursements to be made on behalf of the client, or

(b) belonging partly to a client and partly to the lawyer or law firm if it is not practicable to split the funds;

"valuables" means anything of value that can be negotiated or transferred, including but not limited to

(a) securities,

(b) bonds,

(c) treasury bills, and

(d) personal or real property;

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

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

PART 1 – ORGANIZATION

Division 1 – Law Society

Benchers

Term of office

1-1 (1) The term of office for an appointed Bencher begins on the date that the appointment is effective and ends on January 1 of the next even-numbered year.

(2) Despite subrule (1), an appointed Bencher continues to hold office until a successor is appointed.

(3) An elected Bencher holds office for 2 years beginning on January 1 following the Bencher's election.

Term limits

1-2 (1) A Bencher is ineligible to be elected or appointed as a Bencher if

(a) at the conclusion of the Bencher's term of office, the Bencher will have served as a Bencher for more than 7 years, whether consecutive or not, or

(b) the Bencher has been elected Second Vice-President-elect.

(2) Despite subrule (1) (a) but subject to subrule (1) (b), a Bencher who was a Bencher on January 10, 1992 and who, at the conclusion of the Bencher's term of office, will not have served as a Bencher for more than 11 years, whether consecutive or not, is eligible to be elected or appointed as a Bencher.

Oath of office

1-3 (1) At the next regular meeting of the Benchers attended by a Bencher after being elected or appointed as a Bencher or taking office as President or a Vice-President, the Bencher must take an oath of office in the following form:

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

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

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

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

Life Benchers

1-4 (1) A person, including the Attorney General, who is ineligible for further election or appointment as a Bencher under Rule 1-2 *[Term limits]* is a Life Bencher on leaving office as a Bencher.

(2) A Life Bencher

(a) may attend and speak at meetings of the Benchers,

(b) has no vote in Bencher meetings,

(c) except as a member of a committee under Rule 1-49 *[Committees of the Benchers]*, may not exercise any of the powers of a Bencher, and

(d) is ineligible to be elected or appointed as a Bencher.

(3) A Bencher who was a Bencher on January 10, 1992 and who has served for at least 7 years as a Bencher is a Life Bencher on leaving office as a Bencher.

(4) A person who was a Life Bencher on January 1, 2010 continues to be a Life Bencher.

President and Vice-Presidents

1-5 (1) The term of office for the President, First Vice-President and Second Vice-President is from January 1 to December 31 of each year.

(2) Subject to subrule (7), on January 1 of each year,

(a) the First Vice-President becomes President,

(b) the Second Vice-President becomes First Vice-President, and

(c) the Second Vice-President-elect becomes Second Vice-President.

(3) Each year, the members must elect a Bencher who is a member of the Society as the Second Vice-President-elect in accordance with Rule 1-19 *[Second Vice-President-elect]*.

(4) Without further election by the district, the Bencher elected by the members under subrule (3) holds office as a Bencher representing the district that last elected the Bencher until the Bencher completes a term as President.

(5) If there is a vacancy in the office of President or a Vice-President for any reason, including the operation of this subrule or the failure of a Bencher to take office under this rule, the Bencher who would have assumed the office at the end of the term immediately assumes the vacant office.

(6) If a vacancy under subrule (5) occurs when there is no Bencher elected by the members to assume the office,

(a) the Benchers may elect a Bencher who is a member of the Society to act in the vacant office until a ballot of all members, the next general meeting or December 31, whichever comes first, and

(b) if the next general meeting or a ballot takes place before December 31, the members must elect a Bencher who is a member of the Society to the vacant office for the remainder of the year, and a Second Vice-President-elect.

(7) If the First Vice-President assumes the office of President under subrule (5) on or after July 1, subrule (2) does not operate on January 1 of the following year and the President and the Vice-Presidents continue in office for an additional full year.

(8) The powers of the President may be exercised by a Vice-President or another member of the Executive Committee designated by the President

(a) if the President is absent or otherwise unable to act, or

(b) with the consent of the President.

Removal of the President or a Vice-President

1-6 (1) On a resolution of a majority of the Benchers to remove the President or a Vice-President from office, the Executive Director must conduct a referendum of all members of the Society to determine if the President or Vice-President, as the case may be, should be removed from office.

(2) If a 2/3 majority of the members voting in a referendum under this rule vote to remove the President or a Vice-President from office, the President or Vice-President ceases to hold that office and ceases to be a Bencher.

(3) Before conducting a referendum under subrule (1), the Executive Director must notify the President or Vice-President who is affected.

(4) Within 30 days after the Benchers pass a resolution under subrule (1), the Executive Director must make available to each member of the Society in good standing

(a) a notice stating

(i) that the Benchers have resolved to remove from office the President or a Vice-President, as the case may be,

(ii) the reasons for the Benchers' resolution,

(iii) that a referendum from among the membership is being conducted to determine if the President or Vice-President, as the case may be, should be removed from office, and

(iv) the date on which the referendum votes will be counted,

(b) a statement by the President or Vice-President, as the case may be, stating why the President or Vice-President should not be removed from office, if that person wishes to have such a statement provided to each member, and

(c) voting materials as required in Rule 1-27 *[Voting procedure]*.

(5) The President or Vice-President in respect of whom the referendum is conducted may attend personally or by agent during proceedings under this rule.

(6) After the counting of the ballots is completed, the Executive Director must declare whether the President or Vice-President, as the case may be, ceases to hold office.

Bencher ceasing to hold office

1-7 (1) A Bencher, other than an appointed Bencher, must be a member of the Society in good standing to take or hold office as a Bencher.

(2) A Bencher may resign by submitting a written resignation to the President stating the effective date of the resignation, and the resignation becomes effective on that date.

Meetings

Annual general meeting

1-8 (1) The Benchers must hold an annual general meeting of the members of the Society each year.

(2) Subject to subrule (3) and Rule 1-9 *[Telephone and internet connections]*, the Executive Committee may determine the place and time of the annual general meeting.

(3) Unless the Benchers direct otherwise, the President must preside at the annual general meeting from a location in the City of Vancouver.

(4) At the annual general meeting, the Benchers must present a report of their proceedings since the last annual general meeting.

(5) At least 60 days before an annual general meeting, the Executive Director must issue a notice of the date and time of the annual general meeting.

(6) In order to be considered at the annual general meeting, a resolution must be

(a) signed by at least 2 members of the Society in good standing, and

(b) received by the Executive Director at least 35 days before the annual general meeting.

(6.1) On receipt of a resolution under subrule (6), the Executive Director must promptly issue a notice of the resolution, including the text of the resolution and the names of the 2 members who signed it.

(6.2) Not later than 21 days before the annual general meeting, the 2 members who signed a resolution submitted under subrule (6) may, by notifying the Executive Director in writing,

(a) withdraw the resolution, or

(b) make changes to the resolution.

(7) Before advance voting is permitted under Rule 1-13.1 *[Voting in advance of general meeting]* and at least 16 days before an annual general meeting, the Executive Director must issue

(a) a notice containing the following information:

(i) the locations at which the meeting is to be held;

(ii) each resolution received in accordance with subrule (6), with any changes submitted under subrule (6.2), unless the resolution has been withdrawn under that subrule;

(iii) notice of advance voting if it is to be permitted under Rule 1-13.1, and

(b) the audited financial statement of the Society for the previous calendar year.

(8) The accidental failure to comply with any requirement under subrule (5), (6.1) or (7) does not invalidate anything done at the annual general meeting.

(9) A notice or other document required to be issued under this rule must be made available to Benchers and members in good standing by electronic or other means.

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, non-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) Subject to Rule 1-9.1 *[Annual general meeting by internet connection]*, 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.

Annual general meeting by internet connection

1-9.1 (1) Despite any other rule, and in its sole discretion, the Executive Committee may direct that the annual general meeting be held by internet connection

(a) entirely and without the physical presence of individuals in a meeting place, or

(b) with the physical presence of individuals in one or more meeting places.

(2) When the Executive Committee makes a direction under subrule (1), the annual general meeting is governed by Rules 1-8 to 1-13.2 that apply to a general meeting by internet connection.

(3) Despite subrule (2), at an annual general meeting held entirely by internet connection, the President may

(a) preside from any location in British Columbia, and

(b) allow any person participating in the meeting who has the appropriate electronic equipment to be heard by all others participating, to speak at the 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 the auditor's 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 the auditor's 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) a notice of the meeting stating the business that will be considered at the meeting, and

(b) any resolution to be voted on under Rule 1-13.1 *[Voting in advance of general 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 articled 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 have not previously voted on any resolution under Rule 1-13.1 *[Voting in advance of a general meeting]*, who must be given a voting card;

(a.1) members of the Society in good standing who have previously voted on any resolution under Rule 1-13.1, who must be given a non-voting member card;

(b) articled 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 who is not a Bencher, a member in good standing or a student 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.

(12.1) A resolution on which members have voted in advance of the general meeting must not be amended, postponed or referred at the general meeting.

(13) The President must decide questions of procedure to be followed at a general meeting not provided for in the Act or these Rules.

(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), (15.1), (16) and (17) [moved to Rule 1-13.2]

(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.

Voting in advance of general meeting

1-13.1 (1) The Benchers may authorize the Executive Director to permit members of the Society in good standing to vote by electronic means on general meeting resolutions in advance of the general meeting.

(2) When advance voting is permitted under subrule (1), all members of the Society in good standing must have the opportunity to vote by electronic means on all general meeting resolutions.

(3) The Executive Director

(a) may retain a contractor to assist in any part of electronic voting on general meeting resolutions,

(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.

(4) A ballot on a general meeting resolution may be produced electronically, and to cast a valid vote, a member must indicate a vote in accordance with instructions accompanying the ballot.

(5) The period of voting in advance of a general meeting must be at least 15 days ending at the close of business on the last business day before the general meeting.

(6) A person who has voted electronically in advance of the meeting is present at the meeting for the purpose of calculation of a quorum under Rule 1-12 *[Quorum]*.

Voting at general meeting

1-13.2 (1) A member of the Society in good standing who is present at a general meeting and has not previously voted on any resolution under Rule 1-13.1 *[Voting in advance of general meeting]* is entitled to one vote.

(2) A member of the Society must not

(a) cast a vote or attempt to cast a vote that the member 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.

(3) 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.

(4) A member of the Society is not entitled to vote by proxy.

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.

Procedure at Bencher meeting

1-16 (1) Subject to subrule (4), members of the Society in good standing and articled students are entitled to be present at Bencher meetings.

(2) The President may allow a member of the Society in good standing or an articled student to speak at the meeting.

(3) The President may allow a person not referred to in subrule (1) to be present at all or part of a Bencher meeting, with or without the right to speak at the meeting.

(4) The President may order that only Benchers, or Benchers and specified employees of the Society, be present during the discussion of a confidential matter at a Bencher meeting.

(5) In the absence of the President, or at the request of the President, the First Vice-President or Second Vice-President must preside at a Bencher meeting and assume the duties of the President under this rule.

(6) In the absence of the President, First Vice-President and Second Vice-President, the Benchers present must choose one of their number to preside at the meeting and assume the duties of the President under this rule.

(7) If a quorum is not present 30 minutes after the time appointed for a Bencher meeting, the meeting may, as determined by the President, stand adjourned to a date, time and place set by the President.

(8) The Benchers must not conduct business other than the election of a presiding Bencher and the adjournment of the meeting unless a quorum is present.

(9) A dispute concerning the procedure to be followed at a Bencher meeting that is 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*.

(10) When a decision of the President is appealed, the President must call a vote of all Benchers present, without debate, on whether they are in favour of or opposed to sustaining the President's decision.

(11) A Bencher present at a Bencher meeting is entitled to one vote.

(12) Voting at a Bencher meeting must be by show of hands, unless the President orders a secret ballot.

(13) A Bencher is not entitled to vote by proxy.

(14) A Bencher meeting may be adjourned from time to time and from place to place.

(15) The Benchers may conduct a meeting by joining together 2 or more locations by telephone or by any other means of communication that allows all persons participating in and entitled to vote at the meeting to hear each other, and a Bencher participating in the meeting in that way is, for the purpose of this rule and the calculation of a quorum, present at the meeting.

Quorum for committee meetings

1-17 (1) At least half the members of a committee constitutes a quorum.

(2) As an exception to subrule (1), a quorum of the Executive Committee is 4.

Procedure for committee meetings

1-18 (1) A member of a committee may not vote by proxy.

(2) A meeting of a committee may be conducted by joining together 2 or more locations by telephone or by any other means of communication that allows all persons participating in and entitled to vote at the meeting to hear each other, and a member of the committee participating in the meeting in that way is present at the meeting for all purposes, including the calculation of a quorum.

(3) A committee may take any action consistent with the Act and these rules by resolution of a majority of the members of the committee present at a meeting, if the members constitute a quorum.

Elections

Second Vice-President-elect

1-19 (1) The election of a Second Vice-President-elect is held at the annual general meeting each year.

(2) A nomination for election as Second Vice-President-elect is valid only if

(a) the nominator is a member of the Society in good standing,

(b) the candidate is a Bencher and a member of the Society in good standing, and

(c) the candidate consents to the nomination.

(3) All members of the Society in good standing in attendance are entitled to vote for Second Vice-President-elect.

(4) A vote for Second Vice-President-elect must be conducted by secret ballot.

(5) If only one candidate is nominated, the President must declare that candidate the Second Vice-President elect.

Bencher elections

1-20 (1) Elections for the office of Bencher in all districts must be held each odd-numbered year.

(2) An election in the district represented by the President must be held each even-numbered year.

(3) The Bencher elected under subrule (2) holds office for one year starting on the following January 1.

Regional election of Benchers

1-21 (1) Benchers must be elected from electoral districts as follows:

(a) 13 Benchers from District No. 1, the County of Vancouver;

(b) 2 Benchers from District No. 2, the County of Victoria;

(c) one Bencher from District No. 3, the County of Nanaimo;

(d) 3 Benchers from District No. 4, the County of Westminster;

(e) one Bencher from District No. 5, the County of Kootenay;

(f) one Bencher from District No. 6, Okanagan, being those parts of the County of Yale

(i) east of 120 degrees west longitude and south of the northernmost point of Okanagan Lake, or

(ii) west of 120 degrees west longitude and south of 50 degrees north latitude;

(g) 2 Benchers from District No. 7, the County of Cariboo;

(h) one Bencher from District No. 8, the County of Prince Rupert;

(i) one Bencher from District No. 9, Kamloops, being that part of the County of Yale not included in District No. 6, Okanagan.

(2) The number of Benchers to be elected from each district must be reduced by one for each Bencher from that district who holds office as First Vice-President, Second Vice-President or Second Vice-President-elect.

Qualifications of candidate

1-22 (1) To be eligible to be a candidate for election as a Bencher, a member of the Society must

(a) be in good standing at the time of nomination,

(b) [rescinded]

(c) if a practising lawyer, maintain the chief place of the lawyer's practice or employment in the district in which the lawyer seeks to be a candidate, and

(d) if a retired or non-practising member, reside in the district in which the member seeks to be a candidate.

(2) An incumbent Bencher who qualifies under subrule (1) and is not disqualified under Rule 1-2 *[Term limits]* is eligible to be nominated as a candidate for re-election as a Bencher.

Nomination

1-23 The nomination of a candidate for election as a Bencher is valid only if

(a) it is in writing, signed by at least 2 members of the Society in good standing who are eligible to vote in the district in which the nominee seeks to be a candidate,

(b) the nominee consents in writing to the nomination, and

(c) the nomination and consent are received by the Executive Director on or before October 15 before the election is to take place.

Acclamation

1-24 If the number of candidates nominated does not exceed the number to be elected in a district, the Executive Director must declare that those nominated are elected as Benchers for that district.

Eligibility and entitlement to vote

1-25 (1) A member of the Society in good standing is eligible to vote in a Bencher election.

(1.1) A member of the Society must not cast a vote or attempt to cast a vote that the member is not entitled to cast.

(1.2) A member of the Society must not enable or assist a person

(a) to vote in the place of the member, or

(b) to cast a vote that the person is not entitled to cast.

(2) [rescinded]

(3) A non-resident member may vote

(a) in the district in which the member was last eligible to vote as a resident member, or

(b) if paragraph (a) does not apply, in District No. 1.

(4) A resident member of the Society may vote only in the district in which the member maintains

(a) the chief place of the member's practice or employment, in the case of a practising lawyer, or

(b) the member's residence, in the case of a retired or non-practising member.

(5) The Executive Director may, on an application by or with the consent of a member, place the member on the voter list for a District other than the one required by this rule where satisfied that the member has a significantly greater connection to the District in which the member wishes to vote.

(6) A member whose application is rejected under subrule (5) may seek a review of the decision by the Executive Committee, whose decision is final.

Voter list

1-26 (1) [rescinded]

(2) In this Division, a **"voter list"** is a list of voters for an electoral district containing, in alphabetical order, the names of all members of the Society eligible to vote in the electoral district.

(2.1) For the purpose of this rule, an election is in progress from the day that nominations are opened until the last day that members are permitted to vote.

(3) When an election is in progress, a member of the Society may request a voter list from the Executive Director.

(3.1) The Executive Director may comply with a request for a voter list by providing the list in electronic form.

(4) A member of the Society who has reason to believe that a voter list improperly includes or omits a name, or contains an error respecting the district in which a member is entitled to vote may, when an election is in progress, report the error to the Executive Director.

(5) The Executive Director must promptly investigate a report made under subrule (4) and correct any error that exists.

(6) A member of the Society who is not satisfied with the action taken by the Executive Director under subrule (5) may apply in writing to the Executive Committee for a review.

(7) The Executive Committee must promptly review an application made under subrule (6), and must

(a) confirm the decision of the Executive Director, or

(b) order the Executive Director to correct the voter list as the Committee directs.

Voting period and procedure

1-27 (0.1) Bencher elections are held by electronic means.

(0.2) Despite subrule (0.1), the Executive Committee may, where circumstances require, authorize the Executive Director to conduct a Bencher election by means other than electronic means.

(0.3) For each election, the Executive Director must establish a voting period of no less than one week closing no later than the close of business on November 14 of the year the election is held.

(0.4) Votes received for a Bencher election held must be counted and results published on November 15 of the year the election is held.

(0.5) The Executive Director

(a) must oversee the election process and procedure,

(b) may retain a contractor to assist in any part of an election,

(c) must ensure that votes cast remain secret,

(d) must ensure that the voting process enables the voter to clearly and unambiguously record the names of the candidate or candidates voted for, and

(e) must take reasonable security measures to ensure that only members entitled to vote can do so.

(1) On or before the commencement of the voting period, the Executive Director must make available to each member of the Society entitled to vote in an election

(a) a ballot containing, in the order determined under Rule 1-28 *[Order of names on ballot]*, the names of all candidates in the district in which the member is entitled to vote and stating the number of Benchers to be elected in that district,

(b) instructions on submitting the ballot and returning it to the Society in a way that will preserve the secrecy of the member's vote, and

(c) – (e) [rescinded]

(f) biographical information received from the candidates.

(2) An election is not invalidated by

(a) the accidental omission to make the material referred to in subrule (1) available to any member of the Society or the non-receipt of the material, or

(b) an error in the delivery of a ballot that results in a member voting in an incorrect district.

(3) For a ballot to be valid, the voter must

(a) vote in accordance with the instructions provided with the ballot,

(b) not vote for more candidates than the number of Benchers to be elected in the district, and

(c) – (e) [rescinded]

(f) submit the ballot before the close of the voting period and by the means provided to the Executive Director.

(4) [rescinded]

(5) The Executive Director may issue a new ballot to a member entitled to vote who informs the Executive Director in writing that the original ballot sent to the member relates to a district other than the one in which the member is entitled to vote, provided the member has not already submitted the ballot initially received.

1-27.1 [rescinded 07/2024]

Order of names on ballot

1-28 (1) The order of names on a ballot under this division must be determined by lot in accordance with this rule.

(2) The Executive Director must notify all candidates as to the date, time and place when the determination is to be made.

(3) The procedure for the determination is as follows:

(a) the name of each candidate is written on a separate piece of paper, as similar as possible to all other pieces prepared for the determination;

(b) the pieces of paper are folded in a uniform manner in such a way that the names of the candidates are not visible;

(c) the pieces of paper are placed in a container that is sufficiently large to allow them to be shaken for the purpose of making their distribution random, and the container is shaken for this purpose;

(d) the Executive Director withdraws the papers one at a time;

(e) the name on the first paper drawn is the first name on the ballot, the name on the second paper is the second, and so on until the placing of all candidates' names on the ballot has been determined.

1-29 [rescinded 07/2024]

Alternative vote ballot

1-30 (1) In a district in which only one Bencher is to be elected and there are more than 2 candidates, voting must be by an alternative vote ballot on which voters may indicate their preference for candidates.

(2) When an alternative vote ballot is conducted under subrule (1), the ballots in that election must be counted according to the following procedure:

(a) on the first count, each voter's first preference is recorded in favour of the candidate preferred;

(b) on the second count, the candidate who received the least votes on the first count is eliminated and that candidate's first count ballots are distributed among the remaining candidates according to the second preferences indicated;

(c) on each subsequent count, the candidate who received the least votes in the preceding count is eliminated, and that candidate's ballots are distributed among the remaining candidates according to the next preferences indicated;

(d) the first candidate to receive a majority of votes on any count is elected.

1-31 [rescinded 07/2024]

1-32 [rescinded 07/2024]

1-33 [rescinded 07/2024]

Declaration of candidates elected

1-34 (1) The Executive Director must declare elected the candidates who receive the greatest number of votes, up to the number of Benchers to be elected in each district.

(2) If, as a result of a tie vote, the Executive Director cannot determine all of the candidates elected in a district, the Executive Director must report to the Executive Committee that the positions affected have not been filled by the election, and Rule 1-38 *[Bencher by-election]* or 1-39 *[Appointment of Bencher to represent a district]* applies.

Election record and disclosure of votes received

1-35 (1) The Executive Director must ensure that a permanent record is kept of the number of votes received by each candidate, and the candidates who are declared elected.

(2) The information referred to in subrule (1) is public information.

Review by Executive Committee

1-36 (1) A candidate who is not elected in a Bencher election may apply to the Executive Committee for a review of the election.

(2) An application under subrule (1) can only be made

(a) in writing, and

(b) not more than 10 days after the election date.

(3) On an application under subrule (1), the Executive Committee must promptly review the election in that district, and must

(a) confirm the declaration made by the Executive Director under Rule 1-34 *[Declaration of candidates elected]*,

(b) rescind the declaration made by the Executive Director under Rule 1-34 and declare that the candidate who applied under subrule (1) or another candidate is elected, or

(c) order a new election in the district concerned, and give directions for it.

(4) The decision of the Executive Committee under subrule (3) is final.

Retention of documents

1-37 The Executive Director must retain the ballots and other documents of a Bencher election for at least 14 days after the election or, if a review is taken under Rule 1-36 *[Review by Executive Committee]*, until that review has been completed.

Bencher by-election

1-38 (1) If an elected Bencher ceases to hold office in an even numbered year or before July 1 of an odd numbered year, a by-election must be held to fill the vacancy for the remainder of the term of office.

(2) When a Bencher by-election is required under subrule (1), the Executive Committee must set a date for the prompt holding of the by-election.

(3) Rules 1-21 to 1-37 apply to a by-election under subrule (1), except that the Executive Director may change the dates referred to in Rules 1-23 (c) *[Nomination]* and 1-27 (1) *[Voting procedure]*.

Appointment of Bencher to represent a district

1-39 (1) The Benchers may fill a vacancy by appointment in the following circumstances:

(a) an elected Bencher ceases to hold office on or after July 1 of an odd-numbered year;

(b) an electoral district fails to nominate enough candidates at an election to elect the required number of Benchers;

(c) an amendment to Rule 1-21 *[Regional election of Benchers]* increases the number of Benchers to be elected from a district.

(2) A Bencher appointed under subrule (1) takes office on appointment and continues in office until the end of the current term.

(3) The Benchers may appoint any member of the Society in good standing eligible to be a candidate for Bencher in the district concerned.

(4) When the Benchers appoint a Bencher under this rule, they may conduct a non-binding plebiscite of the members of the Society in the district concerned.

Referendum ballots

1-40 (1) The Benchers may direct the Executive Director to conduct a referendum ballot of all members of the Society or of all members in one or more districts.

(2) The rules respecting a Bencher election apply, with the necessary changes and so far as they are applicable, to a referendum under this rule, except that the votes need not be reported by districts.

Election of Executive Committee

1-41 (1) The Benchers must elect 4 Benchers to serve as members of the Executive Committee for each calendar year as follows:

(a) 3 elected Benchers;

(b) 1 appointed Bencher.

(2) A person elected as a Bencher for a term that includes the calendar year for which members of the Executive Committee are to be elected is eligible for election under subrule (1) (a).

(2.1) A Bencher reappointed as a Bencher, or eligible to be reappointed as a Bencher, for a term that includes the calendar year for which members of the Executive Committee are to be elected is eligible for election under subrule (1) (b).

(3) A Bencher who is eligible for election under subrule (1) may become a candidate by notifying the Executive Director in writing by November 22.

(4) If there are more candidates than there are positions to be elected, the Executive Director must conduct a ballot.

(5) The Executive Director must specify a date no later than December 6 for the return of the ballots, and a ballot returned after that date is not valid.

(6) Benchers in office on the date specified under subrule (5) are eligible to vote for the Executive Committee as follows:

(a) all Benchers are eligible to vote for elected Benchers;

(b) appointed Benchers are eligible to vote for appointed Benchers.

(7) to (9) [rescinded; (8) moved to (2.1)]

(10) If a vote is required for an election under this rule,

(a) it must be conducted by secret ballot,

(b) a ballot must be rejected if it contains votes for more candidates than there are positions to be filled, and

(c) when more than one Bencher is to be elected, the candidates with the most votes, up to the number of positions to be filled, are elected.

(11) If, because of a tie vote or for any other reason, the Benchers fail to elect 4 members of the Executive Committee under subrule (1), or if a vacancy occurs on or before August 31 of any year, the Benchers or the appointed Benchers, as the case may be, must promptly hold an election to fill the vacancy.

(11.1) When a tie vote causes an election under subrule (11)

(a) despite subrule (3), the candidates who were tied are the only candidates, and

(b) despite subrule (6) (b), all Benchers are eligible to vote.

(12) The Executive Director may conduct an election for members of the Executive Committee partly or entirely by electronic means.

(13) This rule applies, with the necessary changes and so far as applicable, to an election conducted partly or entirely by electronic means.

Date falling on Saturday, Sunday or holiday

1-42 If the time for doing an act in this division falls or expires on a day when the Society office is not open during regular business hours, the time is extended to the next day that the office is open.

1-43 [rescinded 12/2015]

Extension of dates

1-44 The Executive Committee may, on application by the Executive Director, extend any date stated in Rule 1-20 to 1-44.

General

Executive Director's delegate

1-44.1 (1) Any power or authority delegated to the Executive Director under these rules may be exercised by the Executive Director's delegate.

(2) In the absence of evidence to the contrary, a person employed or retained by the Society is the Executive Director's delegate when acting within the scope of the person's employment or retainer to exercise a power or authority delegated to the Executive Director under these rules.

Seal

1-45 (1) Subject to subrule (2), the seal of the Society may be affixed to a document in the presence of

(a) 2 persons, one of whom must be the President or a Vice-President, and the other of whom must be an officer of the Society, or

(b) one or more persons appointed by resolution of the Executive Committee.

(2) The seal may be affixed in the presence of any one of the persons referred to in subrule (1) in the case of

(a) a certificate, or

(b) a document that certifies true copies of any document or resolution.

(3) The person or persons in whose presence the seal is affixed must sign the certificate or document of certification.

Laying of information

1-46 Any information alleging an offence against the Act may be laid in the name of the Society on oath of an officer of the Society or a member of the Executive Committee.

Freedom of Information and Protection of Privacy Act

1-47 The Executive Director is designated as the head of the Society for the purposes of the *Freedom of Information and Protection of Privacy Act*.

Appointment of Law Society counsel

1-48 (1) Subject to Rule 1-51 (a) *[Powers and duties]*, the Executive Director may appoint a lawyer employed by the Society or retain another lawyer to advise or represent the Society in any legal matter.

(2) When Rule 1-51 (a) *[Powers and duties]* applies and it is not practicable to call a meeting of the Executive Committee before the advice of counsel is required, the Executive Director may appoint counsel on an interim basis.

Division 2 – Committees

Committees of the Benchers

1-49 Subject to these rules, the President may

(a) appoint any person as a member of a committee of the Benchers, and

(b) terminate the appointment.

Executive Committee

1-50 (1) The Executive Committee consists of the following Benchers:

(a) the President;

(b) the First and Second Vice-Presidents;

(c) the Second Vice-President-elect, if not elected under paragraph (d);

(d) 4 other Benchers elected under Rule 1-41 *[Election of Executive Committee]*.

(2) The President is the chair of the Executive Committee, and the First Vice-President is the vice chair.

(3) The Executive Committee is accountable and reports directly to the Benchers as a whole.

Powers and duties

1-51 The powers and duties of the Executive Committee include the following:

(a) authorizing appointment of counsel to advise or represent the Society when the Society is a plaintiff, petitioner or intervenor in an action or proceeding;

(b) authorizing the execution of documents relating to the business of the Society;

(c) appointing persons to affix the seal of the Society to documents;

(d) [rescinded]

(e) approving agreements relating to the employment, termination or resignation of the Executive Director and the remuneration and benefits paid to the Executive Director;

(f) assisting the President and Executive Director in establishing the agenda for Bencher meetings and the annual general meeting;

(g) planning of Bencher meetings or retreats held to consider a policy development schedule for the Benchers;

(h) assisting the Benchers and the Executive Director on establishing relative priorities for the assignment of Society financial, staff and volunteer resources;

(i) providing constructive performance feedback to the President;

(j) recommending to the appointing bodies on Law Society appointments to outside bodies;

(k) determining the date, time and locations for the annual general meeting;

(l) overseeing Bencher elections in accordance with Division 1 of this Part;

(m) appointing members of the Board of Governors of the Foundation under section 59 *[Board of Governors]*;

(n) deciding matters referred by the Executive Director under Rule 2-113 *[Referral to Executive Committee]*;

(o) declaring that a financial institution is not or ceases to be a savings institution under Rule 3-57 *[Removal of designation]*;

(p) adjudicating claims for unclaimed trust funds under Rule 3-91 *[Adjudication of claims]*;

(q) other functions authorized or assigned by these rules or the Benchers.

Division 3 – Law Society Rules

Act, Rules and Code

1-52 The Executive Director must provide each lawyer and each articled student with a copy of the *Legal Profession Act,* all rules made by the Benchers, and the *Code of Professional Conduct*.

PART 2 – MEMBERSHIP AND AUTHORITY TO PRACTISE LAW

Division 1 – Practice of Law

Members

Categories of membership

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

(a) practising lawyers, as defined in section 1;

(b) retired members;

(c) non-practising members;

(d) Canadian legal advisor.

Member in good standing

2-2 Subject to Rules 3-18 (7) *[Practice review]* and 4-6 (2) *[Continuation of membership under investigation or disciplinary proceedings]*, a member of the Society is a member in good standing unless suspended under section 38 (5) (d) *[Discipline hearings]* or under these rules.

Non-practising members

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

(a) undertaking in writing to the Executive Director not to engage in the practice of law until released from the undertaking, and

(b) paying the application fee specified in Schedule 1 and a prorated annual fee for non-practising members as provided in Schedule 3.

(2) [rescinded]

Retired members

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

(a) reached the age of 55 years;

(b) been a member of the Society in good standing for 20 of the previous 25 years;

(c) engaged in the full-time active practice of law for 20 of the previous 25 years.

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

(a) undertaking in writing to the Executive Director not to engage in the practice of law until released from the undertaking, and

(b) paying the application fee specified in Schedule 1 and the prorated annual fee for retired members as provided in Schedule 3.

(3) and (4) [rescinded]

Release from undertaking

2-5 (1) A retired or non-practising member may apply for release from an undertaking given under Rule 2-3 *[Non-practising members]* or 2-4 *[Retired members]* by delivering to the Executive Director

(a) an application in the prescribed form, including written consent for the release of relevant information to the Society, and

(b) the application fee specified in Schedule 1.

(2) The Executive Director must not grant a release from an undertaking under this rule unless satisfied that the lawyer is not prohibited from practising law under Rule 2-89 *[Returning to practice of law after an absence]* or 2-90 *[Conditions on returning to practice]*.

Legal services by non-practising and retired members

2-6 Despite an undertaking given under Rule 2-3 (1) (a) *[Non-practising members]* or 2-4 (2) (a) *[Retired members]*, a non-practising or retired member may

(a) provide pro bono legal services, or

(b) act as a designated paralegal under Rule 2-13 *[Paralegals]*.

Certificates and permits

2-7 The Executive Director may approve the form of

(a) practising certificate issued under section 23 *[Annual fees and practising certificate]*,

(b) retired membership certificate issued under Rule 2-4 *[Retired members]*,

(c) non-practising membership certificate issued under Rule 2-3 *[Non-practising members]*,

(d) practitioner of foreign law permit issued under Rule 2-29 *[Practitioners of foreign law]*,

(e) inter-jurisdictional practice permit issued under Rule 2-20 *[Application for inter-jurisdictional practice permit]*, and

(f) Canadian legal advisor certificate issued under Rule 2-84 *[Barristers and solicitors' roll and oath]*.

Member information

Annual practice declaration

2-8 (1) In this rule, **"declaration"** means the Annual Practice Declaration in the prescribed form.

(2) A practising lawyer must complete and deliver a declaration to the Executive Director in each calendar year.

(3) A declaration is not delivered under this rule unless it is

(a) complete to the satisfaction of the Executive Director,

(b) received by the Executive Director by the date set by the Executive Director, and

(c) signed by the practising lawyer.

(4) The Executive Director must not issue a practising certificate to a lawyer who fails to deliver a declaration as required under this rule, unless the Credentials Committee directs otherwise.

Definitions

2-9 In Rules 2-10 *[Business address]* and 2-11 *[Residential address]*, **"address"** includes

(a) the name under which a lawyer carries on business, and

(b) street address, including suite number if applicable, and mailing address, if that is different from the street address;

"contact information" includes the following for the purpose of a lawyer receiving communication from the Society, including confidential communication:

(a) a telephone number;

(b) an email address;

"place of practice" includes

(a) a lawyer's chief place of practice or employment, including the residence of a lawyer who carries on a law practice from the lawyer's residence, and

(b) any other location from which a lawyer conducts the practice of law or is held out to conduct the practice of law.

Business address

2-10 A lawyer must advise the Executive Director of the address and contact information of all of the lawyer's places of practice and inform the Executive Director immediately of a change of address or contact information of any of the lawyer's places of practice.

Residential address

2-11 A lawyer who does not carry on the practice of law must advise the Executive Director of the address and contact information of the lawyer's residence and any change in the address and contact information of the lawyer's residence.

Practice history

2-12 (1) In this rule, **"practice history"** means a record of

(a) the dates and places that a lawyer or former lawyer has practised law or been enrolled in the admission program, including the name of the firms through which the lawyer or former lawyer practised law, and

(b) dates of any periods since call and admission during which the lawyer or former lawyer has been a non-practising or retired member or a former member.

(2) At the request of any person, the Executive Director may disclose all or part of the practice history of any member or former member of the Society.

Law firms

Definitions and application

2-12.1 (1) In Rules 2-12.1 to 2-12.5

"deliver" means to deliver to the Executive Director;

"designated representative" means a practising lawyer designated by a law firm under Rule 2-12.5;

"registration form" means the prescribed form required under Rule 2-12.2 completed to the satisfaction of the Executive Director;

"self-assessment report" means a report required under Rule 2-12.3 in the prescribed form completed to the satisfaction of the Executive Director.

(2) Rules 2-12.1 to 2-12.5 do not apply to

(a) a public body such as government or a Crown corporation,

(b) a corporation that is not a law corporation, or

(c) a law corporation that provides legal services solely as part of another law firm as a partner, associate or employee of the firm.

Registration

2-12.2 (1) A law firm that is engaged in the practice of law on May 1, 2018 or commences or resumes engaging in the practice of law after that date must deliver a registration form within 30 days.

(2) A law firm must inform the Executive Director immediately of a change of any information included in the registration form.

Self-assessment report

2-12.3 (1) From time to time, the Executive Director may require a law firm to complete and deliver a self-assessment report.

(2) The Executive Director must notify the law firm of the requirement to deliver a self-assessment report at least 3 months before the date on which the Executive Director requires the law firm to deliver it.

(3) All information and documents received by the Society under this rule are confidential, and no person is permitted to disclose them to any person.

(4) Despite subrule (3), the Society may use information and documents received under this rule only for the purpose of statistical and other analysis regarding the practice of law.

Late delivery

2-12.4 (1) A law firm that fails to deliver a document required under Rule 2-12.2 *[Registration]* or 2-12.3 *[Self-assessment report]* by the time that it is due is deemed to have been in compliance with the rules if the law firm does the following within 60 days:

(a) deliver the document required;

(b) pay the late delivery fee specified in Schedule 1.

(2) A law firm that fails to deliver a document required under Rule 2-12.2 *[Registration]* or 2-12.3 *[Self-assessment report]* beyond 60 days from the time that it is due is in breach of the rules and must immediately do the following:

(a) deliver the document required;

(b) pay the late delivery fee specified in Schedule 1;

(c) pay an additional late delivery fee specified in Schedule 1.

Designated representative

2-12.5 (1) A law firm that is engaged in the practice of law must designate as its designated representative one or more practising lawyers engaged in the practice of law as members of the law firm.

(2) A law firm that is engaged in the practice of law on May 1, 2018 or commences or resumes engaging in the practice of law after that date must notify the Executive Director of the designation of designated representative as part of the registration process under Rule 2-12.2 *[Registration]*.

(3) A law firm that changes its designation of designated representative must inform the Executive Director within 7 days.

(4) A designated representative must respond promptly and completely to any communication from the Society.

(5) A designated representative

(a) is not responsible for a disciplinary violation by a law firm as a result of being a designated representative, and

(b) must not knowingly or recklessly provide false or inaccurate information in any form or report required under Rules 2-12.1 to 2-12.5.

Paralegals

Supervision of limited number of designated paralegals

2-13 (1) In this rule, **"designated paralegal"** means an individual permitted under section 6.1 *[Supervision]* of the *Code of Professional Conduct* to give legal advice and represent clients before a court or tribunal.

(2) A lawyer must not supervise more than 2 designated paralegals at one time.

Unauthorized practice

Unauthorized practice of law

2-14 (1) A lawyer must not knowingly facilitate by any means the practice of law by a person who is not a practising lawyer or otherwise permitted to practise law under sections 15 to 17 or Rule 2-39 *[Conditions for MDP]*.

(2) Without limiting subrule (1), a lawyer must not knowingly do any of the following:

(a) act as an agent or permit the lawyer's name to be used or held out in any way that enables a person to engage in the unauthorized practice of law;

(b) send a process or other document to a person or do any other act that enables a person to engage in the unauthorized practice of law;

(c) open or maintain an office for the practice of law unless the office is under the personal and actual control and management of a practising lawyer.

(3) When the Society obtains a court order or an agreement restraining a person who is not a practising lawyer from the practice of law, the Executive Director may publish generally a summary of the circumstances and of the order or agreement, in a form that appears appropriate to the Executive Director.

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) Visiting lawyers must not hold themselves out or allow themselves to be held out as willing or qualified to provide legal services, except as visiting lawyers.

(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 the indemnity coverage required of lawyers under Rule 3-39 (1) *[Compulsory professional liability indemnification]*, 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 indemnification under Rule 3-43 *[Exemption from professional liability indemnification]* 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, members of the Canadian Forces who are entitled to practise law in a home jurisdiction in which they are members 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) do not establish an economic nexus with British Columbia under Rule 2-17 *[Disqualifications]*, provided that they provide 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 the visiting lawyer's 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 the prescribed form, 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) a certificate of standing dated not more than 30 days before the date of application, 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 the visiting lawyer provides legal services, and

(b) prove that the visiting lawyer has complied with these rules.

Enforcement

2-24 (1) and (2) [rescinded]

(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.

Information sharing

Sharing information with a governing body

2-27.1 (1) This rule applies to information collected in accordance with the Act and these rules about a lawyer, former lawyer, law firm, articled student, applicant, visiting lawyer or a person who has applied to be a member of a governing body.

(2) Subject to subrule (3), when it appears to the Executive Director to be appropriate in the public interest, the Executive Director may provide information to a governing body.

(3) The Executive Director must not provide confidential or privileged information to a governing body under subrule (2) unless the Executive Director is satisfied that the information

(a) is adequately protected against disclosure, and

(b) will not be used for any purpose other than the regulation of the legal profession in the jurisdiction of the governing body.

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 provide foreign legal services by delivering to the Executive Director

(a) a completed permit application in the prescribed form, 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 the Executive Director is 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 provide foreign legal services only under the supervision of a practitioner of foreign law who has practised law in that foreign jurisdiction for at least 3 of the past 5 years, and

(e) carries professional liability insurance or a bond, indemnity or other security

(i) in a form and amount at least reasonably comparable to the indemnity coverage required of lawyers under Rule 3-39 (1) *[Compulsory professional liability indemnification]*, and

(ii) that specifically extends to the activities of the practitioner of foreign law in providing foreign legal services.

(2.1) In exceptional circumstances, the Executive Director may issue a permit to a person applying under subrule (1) who does not meet the requirements set out in subrule (2) if the Executive Director is satisfied that it is in the public interest to do so.

(3) The Executive Director may attach conditions or limitations to a permit issued or renewed under this rule.

(4) [rescinded]

(5) A permit issued under this rule 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 *[Practitioners of foreign law]*.

(2) A practitioner of foreign law who holds a current permit may provide foreign legal services 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 the practitioner of foreign law

(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 membership in the governing body of the practitioner of foreign law or on 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 the home jurisdiction of the practitioner of foreign law and provides foreign 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 provide foreign legal services without obtaining a permit, provided the lawyer maintains professional liability insurance that

(a) specifically extends to the lawyer's activities in providing foreign legal services, and

(b) is in a form and amount at least reasonably comparable to the indemnity coverage required of lawyers under Rule 3-39 (1) *[Compulsory professional liability indemnification]*.

Marketing of legal services by practitioners of foreign law

2-33 A practitioner of foreign law who is not a member of the Society must do all of the following when engaging in any marketing activity as defined in the *Code of Professional Conduct*, section 4.2 *[Marketing]*:

(a) use the term "practitioner of foreign law";

(b) state the foreign jurisdiction in which the practitioner of foreign law holds professional legal qualifications, and the professional title used in that jurisdiction;

(c) not use any designation or make any representation from which a recipient might reasonably conclude that the practitioner of foreign law is a member of the Society.

Renewal of permit

2-34 (1) In order to renew a practitioner of foreign law permit, a practitioner of foreign law must apply to the Executive Director for a renewal of the permit before it expires.

(2) A renewal application must include

(a) a completed permit renewal application in the prescribed form, including a written consent for the release of relevant information to the Society,

(b) evidence satisfactory to the Executive Director that the practitioner of foreign law continues to meet the requirements set out in Rule 2-29 (2) *[Practitioners of foreign law]* or, in exceptional circumstances, that it is in the public interest to issue the permit under Rule 2-29 (2.1), and

(c) the renewal fee specified in Schedule 1.

(3) The Executive Director may renew the permit of a practitioner of foreign law who has complied with the Act and these rules.

(4) Subject to subrule (5), a permit renewed under subrule (3) is valid for one year.

(5) Rule 2-29 (6) *[Practitioners of foreign law]* applies to a permit renewed under subrule (3).

(6) A practitioner of foreign law who fails to pay when due the fee for renewal of a permit under subrule (2), including applicable taxes, or any part of it, must pay the late payment fee specified in Schedule 1.

Canadian legal advisors

Scope of practice

2-35 (1) A Canadian legal advisor may

(a) give legal advice on

(i) the law of Québec and matters involving the law of Québec,

(ii) matters under federal jurisdiction, or

(iii) matters involving public international law, or

(b) where expressly permitted by federal statute or regulation

(i) draw, revise or settle a document for use in a proceeding concerning matters under federal jurisdiction, or

(ii) appear as counsel or advocate before any tribunal with respect to matters under federal jurisdiction.

(2) A Canadian legal advisor must not engage in the practice of law except as permitted under subrule (1).

Requirements

2-36 (1) A member in good standing who is admitted as a Canadian legal advisor has all the duties and responsibilities of a practising lawyer under the Act, these rules and the *Code of Professional Conduct*.

(2) A Canadian legal advisor must

(a) be a member in good standing of the Chambre authorized to practise law in Québec,

(b) undertake to comply with Rule 2-35 *[Scope of practice]*, and

(c) immediately notify the Executive Director in writing if the Canadian legal advisor ceases to be authorized to practise law in Québec.

Non-resident partners

Inter-jurisdictional law firms

2-37 (1) A lawyer who practises law as a member of an inter-jurisdictional law firm must ensure that the firm does the following respecting the firm's practice of law in British Columbia:

(a) complies with the Part 3, Division 7 *[Trust Accounts and Other Client Property]*;

(b) makes its books, records and accounts, wherever they are located, available on demand by the Society or its designated agent.

(2) An inter-jurisdictional law firm is subject to discipline under Part 4 *[Discipline]* in the same way as a law corporation, except that the penalties that a panel may impose are the following:

(a) a reprimand of the firm;

(b) a fine in an amount not exceeding $100,000;

(c) an order prohibiting members of the firm who are not members of the Society from practising in British Columbia.

(3) On certification by a governing body that an inter-jurisdictional law firm has failed to pay, by the date on which it was due, a fine imposed under a provision similar to subrule (2), the Credentials Committee may make an order prohibiting lawyers from practising as members of the firm.

Multi-disciplinary practice

Definition and application

2-38 (1) In Rules 2-38 to 2-49,

"legal services" means services that constitute the practice of law as defined in section 1;

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

(2) The responsibilities imposed under Rules 2-38 to 2-49 are not affected by the fact that a member of an MDP is carrying on the practice of a profession, trade or occupation or participating in the MDP as an employee, shareholder, officer, director or contractor of a professional corporation or on its behalf.

Conditions for MDP

2-39 (1) A lawyer must not practise law in an MDP unless

(a) the lawyer and all members of the MDP are in compliance with Rules 2-38 to 2-49 and the *Code of Professional Conduct*,

(b) all lawyers who are members of the MDP have obtained express permission under this division to practise law in the MDP,

(c) all non-lawyer members of the MDP are of good character and repute,

(d) all members of the MDP agree in writing

(i) that practising lawyers who are members of the MDP will have actual control over the delivery of legal services by the MDP,

(ii) that non-lawyer members of the MDP will not interfere, directly or indirectly with the lawyer's

(A) obligation to comply with the Act, these rules and the *Code of Professional Conduct*, and

(B) exercise of independent professional judgement,

(iii) to comply with the Act, these rules and the *Code of Professional Conduct*, and

(iv) to co-operate with and assist the Society or its agents in the conduct of a practice review, examination or investigation, and

(e) all members of the MDP who are governed by the regulatory body of another profession agree to report to the MDP any proceedings concerning their conduct or competence.

(2) For the purposes of this rule, a lawyer has actual control over the delivery of legal services of the MDP if, despite any partnership agreement or other contract, the lawyer is able, in all cases and without any further agreement of any member of the MDP, to

(a) exercise independent professional judgement, and

(b) take any action necessary to ensure that the lawyer complies with the Act, these rules and the *Code of Professional Conduct*.

Application to practise law in MDP

2-40 (1) Before a lawyer may practise law as a member of an MDP that has not been granted permission under Rule 2-41 *[Consideration of MDP application]*, the lawyer must submit the following to the Executive Director:

(a) an application in the prescribed form;

(b) the application fee specified in Schedule 1;

(c) the investigation fee specified in Schedule 1 for each non-lawyer member of the proposed MDP;

(d) copies of all partnership agreements and other contracts that the lawyer proposes to enter into with other members of the proposed MDP.

(2) In addition to any other requirement in the prescribed form, the lawyer must report full details of the arrangements that the lawyer has made to ensure that

(a) no non-lawyer member of the MDP provides services to the public, except

(i) those services that support or supplement the practice of law by the MDP, and

(ii) under the supervision of a practising lawyer,

(b) privileged and confidential information is protected under Rule 2-45 *[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 indemnity coverage as required under Rule 2-47 *[Liability indemnification]*,

(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 the prescribed form;

(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 the Executive Director's 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 Bencher to make a determination under subrule (9).

(11) When a lawyer's permission to practise law in an MDP is cancelled under this rule, the lawyer must immediately cease practising law in the MDP.

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 indemnification

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 indemnity coverage

(i) on the terms and conditions offered by the Society through the Lawyers Indemnity Fund and pays the indemnity 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 indemnification]*, and

(b) complies with the provisions of Part 3, Division 5 *[Indemnification]* as if the non-lawyer were a lawyer.

(2) If a non-lawyer member of an MDP agrees in writing, in the prescribed form, to engage in activities on behalf of the MDP for an average of 25 hours or less per week, the applicable indemnity base assessment is the part-time indemnity 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 the prescribed form 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 indemnity coverage maintained by non-lawyers under Rule 2-47 *[Liability indemnification]*,

(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, law clerk 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) provide information to a governing body under Rule 2-27.1 *[Sharing information with a governing body]*.

(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) [rescinded]

(4) With the consent of the Discipline Committee, the Executive Director may deliver to a law enforcement agency any information or documents obtained under this division that may be 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 associate judge]*.

(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.

(7) Subrule (6) does not apply to a decision of Benchers, a hearing panel or a review board.

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 the prescribed form, 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 by a panel that is not satisfied that the person 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 of failed standing]*.

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

(a) have engaged in full-time practice in Canada for 5 of the 8 years immediately preceding the articling start date,

(b) have 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, and

(c) not be prohibited from practising law under Rule 2-89 *[Returning to practice after an absence]*.

(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 8-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 was not engaged in the practice of law does not exceed 3 years in the 5 years immediately preceding the articling start date.

(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 articled student, or

(b) to act as principal to more than 2 articled 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 articled 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 articled student;

(b) permit the lawyer to act as a principal to an articled student subject to conditions or limitations;

(c) order that the lawyer not act as a principal to an articled 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 articled 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 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).

(6) If the Credentials Committee designates an offer date that is before September 1, subrule (4) does not apply to a student who has begun the third year of studies at any law school.

Articling term

2-59 (1) Unless the articling period is changed under Rules 2-59 to 2-65, an articled student must work in the office of the student's principal for a period of not less than 9 months.

(2) Unless otherwise permitted in this division, the articling term must be continuous, except that this period may be interrupted by

(a) attendance at the training course,

(b) annual vacation of up to 10 working days at the discretion of the principal, or

(c) a leave of absence as permitted under Rule 2-69 *[Leave during articles]*.

(3) Any time taken for matters referred to in subrule (2) must not be included in the calculation of the articling term.

(4) Except in the case of an application made under Rule 2-63 (1) *[Law clerks]*, the articling term must not be reduced by more than 5 months under any other rule or the combined effect of any rules.

(5) The Credentials Committee may increase the articling term to not more than 2 years if

(a) the articled student's performance has been unsatisfactory,

(b) the articled student has not completed the student's obligations under the articling agreement, or

(c) other circumstances justify an increase.

(6) If it would result in the articled student qualifying for call and admission within 2 years of the student's first enrolment start date, a student enrolled for a second time is entitled to credit for

(a) successful completion of the training course, and

(b) time spent in articles.

(7) If an articled student is enrolled for a second or subsequent time, the Credentials Committee may grant credit for successful completion of the training course and some or all time spent in articles when the articled student was previously enrolled.

Legal services by articled students

2-60 (1) Subject to subrule (2) or any other prohibition in law, an articled student may provide all legal services that a lawyer is permitted to provide, but the student's principal or another practising lawyer supervising the student must ensure that the student is

(a) competent to provide the services offered,

(b) supervised to the extent necessary in the circumstances, and

(c) properly prepared before acting in any proceeding or other matter.

(2) An articled student must not

(a) appear as counsel without the student's principal or another practising lawyer in attendance and directly supervising the student in the following:

(i) an appeal in the Court of Appeal, the Federal Court of Appeal or the Supreme Court of Canada;

(ii) a civil or criminal jury trial;

(iii) a proceeding by way of indictment,

(b) give an undertaking unless the student's principal or another practising lawyer supervising the student has also signed the undertaking, or

(c) accept an undertaking unless the student's principal or another practising lawyer supervising the student also accepts the undertaking.

(3) Despite subrule (2) (a) (iii), an articled student may appear without the student's principal or another practising lawyer in attendance and directly supervising the student in a proceeding

(a) within the absolute jurisdiction of a provincial court judge, or

(b) by way of indictment with respect to

(i) an application for an adjournment,

(ii) setting a date for preliminary inquiry or trial,

(iii) an application for judicial interim release,

(iv) an application to vacate a release or detention order and to make a different order, or

(v) an election or entry of a plea of Not Guilty on a date before the trial date.

Mid-term report

2-61 (1) This rule does not apply to

(a) temporary articles under Rule 2-70 *[Temporary articles]*, or

(b) articles when the term is less than 6 months.

(2) Before the student has completed 60 per cent of the student's articling term, the principal and the student must deliver to the Executive Director a joint report on the student's progress to date in articles in the prescribed form.

(3) A report under this rule must include a plan for completing the obligations of the principal and student under the articling agreement.

Part-time articles

2-62 (1) An applicant for enrolment may apply to complete some or all of the applicant's articles part-time by submitting the following to the Executive Director not less than 2 months before the enrolment start date:

(a) the documents and information required under Rule 2-54 (1) *[Enrolment in the admission program]*;

(b) the application fee specified in Schedule 1;

(c) an articling agreement that includes all of the following:

(i) the prospective principal's express approval of the part-time arrangements;

(ii) the type of experience to be provided to the applicant;

(iii) the hours per day to be worked by the applicant;

(iv) the length of the proposed articling term.

(2) An articled student may apply to change the student's articles to part-time articles by submitting to the Executive Director the articling agreement referred to in subrule (1) (c).

(3) The Executive Director may approve an application made under subrule (1) or (2) if

(a) the proposed articling term is a continuous period that would give work experience in the office of the principal equivalent to that required under Rule 2-59 (1) *[Articling term]*, and

(b) the student or applicant's articles will be completed within 2 years of the articling start date.

(4) The part-time equivalent of the articling period is calculated on the following basis:

(a) 8 hours of scheduled work equals one day of articles;

(b) no additional credit is allowed for more than 8 hours per day.

(5) If the Executive Director refers an application under this rule to the Credentials Committee, the Committee must consider the applicant's submissions and may

(a) approve the application without conditions or limitations,

(b) approve the application, subject to any conditions or limitations it considers appropriate, or

(c) reject the application.

Law clerks

2-63 (1) An articled student who has been employed as a law clerk may apply in writing to the Executive Director for a reduction in the articling term by an amount of time equal to the time served as a law clerk.

(2) [rescinded]

(3) An application under subrule (1) must be accompanied by

(a) a written report on the student's character and competence from the judge to whom the articled student clerked, and

(b) other documents or information that the Credentials Committee may reasonably require.

(4) A law clerk may apply for call and admission under Rule 2-77 *[First call and admission]* without enrolment in the admission program or completion of the articling term provided the law clerk otherwise qualifies for call and admission under Rule 2-76 *[Call and admission]*.

Articles in another Canadian jurisdiction

2-64 An articled student or applicant for enrolment who has served a period of articles in another Canadian jurisdiction immediately before or after the student's period in articles in British Columbia, may apply in writing to the Executive Director for a reduction in the articling term by an amount of time equal to the time served in articles in the other jurisdiction.

Practice experience in a common law jurisdiction outside Canada

2-65 (1) An articled student or applicant for enrolment who holds professional legal qualifications obtained in a common law jurisdiction outside Canada and has been in the active practice of law in that jurisdiction for at least one full year, may apply in writing to the Executive Director for a reduction in the articling term.

(2) The Executive Director may reduce an articling term under this rule by up to one month for each full year of active practice of law in another jurisdiction.

Secondment of articles

2-66 (1) With the principal's consent, an articled student may work in the office of another lawyer qualified to act as a principal, for not more than a total of 8 weeks of the student's articling period.

(2) The Executive Director may permit an articled student to work in the office of a lawyer qualified to act as a principal, other than the student's principal for a period or periods exceeding 8 weeks of the student's articling period.

(3) If the Executive Director grants permission under subrule (2), the Executive Director may set conditions or limitations as appropriate.

Assignment of articles

2-67 (1) An articled student may apply for permission to assign the student's articles to another lawyer qualified to act as a principal by filing with the Executive Director, not later than 7 days after commencing employment at the office of the new principal,

(a) an assignment of articles in the prescribed form,

(b) a declaration of principal in the prescribed form, and

(c) statements from the previous principal and from the articled student setting out the reasons for the assignment.

(2) If the articled student does not apply to the Executive Director within the time specified in subrule (1), the time between the date the student left the previous principal's office and the date the student filed the application for assignment is not part of the articling period, unless the Credentials Committee directs otherwise.

(3) If the previous principal does not execute one or more of the documents referred to in subrule (1), the Executive Director may dispense with the filing of those documents.

(4) If the proposed principal is qualified to act as principal to an articled student, the Executive Director may approve an application under this rule.

(5) If the Executive Director refers an application under this rule to the Credentials Committee, the Committee must consider the student's submissions, and may

(a) approve the application without conditions or limitations,

(b) approve the application, subject to any conditions or limitations it considers appropriate, or

(c) reject the application.

(6) An application under this rule must be approved effective on or after the date on which the articled student began employment at the office of a new principal.

Other employment

2-68 During the articling period and the training course, an articled student is not permitted to accept employment from any person other than the student's principal or the person to whom the student's articles are seconded under Rule 2-66 *[Secondment of articles]*, except with the approval of the Executive Director.

Leave during articles

2-69 (1) In the period from an articled student's enrolment start date until call and admission, the student may take a leave of absence from articles, provided

(a) the total time of leaves of absence, other than maternity and parental leaves, during the period does not exceed 22 working days,

(b) the leave of absence does not affect the student's attendance at the training course as required, and

(c) if any part of the leave is to take place when the student is required to work in the office of a principal, the principal consents to the leave in advance.

(2) Any time taken for a leave of absence under this rule is not part of the articling period.

(3) An articled student who becomes a natural or adoptive parent during or within 12 weeks before the articling period is entitled to 12 weeks or, if the student is the primary caregiver of the child, 16 weeks parental leave.

(4) An articled student is entitled to 18 weeks maternity leave during the period from 11 weeks before to 17 weeks after giving birth, in addition to the student's entitlement under subrule (3).

(5) If maternity or parental leave causes an articled student to fail to attend any part of the training course, the Credentials Committee may require the student to attend all or part of the course at a session held after the completion of the student's maternity or parental leave.

(6) An articled student who takes a leave of absence under subrule (1) must notify the Executive Director in writing in advance.

(7) An articled student who takes a leave of absence under subrule (3) or (4) must notify the Executive Director in writing as soon as possible.

(8) On the written application of an articled student, the Executive Director may allow the student to take a leave of absence that is not otherwise authorized by this rule, provided that the articled student will be eligible for call and admission within 2 years of enrolment in the admission program.

(9) On the written application of an articled student, the Credentials Committee may allow the student to take a leave of absence that the Executive Director has not approved, including a leave that will result in the student not being eligible for call and admission within 2 years of enrolment in the admission program.

Temporary articles

2-70 (1) A person may apply for enrolment in temporary articles by filing the following with the Executive Director, not less than 30 days before the enrolment start date:

(a) an application for enrolment in the prescribed form, including a written consent for the release of relevant information to the Society;

(b) an articling agreement in the prescribed form;

(c) the application fee for temporary articles specified in Schedule 1.

(2) The Executive Director may enrol the following in temporary articles:

(a) a student at a common law faculty of law in a Canadian university;

(b) a person whose application for enrolment as an articled student has been approved, but whose articling term has not yet begun;

(c) a person who is qualified to practise law in a Commonwealth country and has actually practised law in that country for 2 years or more.

(3) Temporary articles granted under subrule (2) (a) are void if the student ceases to be a student at a common law faculty of law in Canada.

(4) The Executive Director may only grant temporary articles under subrule (2) (a) that are subject to a definite termination date.

(5) The Executive Director must not grant temporary articles under subrule (2) (b) effective more than 6 weeks before the beginning of the person's articling term.

(6) The Executive Director must not grant temporary articles under subrule (2) (c) for a period exceeding 3 months.

(7) Time spent in temporary articles is not part of the articling term.

(8) Except as otherwise specified in these rules, a person enrolled in temporary articles has the rights, privileges and responsibilities of an articled student.

(9) The Credentials Committee may revoke temporary articles at any time for any reason without giving notice to the temporary articled student and without holding a hearing.

Court and tribunal appearances by temporary articled students

2-71 (1) Despite Rule 2-60 *[Legal services by articled students]*, a person enrolled in temporary articles must not appear as counsel before a court or tribunal without the student's principal or another practising lawyer in attendance and directly supervising the student except

(a) in the Supreme Court of British Columbia in Chambers on any

(i) uncontested matter, or

(ii) contested application for

(A) time to plead,

(B) leave to amend pleadings, or

(C) discovery and production of documents, or

(iii) other procedural application relating to the conduct of a cause or matter,

(b) before a registrar or other officer exercising the power of a registrar of the Supreme Court of British Columbia or Court of Appeal for British Columbia,

(c) in the Provincial Court of British Columbia

(i) on any summary conviction proceeding,

(ii) on any matter that is within the absolute jurisdiction of a provincial court judge,

(iii) on any matter in the Family Division or the Small Claims Division, or

(iv) when the Crown is proceeding by indictment or under the *Youth Criminal Justice Act* (Canada) in respect of an indictable offence, only on

(A) an application for an adjournment,

(B) setting a date for preliminary inquiry or trial,

(C) an application for judicial interim release,

(D) an application to vacate a release or detention order and to make a different order, or

(E) an election or entry of a plea of Not Guilty on a date before the trial date,

(d) on an examination of a debtor,

(e) on an examination for discovery in aid of execution, or

(f) before an administrative tribunal.

(2) A person enrolled in temporary articles is not permitted under any circumstances to do any of the following in a Supreme Court proceeding:

(a) conduct an examination for discovery;

(b) represent a party who is being examined for discovery;

(c) represent a party at a case planning conference, trial management conference or settlement conference.

Training course

2-72 (1) The Executive Director may set the dates on which sessions of the training course will begin.

(2) The Credentials Committee may direct that a student be given priority in selection of the training course session that the student wishes to attend if the student is or will be

(a) articling outside the Lower Mainland,

(b) articling as the only student in a firm, or

(c) employed as a law clerk.

(3) Before registering in the training course,

(a) an articled student or applicant, other than a law clerk, must make application for enrolment under Rule 2-54 (1) *[Enrolment in the admission program]*, and

(b) a law clerk must deliver to the Executive Director written confirmation from the applicable court of the law clerk's acceptance as a law clerk.

(4) To register in a training course session, an articled student, law clerk or applicant must

(a) pay to the Society the fee for the training course specified in Schedule 1, and

(b) deliver to the Executive Director

(i) an application for training course registration, and

(ii) in the case of an articled student, the principal's consent to the training course session chosen.

(5) The Executive Director must deliver to each student who was registered in a training course session and to each student's principal, if applicable, a transcript stating whether the student passed or failed the training course.

(6) [rescinded]

(7) An articled student or law clerk may apply in writing to the Credentials Committee for exemption from all or a portion of the training course, and the Committee may, in its discretion, grant all or part of the exemption applied for with or without conditions, if the student or law clerk has

(a) successfully completed a bar admission course in another Canadian jurisdiction, or

(b) engaged in the active practice of law in a common law jurisdiction outside Canada for at least 5 full years.

Tutorial program

2-73 (1) The Executive Director may establish a tutorial program to assist students participating in the training course.

(2) Priority for access to tutorial assistance must be as follows:

(a) first priority to students of aboriginal heritage;

(b) second priority to all other students.

Review of failed standing

2-74 (1) Subject to subrule (2), a student who has failed the training course may apply in writing to the Executive Director for a review of the student's failed standing, not more than 21 days after the date on which the Executive Director issued the transcript under Rule 2-72 (5) *[Training course]*.

(2) A student may not apply under subrule (1) if the student has failed in 3 attempts to pass the training course, including any of the following:

(a) the original attempt;

(b) a further attempt to pass examinations, assignments or assessments;

(c) any attempt to meet a requirement under subrule (7).

(3) The Executive Director may consider an application for review received after the period specified in subrule (1).

(4) A student applying for a review under this rule must state the following in the application:

(a) any compassionate grounds, supported by medical or other evidence, that relate to the student's performance in the training course;

(b) any grounds, based on the student's past performance, that would justify opportunities for further remedial work;

(c) the relief that the student seeks under subrule (7).

(5) and (6) [rescinded]

(7) After considering the submissions made under subrule (4), the Executive Director may do one or more of the following:

(a) confirm the standing, including any failed standing;

(b) grant the student an adjudicated pass in a training course examination, assignment or assessment, with or without conditions;

(c) require the student to complete further examinations, assignments or assessments, and to pass them at a standard set by the Executive Director;

(d) require the student to complete or repeat and pass all, or a portion of, the training course;

(e) require the student to complete a specified program of training at an educational institution or under the supervision of a practising lawyer, or both.

(8) A student who is required to do anything under subrule (7) must pay the fee for the training course, or for each examination, assignment or assessment as specified in Schedule 1.

(9) The Executive Director must deliver a transcript stating the student's standing and the extent to which any standards or conditions have been met to

(a) each student whom the Executive Director has required to do anything under subrule (7), and

(b) each such student's principal, if applicable.

Termination of enrolment

2-75 (1) An articled 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 (1) To qualify for call and admission, an applicant who is an articled student or a law clerk must complete the following satisfactorily:

(a) in the case of an articled student, the articling term;

(a.1) in the case of a law clerk who is not enrolled in the admission program, a clerkship term of not less than 9 months;

(b) the training course;

(b.1) the practice management course;

(c) any other requirements of the Act or these rules imposed by the Credentials Committee or the Benchers.

(2) Subrule (1) (b.1) applies to articled students enrolled in the admission program on or after January 1, 2018.

First call and admission

2-77 (1) An articled student or law clerk who applies for call and admission must deliver to the Executive Director

(a) the following in the prescribed form:

(i) a petition for call and admission;

(ii) in the case of an articled student,

(A) a declaration of the principal,

(B) a declaration of the applicant, and

(C) a joint report of the principal and the applicant certifying completion of their obligations under the articling agreement;

(iii) in the case of a law clerk who is not enrolled in the admission program,

(A) an application for call and admission,

(B) proof of academic qualification as required of applicants for enrolment under Rule 2-54 (2) *[Enrolment in the admission program]*, and

(C) a written report on the law clerk's character and competence from the judge to whom the law clerk clerked;

(iv) [rescinded]

(v) a completed questionnaire;

(vi) written consent for the release of relevant information to the Society,

(b) a professional liability indemnity application or exemption form,

(c) the following fees:

(i) the applicable call and admission fee specified in Schedule 1;

(ii) the prorated practice fee specified in Schedule 2;

(iii) the prorated annual indemnity fee specified in Schedule 2, unless exempt under Rule 3-43 *[Exemption from professional liability indemnification]*, 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 or law clerk may apply under this rule at any time.

(3) If an articled student or law clerk 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) in the case of an articled student, 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 the prescribed form, 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 indemnity 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 the applicant 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 indemnity fee specified in Schedule 2, unless exempt under Rule 3-43 *[Exemption from professional liability indemnification]*;

(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]* or 2-90 *[Conditions on returning to practice]*.

(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 the applicant 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 the qualification examination must pass the required examination within 12 months after a 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 the qualification examination 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 the applicant's failure,

(b) may re-write the examination

(i) at any time, provided the applicant has not failed the examination before, or

(ii) after a period of one year from the date of the failure if the applicant 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 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 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 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 the applicant does not need to pass any transfer examination.

(3) To qualify for call and admission, an applicant under this rule must certify, in the prescribed form, that the applicant 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 the lawyer's 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 the prescribed form, 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 indemnity 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 indemnity fee specified in Schedule 2, unless exempt under Rule 3-43 *[Exemption from professional liability indemnification]*;

(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 adviser.

(3) This rule applies to those members of the Chambre who have 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' oath and presentation in court

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

(a) must, 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) may be presented in open court before one or more of the judges of the Supreme Court.

(2.1) [rescinded]

(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) and (6) [rescinded]

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 the prescribed form, 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]* or 2-90 *[Conditions on returning to practice]*;

(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 indemnity fee specified in Schedule 2, unless exempt under Rule 3-43 *[Exemption from professional liability indemnification]*;

(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 Executive Director waives all of the assessments under Rule 3-80 (3) and any conditions have been fulfilled, 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 *[Tribunal, Hearings and Appeals]*.

Former judge or associate judge

Former judge or associate judge

2-87 (1) Subject to subrules (2) and (3), the practice of law by a lawyer who was a judge or an associate judge is restricted as follows:

(a) a former judge of a federally-appointed court must not appear as counsel in any court in British Columbia without first obtaining the approval of the Credentials Committee;

(b) a former judge of a provincial or territorial court in Canada must not appear as counsel in the Provincial Court of British Columbia for 3 years after ceasing to be a judge;

(c) a former associate judge of the Supreme Court of British Columbia must not appear as counsel before an associate judge, a registrar, a district registrar or a deputy district registrar of the Supreme Court of British Columbia for 3 years after ceasing to be an associate judge.

(2) The Credentials Committee may impose conditions or limitations respecting the practice of a former judge when giving approval for that lawyer to appear as counsel under subrule (1) (a).

(3) The Credentials Committee may at any time relieve a lawyer of a practice restriction referred to in subrule (1) and may impose conditions or limitations respecting the practice of the lawyer concerned.

(4) A lawyer who has served as a judge or associate judge in any court must not use any judicial title or otherwise allude to the lawyer's former status in any marketing activity.

(5) Subrule (4) does not preclude a lawyer who has served as a judge or associate judge from referring to the lawyer's former status in

(a) a public announcement that the lawyer has resumed the practice of law or joined a law firm,

(b) a public speaking engagement or publication that does not promote the lawyer's practice or firm,

(c) seeking employment, partnership or appointment other than the promotion of the lawyer's practice or firm, or

(d) informal conversation or correspondence.

(6) For the purpose of this rule, it is not the promotion of a lawyer's practice or firm to provide, on request, a curriculum vitae or other statement of experience that refers to the lawyer's former status as a judge or associate judge.

(7) This rule applies to a lawyer who has served as an associate judge, master or the equivalent officer of a superior court in Canada as it does to a former associate judge of the Supreme Court of British Columbia.

Returning to practice

Definition and application

2-88 (1) In Rules 2-88 to 2-90, unless the context indicates otherwise, **"relevant period"** is the shortest of the following periods of time in the immediate past:

(a) 7 years;

(b) the time since the lawyer's first call and admission in any jurisdiction;

(c) the time since the lawyer last passed the qualification examination.

(2) For the purpose of paragraph (b) of the definition of "relevant period" in subrule (1), a lawyer is deemed to have been called and admitted as of the date that a practising certificate was issued under Rule 2-84 (4) *[Barristers and solicitors' roll and oath]*.

(3) Rules 2-88 to 2-90 apply to a former lawyer and an applicant.

Returning to practice after an absence

2-89 (1) If, for a total of between 3 years and less than 5 years in the relevant period, a lawyer has not engaged in the practice of law, the lawyer must not practise law without first completing the practice management course described in Rule 3-28 *[Practice management course]* or another course offered by the Society or by a provider approved by the Society.

(1.1) If, for a total of 5 years or more in the relevant period, a lawyer has not engaged in the practice of law, the lawyer must not practise law without first

(a) completing the practice management course described in Rule 3-28 or another course approved by the Executive Director, and

(b) certifying, in the prescribed form, that the lawyer has reviewed and understands all of the materials reasonably required by the Executive Director.

(2) Subrules (1) and (1.1) apply

(a) despite any other rule, and

(b) whether or not the lawyer holds or is entitled to hold a practising certificate.

(3) A lawyer may apply in writing to the Credentials Committee for permission to practise law without completing a requirement set out in subrule (1) or (1.1).

(4) On an application under subrule (3), the Credentials Committee may approve the application if, in its judgement

(a) the lawyer has engaged in activities that have kept the lawyer current with substantive law and practice skills, or

(b) the public interest does not require the lawyer to complete the relevant requirements.

(5) Before approving an application under subrule (4), the Credentials Committee may require the lawyer to enter into a written undertaking to do any of the things set out in Rule 2-90 (5) (b) *[Conditions on returning to practice]*.

(6) [rescinded]

Conditions on returning to practice

2-90 (1) A lawyer or applicant who has spent a period of 7 years or more not engaged in the practice of law must not practise law without the permission of the Credentials Committee.

(2) Subrule (1) applies

(a) despite any other rule, and

(b) whether or not the lawyer holds or is entitled to hold a practising certificate.

(3) A lawyer or applicant must apply in writing to the Credentials Committee for permission to practise law under subrule (1).

(4) [rescinded]

(5) As a condition of permission to practise law under subrule (1), the Credentials Committee may require one or more of the following:

(a) successful completion of all or part of one or more of the following:

(i) the admission program;

(i.1) the qualification examination;

(ii) the practice management course described in Rule 3-28 *[Practice management course]* or another course approved by the Executive Director;

(iii) certification, in the prescribed form, that the lawyer has reviewed and understands all of the materials reasonably required by the Executive Director;

(b) a written undertaking to do any or all of the following:

(i) practise law in British Columbia immediately on being granted permission;

(ii) not practise law as a sole practitioner;

(iii) practise law only in a situation approved by the Committee for a period set by the Committee, not exceeding 2 years;

(iv) [rescinded]

(v) practise law only in specified areas;

(vi) not practise law in specified areas.

(6) Despite Rule 2-52 (3) *[Powers of Credentials Committee]*, the Credentials Committee may vary a condition under subrule (5) (a) without the consent of the lawyer concerned.

(7) On the written application of the lawyer, the Credentials Committee may allow a variation of an undertaking given under subrule (5) (b).

Credentials hearings

Notice to applicant

2-91 (1) When a hearing is ordered under this division, the Executive Director must promptly notify the applicant in writing of

(a) the purpose of the hearing,

(b) [rescinded]

(c) the circumstances to be inquired into at the hearing, and

(d) the amount of security for costs set by the Credentials Committee under Rule 2-92 *[Security for costs]*.

(1.1) and (1.2) [rescinded]

(2) The notice referred to in subrule (1) must be served

(a) in accordance with Rule 10-1 *[Service and notice]*, and

(b) not less than 30 days before the date set for the hearing, unless the applicant consents in writing to a shorter period.

Security for costs

2-92 (1) When the Credentials Committee orders a hearing under this division, it must set an amount to be deposited by the applicant as security for costs.

(2) In setting the amount to be deposited as security for costs under this rule, the Credentials Committee may take into account the circumstances of the matter, including but not limited to, the applicant's

(a) ability to pay, and

(b) likelihood of success in the hearing.

(3) The amount to be deposited as security for costs must not exceed an amount that approximates the amount that the panel may order to be paid under Rule 5-11 *[Costs of hearings]*.

(4) On application by the applicant or Law Society counsel, the Credentials Committee may vary the amount to be deposited as security for costs under this rule.

(5) If, 15 days before the date set for a hearing, the applicant has not deposited with the Executive Director the security for costs set under this rule, the hearing is adjourned.

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

Law Society counsel

2-93 The Executive Director must appoint a lawyer employed by the Society or retain another lawyer to represent the Society when

(a) a hearing is ordered under this division,

(b) a review is initiated under section 47 *[Review on the record]*,

(c) an applicant appeals a decision to the Court of Appeal under section 48 *[Appeal]*, or

(d) the Society is a respondent in any other action involving an application relating to sections 19 to 22 or this division.

2-94 to 2-101 [rescinded]

Inactive applications

2-102 (1) When the Credentials Committee has ordered a hearing and the applicant has taken no steps for one year to bring the application to a hearing, the application is deemed abandoned.

(2) When an application is abandoned under this rule, Law Society counsel may apply for an order that some or all of the funds paid under Rule 2-92 *[Security for costs]* as security for costs be retained by the Society.

(3) An application under subrule (2) is made by filing with the Tribunal and delivering to the applicant written notice of the application.

(4) On an application under subrule (3), a motions adjudicator may order that some or all of the funds deposited as security for costs be retained by the Society, and the remainder, if any, be refunded to the applicant.

(5) [rescinded]

[The next page is page 95]

[This page is intentionally left blank.]

Publication of credentials decision

2-103 (1) When a hearing panel or review board issues a final or interlocutory decision on an application under this division, the Executive Director must

(a) publish and circulate to the profession a summary of the circumstances and decision of the hearing panel or review board,

(b) publish the full text of the decision on the Law Society website, and

(c) publish the final outcome of the hearing or review, including any conditions or limitations of practice or articles imposed or accepted.

(1.1) When a court issues a decision on a judicial review of or appeal from a credentials decision, the Executive Director must circulate to the profession a summary of the decision.

(2) and (3) [rescinded]

(4) This rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

Anonymous publication

2-104 (1) Except as required or allowed under this rule, a publication under Rule 2-103 (1) (a) or (b) *[Publication of credentials decision]* must not identify the applicant.

(2) A publication under Rule 2-103 (1) (a) or (b) may identify the applicant if

(a) the applicant consents in writing, or

(b) the subject matter of the application, including the identity of the applicant, is known to the public.

(3) to (7) [rescinded]

(8) A publication under Rule 2-103 (1) (a) or (b) must identify the applicant if the applicant is a disbarred lawyer applying for reinstatement.

(9) A summary circulated under Rule 2-103 (1.1) may identify an applicant who is identified by the court.

Division 3 – Fees and Assessments

Annual practising and indemnity fee instalments

2-105 (1) The annual practising fee and indemnity fee are payable in respect of each calendar year.

(2) The date for payment of the first instalment of each of the annual practising fee and the indemnity fee is November 30 of the year preceding the year for which they are payable.

(3) The date for payment of the second instalment of each of the annual practising fee and the indemnity fee is May 31 of the year for which they are payable.

Annual non-practising and retired member fees

2-105.1 (1) Non-practising and retired members must pay the applicable annual fee specified in Schedule 1 by November 30 of the year preceding the year for which it is payable.

(2) The Benchers may, by resolution, waive payment of the annual fee by a retired member or group of retired members.

Assessments

2-106 (1) The Benchers may, by resolution, set a special assessment of all

(a) practising lawyers,

(b) practising lawyers and applicants,

(c) members of the Society, or

(d) members of the Society and applicants.

(2) A resolution under subrule (1) must set a date by which the assessment must be paid.

Application fees

2-107 On application from a person who has paid an application fee under these rules, the Executive Director may refund all or part of the fee if, in the view of the Executive Director, it is fair to make the refund in all the circumstances, including the extent to which Society resources have been expended to process the application for which the fee was paid.

Late payment

2-108 (1) If a lawyer fails to pay the instalment of fees by the date required under Rule 2-105 (2) *[Annual practising and indemnity fee instalments]* but pays all of those fees before December 31 of the year preceding the year for which they are payable, together with the late payment fee under this rule, the lawyer continues to be a member of the Society.

(1.1) If a lawyer fails to pay the instalment of fees by the date required under Rule 2-105 (3) *[Annual practising and indemnity fee instalments]* but pays all of those fees before June 30 of the year for which they are payable, together with the late payment fee under this rule, the lawyer continues to be a member of the Society and is not suspended for non-payment of fees.

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

(a) the instalment of fees or special assessment by the date to which the time is extended, and

(b) the late payment fee under this rule,

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

(3) A lawyer, other than a retired or non-practising member, who has failed to pay an instalment of fees in accordance with Rule 2-105 (2) or (3) *[Annual practising and indemnity fee instalments]*, is required to pay the late payment fee for practising lawyers specified in Schedule 1.

(4) A retired member who has failed to pay the annual fee for retired members in accordance with Rule 2-105.1 *[Annual non-practising and retired member fees]* is required to pay the late payment fee for retired members specified in Schedule 1.

(5) A non-practising member who has failed to pay the annual fee for non-practising members in accordance with Rule 2-105.1 is required to pay the late payment fee for non-practising members specified in Schedule 1.

(6) A lawyer who does not pay a special assessment by the date specified under Rule 2-106 (2) *[Assessments]* or extended under subrule (2) must pay a late payment fee of 20 per cent of the amount of the assessment.

(7) When there are special circumstances, the Executive Director may, in the Executive Director's discretion, waive or reduce a late payment fee payable under this rule.

Failure to pay fees

2-108.1 (1) If a lawyer fails to pay the first instalment of the annual practising fee by December 31 of the year preceding the year for which it is payable, together with the late payment fee if required, the lawyer ceases to be a member of the Society.

(2) If a lawyer fails to pay the second instalment of the annual practising fee by June 30 of the year for which it is payable, together with the late payment fee if required, the lawyer is suspended.

(3) If a lawyer who is not exempt under Rule 3-43 *[Exemption from professional liability indemnification]* fails to pay the second instalment of the indemnity fee by June 30 of the year for which it is payable, together with the late payment fee if required, the lawyer must immediately cease the practice of law in accordance with section 30 (7) *[Indemnification]* and surrender to the Executive Director the lawyer's practising certificate and any proof of professional liability indemnity coverage issued by the Society.

Definition and application

2-109 (1) In Rules 2-109 to 2-113, **"client matter"** means any distinct matter on which a lawyer is retained to represent or advise a client, including but not limited to the following:

(a) a transaction of any kind;

(b) a claim or potential claim by or against the lawyer's client;

(c) a proceeding.

(2) Rules 2-109 to 2-113 apply to client matters in connection with which a lawyer receives trust funds on or after March 1, 2005.

Trust administration fee

2-110 (1) A lawyer must pay to the Society the trust administration fee specified in Schedule 1 for each client matter undertaken by the lawyer in connection with which the lawyer receives in trust funds in aggregate amount greater than $10,000.

(2) Only one trust administration fee is payable in respect of a single client matter in which

(a) a lawyer represents joint clients, or

(b) more than one lawyer in a law firm acts.

(3) For each quarter year ending on the last day of March, June, September or December, a lawyer must remit the following to the Society within 30 days of the end of the quarter year to which they apply:

(a) trust administration fees that have become payable under subrule (1) during the quarter year;

(b) a completed trust administration report in the prescribed form.

Late payment of trust administration fee

2-111 A lawyer who fails to remit the trust administration fee and report by the time required under this rule must pay a late payment fee of 5 per cent of the amount due for each month or part of a month from the date the lawyer is required to remit the fee and report under Rule 2-110 (3) *[Trust administration fee]* until the fee, including the late payment fee, and the report are received by the Society.

Executive Director's discretion

2-112 The Executive Director may

(a) decide what constitutes a client matter under Rule 2-109 *[Definition and application]*, in individual cases, and

(b) extend or vary the time for remitting the trust administration fee and report under Rule 2-110 (3) *[Trust administration fee]*.

Referral to Executive Committee

2-113 (1) The Executive Director may refer any matter for decision under Rule 2-112 *[Executive Director's discretion]* to the Executive Committee, and the Committee may make any decision open to the Executive Director under that rule.

(2) At the written request of a lawyer affected by a decision made by the Executive Director under Rule 2-112 *[Executive Director's discretion]* the Executive Director must refer the matter to the Executive Committee, and the Committee may

(a) confirm the decision of the Executive Director, or

(b) substitute its decision for that of the Executive Director

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 an instalment of the annual fee but who satisfies the Executive Director that the lawyer has totally abstained from practice in British Columbia during the portion of the year to which the instalment applies through disability, other than a suspension, is entitled to a refund of

(a) the difference between the instalment of the practising fee set by the Benchers under section 23 (1) (a) *[Annual fees and practising certificate]* and the portion of the non-practising member fee specified in Schedule 1, and

(b) a portion of the annual indemnity fee set under section 30 (3) (a) *[Indemnification]*, 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 indemnity fee instalment for a portion of the year and ceases to practise for any reason other than suspension or who becomes exempt under Rule 3-43 *[Exemption from professional liability indemnification]* during that portion of the year, is entitled to a refund of a portion of the indemnity fee in an amount determined by the Executive Director.

(2) If a lawyer becomes a non-practising or retired member during a portion of the year for which the lawyer has paid the annual practising fee instalment, 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 instalment paid, 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.

Money owed to the Society

2-117 (1) Where there is any amount of money due and owing to the Society by a lawyer or former lawyer, the Executive Director must apply any money received from the lawyer or former lawyer to the debt before money is applied to the annual fee or a special assessment.

(2) [rescinded]

(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.

PART 3 – PROTECTION OF THE PUBLIC

Division 1 – Complaints

Application

3-1 This division applies to the following as it does to a lawyer, with the necessary changes and so far as it is applicable:

(a) a former lawyer;

(b) an articled student;

(c) a visiting lawyer permitted to practise law in British Columbia under Rules 2-16 to 2-20;

(d) a practitioner of foreign law;

(e) a law firm.

Complaints

3-2 Any person may deliver a written complaint against a lawyer or law firm to the Executive Director.

Confidentiality of complaints

3-3 (1) The Society must treat as confidential all information and records that form part of the investigation of a complaint or the review of a complaint by the Complainants' Review Committee except for the purpose of complying with the objectives of the Act or with these rules.

(1.1) The Executive Director may require a lawyer, including the lawyer who is the subject of the investigation of a complaint, to treat as confidential any or all information and records that form part of the investigation or the review of the complaint by the Complainants' Review Committee.

(2) Despite subrule (1), the Executive Director may do any of the following:

(a) disclose information referred to in subrule (1), with the consent of the lawyer who is the subject of the complaint;

(b) if a complaint has become known to the public, disclose

(i) the existence of the complaint,

(ii) its subject matter,

(iii) its status, including, if the complaint is closed, the general basis on which it was closed; and

(iv) any additional information necessary to correct inaccurate information;

(c) if, in the course of the investigation of a complaint, a lawyer has given an undertaking to the Society that restricts, limits or prohibits the lawyer's practice of law, disclose the fact that the undertaking was given and its effect on the lawyer's practice;

(d) provide information to a governing body under Rule 2-27.1 *[Sharing information with a governing body]*.

(3) For the purpose of subrule (2) (b), the status of a complaint is its stage of progress through the complaints handling process, including, but not limited to the following:

(a) opened;

(b) under investigation;

(c) referred to a Committee;

(d) closed.

(4) If the Executive Director discloses the existence of an undertaking under subrule (2) (c) by means of the Society's website, the information must be removed from the website within a reasonable time after the undertaking ceases to be in force.

(4.1) Despite subrule (1), the Executive Director may disclose any information concerning a complaint to a designated representative of a law firm in which the lawyer who is the subject of the complaint engages in the practice of law.

(5) Despite subrule (1), with the consent of the Discipline Committee, the Executive Director may deliver to a law enforcement agency any information or documents obtained under this division that may be evidence of an offence.

(6) This division must not be interpreted to permit the disclosure of any information or records subject to solicitor and client privilege or confidentiality.

(7) This rule is subject to the rights and obligations of individuals under sections 87 *[Certain matters privileged]* and 88 *[Non-disclosure of privileged and confidential information]*.

Consideration of complaints and other information

3-4 (1) The Executive Director must consider every complaint received under Rule 3-2 *[Complaints]*.

(2) Information received from any source that indicates that a lawyer's conduct may constitute a discipline violation must be treated as a complaint under these rules.

(3) At any time before a complaint is referred to a Committee or the chair of the Discipline Committee under Rule 3-8 *[Action on a complaint]*, the Executive Director may proceed on a complaint under Division 1.01 *[Health issues]*, without further investigation of the matter.

Investigation of complaints

3-5 (1) Subject to subrule (3), the Executive Director may, and on the instruction of the Discipline Committee must, investigate a complaint to determine its validity.

(2) For the purpose of conducting an investigation under this division and section 26 *[Complaints from the public]*, the Executive Director may designate an employee of the Society or appoint a practising lawyer or a person whose qualifications are satisfactory to the Executive Director.

(3) The Executive Director may decline to investigate a complaint if the Executive Director is satisfied that the complaint

(a) is outside the jurisdiction of the Society,

(b) is frivolous, vexatious or an abuse of process, or

(c) does not allege facts that, if proven, would constitute a discipline violation.

(4) The Executive Director must deliver to the lawyer who is the subject of a complaint a copy of the complaint or, if that is not practicable, a summary of it.

(5) Despite subrule (4), if the Executive Director considers it necessary for the effective investigation of the complaint, the Executive Director may delay notification of the lawyer.

(6) When acting under subrule (4), the Executive Director may decline to identify the complainant or the source of the complaint.

(7) A lawyer must co-operate fully in an investigation under this division by all available means including, but not limited to, responding fully and substantively, in the form specified by the Executive Director

(a) to the complaint, and

(b) to all requests made by the Executive Director in the course of an investigation.

(8) When conducting an investigation of a complaint, the Executive Director may

(a) require production of files, documents and other records for examination or copying,

(b) require a lawyer to

(i) attend an interview,

(ii) answer questions and provide information relating to matters under investigation, or

(iii) cause an employee or agent of the lawyer to answer questions and provide information relating to the investigation,

(c) enter the business premises of a lawyer

(i) during business hours, or

(ii) at another time by agreement with the lawyer.

(9) Any written response under subrule (7) must be signed by

(a) the lawyer personally, or

(b) a representative of the law firm, if the complaint is about a law firm.

(10) The Executive Director may deliver to the complainant a copy or a summary of a response received from the lawyer, subject to solicitor and client privilege and confidentiality.

(11) A lawyer who is required to produce files, documents and other records, provide information or attend an interview under this rule must comply with the requirement

(a) even if the information or files, documents and other records are privileged or confidential, and

(b) as soon as practicable and, in any event, by the time and date set by the Executive Director.

Failure to produce records on complaint investigation

3-6 (1) Subject to subrules (2) and (3), a lawyer who is required under Rule 3-5 *[Investigation of complaints]* or 4-55 *[Investigation of books and accounts]* to produce and permit the copying of files, documents and other records, provide information or attend an interview and answer questions and who fails or refuses to do so is suspended until the lawyer has complied with the requirement to the satisfaction of the Executive Director.

(2) When there are special circumstances, the chair of the Discipline Committee may, in the chair's discretion, order that

(a) a lawyer not be suspended under subrule (1), or

(b) a suspension under this rule be delayed for a specified period of time.

(3) At least 7 days before a suspension under this rule can take effect, the Executive Director must deliver to the lawyer notice of the following:

(a) the date on which the suspension will take effect;

(b) the reasons for the suspension;

(c) the means by which the lawyer may apply to the chair of the Discipline Committee for an order under subrule (2) and the deadline for making such an application before the suspension is to take effect.

Resolution by informal means

3-7 The Executive Director may, at any time, attempt to resolve a complaint through mediation or other informal means.

Resolution by consent agreement

3-7.1 (1) At any time before a complaint is referred to a Committee or the chair of the Discipline Committee under Rule 3-8 *[Action on a complaint],* the Executive Director may resolve a complaint by agreement with the lawyer.

(2) A consent agreement under this rule must include admission by the lawyer of a discipline violation and one or more of the following:

(a) a requirement that the lawyer complete a course of study or remedial program to the satisfaction of the Executive Director;

(b) conditions or limitations on the practice of the lawyer;

(c) payment of a fine permitted under section 38 *[Discipline hearings]*;

(d) suspension of the lawyer from the practice of law or from practice of law in one or more fields of law;

(e) resignation of the lawyer from membership in the Society;

(f) any other disciplinary action that could be ordered by a hearing panel under section 38.

(3) A consent agreement is not effective unless it is

(a) signed by the Executive Director,

(b) personally signed by the lawyer or, where the complaint is made against a law firm, by the representative of a law firm, and

(c) approved by the chair of the Discipline Committee.

(4) Under subrule (3) (c), the chair of the Discipline Committee may

(a) approve the agreement as proposed, or

(b) decline to approve the agreement.

(5) Subject to Rule 3-7.2 *[Breach of consent agreement]*, the Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.

(6) An admission of conduct tendered in good faith by a lawyer during negotiation that does not result in an effective consent agreement under subrule (3) is not admissible in a hearing of a citation arising from the complaint.

(7) When a complaint is resolved by means of a consent agreement, the Executive Director must notify the complainant in writing of the disposition.

(8) Section 15 (3) *[Authority to practise law]* applies to a lawyer who is suspended or disbarred or is permitted to resign from membership in the Society under a consent agreement.

Breach of consent agreement

3-7.2 If a lawyer is in breach of a consent agreement, the Executive Director may do one or more of the following:

(a) treat the breach as a complaint under this division;

(b) reopen investigation of the complaint that gave rise to the consent agreement;

(c) refer the matter to a Committee or the chair of the Discipline Committee under Rule 3-8 *[Action on a complaint]*;

(d) enter into an amended consent agreement under Rule 3-7.3 *[Amending consent agreement]*.

Amending consent agreement

3-7.3 (1) A consent agreement may be amended by agreement of the parties reduced to writing and given effect as in Rule 3-7.1 (3) *[Resolution by consent agreement]*.

(2) An agreement amended under subrule (1) has the same effect as if given effect under Rule 3-7.1 (3).

(3) Either party may apply to the chair of the Discipline Committee to approve a proposed amendment concerning

(a) a course of study, remedial program or other task to be completed by the lawyer,

(b) conditions or limitations on the practice of the lawyer, or

(c) an extension of time to pay a fine or begin a suspension.

(4) On an application under subrule (3), the chair of the Discipline Committee may

(a) amend the agreement as proposed, or

(b) decline to amend the agreement.

(5) The chair of the Discipline Committee may designate another member of the Committee to exercise the discretion under subrule (4).

Publication of consent agreement

3-7.4 (1) When a consent agreement has been reached and approved under Rule 3-7.1 *[Resolution by consent agreement]*, the Executive Director must publish on the Society's website a summary of the circumstances of the consent agreement and the action taken.

(2) In addition to that required under subrule (1), publication may be made by any other means.

(3) This rule must not be interpreted to permit the disclosure of any information that is subject to solicitor and client privilege or confidentiality.

(4) A publication under this rule must identify the lawyer who is a party to the consent agreement.

(5) The Executive Director may publish a summary of an amendment to a consent agreement by any means used to publish the original agreement.

Action on a complaint

3-8 (1) After investigating a complaint, the Executive Director must take no further action if the Executive Director is satisfied that the complaint

(a) is not valid or its validity cannot be proven, or

(b) does not disclose conduct serious enough to warrant further action.

(2) The Executive Director may take no further action under this division on a complaint if the Executive Director is satisfied that the matter giving rise to the complaint has been resolved.

(2.1) Subject to Rule 3-9.9 *[Referral to complaint investigation process]*, the Executive Director must take no further action under this division on a complaint if the Executive Director has proceeded on the complaint under Division 1.01 *[Health issues]*.

(3) Unless subrule (1) or (2.1) applies or the Executive Director takes no further action under subrule (2), the Executive Director must

(a) refer the complaint to the Practice Standards Committee,

(b) refer the complaint to the Discipline Committee, or

(c) impose an administrative penalty under Part 4, Division 6 *[Administrative penalty]*.

(4) Despite subrule (3), the Executive Director may refer a complaint to the chair of the Discipline Committee if the complaint concerns only allegations that the lawyer has done one or more of the following:

(a) breached a rule;

(b) breached an undertaking given to the Society;

(c) failed to respond to a communication from the Society;

(d) breached an order made under the Act or these rules.

Notice

3-9 (1) When a decision has been made under Rule 3-8 *[Action on a complaint]*, the Executive Director must notify the complainant and the lawyer in writing of the disposition.

(2) When the Executive Director takes no further action on a complaint under Rule 3-8 (1) *[Action on a complaint]*, notice to the complainant under subrule (1) must include

(a) the reason for the decision, and

(b) instructions on how to apply for a review of the decision under Rule 3-14 *[Review by Complainants' Review Committee]*.

(3) Despite subrule (1), when proceeding on a complaint under Division 1.01 *[Health issues]*, the Executive Director may delay notifying the complainant until health information has been collected and assessed.

Division 1.01 – Health issues

Proceeding on health issue

3-9.1 (1) In this division, **"health issue"** includes matters that may affect a lawyer's physical or mental health.

(2) The Executive Director may proceed under this division on the basis of information about a health issue that may affect a lawyer received from any source, including the lawyer.

(3) The Executive Director may proceed under this division if

(a) the lawyer acknowledges the existence of a health issue that may have contributed to an alleged discipline violation by the lawyer,

(b) the lawyer consents in writing to the Executive Director proceeding under this division, and

(c) the Executive Director is satisfied, in all the circumstances of the alleged discipline violation, including whether it involved substantial harm to the complainant or another person, that it is likely to be in the public interest to proceed under this division.

Risk mitigation

3-9.2 Unless a consent agreement is in effect under this division, if the Executive Director is satisfied on reasonable grounds that interim measures are necessary to protect the public, the Executive Director may enter into an interim agreement under which the lawyer agrees to do one or more of the following:

(a) not engage in the practice of law indefinitely or for a specific period of time;

(b) restrict the lawyer's practice to a specific area of law or other type of practice;

(c) accept practice supervision on terms approved by the Executive Director;

(d) any other measure that the Executive Director considers necessary in the public interest.

Health information

3-9.3 (1) The Executive Director may request that the lawyer provide health information that demonstrates to the satisfaction of the Executive Director that

(a) a health issue may have contributed to an alleged discipline violation by the lawyer,

(b) the lawyer could benefit from remedial initiatives, and

(c) it is in the public interest for the lawyer to engage in remedial measures.

(2) The Executive Director may request further health information from the lawyer as, in the judgment of the Executive Director, is required to determine whether a consent agreement under Rule 3-9.4 *[Consent agreement]* is appropriate.

Consent agreement

3-9.4 (1) The Executive Director may enter into a consent agreement with a lawyer if the Executive Director is satisfied that

(a) proceeding under this division is permitted under Rule 3-9.1 *[Proceeding on health issue]*, and

(b) the lawyer has provided sufficient health information requested under Rule 3-9.3 *[Health information]* for the Executive Director to make a decision under subrule (5).

(2) Before entering into a consent agreement under this rule, the Executive Director must ensure that each complainant in the complaint giving rise to the agreement is given an opportunity to provide a statement regarding the effect on the complainant of the lawyer's conduct.

(3) A consent agreement under this rule must include provisions addressing the following:

(a) the duration of the agreement and, if different, of any obligation of a party**;**

(b) confidentiality and information sharing;

(c) the fulfillment of or amendment to the terms of the agreement;

(d) responsibility for reporting a breach of the terms of the agreement;

(e) the consequences of the lawyer's fulfilling or failing to fulfill the terms of the agreement;

(f) responsibility for costs associated with fulfilling the terms of the agreement;

(g) the lawyer's undertaking not to assert delay or any other prejudice as the result of proceeding under this division if the matter is subsequently referred to the complaint investigation process under Rule 3-9.9 *[Referral to complaint investigation process]*.

(4) A consent agreement under this rule may also include other provisions, including but not limited to the following:

(a) a recommended treatment plan;

(b) medical monitoring and reporting requirements;

(c) practice conditions and limitations;

(d) mitigation of loss or harm resulting from an alleged discipline violation;

(e) an apology, restitution or other remedial steps.

(5) The Executive Director may enter into a consent agreement if the Executive Director is satisfied that the agreement is in the public interest having considered all the relevant circumstances, including the following:

(a) the nature and scope of the terms of the agreement, including specific action to be taken to protect the public;

(b) the nature and seriousness of the alleged discipline violation;

(c) the impact of the lawyer's conduct on the complainant or others;

(d) any previous complaints concerning the lawyer proceeded on under this division;

(e) the effect of the agreement on the administration of justice and the public's confidence in the integrity of the legal profession;

(f) whether measures to be taken under the agreement are likely to improve the lawyer's ability to fulfill the duties of a lawyer in the practice of law;

(g) the presence of aggravating or mitigating factors, such as acknowledgement of a discipline violation or steps taken to redress a wrong where appropriate.

(6) An agreement under this rule is

(a) voluntary and requires the consent of the lawyer, and

(b) not valid unless signed by the Executive Director and the lawyer.

(7) When a consent agreement is made under this rule, the Executive Director must notify the complainant in writing of that fact.

(8) The Executive Director may report to the Benchers or the Executive Committee on a consent agreement made under this rule, but the report must not identify the lawyer concerned.

(9) Subject to Rule 3-9.9 *[Referral to complaint investigation process]*, the Society is bound by an effective consent agreement made under this rule, and no further action on the complaint that gave rise to the agreement is permitted.

Practice conditions and limitations

3-9.5 (1) When a condition or limitation on the practice of a lawyer is agreed to under this division, the Executive Director may disclose the fact that the condition or limitation applies, the nature of the condition or limitation and its effect on the lawyer's practice.

(2) A disclosure under this rule must not indicate that the agreement was made under this division.

(3) If the Executive Director discloses the existence of a condition or limitation under this rule 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.

Amending consent agreement

3-9.6 (1) A consent agreement may be amended by agreement of the parties reduced to writing and given effect in accordance with Rule 3-9.4 *[Consent agreement]*.

(2) An agreement amended under subrule (1) has the same effect as if given effect under Rule 3-9.4.

Breach of consent agreement

3-9.7 If a lawyer is in breach of a consent agreement made under this division, the Executive Director may do any of the following as appears to the Executive Director to be consistent with the public interest:

(a) terminate the consent agreement;

(b) refer the matter under Rule 3-9.9 *[Referral to complaint investigation]* for investigation of the complaint that gave rise to the consent agreement;

(c) enter into an amended consent agreement under Rule 3-9.6 *[Amending consent agreement]*;

(d) take any other appropriate action consistent with these rules.

Records and confidentiality

3-9.8 (1) Nothing done under this division forms part of a lawyer's professional conduct record.

(2) Unless permitted under this division, no one is permitted to disclose any information or records related to a step taken under this division.

(3) The Executive Director may do any of the following:

(a) disclose information related to a step taken with respect to a lawyer under this division if

(i) the lawyer consents to the disclosure, or

(ii) the disclosure is necessary to comply with a legal duty to accommodate;

(b) disclose or publish information about consent agreements or other steps taken under this division, but that information must not identify the lawyer, clients or complainants concerned;

(c) disclose information to the complainant to the extent necessary

(i) to comply with Rule 3-9 *[Notice]*,

(ii) to comply with Rule 3-9.4 *[Consent agreement]*,

(iii) to report to the complainant on the successful fulfillment of the terms of the consent agreement, or

(iv) to report to the complainant that the complaint has been referred for investigation or further investigation under Rule 3-9.9 *[Referral to complaint investigation process]*.

(4) This rule must not be interpreted to permit the disclosure of any information that is subject to solicitor and client privilege or confidentiality.

Referral to complaint investigation process

3-9.9 (1) The Executive Director may refer a matter that has been proceeded on under this division for investigation or further investigation under Division 1 *[Complaints]* if

(a) a condition required under Rule 3-9.1 *[Proceeding on health issue]* is not present or no longer present,

(b) the lawyer fails or refuses to provide sufficient health information requested under Rule 3-9.3 *[Health information]*,

(c) it is not possible, in the opinion of the Executive Director, to reach an interim agreement or a consent agreement within a reasonable period of time, or

(d) the lawyer breaches an interim agreement or a consent agreement made under this division.

(2) The Executive Director must give the lawyer 30 days' notice in writing before taking action under this rule.

Dispute resolution

3-9.10 (1) This rule applies to resolution of a dispute arising from an allegation that the lawyer

(a) has committed a breach of an interim agreement or a consent agreement, or

(b) has failed to successfully fulfill the terms of a consent agreement.

(2) A lawyer may apply to the Tribunal for the determination of a dispute if the Executive Director has given notice under Rule 3-9.9 *[Referral to complaint investigation process]* that

(a) an interim agreement or consent agreement will be terminated as a result of an alleged breach or failure to fulfill the terms of a consent agreement, and

(b) the matter that gave rise to the interim agreement or consent agreement will be referred for investigation or further investigation under Division 1 *[Complaints]*.

(3) The lawyer may make an application under subrule (2) within 30 days of receiving notice under Rule 3-9.9 *[Referral to complaint investigation process]* by filing with the Tribunal and delivering to the Executive Director written notice setting out the substance of the application, the grounds for it and the order that is sought.

(4) On application by the lawyer, a motions adjudicator may extend the time to apply for a determination under this rule.

(5) When an application is made under subrule (2), the motions adjudicator must do one of the following as appears to the motions adjudicator to be appropriate:

(a) grant all or part of the order applied for, with or without conditions;

(b) refuse the order.

(6) The motions adjudicator must provide written reasons for a decision under this rule.

(7) For greater certainty, Rule 3-9.8 *[Records and confidentiality]* applies with respect to an application under this rule, and the written reasons for a decision must not be published or otherwise disclosed except as permitted by Rule 3-9.8.

Division 1.1 – Extraordinary action to protect public

Interim suspension or practice conditions

3-10 (1) Under this rule, an interim action board may make an order with respect to a lawyer or articled student who is the subject of

(a) an investigation or intended investigation under Rule 3-5 *[Investigation of complaints]*, or

(b) a citation under Part 4 *[Discipline]*.

(1.1) When a proceeding is initiated under Rule 3-12 (3) *[Public protection proceeding]*, the President must appoint an interim action board, consisting of 3 or more Benchers who are not members of the Discipline Committee.

(2) If satisfied, on reasonable grounds, that extraordinary action is necessary to protect the public, an interim action board may

(a) impose conditions or limitations on the practice of a lawyer or on the enrolment of an articled student, or

(b) suspend a lawyer or the enrolment of an articled student.

(3) An order made under subrule (2) or varied under Rule 3-12 *[Public protection proceeding]* is effective until the first of

(a) final disposition of the existing citation or any citation authorized under Part 4 *[Discipline]* arising from the investigation, or

(b) rescission, variation or further variation under Rule 3-12.

(4) Subject to an order under subrule (6), when a condition or limitation is imposed under this rule on the practice of a lawyer or the enrolment of an articled student, the Executive Director may disclose the fact that the condition or limitation applies and the nature of the condition or limitation.

(5) An interim action board that makes an order under subrule (2) (a) must consider the extent to which disclosure of the existence and content of the order should be made public.

(6) Where, in the judgment of the interim action board that made an order under subrule (2) (a), there are extraordinary circumstances that outweigh the public interest in the disclosure of the order, the board may make an order

(a) that the Executive Director not disclose all or part of the order, or

(b) placing limitations on the content, means or timing of disclosure.

(7) An order made under subrule (6) does not apply to disclosure of information for the purposes of

(a) enforcement of the order,

(b) investigation and consideration of a complaint under this part or Part 4 *[Discipline]* or a proceeding under Part 5 *[Tribunal, Hearings and Appeals]*, or

(c) obtaining and executing an order under Part 6 *[Custodianships]*.

(8) An interim action board must give written reasons for an order under subrule (6).

(9) An order under subrule (6) may be made by a majority of the interim action board.

(10) If the Executive Director discloses the existence of a condition or limitation under subrule (2) (a) 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.

(11) Subrule (10) does not apply to a decision of a hearing panel or a review board.

(12) This rule is subject to the requirement to publish discipline decisions under Rule 4-48 (2) *[Publication of discipline decisions]*.

Medical examination

3-11 (1) This rule applies to a lawyer or articled student who is the subject of

(a) an investigation or intended investigation under Rule 3-5 *[Investigation of complaints]*, or

(b) a citation under Part 4 *[Discipline]*.

(2) An interim action board that is of the opinion, on reasonable grounds, that the order is likely necessary to protect the public may make an order requiring a lawyer or articled student to

(a) submit to an examination by a medical practitioner specified by the interim action board, and

(b) instruct the medical practitioner to report to the Executive Director on the ability of the lawyer to practise law or, in the case of an articled student, the ability of the student to complete articles.

(3) The Executive Director may deliver a copy of the report of a medical practitioner under this rule to the Discipline Committee or the Practice Standards Committee.

(4) The report of a medical practitioner under this rule

(a) may be used for any purpose consistent with the Act and these rules, and

(b) is admissible in any hearing or proceeding under the Act and these rules.

Public protection proceeding

3-12 (1) [rescinded]

(2) Before an interim action board takes action under Rule 3-10 *[Interim suspension or practice conditions]* or 3-11 *[Medical examination]*, there must be a proceeding before the board at which Law Society counsel is present.

(3) The proceeding referred to in subrule (2)

(a) must be initiated on the application of one of the following:

(i) the Discipline Committee;

(ii) the Practice Standards Committee;

(iii) the Executive Director, and

(b) may take place without notice to the lawyer or articled student if the interim action board is satisfied, on reasonable grounds, that notice would not be in the public interest.

(4) The lawyer or articled student and counsel for the lawyer or articled student may be present at a proceeding under this rule.

(5) All proceedings under this rule must be recorded by a court reporter or by other means.

(6) Subject to the Act and these rules, the interim action board may determine the practice and procedure to be followed.

(7) Unless the interim action board orders otherwise, the proceeding is not open to the public.

(8) A party may request an adjournment of a proceeding conducted under this rule.

(9) Rule 5-5.2 *[Adjournment]* applies to an application for an adjournment made before the proceeding begins as if it were a hearing.

(10) [rescinded]

(11) After a proceeding has begun, the interim action board may adjourn the proceeding, with or without conditions, generally or to a specified date, time and place.

(12) On the application of a party, the interim action board may rescind or vary an order made or previously varied under this rule.

(13) On an application under subrule (12) to vary or rescind an order,

(a) each party must be given a reasonable opportunity to make submissions in writing, and

(b) the interim action board may allow oral submissions if, in the board's discretion, it is appropriate to do so.

(14) If, for any reason, any member of the interim action board that made an order under this rule is unable to participate in the decision on an application under subrule (12), the President may appoint another Bencher who is not a member of the Discipline Committee to participate in the decision in the place of the member of the board unable to participate.

Notice to lawyer or articled student

3-12.1 When an order is made under Rule 3-10 (2) *[Interim suspension or practice conditions]* without notice to the lawyer or articled student, the Executive Director must immediately notify the lawyer or articled student in writing, that

(a) the order has been made,

(b) the lawyer or articled student is entitled, on request, to a transcript of the proceeding under Rule 3-12 *[Public protection proceeding]*, and

(c) the lawyer or articled student may apply under Rule 3-12.3 *[Review of interim suspension or practice conditions]* to have the order rescinded or varied.

Non-disclosure

3-12.2 (1) Unless an order is made under Rule 3-10 (2) *[Interim suspension or pratice conditions]*, no one is permitted to disclose that a proceeding was initiated, scheduled or took place under this division except for the purpose of complying with the objects of the Act or with these rules.

(2) When an order has been made or refused under Rule 3-10 (2) *[Interim suspension or practice conditions]*, before publication of the decision is permitted under Rule 4-48 (2) *[Publication of discipline decisions]*, the Executive Director may, on request, disclose the fact of the order or refusal and the reasons for it.

Review of interim suspension or practice conditions

3-12.3 (1) If an order has been made under Rule 3-10 (2) *[Interim suspension or practice conditions]*, the lawyer or articled student may apply in writing to the Tribunal at any time for rescission or variation of the order.

(2) An application under subrule (1) must be heard as soon as practicable and, if the lawyer or articled student has been suspended without notice, not later than 7 days after the date on which it is received by the Tribunal, unless the lawyer or articled student consents to a longer time.

(3) When application is made under subrule (1), the Tribunal Chair must appoint a panel under Part 5 *[Tribunal, Hearings and Appeals]*.

(4) The panel appointed under subrule (3) must not include a person who

(a) participated in the decision that authorized the issuance of a citation related to the application,

(b) was a member of the interim action board that made the order under review, or

(c) is a member of a panel assigned to hear a citation related to the application.

(5) A hearing under this rule is open to the public, but the panel may exclude some or all members of the public in any circumstances it considers appropriate.

(6) On application by anyone, the panel may make the following orders to protect the interests of any person:

(a) an order that specific information not be disclosed;

(b) any other order regarding the conduct of the hearing necessary for the implementation of an order under paragraph (a).

(7) All proceedings at a hearing under this rule must be recorded by a court reporter or by other means, and any person may obtain, at the person's expense, a transcript of any part of the hearing that the person was entitled to attend.

(8) Each party may call witnesses to testify who

(a) if competent to do so, must take an oath or make a solemn affirmation before testifying, and

(b) are subject to cross-examination.

(9) If the order under Rule 3-10 (2) *[Interim suspension or practice conditions]* took effect without notice to the lawyer or articled student, witnesses called by Law Society counsel must testify first, followed by witnesses called by the respondent.

(10) If subrule (9) does not apply, witnesses called by the lawyer or articled student must testify first, followed by witnesses called by Law Society counsel.

(11) The panel may

(a) accept an agreed statement of facts, and

(b) admit any other evidence it considers appropriate.

(12) Following completion of the evidence, the panel must

(a) invite each party to make submissions on the issues to be decided by the panel,

(b) decide by majority vote whether cause has been shown by the appropriate party under subrule (13) or (14), as the case may be, and

(c) make an order if required under subrule (13) or (14).

(13) If an order has been made under Rule 3-10 (2) *[Interim suspension or practice conditions]* with notice to the respondent, the panel must rescind or vary the order if cause is shown on the balance of probabilities by or on behalf of the respondent.

(14) If an order has been made under Rule 3-10 (2) *[Interim suspension or practice conditions]* without notice to the respondent, the panel must rescind or vary the order, unless Law Society counsel shows cause, on the balance of probabilities, why the order should not be rescinded or varied.

Division 1.2 – Complainants' Review Committee

Appointment of Complainants' Review Committee

3-13 (1) For each calendar year, the President must appoint a Complainants' Review Committee.

(2) If one or more Benchers have been appointed under section 5 *[Appointed benchers]*, the President must appoint at least one of the appointed Benchers to the Complainants' Review Committee.

Review by Complainants' Review Committee

3-14 (1) A complainant may apply to the Complainants' Review Committee for a review of a decision by the Executive Director under Rule 3-8 *[Action after investigation]* to take no further action after investigating a complaint.

(2) To initiate a review under subrule (1), the complainant must apply to the Complainants' Review Committee within 30 days after the decision is communicated to the complainant.

(3) The chair of the Complainants' Review Committee may extend the time for applying for a review under subrule (2) in extraordinary circumstances beyond the control of the complainant.

(4) The Complainants' Review Committee must

(a) review the documents obtained, collected or produced by the Executive Director under Rules 3-4 to 3-9, and

(b) on the direction of an appointed Bencher member of the Committee, make enquiries of the complainant, the lawyer or any other person.

(5) After its review and enquiries, the Complainants' Review Committee must do one of the following:

(a) confirm the Executive Director's decision to take no further action;

(b) refer the complaint to the Practice Standards Committee or to the Discipline Committee with or without recommendation;

(c) direct the Executive Director to conduct further investigation of the complaint to determine its validity.

(6) The chair of the Complainants' Review Committee must notify the complainant, the lawyer and the Executive Director, in writing, of the Committee's decision under subrule (5) and the reasons for that decision.

(7) If the Complainants' Review Committee keeps minutes of its consideration of a complaint, the Executive Director may disclose all or part of the minutes to the complainant or the lawyer concerned.

Division 2 – Practice Standards

Practice Standards Committee

3-15 (1) For each calendar year, the President must appoint a Practice Standards 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 Practice Standards 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.

[This page is intentionally left blank.]

Objectives

3-16 The objectives of the Practice Standards Committee are to

(a) recommend standards of practice for lawyers,

(b) develop programs that will assist all lawyers to practise law competently, and

(c) identify lawyers who do not meet accepted standards in the practice of law, and recommend remedial measures to assist them to improve their legal practices.

Consideration of complaints

3-17 (1) The Practice Standards Committee must consider any complaint referred to it by the Executive Director, the Complainants' Review Committee or any other Committee, and may instruct the Executive Director to make or authorize any further investigation that the Practice Standards Committee considers desirable.

(2) While considering a complaint, the Practice Standards Committee may also consider any other matter arising out of the lawyer's practice of law.

(3) When considering a complaint, the Practice Standards Committee may do one or more of the following:

(a) decide that no further action be taken on the complaint;

(b) make recommendations to the lawyer, if it considers that the carrying out of the recommendations will improve the lawyer's practice of law;

(c) require the lawyer to meet and discuss the circumstances of the complaint with a lawyer or Bencher designated by the Practice Standards Committee, who must then report to the Committee;

(d) find that there are reasonable grounds to believe that the lawyer is practising law in an incompetent manner and order a practice review in respect of the lawyer's practice;

(e) refer the complaint to the Discipline Committee.

(4) Despite subrule (3) (e), the Practice Standards Committee may refer a complaint to the chair of the Discipline Committee if the complaint concerns only allegations that the lawyer has done one or more of the following:

(a) breached a rule;

(b) breached an undertaking given to the Society;

(c) failed to respond to a communication from the Society;

(d) breached an order made under the Act or these rules.

(5) The Practice Standards Committee is not precluded from taking any of the steps in subrule (3) or (4) because it has previously taken another of those steps in the same matter.

(6) At any time, including after taking an action under Rule 3-19, the Practice Standards Committee may

(a) direct the Executive Director to conduct further investigation of the complaint to determine its validity, or

(b) refer any information that indicates that a lawyer's conduct may constitute a discipline violation to the Executive Director to be treated as a complaint under Division 1.

Practice review

3-18 (1) The Practice Standards Committee may order a practice review of the practice of a lawyer under Rule 3-17 (3) (d) *[Consideration of complaints]* or if the lawyer consents to the review.

(2) When a practice review is ordered, the Executive Director must name one or more qualified persons to conduct the review.

(3) After consultation with the lawyer and the practice reviewers, the Executive Director must set a date, time and place for the practice review.

(4) A lawyer whose practice is being reviewed under subrule (1) must answer any inquiries and provide the practice reviewers with any information, files or records in the lawyer's possession or control as reasonably requested.

(5) After completing a practice review, the practice reviewers must deliver to the Practice Standards Committee and to the lawyer a written report of their findings and recommendations.

(6) A lawyer who is the subject of a practice review may not resign from membership in the Society without the consent of the Practice Standards Committee.

(7) The Practice Standards Committee may, by resolution, direct that a lawyer who is subject to a practice review and would otherwise cease to be a member of the Society for failure to pay the annual fee or a special assessment continue as a member not in good standing and not permitted to practise law.

(8) A direction under subrule (7) may be made to continue in effect until stated conditions are fulfilled.

(9) When a direction under subrule (7) expires on the fulfillment of all stated conditions or if the Practice Standards Committee rescinds the direction,

(a) the lawyer concerned ceases to be a member of the Society,

(b) if the rescission is in response to a request of the lawyer concerned, the Committee may impose conditions on the rescission.

Action by Practice Standards Committee

3-19 (1) After its consideration of a report received under Rule 3-17 (3) (c) *[Consideration of complaints]* or 3-18 (5) *[Practice review]*, the Practice Standards Committee must

(a) decide that no further action be taken, or

(b) recommend that the lawyer do one or more of the following:

(i) undertake not to practise in specified areas of law;

(ii) complete a remedial program to the satisfaction of the Committee;

(iii) complete, to the satisfaction of the Committee, an examination approved by the Committee or its designate;

(iv) obtain a psychiatric or psychological assessment or counselling, or both, and, if the Committee requests, provide a report on that assessment or counselling to the Committee;

(v) obtain a medical assessment or assistance, or both, and if the Committee requests, provide a report on that assessment or assistance to the Committee;

(vi) practise in a setting approved by the Committee, including under the supervision of a lawyer approved by the Committee;

(vii) take other steps intended to improve the lawyer's practice of law or otherwise protect the public interest.

(2) When making recommendations under subrule (1) (b), the Practice Standards Committee may set one or more dates by which the lawyer is to complete the recommendations.

(3) On application by the lawyer or the Executive Director, the Practice Standards Committee may extend the date by which the lawyer is to complete a recommendation.

(4) The Executive Director must reduce the Practice Standards Committee's recommendations to writing and deliver a copy to the lawyer.

(5) The Practice Standards Committee is not precluded from making a recommendation under subrule (1) because it has previously made a recommendation with respect to the same matter.

Conditions or limitations on practice

3-20 (1) If a lawyer refuses or fails to comply with a recommendation under Rule 3-19 (1) (b) *[Action by Practice Standards Committee]* by the time set by the Practice Standards Committee under Rule 3-19 (2), the Committee may make an order imposing conditions and limitations on the lawyer's practice, including but not limited to the following:

(a) specifying areas of law in which the lawyer must not practise;

(b) requiring that the lawyer satisfactorily complete a remedial program;

(c) requiring that the lawyer satisfactorily complete an examination approved by the Committee or its designate;

(d) requiring that the lawyer obtain a psychiatric or psychological assessment or counselling, or both, and, if the Committee requests, provide a report on that assessment or counselling to the Committee;

(e) requiring that the lawyer obtain a medical assessment or assistance, or both, and if the Committee requests, provide a report on that assessment or assistance to the Committee;

(f) requiring that the lawyer practise in a setting approved by the Committee, including under the supervision of a lawyer approved by the Committee;

(g) requiring that the lawyer take other steps intended to improve the lawyer's practice of law or otherwise protect the public interest.

(2) At least 30 days before the Practice Standards Committee is to make an order under subrule (1), the Executive Director must deliver to the lawyer notice of the following:

(a) the terms of the proposed order;

(b) the date on which the proposed order is to take effect;

(c) the reasons for the proposed order;

(d) the means by which the lawyer may make submissions to the Practice Standards Committee concerning the proposed order and the deadline for making such submissions before the order is to be considered by the Committee.

(3) A lawyer must comply with an order made under this rule.

(4) On the written application of the lawyer, the Practice Standards Committee may vary or rescind an order made under this rule.

Referral to Discipline Committee

3-21 (1) The Practice Standards Committee may, at any stage, refer to the Discipline Committee any of the following:

(a) all or any part of a practice review report delivered under Rule 3-18 (5) *[Practice review]*;

(b) a report on the manner in which the lawyer has carried out or followed any recommendations or has failed or refused to do so;

(c) an order made under Rule 3-20 *[Conditions or limitations on practice]*;

(d) a report on the failure to comply with an order made under Rule 3-20.

(2) Despite subrule (1), the Practice Standards Committee may refer a report to the chair of the Discipline Committee with respect to allegations that the lawyer has done one or more of the following:

(a) breached a rule;

(b) breached an undertaking given to the Society;

(c) failed to respond to a communication from the Society;

(d) breached an order made under the Act or these rules.

(3) The Practice Standards Committee is not precluded from making a referral under this rule because it has previously made a referral with respect to the same matter.

Remedial program

3-22 (1) A remedial program under this Division may include any program intended to improve the lawyer's knowledge and skill in the practice of law, including, but not limited to, one or more of the following:

(a) a continuing legal education course;

(b) a remedial course;

(c) a course offered by an educational institution;

(d) a program of mentoring or supervision by a practising lawyer approved by the Practice Standards Committee.

(2) To form part of a remedial program, a course or program must be approved by the Practice Standards Committee or its designate.

Confidentiality of Practice Standards Committee deliberations

3-23 (1) Subject to subrules (2) to (6) and Rule 3-24 *[Report to complainant]*, the following must be treated as confidential and must not be disclosed except for the purpose of complying with the objects of the Act:

(a) all of the information and documents that form part of the Practice Standards Committee's consideration of a complaint;

(b) any action taken or decision made by the Committee;

(c) any report prepared for or on behalf of the Committee.

(2) If a matter referred to or considered by the Practice Standards Committee has become known to the public, the Executive Director may disclose

(a) the fact that the matter is or has been before the Committee,

(b) the status of the matter, including, if the matter is concluded, the general basis on which it was concluded, and

(c) any additional information necessary to correct inaccurate information.

(2.1) The Executive Director may disclose information about Practice Standards Committee deliberations to a designated representative of a law firm in which the lawyer who is the subject of the deliberations engages in the practice of law.

(2.2) The Executive Director may disclose information about Practice Standards Committee deliberations to a governing body under Rule 2-27.1 *[Sharing information with a governing body]*.

(3) Despite subrule (1), with the consent of the Discipline Committee, the Executive Director may deliver to a law enforcement agency any information or documents obtained under this division that may be evidence of an offence.

(4) With the consent of the lawyer concerned, the Executive Director may disclose the matters referred to in subrule (1) in responding to an enquiry made for the purpose of a potential judicial appointment.

(5) Subrules (6) and (7) apply to

(a) an undertaking under this division that restricts, limits or prohibits the lawyer's practice of law, and

(b) a condition or limitation of a lawyer's practice imposed under Rule 3-20 *[Conditions or limitations on practice]*.

(6) The Executive Director may disclose the fact that a lawyer has given an undertaking or that the Practice Standards Committee has imposed a condition or limitation and the effect on the lawyer's practice.

(7) If the Executive Director discloses the existence of an undertaking, condition or limitation under subrule (6) by means of the Society's website, the Executive Director must remove the information from the website within a reasonable time when the undertaking, condition or limitation is no longer in force.

Report to complainant

3-24 The Executive Director must notify the complainant in writing of the Practice Standards Committee's decision under Rule 3-17 *[Consideration of complaints]*, but must not deliver to the complainant a copy of any report or the Committee's recommendations about the lawyer's practice.

Costs

3-25 (1) The Practice Standards Committee may order that a lawyer pay to the Society the cost of a practice review, action or remedial program ordered or allowed under this Division, and may set and extend the date for payment.

(2) A lawyer who is ordered by the Practice Standards Committee, under subrule (1), to pay costs must pay those costs in full by the date set or extended by the Committee.

(3) If any part of the amount owing under subrule (1) remains unpaid by the date set in Rule 2-105 (2) or (3) *[Annual practising and indemnity fee instalments]*, the lawyer concerned must not engage in the practice of law unless the Benchers order otherwise.

Division 3 – Education

Definitions

3-26 In this division

"continuing education" means activities approved by the Executive Director for credit as professional development;

"credit as a mentor" means a credit of a specified maximum number of hours of continuing education for participation in a mentoring relationship under Rule 3-30 *[Mentoring]*;

"Indigenous intercultural course" means a course of study designated as such and administered by the Society or its agents and includes any assignment, examination or remedial work taken during or after the course of study;

"required professional development" means a minimum number of hours of continuing education determined by the Benchers under Rule 3-29 (1) *[Professional development]*;

"small firm" includes

(a) a firm in which not more than 4 lawyers practise law together, and

(b) a lawyer in an arrangement to share expenses with other lawyers who otherwise practises as an independent practitioner, except when the lawyer relies on a firm that is not a small firm to maintain trust accounting and other financial records on the lawyer's behalf,

but does not include

(c) a public body such as government or a Crown corporation, or

(d) a corporation other than a law corporation, or other private body.

Application

3-27 Rule 3-28 *[Practice management course]* applies to a lawyer when

(a) the lawyer begins practice in a small firm or, while practising in a small firm, becomes a signatory on a trust account, unless the lawyer has done both of the following in a Canadian jurisdiction for a total of 2 years or more in the preceding 5 years:

(i) engaged in the practice of law in a small firm;

(ii) been a signatory on a trust account, or

(b) the Practice Standards Committee, by resolution, so orders.

Practice management course

3-28 (1) Within 6 months after and not more than 12 months before the date on which this Rule applies to a lawyer, the lawyer must

(a) successfully complete the practice management course, and

(b) certify to the Executive Director in the prescribed form that the lawyer has successfully completed the practice management course.

(2) A lawyer who is in breach of subrule (1) has failed to meet a minimum standard of practice, and the Executive Director may refer the matter to the Discipline Committee or the chair of the Discipline Committee.

Indigenous intercultural course

3-28.1 (1) A practising lawyer must comply with subrule (2) before

(a) the lawyer has engaged in the practice of law for two years in total, whether or not continuous, or

(b) January 1, 2024

whichever is later.

(2) Every practising lawyer must

(a) complete the Indigenous intercultural course, and

(b) certify to the Executive Director in the prescribed form that the lawyer has completed the Indigenous intercultural course.

(3) A practising lawyer who is in breach of subrule (2) has failed to meet a minimum standard of practice, and the Executive Director may refer the matter to the Discipline Committee or the chair of the Discipline Committee.

Late completion of Indigenous intercultural course

3-28.11 (1) A practising lawyer who fails to comply with Rule 3-28.1 *[Indigenous intercultural course]* by the date by which the lawyer is required to comply is deemed to be in compliance with the Rule if the lawyer does all of the following within 60 days following that date:

(a) completes the Indigenous intercultural course;

(b) certifies the completion of the Indigenous intercultural course as required in Rule 3-28.1 (2) (b);

(c) pays the late completion fee specified in Schedule 1.

(2) A practising lawyer who complies with Rule 3-28.1 (2) (a) *[Indigenous intercultural course]* by the date by which the lawyer is required to comply but fails to comply with Rule 3-28.1 (2) (b) by that date is deemed to be in compliance with the Rule if the lawyer does both of the following within 60 days following that date:

(a) certifies the completion of the required professional development as required in Rule 3-28.1 (2) (b);

(b) pays the late reporting fee specified in Schedule 1.

Failure to complete Indigenous intercultural course

3-28.2 (1) Subject to subrules (2) and (3), a practising lawyer who fails to comply with Rule 3-28.1 *[Indigenous intercultural course]* by the date on which it is required is suspended until the lawyer has completed the course and certified the completion to the Executive Director as required by Rule 3-28.1.

(2) When there are special circumstances, the chair of the Credentials Committee may, in the chair's discretion, order that

(a) the lawyer not be suspended under subrule (1), or

(b) a suspension under subrule (1) be delayed for a specified period of time.

(3) At least 60 days before a suspension under subrule (1) can take effect, the Executive Director must deliver to the lawyer notice of the following:

(a) the date on which the suspension will take effect;

(b) the reasons for the suspension;

(c) the means by which the lawyer may apply to the chair of the Credentials Committee for an order under subrule (2) and the deadline for making such an application before the suspension is to take effect.

Professional development

3-29 (1) The Benchers may determine by resolution the minimum number of hours of continuing education that is required of a practising lawyer in each calendar year.

(2) The Benchers may prescribe circumstances in which a class of practising lawyer may be excused from completing all or part of the required professional development.

(3) In each calendar year, a practising lawyer must

(a) complete the required professional development, and

(b) certify to the Executive Director in the prescribed form that the lawyer has completed the required professional development.

(4) Despite subrule (3), a practising lawyer need not complete the required professional development in a calendar year in which the lawyer has successfully completed the admission program or the equivalent in another Canadian jurisdiction.

(5) On written application by a practising lawyer who has refrained from the practice of law for a minimum of 60 consecutive days in a calendar year, the Executive Director may reduce the required professional development for that lawyer.

(6) The Executive Director must not reduce the amount of required professional development under subrule (5)

(a) by an amount greater than that proportionate to the part of the calendar year in which the lawyer refrained from the practice of law, or

(b) by any amount if the lawyer refrained from the practice of law as a result of suspension, disbarment or other disciplinary proceedings.

(7) A lawyer who ceases to be a practising lawyer without completing all required professional development must complete the uncompleted portion in the next calendar year in which the lawyer is a practising lawyer, in addition to the required professional development for that calendar year.

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

Mentoring

3-30 (1) The Benchers may allow credit as a mentor, subject to any conditions or limitations that the Benchers consider appropriate.

(2) To qualify to receive credit as a mentor, a lawyer must

(a) be qualified to act as a principal to an articled student under Rule 2-57 (2) and (2.1) *[Principals]*, and

(b) not be the subject of an order of the Credentials Committee under subrule (4) (c).

(3) On a referral by the Executive Director or on the recommendation of the Discipline Committee or the Practice Standards Committee, or on its own motion, the Credentials Committee may inquire into a lawyer's suitability to receive credit as a mentor and may do any of the following:

(a) conduct or authorize any person to conduct an investigation concerning the fitness of the lawyer to act as a mentor;

(b) require the lawyer to appear before the Credentials Committee and to respond to questions of the Committee;

(c) order the lawyer to produce any documents, records or files that the Credentials Committee may reasonably require.

(4) After allowing the lawyer to make submissions, the Credentials Committee may do any of the following:

(a) permit the lawyer to receive credit as a mentor;

(b) permit the lawyer to receive credit as a mentor subject to conditions or limitations;

(c) order that the lawyer not receive credit as a mentor.

(5) The onus is on the lawyer to show cause why an order should not be made under subrule (4) (b) or (c).

Late completion of professional development

3-31 (1) A practising lawyer who fails to comply with Rule 3-29 *[Professional development]* by December 31 is deemed to have been in compliance with the Rules during the calendar year if the lawyer does all of the following before April 1 of the following year:

(a) completes the remainder of the required professional development;

(b) certifies the completion of the required professional development as required in Rule 3-29 (3) (b);

(c) pays the late completion fee specified in Schedule 1.

(2) Required professional development completed before April 1 that is applied to the requirement for the previous year cannot be applied to the requirement for the calendar year in which it is completed.

(3) A practising lawyer who complies with Rule 3-29 (3) (a) *[Professional development]* by December 31 but fails to comply with Rule 3-29 (3) (b) by December 31 is deemed to have been in compliance with the Rules during the calendar year if the lawyer does both of the following before April 1 of the following year:

(a) certifies the completion of the required professional development as required in Rule 3-29 (3) (b);

(b) pays the late reporting fee specified in Schedule 1.

Failure to complete professional development

3-32 (1) Subject to subrules (2) and (3), a practising lawyer who fails to comply with Rule 3-29 *[Professional development]* by April 1 of the following year is suspended until all required professional development is completed and completion is certified to the Executive Director as required by Rule 3-29.

(2) When there are special circumstances, the Practice Standards Committee may, in its discretion, order that

(a) the lawyer not be suspended under subrule (1), or

(b) a suspension under subrule (1) be delayed for a specified period of time.

(3) At least 60 days before a suspension under subrule (1) can take effect, the Executive Director must deliver to the lawyer notice of the following:

(a) the date on which the suspension will take effect;

(b) the reasons for the suspension;

(c) the means by which the lawyer may apply to the Practice Standards Committee for an order under subrule (2) and the deadline for making such an application before the suspension is to take effect.

Division 4 – Specialization and Restricted Practice

Definitions

3-33 In this division

"course of study" means an educational program consisting of activities approved by the Executive Director for the purpose of qualifying as a family law mediator, arbitrator or parenting coordinator;

"professional development" means activities approved by the Executive Director for credit as professional development for family law mediators, arbitrators or parenting coordinators.

Advertising

3-34 A lawyer must not advertise any specialization, restricted practice or preferred area of practice except as permitted in the *Code of Professional Conduct*, section 4.3 *[Advertising nature of practice]*.

Family law mediators

3-35 (1) A lawyer may act as a family law mediator only if the lawyer

(a) possesses sufficient knowledge, skills and experience relevant to family law to carry out the function of a mediator in a fair and competent manner,

(b) has completed a course of study in family law mediation approved by the Credentials Committee, and

(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, associate judge or the equivalent officer of a superior court in Canada, or member of an administrative tribunal,

(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, associate judge or the equivalent officer of a superior court in Canada, or member of an administrative tribunal, 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 the prescribed form 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 – Indemnification

Compulsory professional liability indemnification

3-39 (1) A lawyer must maintain professional liability indemnity coverage on the terms and conditions offered by the Society through the Lawyers Indemnity Fund and pay the indemnity fee under Rule 3-40 *[Annual indemnity fee]*, unless the lawyer is exempt or ineligible under Rule 3-43 *[Exemption from professional liability indemnification]*.

(2) A lawyer is bound by and must comply with the terms and conditions of the professional liability indemnity policy maintained under subrule (1).

(3) As soon as practicable, the Executive Director must notify all governing bodies of any change to professional liability indemnification under this division that affects the limits of liability or scope of coverage.

Compulsory trust protection indemnification

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

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

Annual indemnity fee

3-40 (1) The indemnity 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 *[Indemnity fee credit]*.

(2) If a lawyer undertakes, in the prescribed form, 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 indemnity fee specified in Schedule 1.

(3) Subject to subrule (6), a lawyer is not eligible to pay the part-time indemnity 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 indemnity 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 indemnity fee or, in extraordinary circumstances, allow the lawyer to pay the part-time indemnity fee despite subrule (3).

3-41 [rescinded 09/2020]

Indemnity fee credit

3-42 (1) The Benchers may approve an annual indemnity 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 indemnity fee credit, the first instalment of the indemnity fee payable by the lawyer is reduced by the amount of the credit.

Exemption from professional liability indemnification

3-43 (1) A lawyer is exempt from the requirement to maintain professional liability indemnity coverage and pay the indemnity fee if the lawyer is not engaged in the practice of law, other than providing pro bono legal services, anywhere as a member of the Society.

(1.1) A lawyer may apply in the prescribed form to the Executive Director for exemption from the requirement to maintain professional liability indemnity coverage and pay the indemnity fee if the lawyer is employed by or seconded to one of the following:

(a) a federal, provincial, territorial or municipal government department or a Crown corporation;

(b) a society, association, partnership or corporation, other than a law firm;

(c) a trade union or a similar organization;

(d) a regulatory body,

and is not engaged in the practice of law, other than providing legal services to that employer or a related organization or providing pro bono legal services.

(2) A lawyer must not be exempted under subrule (1.1) if the lawyer engages in the practice of law in any way other than as described in that provision.

(3) Subrule (4) applies to a lawyer who is entitled to practise law in the jurisdiction of a governing body of which the lawyer is a member.

(4) A lawyer may apply in the prescribed form to the Executive Director for exemption from the requirement to maintain professional liability indemnity coverage and pay the indemnity fee, if, in another Canadian jurisdiction, 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 the indemnity coverage required of lawyers in British Columbia and extends to the lawyer's practice in British Columbia.

(5) A Canadian legal advisor may apply in the prescribed form to the Executive Director for exemption from the requirement to maintain professional liability indemnity coverage and pay the indemnity 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 indemnification program on behalf of the lawyer:

(a) a deductible amount;

(b) any other amount that the lawyer is required to repay or reimburse the indemnity fund under professional liability indemnity policy.

(2) If indemnity has been paid under the Society's indemnification program, the lawyer on whose behalf it is paid must

(a) pay the indemnity 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 indemnity fee, and

(b) if the payment was made under trust protection indemnity coverage, 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 indemnity coverage

3-45 (1) A lawyer may apply for indemnity coverage by delivering to the Executive Director

(a) an application for indemnity coverage, and

(b) the prorated indemnity fee as specified in Schedule 2.

(2) A lawyer who is indemnified for part-time practice may apply for coverage for full-time practice by delivering to the Executive Director

(a) an application for full-time indemnity coverage, and

(b) the difference between the prorated full-time indemnity fee specified in Schedule 2 and any payment made for part-time indemnity coverage for the current year.

(3) The Executive Director must not grant the indemnity 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]* or 2-90 *[Conditions on returning to practice]*.

Confidentiality of indemnity claims

3-46 (1) In this rule, **"claim"** means a claim or potential claim reported under the professional liability indemnity policy and trust protection indemnity coverage.

(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 indemnity coverage, despite subrule (2), 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 *[Tribunal, 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 obtained under this division that 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 the lawyer's 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;

"monetary judgment" includes

(a) an order nisi of foreclosure,

(b) any certificate, final order or other requirement under a statute that requires payment of money to any party,

(c) a garnishment order under the *Income Tax Act* (Canada) if a lawyer is the tax debtor, and

(d) a judgment of any kind against an MDP in which the lawyer has an ownership interest.

Application

3-48 This Division applies to the following as it does to a lawyer, with the necessary changes and so far as it is applicable:

(a) a non-practising member;

(b) a retired member;

(c) an articled student;

(d) a practitioner of foreign law;

(e) a visiting lawyer permitted to practise law in British Columbia under Rules 2-16 to 2-20;

(f) a law corporation.

Standards of financial responsibility

3-49 Instances in which a lawyer has failed to meet a minimum standard of financial responsibility include, but are not limited to, the following:

(a) a monetary judgment is entered against a lawyer who does not satisfy the judgment within 7 days after the date of entry;

(b) a lawyer is an insolvent lawyer;

(c) a lawyer does not produce and permit the copying of records and other evidence or provide explanations as required under Rule 3-85 (2) (b) *[Compliance audit of books, records and accounts]*;

(d) a lawyer does not deliver a trust report as required under Rule 3-79 *[Trust report]* or 3-82 (5) *[Accountant's report]*;

(e) a lawyer does not report and pay the trust administration fee to the Society as required under Rule 2-110 *[Trust administration fee]*;

(f) a lawyer does not produce electronic accounting records when required under the Act or these rules in a form required under Rule 10-3 (2) *[Records]*.

Failure to satisfy judgment

3-50 (1) A lawyer against whom a monetary judgment is entered and who does not satisfy the judgment within 7 days after the date of entry must immediately notify the Executive Director in writing of

(a) the circumstances of the judgment, including whether the judgment creditor is a client or former client of the lawyer, and

(b) the lawyer's proposal for satisfying the judgment.

(2) Subrule (1) applies whether or not any party has commenced an appeal from the judgment.

(3) If a lawyer fails to deliver a proposal under subrule (1) (b) that is adequate in the discretion of the Executive Director, the Executive Director may refer the matter to the Discipline Committee or the chair of the Discipline Committee.

Insolvent lawyer

3-51 (1) A lawyer who becomes an insolvent lawyer must immediately

(a) notify the Executive Director in writing that the lawyer has become an insolvent lawyer, and

(b) deliver to the Executive Director

(i) a copy of all material filed in the proceedings referred to in the definition,

(ii) all information about any debts to a creditor who is or has been a client of the lawyer,

(iii) all information about any debt that arose from the lawyer's practice of law, and

(iv) any other information, including copies of any books, records, accounts and other documents and information in the lawyer's possession that are relevant to the proceedings referred to in the definition that the Executive Director may request.

(2) An insolvent lawyer who becomes bankrupt has committed conduct unbecoming the profession in either of the following circumstances:

(a) the lawyer's wilful neglect of creditors, financial irresponsibility or personal extravagance contributed to the bankruptcy;

(b) the lawyer fails or refuses to take reasonable steps to obtain a discharge from the bankruptcy within a reasonable time.

(3) An insolvent lawyer must not operate a trust account except with

(a) the permission of the Executive Director, and

(b) a second signatory who is a practising lawyer, not an insolvent lawyer and approved by the Executive Director.

(4) Any lawyer who becomes an undischarged bankrupt must resign any directorships in corporations, including law corporations.

Consideration by Discipline Committee

3-52 (1) After receiving the information and material required under Rule 3-51 (1) *[Insolvent lawyer]*, the Executive Director may refer an insolvent lawyer to the Discipline Committee.

(2) The Executive Director may refer any matter for decision under this Division to the Discipline Committee.

(3) When the Executive Director refers a matter to the Discipline Committee under this Division, the Committee may make or authorize any investigations it considers desirable.

(4) The Discipline Committee may suspend or impose conditions and limitations on the practice of a lawyer that it considers does not meet the standards of financial responsibility established under section 32 *[Financial responsibility]*.

(5) The Discipline Committee must not suspend a lawyer or impose conditions and limitations on the practice of a lawyer under subrule (4) until it has notified the lawyer of the reasons for the proposed action and given the lawyer a reasonable opportunity to make representations about those reasons.

(6) The Discipline Committee may rescind the suspension or vary or remove conditions and limitations imposed under subrule (4).

(7) When the Discipline Committee imposes conditions or limitations on the practice of a lawyer under subrule (4), the Executive Director may disclose the fact that the conditions or limitations apply and the nature of the conditions or limitations.

(8) If the Executive Director discloses the existence of conditions or limitations under subrule (7) by means of the Society's website, the Executive Director must remove the information from the website within a reasonable time after the conditions or limitations cease to be in force.

Division 7 – Trust Accounts and Other Client Property

Definitions

3-53 In this division,

"cash" means

(a) coins referred to in section 7 of the *Currency Act* (Canada),

(b) notes intended for circulation in Canada issued by the Bank of Canada under the *Bank of Canada Act*, and

(c) coins or bank notes of countries other than Canada;

"cash receipt book" means the book of duplicate receipts referred to in Rule 3-70 (1) *[Records of cash transactions]*;

"client" includes any beneficial owner of funds or valuables received by a lawyer in connection with the lawyer's practice;

"compliance audit" means an examination of a lawyer's books, records and accounts and the answering of questions by lawyers ordered under Rule 3-85 *[Compliance audit of books, records and accounts]*;

"disbursements" means amounts paid or required to be paid to a third party by a lawyer or law firm on behalf of a client in connection with the provision of legal services to the client by the lawyer or law firm that are to be reimbursed by the client;

"expenses" means costs incurred by a lawyer or law firm in connection with the provision of legal services to a client that are to be reimbursed by the client;

"financial institution" means

(a) an authorized foreign bank within the meaning of section 2 *[Definitions]* of the *Bank Act* (Canada) in respect of its business in Canada or a bank to which the *Bank Act* applies,

(b) a co-operative credit society, savings and credit union or caisse populaire that is regulated by a provincial or territorial Act,

(c) an association that is regulated by the *Cooperative Credit Associations Act* (Canada),

(d) a financial services co-operative that is regulated by *An Act respecting financial services cooperatives*, CQLR, c. C-67.3, or *An Act respecting the Mouvement Desjardins*, SQ 2000, c. 77, other than a caisse populaire,

(e) a company to which the *Trust and Loan Companies Act* (Canada) applies,

(f) a trust company or loan company regulated by a provincial or territorial Act,

(g) a ministry, department or agent of Her Majesty in right of Canada or of a province or territory where the ministry, department or agent accepts deposit liabilities in the course of providing financial services to the public, or

(h) a subsidiary of a financial institution whose financial statements are consolidated with those of the financial institution;

"lawyer" includes a law firm;

"professional fees" means amounts billed or to be billed to a client for legal services provided or to be provided to the client by the lawyer or law firm;

"public body" means

(a) a ministry, department or agent of Her Majesty in right of Canada or of a province or territory,

(b) a local public body as defined in paragraphs (a) to (c) of the definition in Schedule 1 to the *Freedom of Information and Protection of Privacy Act*, or a similar body incorporated under the law of another province or territory, or

(c) a subsidiary of a public body whose financial statements are consolidated with those of the public body.

Personal responsibility

3-54 (1) A lawyer must account in writing to a client for all funds and valuables received on behalf of the client.

(2) In this division, the responsibilities of a lawyer may be fulfilled by the lawyer's firm.

(3) A lawyer is personally responsible to ensure that the duties and responsibilities under this division are carried out, including when the lawyer

(a) is authorized by the firm or lawyer through which the lawyer practises law to open, maintain, or deal with funds in a trust or general account, or

(b) delegates to another person any of the duties or responsibilities assigned to a lawyer under this division.

Fiduciary property

3-55 (1) In addition to any other obligations required by law or equity, this rule applies to lawyers who are responsible for fiduciary property.

(2) A lawyer must make all reasonable efforts to determine the extent of the fiduciary property for which the lawyer is responsible and must maintain a list of that fiduciary property.

(3) A lawyer must produce on demand the following records for any period for which the lawyer is responsible for fiduciary property:

(a) a current list of valuables, with a reasonable estimate of the value of each;

(b) accounts and other records respecting the fiduciary property;

(c) all invoices, bank statements, cancelled cheques or images, and other records necessary to create a full accounting of the receipt or disbursement of the fiduciary property and any capital or income associated with the fiduciary property.

(4) The records required under subrule (3) form part of the books, records and accounts of a lawyer, and the lawyer must produce them and permit them to be copied as required under these rules.

(5) Subrules (3) and (4) continue to apply for 10 years from the final accounting transaction or disposition of valuables.

(6) A lawyer may deposit funds that are fiduciary property to a pooled or separate trust account, provided that the lawyer complies with the rules pertaining to trust funds with respect to the fiduciary property.

Designated savings institutions

3-56 Subject to Rule 3-57 *[Removal of designation]*, a savings institution is a designated savings institution within the meaning of section 33 (3) (b) *[Trust accounts]* if it has an office in British Columbia accepting demand deposits and is insured by

(a) the Canada Deposit Insurance Corporation, or

(b) the Credit Union Deposit Insurance Corporation of British Columbia.

Removal of designation

3-57 (1) The Executive Committee may declare, by resolution, that a savings institution is not or ceases to be a designated savings institution within the meaning of section 33 (3) (b) *[Trust accounts]*.

(2) A lawyer who holds trust funds in a savings institution that is not or ceases to be a designated savings institution must immediately transfer those funds into a designated savings institution.

(3) Subrule (2) does not apply if the lawyer has written instructions from the client to the contrary.

Deposit of trust funds

3-58 (1) Subject to subrule (2) and Rule 3-62 *[Cheque endorsed over]*, a lawyer who receives trust funds must deposit the funds in a pooled trust account as soon as practicable.

(2) Despite subrule (1), a lawyer who receives trust funds with instructions to place the funds otherwise than in a pooled trust account may place the funds in a separate trust account in accordance with section 62 (5) *[Interest on trust accounts]* and Rule 3-61 *[Separate trust account]*.

(3) Unless the client instructs otherwise in writing, a lawyer must deposit all trust funds in an account in a designated savings institution.

(4) As soon as it is practicable, a lawyer who deposits into a trust account funds that belong partly to a client and partly to the lawyer or the lawyer's firm must withdraw the lawyer's or firm's funds from the trust account.

Trust account only for legal services

3-58.1 (1) Except as permitted by the Act or these rules or otherwise required by law, a lawyer or law firm must not permit funds to be deposited to or withdrawn from a trust account unless the funds are directly related to legal services provided by the lawyer or law firm.

(2) A lawyer or law firm must take reasonable steps to obtain appropriate instructions and pay out funds held in a trust account as soon as practicable on completion of the services to which the funds relate.

(3) Despite subrule (1), a lawyer or law firm may deposit to and withdraw from a trust account funds that are received as a retainer for services as a mediator, arbitrator or parenting coordinator.

(4) Funds deposited to a trust account by a lawyer or law firm under subrule (3) are subject to all the rules pertaining to trust funds as if the funds were received from a client in relation to legal services provided by the lawyer or law firm.

Cash transactions

3-59 (1) This rule applies when a lawyer or law firm engages in any of the following activities on behalf of a client, including giving instructions on behalf of a client in respect of those activities:

(a) receiving or paying funds;

(b) purchasing or selling securities, real property or business assets or entities;

(c) transferring funds or securities by any means.

(2) Despite subrule (1), this rule does not apply when a lawyer or law firm receives or accepts cash in connection with the provision of legal services by the lawyer or law firm

(a) [rescinded]

(b) from a peace officer, law enforcement agency or other agent of the Crown acting in an official capacity,

(c) pursuant to the order of a court or other tribunal for the release to the lawyer or the lawyer's client of cash that has been seized by a peace officer, law enforcement agency or other agent of the Crown acting in an official capacity,

(d) to pay a fine, penalty or bail, or

(e) from a financial institution or public body.

(3) While engaged in an activity referred to in subrule (1), a lawyer or law firm must not receive or accept cash in an aggregate amount greater than $7,500 in respect of any one client matter.

(4) Despite subrule (3), a lawyer or law firm may receive or accept cash in an aggregate amount greater than $7,500 in respect of a client matter for professional fees, disbursements or expenses in connection with the provision of legal services by the lawyer or law firm.

(5) A lawyer or law firm that receives or accepts cash in an aggregate amount greater than $7,500 under subrule (4) must make any refund out of such money in cash.

(6) A lawyer or law firm that receives cash, unless permitted under this rule to accept it, must

(a) make no use of the cash,

(b) return the cash, or if that is not possible, the same amount in cash, to the payer immediately,

(c) make a written report of the details of the transaction to the Executive Director within 7 days of receipt of the cash, and

(d) comply with all other rules pertaining to the receipt of trust funds.

(7) For the purposes of this rule, a lawyer or law firm that receives or accepts cash in foreign currency is deemed to have received or accepted the cash converted into Canadian dollars based on

(a) the official conversion rate of the Bank of Canada for that currency as published in the Bank of Canada's Daily Noon Rates in effect at the relevant time, or

(b) if no official conversion rate is published as set out in paragraph (a), the conversion rate of the Bank of Canada in effect on the most recent business day.

Pooled trust account

3-60 (1) The following provisions apply to a pooled trust account:

(a) the account must be kept in a designated savings institution;

(b) the account must be readily available for the lawyer to draw on;

(c) the lawyer must periodically receive

(i) cancelled cheques, and

(ii) bank statements for the account covering all transactions on the account;

(d) the savings institution must agree with the lawyer to pay interest to the Foundation in accordance with subrule (3);

(e) the account must be kept in the name of

(i) the lawyer, or

(ii) the firm of which the lawyer is a partner, employee, member or voting shareholder;

(f) the account must be designated as a "trust" account on the records of the savings institution and of the lawyer.

(2) The cancelled cheques and bank statements referred to in subrule (1) (c) may be received or retained by the lawyer in an electronic form acceptable to the Executive Director.

(3) A lawyer who opens or maintains a pooled trust account must

(a) instruct the savings institution in writing to remit the net interest earned on the account to the Foundation at least quarterly, and

(b) if the lawyer opens or maintains the account at a bank or trust company, notify the institution in writing that the account is a trust account containing the funds of more than one client.

(4) Subject to subrule (5) and Rule 3-74 *[Trust shortage]*, a lawyer must not deposit to a pooled trust account any funds other than

(a) trust funds,

(b) funds that are fiduciary property, or

(c) funds the lawyer is permitted to deposit to a trust account under Rule 3-58.1 (3) *[Trust account only for legal services]*.

(5) A lawyer may maintain in a pooled trust account up to $300 of the lawyer's own funds.

Separate trust account

3-61 (1) A separate trust account must be

(a) an interest-bearing trust account or a savings, deposit, investment or similar form of account in a savings institution in British Columbia, and

(b) designated as a "trust" account on the records of the savings institution and of the lawyer.

(2) An account referred to in subrule (1) must be

(a) in the name of

(i) the lawyer,

(ii) the firm of which the lawyer is a partner, employee, member or voting shareholder, or

(iii) the trust, or

(b) identified by a number that identifies the client on inspection of the lawyer's books and accounts.

(3) Subject to Rule 3-74 *[Trust shortage]*, a lawyer must not deposit to a separate trust account any funds other than trust funds or funds that are fiduciary property.

Cheque endorsed over

3-62 If a lawyer receives a cheque payable to the lawyer in trust and, in the ordinary course of business, pays the cheque to a client, or to a third party on behalf of the client, in the form in which it was received, the lawyer must keep a written record of the transaction and retain a copy of the cheque.

Trust account balance

3-63 A lawyer must at all times maintain sufficient funds on deposit in each pooled or separate trust account to meet the lawyer's obligations with respect to funds held in trust for clients.

Withdrawal from trust

3-64 (1) A lawyer must not withdraw or authorize the withdrawal of any trust funds unless the funds are

(a) properly required for payment to or on behalf of a client or to satisfy a court order,

(b) the property of the lawyer,

(c) in the account as the result of a mistake,

(d) paid to the lawyer to pay a debt of that client to the lawyer,

(e) transferred between trust accounts,

(f) due to the Foundation under section 62 (2) (b) *[Interest on trust accounts]*, or

(g) unclaimed trust funds remitted to the Society under Division 8 *[Unclaimed Trust Money]*.

(2) The Executive Director may authorize a lawyer to withdraw trust funds for a purpose not specified in subrule (1).

(3) No payment from trust funds may be made unless

(a) trust accounting records are current, and

(b) there are sufficient funds held to the credit of the client on whose behalf the funds are to be paid.

(4) A lawyer must not make or authorize the withdrawal of funds from a pooled or separate trust account, except

(a) by cheque as permitted by subrule (5) or Rule 3-65 (1.1) (a) *[Payment of fees from trust]*,

(b) by electronic transfer as permitted by Rule 3-64.1 *[Electronic transfers from trust]*,

(b.1) by bank draft as permitted by Rule 3-64.3 *[Withdrawal from trust by bank draft]*,

(c) by instruction to a savings institution as permitted by subrule (9), or

(d) in cash if required under Rule 3-59 (5) or (6) *[Cash transactions]*.

(5) A lawyer who makes or authorizes the withdrawal of funds from a pooled or separate trust account by cheque must

(a) withdraw the funds with a cheque marked "Trust,"

(b) not make the cheque payable to "Cash" or "Bearer," and

(c) ensure that the cheque is signed by a practising lawyer.

(6) to (8) [rescinded]

(9) A lawyer may instruct a savings institution to pay to the Foundation under Rule 3-60 *[Pooled trust account]* the net interest earned on a pooled trust account.

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

Electronic transfers from trust

3-64.1 (1) In this rule, **"requisition"** means an electronic transfer of trust funds requisition, in the prescribed form.

(2) A lawyer may withdraw funds from a pooled or separate trust account by electronic transfer, provided all of the following conditions are met:

(a) the electronic funds transfer system used by the lawyer must not permit an electronic transfer of funds unless,

(i) a person other than the lawyer, using a password or access code, enters data into the electronic funds transfer system describing the details of the transfer, and

(ii) the lawyer, using another password or access code, enters data into the electronic funds transfer system authorizing the financial institution to carry out the transfer;

(b) the lawyer using an electronic funds transfer system to withdraw trust funds must not

(i) disclose the lawyer's password or access code associated with the electronic funds transfer system to another person, or

(ii) permit another person, including a non-lawyer employee, to use the lawyer's password or access code to gain such access;

(c) the electronic funds transfer system used by the lawyer must produce, no later than the close of the banking day immediately after the day on which the electronic transfer of funds is authorized, a confirmation in writing from the financial institution confirming that the data describing the details of the transfer and authorizing the financial institution to carry out the transfer were received;

(d) the confirmation required in paragraph (c) must contain all of the following:

(i) the name of the person authorizing the transfer;

(ii) the amount of the transfer;

(iii) the trust account name, trust account number and name of the financial institution from which the money is drawn;

(iv) the name, branch name and address of the financial institution where the account to which money is transferred is kept;

(v) the name of the person or entity in whose name the account to which money is transferred is kept;

(vi) the number of the account to which money is transferred;

(vii) the time and date that the data describing the details of the transfer and authorizing the financial institution to carry out the transfer are received by the financial institution;

(viii) the time and date that the confirmation in writing from the financial institution was sent to the lawyer authorizing the transfer;

(e) before any data describing the details of the transfer or authorizing the financial institution to carry out the transfer is entered into the electronic funds transfer system, the lawyer must complete and sign a requisition authorizing the transfer;

(f) the data entered into the electronic funds transfer system describing the details of the transfer and authorizing the financial institution to carry out the transfer must be as specified in the requisition;

(g) the lawyer must retain in the lawyer's records a copy of

(i) the requisition, and

(ii) the confirmation required in paragraph (c).

(3) Despite subrule (2) (a), a lawyer who practises law as the only lawyer in a law firm and who has no non-lawyer staff may transfer funds electronically if the lawyer personally uses

(a) one password or access code to enter data into the electronic funds transfer system describing the details of the transfer, and

(b) a different password or access code to enter data into the electronic funds transfer system authorizing the financial institution to carry out the transfer.

(4) No later than the close of the banking day immediately after the day on which the confirmation required in subsection (2) (c) is sent to a lawyer, the lawyer must

(a) produce a printed copy of the confirmation,

(b) compare the printed copy of the confirmation and the signed requisition relating to the transfer to verify that the money was drawn from the trust account as specified in the signed requisition,

(c) indicate on the printed copy of the confirmation

(i) the name of the client,

(ii) the subject matter of the file, and

(iii) any file number

in respect of which the money was drawn from the trust account, and

(d) after complying with paragraphs (a) to (c), sign, date and retain the printed copy of the confirmation.

(5) A transaction in which a lawyer personally uses an electronic funds transfer system to authorize a financial institution to carry out a transfer of trust funds is not exempted under Rule 3-101 (c) (ii) *[Exemptions]* from the client identification and verification requirements under Rules 3-102 to 3-106.

(6) Despite subrules (2) to (4), a lawyer may withdraw funds from a pooled or separate trust account by electronic transfer using the electronic filing system of the land title office for the purpose of the payment of property transfer tax on behalf of a client, provided that the lawyer

(a) retains in the lawyer's records a copy of

(i) all electronic payment authorization forms submitted to the electronic filing system,

(ii) the property transfer tax return, and

(iii) the transaction receipt provided by the electronic filing system,

(b) digitally signs the property transfer tax return in accordance with the requirements of the electronic filing system, and

(c) verifies that the money was drawn from the trust account as specified in the property transfer tax return.

Electronic deposits into trust

3-64.2 A lawyer must not receive money into a trust account by means of electronic transfer unless the following conditions are met:

(a) the lawyer must obtain a confirmation in writing providing details of the transfer from the financial institution or the remitter of the funds within 2 banking days of the deposit;

(b) the deposit must generate sufficient documentation to enable the lawyer to meet the record-keeping requirements under this division.

Withdrawal from trust by bank draft

3-64.3 A lawyer may withdraw funds from a pooled or separate trust account by bank draft, provided all of the following conditions are met:

(a) the recipient of the funds must provide the following in writing:

(i) consent in advance to receive the funds in the form of a bank draft;

(ii) acknowledgement of receipt of the funds;

(b) the lawyer using a bank draft to withdraw trust funds must

(i) document the transaction on the client's file using the prescribed form,

(ii) obtain the bank draft at a financial institution where the lawyer's law firm has a trust account, and

(iii) maintain in the lawyer's records

(A) the documents obtained from the recipient under paragraph (a),

(B) the completed form required under subparagraph (i), and

(C) a copy of the bank draft.

Payment of fees from trust

3-65 (1) In this rule, **"fees"** means fees for services performed by a lawyer or a non-lawyer member of the lawyer's MDP, charges, disbursements and taxes on those fees, charges and disbursements.

(1.1) A lawyer who withdraws or authorizes the withdrawal of trust funds for the payment of the lawyer's fees must withdraw the funds

(a) with a cheque payable to the lawyer's general account, or

(b) by electronic transfer in accordance with Rule 3-64.1 *[Electronic transfers from trust]* to the lawyer's general account.

(2) A lawyer who withdraws or authorizes the withdrawal of trust funds under subrule (1.1) in payment for the lawyer's fees must first prepare a bill for those fees and immediately deliver the bill to the client.

(3) A bill or letter is delivered within the meaning of this rule if it is

(a) mailed to the client at the client's last known address,

(b) delivered personally to the client,

(c) transmitted by electronic facsimile to the client at the client's last known electronic facsimile number,

(d) transmitted by electronic mail to the client at the client's last known electronic mail address, or

(e) made available to the client by other means agreed to in writing by the client.

(4) As an exception to subrule (2), a lawyer need not deliver a bill if the client instructs the lawyer otherwise in writing.

(5) A lawyer must not take fees from trust funds when the lawyer knows that the client disputes the right of the lawyer to receive payment from trust funds, unless

(a) the client has agreed that the lawyer may take funds from trust to satisfy the lawyer's account and the client has acknowledged that agreement in writing or the lawyer has confirmed the client's agreement in a letter delivered to the client,

(b) a bill has been delivered under subrule (3), whether or not the client has directed otherwise under subrule (4),

(c) the lawyer has given the client written notice that the fees will be taken from trust unless, within one month, the client commences a fee review under section 70 *[Review of a lawyer's bill]* or an action disputing the lawyer's right to the funds, and

(d) the client has not commenced a fee review under section 70 or an action at least one month after written notice is given under paragraph (c).

(6) Despite subrule (5), if a lawyer knows that the client disputes a part of the lawyer's account, the lawyer may take from trust funds fees that are not disputed.

(7) A lawyer must not take fees from trust funds impressed with a specific purpose, if the object of the trust has not been fulfilled, without the express consent of the client or another person authorized to give direction on the application of the trust funds.

Withdrawal from separate trust account

3-66 (1) A lawyer who makes or authorizes the withdrawal of funds from a separate trust account in respect of which cancelled cheques and bank statements are not received from the savings institution monthly and kept in the lawyer's records must first transfer the funds into the lawyer's pooled trust account.

(2) Rules 3-64 to 3-65 apply to funds that have been transferred into a pooled trust account in accordance with subrule (1).

(3) A lawyer who disburses trust funds received with instructions under Rule 3-58 (2) *[Deposit of trust funds]* must keep a written record of the transaction.

Accounting records

3-67 (1) In this rule, **"supporting document"** includes

(a) validated deposit receipts,

(b) periodic bank statements,

(c) passbooks,

(d) cancelled and voided cheques,

(e) bank vouchers and similar documents,

(f) vendor invoices, and

(g) bills for fees, charges and disbursements.

(2) A lawyer must record all funds received and disbursed in connection with the lawyer's law practice by maintaining the records required under this division.

(3) A lawyer must maintain accounting records, including supporting documents, in

(a) legibly handwritten form, in ink or other duplicated or permanent form,

(b) printed form, or

(c) an electronic form in compliance with subrule (4).

(4) A lawyer who maintains accounting records, including supporting documents, in electronic form, must ensure that

(a) all records and documents are maintained in a way that will allow compliance with Rule 10-3 (2) *[Records]*,

(b) copies of both sides of all paper records and documents, including any blank pages, are retained in a manner that indicates that they are two sides of the same document, and

(c) there is a clear indication, with respect to each financial transaction, of

(i) the date of the transaction,

(ii) the individual who performed the transaction, and

(iii) all additions, deletions or modifications to the accounting record and the individual who made each of them.

(5) A lawyer must record transactions in accounting records in chronological order and in an easily traceable form.

(6) A lawyer must retain all supporting documents for both trust and general accounts.

Trust account records

3-68 A lawyer must maintain at least the following trust account records:

(a) a book of entry or data source showing all trust transactions, including the following:

(i) the date and amount of receipt or disbursements of all funds;

(ii) the source and form of the funds received;

(iii) the identity of the client on whose behalf trust funds are received or disbursed;

(iv) the cheque or voucher number for each payment out of trust;

(v) the name of each recipient of money out of trust;

(b) a trust ledger, or other suitable system, showing separately for each client on whose behalf trust funds have been received, all trust funds received and disbursed, and the unexpended balance;

(c) records

(i) showing each transfer of funds between clients' trust ledgers, including the name and number of both the source file and the destination file,

(ii) containing an explanation of the purpose for which each transfer is made, and

(iii) containing the lawyer's written approval of the transfer;

(d) the monthly trust reconciliations required under Rule 3-73 *[Monthly trust reconciliation]*, and any documents prepared in support of the reconciliations;

(e) a current listing of all valuables held in trust for each client.

General account records

3-69 (1) A lawyer must maintain at least the following general account records:

(a) a book of original entry or data source showing

(i) the amount, date of receipt and the source of all general funds received, and

(ii) the cheque or voucher number, the amount, date and the name of each recipient of each disbursement;

(b) an accounts receivable ledger or other suitable system to record, for each client, showing all transactions including

(i) transfers from a trust account,

(ii) other receipts from or on behalf of the client, and

(iii) the balance owed by the client.

(2) As an exception to subrule (1) (b), a lawyer may enter the information required under that subrule on the trust ledger or other suitable system referred to in Rule 3-68 *[Trust account records]*, provided that the entry is clearly identified and distinct from trust account information.

Records of cash transactions

3-70 (1) A lawyer who receives any amount of cash for a client must maintain a cash receipt book of duplicate receipts and make a receipt in the cash receipt book for any amount of cash received.

(2) Each receipt in the cash receipt book must

(a) be signed by

(i) the lawyer who receives the cash or an individual authorized by that lawyer to sign the receipt on the lawyer's behalf, and

(ii) the person from whom the cash is received,

(b) identify each of the following:

(i) the date on which cash is received;

(ii) the person from whom cash is received;

(iii) the amount of cash received;

(iv) the client for whom cash is received;

(v) the number of the file in respect of which cash is received, and

(c) indicate all dates on which the receipt was created or modified.

(3) A lawyer who withdraws funds in cash from a pooled or separate trust account must make a record of the transaction signed by the person to whom the cash was paid and identifying:

(a) the date on which the cash was withdrawn,

(b) the amount of cash withdrawn,

(c) the name of the client in respect of whom the cash was withdrawn,

(d) the number of the file in respect of which the cash was withdrawn, and

(e) the name of the person to whom the cash was paid, and

(f) all dates on which the record was created or modified.

(4) The cash receipt book must be kept current at all times.

(5) A lawyer is not in breach of this rule if a receipt is not signed by the person from whom the cash is received if the lawyer makes reasonable efforts to obtain the signature of that person.

Billing records

3-71 (1) A lawyer must keep file copies of all bills delivered to clients or persons charged

(a) showing the amounts and the dates charges are made,

(b) indicating all dates on which the bill was created or modified,

(c) identifying the client or person charged, and

(d) filed in chronological, alphabetical or numerical order.

(2) For the purpose of subrule (1), a bill includes a receipt issued under Rule 3-72 (3) *[Recording transactions]*.

Recording transactions

3-72 (1) A lawyer must record each trust or general transaction promptly, and in any event not more than

(a) 7 days after a trust transaction, or

(b) 30 days after a general transaction.

(2) A lawyer must record in general account records all funds

(a) received by the lawyer expressly on account of fees earned and billed or disbursements made by the day the funds are received,

(b) subject to a specific agreement with the client allowing the lawyer to treat them as the lawyer's own funds, or

(c) that the lawyer is entitled to keep whether or not the lawyer renders any services to or makes any disbursements on behalf of that client.

(3) A lawyer who receives funds to which subrule (2) applies must immediately deliver a bill or issue to the client a receipt for the funds received, containing sufficient particulars to identify the services performed and disbursements incurred.

(4) As an exception to subrule (1), a lawyer must record the receipt of interest on a separate trust account within 30 days of payment or of notice that funds have been credited to the account.

Monthly trust reconciliation

3-73 (1) A lawyer must prepare a monthly trust reconciliation of the total of all unexpended balances of funds held in trust for clients as they appear in the trust ledgers, with the total of balances held in the trust bank account or accounts, together with the reasons for any differences between the totals.

(2) The monthly trust reconciliation must be supported by

(a) a detailed monthly listing showing the unexpended balance of trust funds held for each client, and identifying each client for whom trust funds are held,

(b) a detailed monthly bank reconciliation for each pooled trust account,

(c) a listing of balances of each separate trust account or savings, deposit, investment or similar form of account, identifying the client for whom each is held,

(d) a listing of balances of all other trust funds received pursuant to Rule 3-58 (2) *[Deposit of trust funds]*, and

(e) a listing of valuables received and delivered and the undelivered portion of valuables held for each client.

(3) Each monthly trust reconciliation prepared under subrule (1) must include the date on which it was prepared.

(4) A lawyer must retain for at least 10 years

(a) each monthly trust reconciliation prepared under subrule (1), and

(b) the detailed listings described in subrule (2) as records supporting the monthly trust reconciliations.

(5) A lawyer must make the trust reconciliation required by this rule not more than 30 days after the effective date of the reconciliation.

Trust shortage

3-74 (1) A lawyer who discovers a trust shortage must immediately pay enough funds into the account to eliminate the shortage.

(2) A lawyer must immediately make a written report to the Executive Director, including all relevant facts and circumstances, if the lawyer

(a) discovers a trust shortage greater than $2,500, or

(b) is or will be unable to deliver up, when due, any trust funds held by the lawyer.

(3) A trust shortage referred to in this rule includes a shortage caused by service charges, credit card discounts and bank errors.

Retention of records

3-75 (1) In this rule, **"records"** means the records referred to in Rules 3-67 to 3-71.

(2) A lawyer must keep all records for as long as the records apply to money held as trust funds or to valuables held in trust for a client and for at least 10 years from the final accounting transaction or disposition of valuables.

(3) A lawyer must keep records, other than electronic records, at the lawyer's chief place of practice in British Columbia for at least 3 years from the final accounting transaction or disposition of valuables.

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.

Canada Deposit Insurance Corporation

3-77 (1) A lawyer who holds pooled trusts funds in a designated savings institution insured by the Canada Deposit Insurance Corporation must meet the conditions required under the Schedule to the *Canada Deposit Insurance Corporation Act* to ensure that each client's funds, rather than the account itself, are insured up to the limit of CDIC insurance.

(2) The lawyer must not disclose information that is subject to solicitor and client privilege or confidentiality without the consent of the client.

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 the prescribed form,

(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 indemnification]* from the requirement to maintain professional liability indemnity coverage and pay the indemnity 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 Executive Director may, on application and in the Executive Director's discretion, waive payment of all or part of an assessment made under this rule unconditionally or on any conditions that the Executive Director considers appropriate.

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.

(3) When there are special circumstances, the chair of the Discipline Committee may, in the chair's discretion, order that

(a) a lawyer not be suspended under subrule (1), or

(b) a suspension under subrule (1) be delayed for a specified period of time.

(4) At least 30 days before a suspension under subrule (1) can take effect, the Executive Director must deliver to the lawyer notice of the following:

(a) the date on which the suspension will take effect;

(b) the reasons for the suspension;

(c) the means by which the lawyer may apply to the chair of the Discipline Committee for an order under subrule (3) and the deadline for making such an application before the suspension is to take effect.

(5) If a lawyer has not delivered a trust report after it is required, the Executive Director may do either or both of the following:

(a) engage or assign a qualified CPA to complete the trust report;

(b) order an examination of the lawyer's books, records and accounts under Rule 3-85 *[Compliance audit of books, records and accounts]*.

(6) The Discipline Committee may order that a lawyer pay to the Society all or part of the costs associated with the trust report referred to in subrule (5) (a).

(7) A lawyer who is ordered by the Discipline Committee, under subrule (6), to pay costs must pay those costs in full by the date set or extended by the Committee.

(8) If any part of the amount owing under subrule (6) remains unpaid by the date set in Rule 2-105 (2) or (3) *[Annual practising and indemnity fee instalments]*, the lawyer concerned must not engage in the practice of law unless the Benchers order otherwise.

Accountant's report

3-82 (1) The Executive Director may require a lawyer who is required to deliver a trust report under Rule 3-79 *[Trust report]* or a lawyer or former lawyer who is required to deliver a trust report under Rule 3-84 *[Former lawyers]* to deliver as part of the report required under the relevant rule, an accountant's report completed and signed by a qualified CPA.

(2) The Executive Director must specify the matters to be included in the accountant's report referred to in subrule (1) and the time within which it must be delivered to the Executive Director.

(3) Despite subrule (1), an accountant's report must not be completed and signed by any person determined by the Executive Director to be ineligible to do so.

(4) Despite subrule (1), on application by the lawyer, the Executive Director may allow a person without the credentials referred to in subrule (1) to complete and sign an accountant's report if the Executive Director is satisfied that

(a) the person has adequate accounting credentials, and

(b) no person qualified under subrule (1) is reasonably available to the lawyer.

(5) The Executive Director may at any time require a lawyer to deliver a new accountant's report completed and signed by a person who has the qualifications specified by the Executive Director if the lawyer's accountant's report was completed and signed by a person

(a) without the credentials referred to in subrule (1), or

(b) ineligible under subrule (3).

(6) If the Executive Director requires a new accountant's report under subrule (5), the lawyer must deliver the report within 3 months of notice of the requirement being sent by the Executive Director.

Exceptions and qualifications

3-83 (1) The trust report of a lawyer who has not complied with this division must state the exceptions and qualifications, together with an explanation of the circumstances of and reasons for them.

(2) The Executive Director may, following a review of a trust report with exceptions and qualifications, accept the lawyer's explanation and reasons

(a) without condition, in which case the lawyer is deemed to have complied with Rule 3-79 *[Trust report]*, or

(b) subject to the lawyer fulfilling accounting conditions specified by the Executive Director, in which case, on fulfillment of those conditions, the lawyer is deemed to have complied with Rule 3-79.

Former lawyers

3-84 (1) A former lawyer must deliver a trust report as required under Rule 3-79 *[Trust report]* for any period during which the former lawyer was a member of the Society.

(2) If a former lawyer does not deliver a trust report as required under subrule (1), an assessment under Rule 3-80 *[Late filing of trust report]* applies.

Compliance audit of books, records and accounts

3-85 (1) The Executive Director may at any time order a compliance audit of the books, records and accounts of a lawyer for the purpose of determining whether the lawyer meets standards of financial responsibility established under this Part, including but not limited to maintaining books, records and accounts in accordance with this division.

(2) When an order is made under subrule (1),

(a) the Executive Director must designate one or more persons to conduct the compliance audit, and

(b) on notification of the order, the lawyer concerned must immediately produce and permit the copying of all files, vouchers, records, accounts, books and any other evidence and must provide any explanations required by the person designated under paragraph (a) for the purpose of completing the compliance audit.

Failure to produce records on compliance audit

3-86 (1) Subject to subrules (2) and (3), a lawyer who does not produce and permit the copying of records and other evidence or provide explanations as required under Rule 3-85 (2) (b) *[Compliance audit of books, records and accounts]* is suspended until the records are produced, copying is permitted and explanations are provided to the satisfaction of the Executive Director.

(2) When there are special circumstances, the chair of the Discipline Committee may, in the chair's discretion, order that

(a) a lawyer not be suspended under subrule (1), or

(b) a suspension under this rule be delayed for a specified period of time.

(3) At least 7 days before a suspension under this rule can take effect, the Executive Director must deliver to the lawyer notice of the following:

(a) the date on which the suspension will take effect;

(b) the reasons for the suspension;

(c) the means by which the lawyer may apply to the chair of the Discipline Committee for an order under subrule (2) and the deadline for making such an application before the suspension is to take effect.

Disposition of files, trust money and other documents and valuables

3-87 (1) Before leaving a firm in British Columbia, a lawyer must advise the Executive Director in writing of the lawyer's intended disposition of all of the following that relate to the lawyer's practice in British Columbia and are in the lawyer's possession or control:

(a) open and closed files;

(b) wills and wills indices;

(c) titles and other important documents and records;

(d) other valuables;

(e) trust accounts and trust funds;

(f) fiduciary property.

(2) Within 30 days after withdrawing from the practice of law in British Columbia, a lawyer or former lawyer must confirm to the Executive Director in writing that

(a) the documents and property referred to in subrule (1) (a) to (d) have been disposed of, and any way in which the disposition differs from that reported under subrule (1),

(b) all trust accounts referred to in subrule (1) (e) have been closed and that

(i) all the balances have been

(A) remitted to the clients or other persons on whose behalf they were held,

(B) transferred to another lawyer with written instructions concerning the conditions attaching to them, or

(C) paid to the Society under Rule 3-89 *[Payment of unclaimed trust money to the Society]*, and

(ii) any net interest earned on a pooled trust account has been remitted to the Foundation in accordance with this division, and

(c) the lawyer or former lawyer has notified all clients and other persons for whom the lawyer is or may become a personal representative, executor, trustee or other fiduciary regarding the lawyer or former lawyer's withdrawal from practice and any change in the lawyer's membership status.

(3) A law corporation must confirm to the Executive Director as required under subrule (2) within 30 days of

(a) cancellation of its permit under Part 9 *[Incorporation and Limited Liability Partnerships]*, and

(b) ceasing to provide legal services.

(4) The Executive Director may, on application in writing by the lawyer, former lawyer or law corporation, extend the time limit referred to in subrule (1), (2) or (3) or, if in the opinion of the Executive Director it is in the public interest, relieve the lawyer, former lawyer or law corporation of any of the requirements of those subrules.

(5) On an enquiry, the Executive Director may disclose information collected under this rule if satisfied that

(a) the person enquiring has a bona fide reason to obtain the information, and

(b) disclosure of the information would not be an unreasonable invasion of anyone's privacy.

Division 8 – Unclaimed Trust Money

Definition

3-88 In this division:

"efforts to locate" means steps that are reasonable and adequate in all the circumstances, including the amount of money involved;

"lawyer" includes a law firm.

Payment of unclaimed trust money to the Society

3-89 (1) A lawyer who has held money in trust on behalf of a person whom the lawyer has been unable to locate for 2 years may apply to the Executive Director to pay those funds to the Society under section 34 *[Unclaimed trust money]*.

(2) A lawyer must make the application referred to in subrule (1) in writing containing all of the following information that is available to the lawyer:

(a) the full name and last known mailing address of each person on whose behalf the lawyer held the money;

(b) the exact amount to be paid to the Society in respect of each such person;

(c) the efforts made by the lawyer to locate each such person;

(d) any unfulfilled undertakings given by the lawyer in relation to the money;

(e) the details of the transaction in respect of which the money was deposited with the lawyer.

(3) A lawyer who cannot provide all the information described in subrule (2) must advise the Executive Director of the reasons why the lawyer does not have that information and deliver to the Executive Director copies of all records in the lawyer's power or possession that relate to the ownership and source of the money.

(4) If the Executive Director is satisfied that the lawyer has made appropriate efforts to locate the owner of the money, the Executive Director may accept the money under section 34 *[Unclaimed trust money]*.

(5) The Executive Director must account for money received by the Society under subrule (4) separately from the other funds of the Society.

Investigation of claims

3-90 (1) A person may make a claim under section 34 *[Unclaimed trust money]* in writing, in the prescribed form by delivering it to the Executive Director.

(2) A claimant must provide the Executive Director with information and documents that the Executive Director reasonably requires.

(3) In order to determine the validity of a claim, the Executive Director may make or authorize inquiries or further investigations that the Executive Director considers desirable.

Adjudication of claims

3-91 (1) The Executive Director may

(a) approve a claim if satisfied that the claim is valid, or

(b) refer the claim to the Executive Committee.

(2) When the Executive Director refers a claim to the Executive Committee, the Committee may, in its discretion

(a) approve or reject a claim based on the information received under Rule 3-90 *[Investigation of claims]*, or

(b) order a hearing to determine the validity of a claim.

(3) If a hearing is ordered, the Executive Director must give the claimant reasonable notice in writing of the date, time and place of the hearing.

(4) The Executive Director must serve the notice referred to in subrule (3) in accordance with Rule 10-1 *[Service and notice]*.

(5) The Executive Committee must conduct every hearing under this rule in private unless the Committee determines, in the public interest, that a specific individual or the public generally may be present at part or all of the hearing.

(6) Subject to the Act and these rules, the Executive Committee may determine the practice and procedure to be followed at a hearing.

(7) The claimant or the Society may call a witness to testify, who

(a) if competent to do so, must take an oath or make a solemn affirmation before testifying, and

(b) is subject to cross-examination.

(8) Following completion of the evidence, the Executive Committee must invite the claimant and the Society to make submissions on the issues to be decided by the Committee.

(9) Following the hearing of the evidence and submissions, the Executive Committee must determine whether the claimant is entitled to the money held in trust by the Society.

(10) If the claim is approved under subrule (1) (a) or (9), the Executive Director must

(a) calculate the exact amount owing to the claimant,

(b) calculate, in accordance with Rule 3-92 *[Calculation of interest]*, the interest owing to the claimant on that amount, and

(c) pay to the claimant the total of the amounts calculated under paragraphs (a) and (b).

Calculation of interest

3-92 (1) In calculating the interest owing to a claimant under Rule 3-91 *[Adjudication of claims]*, the Executive Committee must allow interest, for each 3-month period, at 2% below the prime lending rate of the Society's banker on March 31, June 30, September 30 and December 31 respectively, in each year, with interest to be compounded on June 30 and December 31 in each year.

(2) Interest calculated under subrule (1) is payable from the first day of the month following receipt of the unclaimed money by the Society, until the last day of the month before payment out by the Society.

Efforts to locate the owner of funds

3-93 From time to time, the Executive Director must conduct or authorize efforts to locate the owner of money held under this Part.

Payment to the Law Foundation

3-94 Before paying the principal amount received under Rule 3-89 *[Payment of unclaimed trust money to the Society]* to the Foundation under section 34 *[Unclaimed trust money]*, the Executive Director must be satisfied that the owner of the money cannot be located following efforts to locate the owner.

Division 9 – Real Estate Practice

Definitions

3-95 In this division,

"closing date" means the date upon which the documents to effect a transaction are filed as a pending application in the appropriate land title office;

"discharge of mortgage" means any discharge of mortgage that releases any portion of the land or interest in land charged by the mortgage;

"mortgage" means one of the following registered in a land title office in British Columbia:

(a) a mortgage of land or an interest in land;

(b) a debenture or trust deed containing a fixed charge on land or an interest in land;

"mortgagee" includes the holder of a fixed charge under a debenture or trust deed that is a mortgage;

"notary" means a member of the Society of Notaries Public of British Columbia.

Report of failure to cancel mortgage

3-96 A lawyer must deliver to the Executive Director within 5 business days a report in the prescribed form when

(a) the lawyer delivers funds to

(i) a mortgagee to obtain a registrable discharge of mortgage, or

(ii) another lawyer or a notary on the undertaking of the other lawyer or notary to obtain and register a discharge of mortgage, and

(b) 60 days after the closing date of the transaction giving rise to the delivery of such funds, the lawyer has not received

(i) a registrable discharge of mortgage from the mortgagee, or

(ii) satisfactory evidence of the filing of a registrable discharge of mortgage as a pending application in the appropriate land title office from the other lawyer or notary.

Electronic submission of documents

3-96.1 A lawyer authorized to access and use the electronic filing system of the land title office for the electronic submission or registration of documents must not

(a) disclose the lawyer's password associated with an electronic signature to another person, or

(b) permit another person, including a non-lawyer employee

(i) to use the lawyer's password to gain such access, or

(ii) to affix an electronic signature to any document or gain access to the electronic filing system unless otherwise authorized to do so.

Division 10 – Criminal Charges

Reporting criminal charges

3-97 (1) This rule applies to lawyers, articled students, practitioners of foreign law and applicants.

(2) Subject to subrule (4), a person who is charged with an offence under a federal or provincial statute, or an equivalent offence in another jurisdiction, must immediately provide to the Executive Director written notice of the charge.

(3) [rescinded]

(4) No notification is required under subrule (2) if a person is issued or served with a ticket as defined in the *Contraventions Act* (Canada) or a violation ticket as defined in the *Offence Act*.

Division 11 – Client Identification and Verification

Definitions

3-98 (1) In this division,

"client" includes

(a) another party that a lawyer's client represents or on whose behalf the client otherwise acts in relation to obtaining legal services from the lawyer, and

(b) in Rules 3-102 to 3-105, an individual who instructs the lawyer on behalf of a client in relation to a financial transaction;

"disbursements" has the same meaning as in Rule 3-53 *[Definitions]*;

"expenses" has the same meaning as in Rule 3-53;

"financial institution" has the same meaning as in Rule 3-53;

"financial transaction" means the receipt, payment or transfer of money on behalf of a client or giving instructions on behalf of a client in respect of the receipt, payment or transfer of money;

"interjurisdictional lawyer" means a member of a governing body who is authorized to practise law in another Canadian jurisdiction;

"money" includes cash, currency, securities, negotiable instruments or other financial instruments, in any form, that indicate a person's title or right to or interest in them, and electronic transfer of deposits at financial institutions;

"organization" means a body corporate, partnership, fund, trust, co-operative or an unincorporated association;

"professional fees" has the same meaning as in Rule 3-53;

"public body" has the same meaning as in Rule 3-53;

"reporting issuer" means an organization that is

(a) a reporting issuer within the meaning of the securities law of any province or territory of Canada,

(b) a corporation whose shares are traded on a stock exchange that is prescribed by the *Income Tax Act* (Canada) and operates in a country that is a member of the Financial Action Task Force on Money Laundering, or

(c) controlled by a reporting issuer;

"securities dealer" means an entity that is authorized under federal, provincial or territorial legislation to engage in the business of dealing in securities or any other financial instruments or to provide portfolio management or investment advising services, other than an entity that acts exclusively on behalf of an entity so authorized.

(2) In this division, a person controls an organization if the person, directly or indirectly, has the power to elect a majority of the directors or equivalent body of the organization by virtue of

(a) ownership or direction over voting securities of the organization,

(b) being or controlling the general partner of a limited partnership, or

(c) being a trustee of or occupying a similar position in the organization.

Application

3-99 (1) Subject to subrule (2), this division applies to a lawyer who is retained by a client to provide legal services.

(1.1) The requirements of this division are in keeping with a lawyer's obligation to know the lawyer's client, understand the client's financial dealings in relation to the retainer with the client and manage any risks arising from the professional business relationship with the client.

(2) Rules 3-100 to 3-108 and 3-110 do not apply when a lawyer provides legal services

(a) on behalf of the lawyer's employer, or

(b) in the following circumstances if no financial transaction is involved:

(i) as part of a duty counsel program sponsored by a non-profit organization;

(ii) in the form of pro bono summary advice.

(2.1) A lawyer is not required to repeat compliance with Rules 3-100 to 3-106 when another lawyer or an interjurisdictional lawyer who has complied with those rules or the equivalent provisions of a governing body

(a) engages the lawyer to provide legal services to the client as an agent, or

(b) refers a matter to the lawyer for the provision of legal services.

(3) In this division, the responsibilities of a lawyer may be fulfilled by the lawyer's firm, including members or employees of the firm wherever located.

Requirement to identify client

3-100 (1) A lawyer who is retained by a client to provide legal services must obtain and record, with the applicable date

(a) [rescinded]

(b) for individuals, all of the following information:

(i) the client's full name;

(ii) the client's home address, home telephone number and occupation;

(iii) the address and telephone number of the client's place of work or employment, where applicable, and

(c) for organizations, all of the following information:

(i) the client's full name, business address and business telephone number;

(ii) the name, position and contact information for individuals who give instructions with respect to the matter for which the lawyer is retained;

(iii) if the client is an organization other than a financial institution, public body or reporting issuer

(A) the general nature of the type of business or activity engaged in by the client, and

(B) the organization's incorporation or business identification number and the place of issue of its incorporation or business identification number.

(2) When a lawyer has obtained and recorded the information concerning the identity of an individual client under subrule (1) (b), the lawyer is not required subsequently to obtain and record that information about the same individual unless the lawyer has reason to believe the information, or the accuracy of it, has changed.

Exemptions

3-101 Rules 3-102 to 3-106 do not apply

(a) if the client is

(i) a financial institution,

(ii) a public body,

(iii) a reporting issuer, or

(iv) an individual who instructs the lawyer on behalf of a client described in subparagraphs (i) to (iii),

(b) when a lawyer

(i) pays money to or receives money from any of the following acting as a principal:

(A) a financial institution;

(B) a public body;

(C) a reporting issuer,

(ii) receives money paid from the trust account of another lawyer or an interjurisdictional lawyer,

(iii) receives money from a peace officer, law enforcement agency or other public official acting in an official capacity, or

(iv) pays or receives money

(A) [rescinded]

(B) to pay a fine, penalty or bail, or

(C) [rescinded]

(D) for professional fees, disbursements or expenses, or

(c) to a transaction in which all funds involved are transferred by electronic transmission, provided

(i) the transfer occurs between financial institutions or financial entities headquartered in and operating in countries that are members of the Financial Action Task Force,

(ii) neither the sending nor the receiving account holders handle or transfer the funds, and

(iii) the transmission record contains

(A) a reference number,

(B) the date,

(C) the transfer amount,

(D) the currency, and

(E) the names of the sending and receiving account holders and the sending and receiving entities.

Requirement to verify client identity

3-102 (1) When a lawyer provides legal services in respect of a financial transaction, the lawyer must

(a) obtain from the client and record, with the applicable date, information about the source of money, and

(b) verify the identity of the client using documents or information described in subrule (2).

(2) For the purposes of subrule (1), the client's identity must be verified by means of the following documents and information, provided that documents are valid, authentic and current and information is valid and current:

(a) if the client is an individual

(i) an identification document issued by the government of Canada, a province or territory or a foreign government, other than a municipal government, that

(A) contains the individual's name and photograph, and

(B) is used in the presence of the individual to verify that the name and photograph are those of the individual,

(ii) information in the individual's credit file that is used to verify that the name, address and date of birth in the credit file are those of the individual, if that file is located in Canada and has been in existence for at least three years, or

(iii) any two of the following obtained by the lawyer from a reliable source:

(A) information that contains the individual's name and address that is used to verify that the name and address are of those of the individual;

(B) information that contains the individual's name and date of birth that is used to verify that the name and date of birth are those of the individual;

(C) information that contains the individual's name and confirms that the individual has a deposit account or a credit card or other loan amount with a financial institution that is used to verify that information;

(b) if the client is an organization such as a corporation or society that is created or registered pursuant to legislative authority, a written confirmation obtained by the lawyer from a government registry as to the existence, name and address of the organization, including the names of its directors where applicable, such as

(i) a certificate of corporate status issued by a public body,

(ii) a copy obtained from a public body of a record that the organization is required to file annually under applicable legislation, or

(iii) a copy of a similar record obtained from a public body that confirms the organization's existence;

(c) if the client is an organization that is not registered in any government registry, such as a trust or partnership, a copy of the organization's constating documents, such as a trust or partnership agreement, articles of association, or any other similar record that confirms its existence as an organization.

(2.1) For the purposes of subrule (2) (a) (i), an electronic image of a document issued by the government of Canada, a province or a territory or a foreign government, other than a municipal government, may be treated as authentic provided the lawyer has used reliable technology to confirm that the identification document is genuine, and has confirmed that the name and photograph are those of the individual in the identification document.

(3) and (3.1) [rescinded]

(4) For the purposes of subrule (2) (a) (iii)

(a) the information referred to must be from different sources, and

(b) the individual, the lawyer or an agent is not a source.

(5) To verify the identity of an individual who is under 12 years of age, the lawyer must verify the identity of a parent or guardian of the individual.

(6) To verify the identity of an individual who is 12 years of age or over but less than 15 years of age, the lawyer may refer to information referred to in subrule (2) (a) (iii) (A) that contains the name and address of a parent or guardian of the individual and verifying that the address is that of the individual.

Requirement to identify directors, shareholders and owners

3-103 (1) When a lawyer provides legal services in respect of a financial transaction for a client that is an organization referred to in Rule 3-102 (2) (b) or (c) *[Requirement to verify client identity]*, the lawyer must

(a) obtain and record, with the applicable date, the names of all directors of the organization, other than an organization that is a securities dealer, and

(b) make reasonable efforts to obtain and, if obtained, record with the applicable date

(i) the names and addresses of all persons who own, directly or indirectly, 25 per cent or more of the organization or of the shares of the organization,

(ii) the names and addresses of all trustees and all known beneficiaries and settlors of the trust, and

(iii) information identifying the ownership, control and structure of the organization.

(2) A lawyer must take reasonable measures to confirm the accuracy of information obtained under this rule.

(3) A lawyer must keep a record, with the applicable dates, of the following:

(a) all efforts made under subrule (1) (b);

(b) all measures taken to confirm the accuracy of information obtained under this rule.

(4) If a lawyer is not able to obtain the information referred to in subrule (1) or to confirm the accuracy of that information in accordance with subrule (2), the lawyer must

(a) take reasonable measures to ascertain the identity of the most senior managing officer of the organization,

(b) determine whether the following are consistent with the purpose of the retainer and the information obtained about the client as required by this rule:

(i) the client's information in respect of its activities;

(ii) the client's information in respect of the source of the money to be used in the financial transaction;

(iii) the client's instructions in respect of the transaction,

(c) assess whether there is a risk that the lawyer may be assisting in or encouraging fraud or other illegal conduct, and

(d) keep a record, with the applicable date, of the results of the determination and assessment under paragraphs (b) and (c).

Use of an agent for client verification

3-104 (1) A lawyer may retain an agent to obtain the information required under Rule 3-102 *[Requirement to verify client identity]*, provided the lawyer and the agent have an agreement or arrangement in writing for this purpose in compliance with this rule.

(2) to (5) [rescinded]

(6) A lawyer must not rely on information obtained by an agent under this rule unless the lawyer

(a) obtains from the agent all of the information obtained by the agent under that agreement or arrangement, and

(b) is satisfied that the information is valid and current and that the agent verified identity in accordance with Rule 3-102 *[Requirement to verify client identity]*.

(7) A lawyer may rely on an agent's previous verification of an individual client if the agent was, at the time of the verification

(a) acting in the agent's own capacity, whether or not the agent was acting under this rule, or

(b) acting as an agent under an agreement or arrangement in writing entered into with another lawyer required under this division to verify the identity of a client.

Timing of verification for individuals

3-105 (1) At the time that a lawyer provides legal services in respect of a financial transaction, the lawyer must verify the identity of a client who is an individual.

(2) When a lawyer has verified the identity of an individual, the lawyer is not required subsequently to verify that same identity unless the lawyer has reason to believe the information, or the accuracy of it, has changed.

Timing of verification for organizations

3-106 (1) A lawyer who provides legal services in respect of a financial transaction must verify the identity of a client that is an organization promptly and, in any event, within 30 days.

(2) When a lawyer has verified the identity of a client that is an organization and obtained and recorded information under Rule 3-103 *[Requirement to identify directors, shareholders and owners]*, the lawyer is not required subsequently to verify that identity or obtain and record that information, unless the lawyer has reason to believe that the information, or the accuracy of it, has changed.

Record keeping and retention

3-107 (1) A lawyer must obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of Rule 3-102 (1) *[Requirement to verify client identity]*.

(2) The documents referred to in subrule (1) may be kept in a machine-readable or electronic form, if a paper copy can be readily produced from it.

(3) A lawyer must retain a record of the information, with applicable dates, and any documents obtained or produced for the purposes of

(a) Rule 3-100 *[Requirement to identify client]*,

(b) Rule 3-103 *[Requirement to identify directors, shareholders and owners]*,

(c) Rule 3-102 *[Requirement to verify client identity]*,

(d) Rule 3-104 *[Use of an agent for client verification]*, or

(e) Rule 3-110 *[Monitoring]*.

(4) The lawyer must retain information and documents referred to in subrule (3) for the longer of

(a) the duration of the lawyer and client relationship and for as long as is necessary for the purpose of providing services to the client, and

(b) a period of at least 6 years following completion of the work for which the lawyer was retained.

Existing matters

3-108 Rules 3-99 to 3-107 do not apply to matters for which a lawyer was retained before December 31, 2008, but they do apply to all matters for which the lawyer is retained after that time, regardless of whether the client is a new or existing client.

Criminal activity, duty to withdraw

3-109 (1) If, in the course of obtaining the information and taking the steps required in Rule 3-100 *[Requirement to identify client]*, 3-102 (2) *[Requirement to verify client identity],* 3-103 *[Requirement to identify directors, shareholders and owners]* or 3-110 *[Monitoring]*, or at any other time while retained by a client, a lawyer knows or ought to know that the lawyer is or would be assisting a client in fraud or other illegal conduct, the lawyer must withdraw from representation of the client.

(2) This rule applies to all matters for which a lawyer is retained before or after this division comes into force.

Monitoring

3-110 (1) While retained by a client in respect of a financial transaction, a lawyer must monitor on a periodic basis the professional business relationship with the client for the purposes of

(a) determining whether the following are consistent with the purpose of the retainer and the information obtained about the client under this division:

(i) the client's information in respect of their activities;

(ii) the client's information in respect of the source of the money used in the financial transaction;

(iii) the client's instructions in respect of transactions, and

(b) assessing whether there is a risk that the lawyer may be assisting in or encouraging dishonesty, fraud, crime or other illegal conduct.

(2) A lawyer must keep a record, with the applicable date, of the measures taken and the information obtained under subrule (1) (a).

PART 4 – DISCIPLINE

Interpretation and application

4-1 (1) In this part,

"conduct meeting" means a meeting that a lawyer or a law firm is required to attend under Rule 4-4 (1) (c) *[Action on complaints]*;

"conduct review" means a meeting with a conduct review subcommittee that a lawyer or a law firm is required to attend under Rule 4-4 (1) (d).

(2) This part applies to a former lawyer, an articled student, a law firm, a visiting lawyer permitted to practise law under Rules 2-16 to 2-20 and a practitioner of foreign law as it does to a lawyer, with the necessary changes and so far as it is applicable.

(3) This part must be interpreted in a manner consistent with standards of simplicity, fairness and expediency, and so as to provide maximum protection to the public and to lawyers.

(4) In this part, a law firm may act through its designated representative or another lawyer engaged in the practice of law as a member of the law firm.

Division 1 – Discipline Committee

Discipline Committee

4-2 (1) For each calendar year, the President must appoint a Discipline 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 Discipline Committee to replace a Committee member who resigns or otherwise ceases membership in the Committee, or to increase the number of members of the Committee.

(4) Any function of the chair of the Discipline Committee under these rules may be performed by the vice chair or by another Bencher member of the Committee designated by the chair.

Consideration of complaints by Committee

4-3 (1) The Discipline Committee must consider any complaint referred to it under these rules and may instruct the Executive Director to make or authorize further investigation that the Discipline Committee considers desirable.

(2) If, in the view of the Executive Director and the chair of the Discipline Committee, there is a need to act before a meeting of the Committee can be arranged, the Executive Director may refer a complaint to the chair for consideration under Rule 4-5 *[Consideration of complaints by chair]*.

Action on complaints

4-4 (1) After its consideration under Rule 4-3 *[Consideration of complaints by Committee]*, the Discipline Committee must

(a) decide that no further action be taken on the complaint,

(b) authorize the chair or other Bencher member of the Discipline Committee to send a letter to the lawyer concerning the lawyer's conduct,

(c) require the lawyer or law firm to attend a meeting with one or more Benchers or lawyers to discuss the conduct of the lawyer,

(d) require the lawyer or law firm to appear before a Conduct Review Subcommittee, or

(e) direct that the Executive Director issue a citation against the lawyer under Rule 4-17 (1) *[Direction to issue, expand or rescind citation]*.

(2) In addition to the determination made under subrule (1), the Discipline Committee may refer any matter or any lawyer to the Practice Standards Committee.

(3) In addition to any action taken under subrules (1) and (2), if a complaint discloses that there may be grounds for revoking a law corporation's permit under Rule 9-11 *[Revocation of permits]*, the Discipline Committee may order a hearing on the revocation of the law corporation's permit.

(4) At any time before the Discipline Committee makes a decision under Rule 4-13 (6) (a) to (c) *[Conduct Review Subcommittee report]*, the Committee may resolve to rescind a decision made under subrule (1) (d) to require a lawyer to appear before a Conduct Review Subcommittee and substitute another decision under subrule (1).

Consideration of complaints by chair

4-5 (1) The chair of the Discipline Committee must consider any complaint referred to the chair under these rules and may instruct the Executive Director to make or authorize further investigation that the chair considers desirable.

(2) After considering a complaint under subrule (1), the chair of the Discipline Committee must

(a) direct that the Executive Director issue a citation against the lawyer under Rule 4-17(1) *[Direction to issue, expand or rescind citation]*, or

(b) refer the complaint to the Discipline Committee.

Continuation of membership during investigation or disciplinary proceedings

4-6 (1) In this rule, **"lawyer under investigation"** means a lawyer who is the subject of

(a) an investigation under Part 3, Division 1 *[Complaints]*, or

(b) a decision of the Discipline Committee under Rule 4-4 (1) (c) or (d) *[Action on complaints]*.

(2) A lawyer under investigation may not resign from membership in the Society except

(a) with the consent of the Executive Director, or

(b) under the terms of a consent agreement under Rule 3-7.1 *[Resolution by consent agreement]*.

(3) A respondent may not resign from membership in the Society except with the consent of the Discipline Committee.

(4) The Executive Director may direct that a lawyer under investigation who would otherwise have ceased to be a member of the Society for failure to pay the annual fee or a special assessment continue as a member not in good standing and not permitted to engage in the practice of law.

(5) The Discipline Committee may, by resolution, direct that a respondent who would otherwise have ceased to be a member of the Society for failure to pay the annual fee or a special assessment continue as a member not in good standing and not permitted to engage in the practice of law.

(6) A direction under subrule (4) or (5) may be made to continue in effect until stated conditions are fulfilled.

(7) When a direction under subrule (4) or (5) expires on the fulfillment of all stated conditions or is rescinded by the Executive Director or Discipline Committee,

(a) the lawyer concerned ceases to be a member of the Society,

(b) if the rescission is in response to a request of the lawyer concerned, the Committee may impose conditions on the rescission.

Notification

4-7 The Executive Director must notify the complainant and the lawyer or law firm in writing of the determination of the Discipline Committee under Rule 4-4 *[Action on complaints]* or the chair under Rule 4-5 *[Consideration of complaints by the chair]*.

Confidentiality of Discipline Committee deliberations

4-8 (1) No one is permitted to disclose any of the following information except for the purpose of complying with the objects of the Act or with these rules:

(a) information and documents that form part of the consideration of a complaint under Rule 4-4 *[Action on complaints]* or 4-5 *[Consideration of complaints by chair]*;

(b) the result of a consideration under Rule 4-4.

(2) As an exception to subrule (1), the Executive Director may disclose information referred to in that subrule

(a) with the consent of the lawyer, in responding to an enquiry made for the purpose of a potential judicial appointment, or

(b) to a governing body under Rule 2-27.1 *[Sharing information with a governing body]*.

(3) No one is permitted to disclose a direction to issue a citation until the respondent is notified.

(4) Despite subrule (3), the Executive Director may disclose to the public a direction to issue a citation, its subject matter and its status before the respondent is notified if

(a) the identity of the respondent has already been disclosed to the public,

(b) the citation is in respect of an offence to which the respondent has pleaded guilty or of which the respondent has been found guilty, or

(c) the citation is based on a complaint that has become known to the public.

(4.1) Despite subrule (1), the Executive Director may disclose information about Discipline Committee deliberations to a designated representative of a law firm in which the lawyer who is the subject of the deliberations engages in the practice of law.

(5) Despite subrule (1), with the consent of the Discipline Committee, the Executive Director may deliver to a law enforcement agency any information or documents obtained under this division that 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.

Conduct letter from the chair

4-9 (1) When a letter authorized under Rule 4-4 (1) (b) *[Action on complaints]* is sent to the lawyer, the Executive Director must provide the complainant with

(a) a copy of the letter, or

(b) if directed by the Discipline Committee, a summary of the letter.

(2) A letter authorized under Rule 4-4 (1) (b) *[Action on complaints]*

(a) does not form part of the lawyer's professional conduct record, and

(b) is not admissible in the hearing of a citation under this part.

Conduct meeting

4-10 (1) A conduct meeting must be held in private.

(2) The Discipline Committee or the chair of the Discipline Committee may appoint one or more individuals who are Benchers, Life Benchers or lawyers to meet with a lawyer or a law firm required to attend a conduct meeting under Rule 4-4 (1) (c) *[Action on complaints]*.

(3) No record of an order under Rule 4-4 (1) (c) *[Action on complaints]* or of the conduct meeting forms part of the lawyer's professional conduct record.

(4) A Bencher or other lawyer who has participated in a conduct meeting is not permitted to testify in the hearing of a citation as to any statement made by the respondent during the conduct meeting, unless the respondent puts the matter in issue.

Conduct Review Subcommittee

4-11 (1) The Discipline Committee or the chair of the Discipline Committee must appoint a Conduct Review Subcommittee to consider the conduct of a lawyer referred to the Subcommittee under Rule 4-4 (1) (d) *[Action on complaints]*.

(2) A Conduct Review Subcommittee

(a) must include at least one lawyer,

(b) may include one or more appointed Benchers, and

(c) must be chaired by a Bencher or a Life Bencher.

Conduct review

4-12 (1) A conduct review is an informal proceeding at which the lawyer or law firm

(a) must appear personally, and

(b) may be represented by counsel.

(2) Subject to subrule (3), a conduct review must be conducted in private.

(3) The Conduct Review Subcommittee may, in its discretion, permit the complainant to be present at all or part of the meeting, with or without the right to speak at the meeting.

Conduct Review Subcommittee report

4-13 (1) The Conduct Review Subcommittee must

(a) prepare a written report of the factual background, the Subcommittee's conclusions and any recommendations, and

(b) deliver a copy of that report to the lawyer, together with written notice that the lawyer has 30 days from the date of the notice to notify the chair of the Subcommittee in writing of any dispute as to the contents of the report and the reasons the lawyer disputes the contents of the report.

(2) If the Subcommittee considers it necessary for the effective consideration of the lawyer's dispute, it may order a further meeting.

(3) If a further meeting is ordered under subrule (2), Rule 4-12 *[Conduct review]* applies.

(4) The Subcommittee must consider the lawyer's dispute and

(a) amend its report as it considers appropriate, or

(b) forward its report to the Discipline Committee without amendment.

(5) The Subcommittee must notify the lawyer in writing of its decision under subrule (4) and, if the report is amended, provide a copy of the amended report to

(a) the lawyer, and

(b) the Discipline Committee.

(6) After considering the Conduct Review Subcommittee's report, the Discipline Committee must do one or more of the following:

(a) decide to take no further action on the complaint;

(b) refer the lawyer to the Practice Standards Committee;

(c) direct that a citation be issued against the lawyer under Rule 4-17 (1) *[Direction to issue, expand or rescind citation]*;

(d) rescind the decision under Rule 4-4 (1) (d) *[Action on complaints]* to require the lawyer or law firm to appear before the Conduct Review Subcommittee, and substitute another decision under Rule 4-4 (1).

(7) A member of the Discipline Committee who has participated in the Conduct Review Subcommittee is not, for that reason, precluded from participating in and voting on a decision under subrule (6).

(8) After making its decision under subrule (6), the Discipline Committee must

(a) notify the lawyer and the complainant of its decision, and

(b) subject to Rule 4-14 *[Privilege and confidentiality]*, deliver a copy or summary of the report to the complainant.

Privilege and confidentiality

4-14 In complying with Rule 4-13 *[Conduct Review Subcommittee report]*, the Discipline Committee and the Conduct Review Subcommittee must not disclose to the complainant information subject to the solicitor and client privilege of a client, other than the complainant, or other confidential information that the complainant is not entitled to receive.

Publication and disclosure

4-15 (1) The Executive Director may publish and circulate to the profession a summary of the circumstances of a matter that has been the subject of a conduct review.

(2) A summary published under subrule (1) must not identify the lawyer or complainant unless that person consents in writing to being identified.

(3) If a complaint giving rise to a conduct review is known to the public or if a conduct review is ordered in a matter that was the subject of a citation that has been rescinded, the Executive Director may disclose

(a) the fact that the lawyer or law firm is or has been required to appear before a Conduct Review Subcommittee, and

(b) the decision of the Discipline Committee under Rule 4-13 (6) *[Conduct Review Subcommittee report]*.

(4) Subject to subrule (5), the Executive Director may disclose the report of a Conduct Review Subcommittee that has been considered by a hearing panel as part of a lawyer's professional conduct record under Rule 5-6.4 (5) *[Disciplinary action]*.

(5) This rule must not be interpreted to permit the disclosure of any information that is subject to solicitor and client privilege or confidentiality.

Evidence of conduct review at the hearing of a citation

4-16 If a hearing is held on a citation issued following a conduct review concerning the same conduct referred to in the citation,

(a) the Conduct Review Subcommittee's written report is not admissible at the hearing, and

(b) no member of the Conduct Review Subcommittee is permitted to testify as to any statement made by the respondent during the conduct review, unless the respondent puts the matter in issue.

Direction to issue, expand or rescind citation

4-17 (1) The Discipline Committee or the chair of the Committee may order a hearing into the conduct or competence of a lawyer by directing that the Executive Director issue a citation against the lawyer.

(2) After a hearing has been ordered under subrule (1), the Discipline Committee may direct the Executive Director to add an allegation to a citation.

(3) At any time before a panel makes a determination under Rule 5-6.4 *[Disciplinary action]*, the Discipline Committee may rescind a citation or an allegation in a citation and substitute another decision under Rule 4-4 (1) *[Action on complaints]*.

Contents of citation

4-18 (1) A citation may contain one or more allegations.

(2) Each allegation in a citation must

(a) be clear and specific enough to give the respondent notice of the misconduct alleged, and

(b) contain enough detail of the circumstances of the alleged misconduct to give the respondent reasonable information about the act or omission to be proven against the respondent and to identify the transaction referred to.

Notice of citation

4-19 The Executive Director must serve a citation on the respondent

(a) in accordance with Rule 10-1 *[Service and notice]*, and

(b) not more than 45 days after the direction that it be issued, unless the Discipline Committee or the chair of the Committee otherwise directs.

Publication of citation

4-20 (1) When there has been a direction to issue a citation, the Executive Director must publish on the Society's website the fact of the direction to issue the citation, the content of the citation and the status of the citation.

(1.1) Publication under subrule (1) must not occur earlier than 7 clear days after the respondent has been notified of the direction to issue the citation.

(2) The Executive Director may publish the outcome of a citation, including dismissal by a panel, rescission by the Discipline Committee or the acceptance of a conditional admission.

(3) Publication under this rule may be made by means of the Society's website and any other means.

(4) This rule must not be interpreted to permit the disclosure of any information that is subject to solicitor and client privilege or confidentiality.

(5) Except as allowed under Rule 4-20.1 *[Anonymous publication of citation]*, a publication under this rule must identify the respondent.

Anonymous publication of citation

4-20.1 (1) A party or an individual affected may apply to the Tribunal for an order that publication under Rule 4-20 *[Publication of citation]* not identify the respondent.

(2) When an application is made under this rule before publication under Rule 4-20, the publication must not identify the respondent until a decision on the application is issued.

(3) On an application under this rule, where, in the judgment of a motions adjudicator, there are extraordinary circumstances that outweigh the public interest in the publication of the citation, the motions adjudicator may

(a) grant the order, or

(b) order limitations on the content, means or timing of the publication.

(4) [rescinded]

(5) The motions adjudicator making a determination on an application under this rule must state in writing the specific reasons for that decision.

4-21 to 4-26 [rescinded]

Appointment of Law Society counsel

4-27 The Executive Director must appoint a lawyer employed by the Society or retain another lawyer to represent the Society when

(a) a direction to issue a citation is made under Rule 4-17 *[Direction to issue, expand or rescind citation]*,

(b) a person initiates a review under section 47 *[Review on the record]*,

(c) a person appeals a decision to the Court of Appeal under section 48 *[Appeal]*, or

(d) the Society is a respondent in any other action involving the investigation of a complaint or the discipline of a lawyer.

4-28 [rescinded]

Conditional admission

4-29 (1) A respondent may, at least 14 days before the date set for a hearing under this part, tender to the Discipline Committee a conditional admission of a discipline violation.

(2) The chair of the Discipline Committee may waive the 14-day time limit in subrule (1).

(3) The Discipline Committee may, in its discretion,

(a) accept the conditional admission,

(b) accept the conditional admission subject to any undertaking that the Committee requires the respondent to give in order to protect the public interest, or

(c) reject the conditional admission.

(4) If the Discipline Committee accepts a conditional admission tendered under this rule,

(a) those parts of the citation to which the conditional admission applies are resolved,

(b) the Executive Director must

(i) record the respondent's admission on the respondent's professional conduct record, and

(ii) notify the respondent and the complainant of the disposition, and

(c) subject to solicitor and client privilege and confidentiality, the Executive Director may disclose the reasons for the Committee's decision.

(5) A respondent who undertakes under this rule not to practise law is a person who has ceased to be a member of the Society as a result of disciplinary proceedings under section 15 (3) *[Authority to practise law]*.

4-30 to 4-44 [rescinded]

Discipline proceedings involving members of other governing bodies

4-45 (1) The Executive Director must send written notice of the action to every governing body of which the person concerned is known to be a member when

(a) a citation is authorized under Rule 4-17 *[Direction to issue, expand or rescind citation]*,

(b) a disciplinary action is imposed under Rule 5-6.4 *[Disciplinary action]*, or

(c) a conditional admission tendered under Rule 4-29 *[Conditional admission]* is accepted by the Discipline Committee.

(2) When a citation is authorized against a lawyer who is a member of a governing body or when a governing body initiates disciplinary proceedings against a member of the Society, the Discipline Committee must consult with the governing body about the manner in which disciplinary proceedings are to be taken and the Society is bound by any agreement the Discipline Committee makes with the other governing body.

(3) The Discipline Committee may agree that the venue of disciplinary proceedings be changed to or from that of the Society, if it is in the public interest or if there is a substantial savings in cost or improvement in the convenience of any person without compromising the public interest.

(4) The Discipline Committee may take action under Rule 4-4 *[Action on complaints]* against a lawyer who

(a) has violated a prohibition against practice imposed by a governing body,

(b) is the subject of a declaration by a governing body under a provision similar to Rule 5-6.4 (3) (d) *[Disciplinary action]*, or

(c) has made an admission that is accepted under a provision similar to Rule 4-29 *[Conditional admission]*.

(5) The fact that a lawyer is or has been the subject of disciplinary proceedings by a governing body does not preclude any disciplinary action for the same or related conduct under this part.

(6) In a proceeding under this part, the filing of a duly certified copy of the disciplinary decision of a governing body against a lawyer found guilty of misconduct is proof of the lawyer's guilt.

Discipline involving lawyers practising in other jurisdictions

4-46 (1) If it is alleged that a member of the Society has committed misconduct while practising temporarily in another Canadian jurisdiction under provisions equivalent to Rules 2-15 to 2-27 *[Inter-jurisdictional practice]*, the Discipline Committee will

(a) consult with the governing body concerned respecting the manner in which disciplinary proceedings will be conducted, and

(b) subject to subrule (2), assume responsibility for the conduct of the disciplinary proceedings under this part.

(2) The Discipline Committee may agree to allow the governing body concerned to assume responsibility for the conduct of disciplinary proceedings under subrule (1), including the expenses of the proceeding.

(3) In deciding whether to agree under subrule (2), the primary considerations will be the public interest, convenience and cost.

(4) To the extent that is reasonable in the circumstances, the Executive Director must do the following at the request of a governing body that is investigating the conduct of a member or former member of the Society or a visiting lawyer who has provided legal services:

(a) provide information to the governing body under Rule 2-27.1 *[Sharing information with a governing body]*;

(b) co-operate fully in the investigation and any citation and hearing.

(5) Subrule (4) applies when the Discipline Committee agrees with a governing body under subrule (2).

(6) When the Executive Director provides information or documentation to a governing body under subrule (4) or (5), the Executive Director may inform any person whose personal, confidential or privileged information may be included of that fact and the reasons for it.

Division 2 – Disclosure and publication

Public notice of suspension or disbarment

4-47 (1) When a person is suspended under this part or Part 5 *[Tribunal, Hearings and Appeals],* is disbarred or, as a result of disciplinary proceedings, resigns from membership in the Society or otherwise ceases to be a member of the Society as a result of disciplinary proceedings, the Executive Director must immediately give effective public notice of the suspension, disbarment or resignation.

(2) When a person is suspended under Part 2 *[Membership and Authority to Practise Law]* or 3 *[Protection of the Public]*, the Executive Director may give public notice of the suspension.

(3) A lawyer who is suspended under this part or Part 5 *[Tribunal, Hearings and Appeals]* must inform all clients who reasonably expect the lawyer to attend to their affairs during the period of the suspension and clients or prospective clients who inquire about the availability of the lawyer's services during the suspension period of the following:

(a) the period during which the lawyer will not be practising;

(b) the arrangements the lawyer has put in place to protect the clients' interests while the lawyer will not be practising;

(c) the fact that the lawyer is not practising during the relevant period because of the suspension.

(4) A panel that suspends a lawyer may relieve the lawyer of any of the obligations set out in subrule (3) if the panel is satisfied that it is consistent with the public interest and that imposing the obligation would be unreasonable in the circumstances.

Publication of discipline decisions

4-48 (1) The Executive Director must publish and circulate to the profession a summary of the circumstances and of any decision, reasons and action taken by a hearing panel, a motions adjudicator or a review board.

(1.1) The Executive Director must publish and circulate to the profession a summary of the circumstances and of an admission of a discipline violation accepted by the Discipline Committee under Rule 4-29 *[Conditional admission]*.

(1.2) The Executive Director may publish and circulate to the profession a summary of the circumstances of the rule breach deemed admitted under Rule 4-59 *[Administrative penalty]* and the administrative penalty imposed.

(2) Despite subrules (1) and (3), but subject to Rule 4-47 *[Public notice of suspension or disbarment]*, the Executive Director must not make public any decision, reasons or action taken as follows:

(a) a decision not to accept an admission under Rule 5-6.5 *[Admission and consent to disciplinary action]*;

(b) any decision under Rule 3-10 *[Interim suspension or practice conditions]* or 3-11 *[Medical examination]*

before the matter is concluded and any prescribed period to initiate an appeal or review has expired.

(3) When a publication is required or permitted under this rule, the Executive Director may also publish generally all or part of

(a) [rescinded]

(b) the written reasons for the decision,

(c) an agreed statement of facts, or

(d) admissions made in response to a Notice to Admit.

(4) This rule must not be interpreted to permit the disclosure of any information subject to solicitor and client privilege or confidentiality.

Anonymous publication

4-49 (1) Except as allowed under this rule, a publication under Rule 4-48 *[Publication of discipline decisions]* must identify the respondent.

(2) The publication of a decision dismissing all allegations in the citation and any subsequent decision in the matter must not identify the respondent unless

(a) the respondent consents in writing, or

(b) an allegation is held to be proven on a review or appeal.

(2.1) The publication of the circumstances of a rules breach deemed admitted under Rule 4-59 *[Administrative penalty]* must not identify the respondent unless the respondent consents in writing.

(3) An individual affected, other than the respondent, may apply to the panel for an order under subrule (4) before the written report on findings of fact and determination is issued or oral reasons are delivered.

(4) On an application under subrule (3) or on its own motion, the panel may order that publication not identify the respondent if

(a) the panel has imposed a disciplinary action that does not include a suspension or disbarment, and

(b) publication of the identity of the respondent could reasonably be expected to identify an individual, other than the respondent, and that individual would suffer serious prejudice as a result.

(5) If a panel orders that a respondent's identity not be disclosed under subrule (4), the panel must state in writing the specific reasons for that decision.

Disclosure of practice restrictions

4-50 (1) When, under this part or Part 4 *[Discipline]* of the Act, a condition or limitation is imposed on the practice of a lawyer or a lawyer is suspended, the Executive Director may disclose the fact that the condition, limitation or suspension applies and the nature of the condition, limitation or suspension.

(2) If a lawyer gives an undertaking that restricts, limits or prohibits the lawyer's practice in one or more areas of law, the Executive Director may disclose the fact that the undertaking was given and its effect on the lawyer's practice.

(3) If the Executive Director discloses the existence of a condition, limitation or suspension under subrule (1) or an undertaking under subrule (2) by means of the Society's website, the Executive Director must remove the information from the website within a reasonable time after the condition, limitation or suspension ceases to be in force.

(4) Subrule (3) does not apply to a decision of Benchers, a hearing panel or a review board.

Disbarment

4-51 When a lawyer is disbarred, the Executive Director must strike the lawyer's name from the barristers and solicitors' roll.

Division 3 – Criminal conviction

Conviction

4-52 (1) In this rule, **"offence"** means

(a) an offence that was proceeded with by way of indictment, or

(b) an offence in another jurisdiction that, in the opinion of the Benchers, is equivalent to an offence that may be proceeded with by way of indictment.

(2) If the Discipline Committee is satisfied that a lawyer or former lawyer has been convicted of an offence, the Committee may refer the matter to the Benchers to consider taking action under subrule (3).

(3) Without following the procedure provided for in the Act or these rules, the Benchers may summarily suspend or disbar a lawyer or former lawyer on proof that the lawyer or former lawyer has been convicted of an offence.

Notice

4-53 (1) Before the Benchers proceed under Rule 4-52 *[Conviction]*, the Executive Director must notify the lawyer or former lawyer in writing that

(a) proceedings will be taken under that rule, and

(b) the lawyer or former lawyer may, by a specified date, make written submissions to the Benchers.

(2) The notice referred to in subrule (1) must be served in accordance with Rule 10-1 *[Service and notice]*.

(3) In extraordinary circumstances, the Benchers may proceed without notice to the lawyer or former lawyer under subrule (1).

Summary procedure

4-54 (1) This rule applies to summary proceedings before the Benchers under Rule 4-52 *[Conviction]*.

(2) The Benchers may, in their discretion, hear oral submissions from the lawyer or former lawyer.

(3) Subject to the Act and these rules, the Benchers may determine practice and procedure.

Division 4 – Investigation

Investigation of books and accounts

4-55 (1) If the chair of the Discipline Committee reasonably believes that a lawyer or former lawyer may have committed a discipline violation, the chair may order that the Executive Director conduct an investigation of the books, records and accounts of the lawyer or former lawyer, including, if considered desirable in the opinion of the chair, all electronic records of the lawyer or former lawyer.

(2) When electronic records have been produced or copied pursuant to an order under this rule, the lawyer concerned may request that a specific record be excluded from the investigation on the basis that it contains personal information that is not relevant to the investigation.

(3) A request under subrule (2) must be made to the Executive Director in writing within 21 days after the lawyer concerned receives a copy of the order under this rule.

(3.1) In exceptional circumstances, the Executive Director may extend the time for making a request under subrule (2).

(4) An order under this rule that permits the production or copying of electronic records must provide for a method of evaluating and adjudicating exclusion requests made under subrule (2).

(5) A request under subrule (2) must be refused unless the records in question are retained in a system of storage of electronic records that permits the segregation of personal information in a practical manner in order to comply with the request.

(6) When an order is made under subrule (1), the lawyer or former lawyer concerned must do the following as directed by the Executive Director:

(a) and (b) [rescinded]

(c) immediately produce and permit the copying of all files, vouchers, records, accounts, books and any other evidence regardless of the form in which they are kept;

(d) provide any explanations required for the purpose of the investigation;

(e) assist the Executive Director to access, in a comprehensible form, records in the lawyer's possession or control that may contain information related to the

lawyer's practice by providing all information necessary for that purpose, including but not limited to

(i) passwords, and

(ii) encryption keys.

(7) When an order has been made under this rule, the lawyer concerned must not alter, delete, destroy, remove or otherwise interfere with any book, record or account within the scope of the investigation without the written consent of the Executive Director.

Division 5 – Enforcement

Failure to pay fine, costs or administrative penalty or fulfill practice condition

4-56 (1) An applicant or respondent must do the following by the date set by a hearing panel, review board or Committee or extended under Rule 5-12 *[Application to vary order]*:

(a) pay in full a fine or the amount owing under Rule 5-11 *[Costs of hearings]*;

(b) fulfill a practice condition as imposed under section 21 *[Admission, reinstatement and requalification]*, 22 *[Credentials hearings]*, 27 *[Practice standards]*, 32 *[Financial responsibility]*, 38 *[Discipline hearings]* or 47 *[Review on the record]*, as accepted under section 19 *[Applications for enrolment, call and admission, or reinstatement]*, or as varied under these Rules.

(1.1) A lawyer must pay in full an administrative penalty by the date set under Division 6 *[Administrative penalty]*.

(2) If, on December 31, an applicant or respondent is in breach of subrule (1) or (1.1), the Executive Director must not issue to the applicant or respondent a practising certificate or a non-practising or retired membership certificate, and the applicant or respondent is not permitted to engage in the practice of law.

Recovery of money owed to the Society

4-57 (1) A lawyer or former lawyer who is liable to pay the costs of an audit or investigation must pay to the Society the full amount owing by the date set by the Discipline Committee.

(2) A lawyer who is liable to pay an assessment under Rule 3-80 *[Late filing of trust report]* must pay to the Society the full amount owing by the date specified in that Rule or as set or extended by the Executive Director.

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

Division 6 – Administrative penalty

Application

4-58 (1) This division applies to allegations of breaches of the following provisions:

(a) Rule 3-59 *[Cash transactions]*;

(b) Rule 3-96.1 *[Electronic submission of documents]*;

(c) Part 3, Division 11 *[Client Identification and Verification]*.

(2) This division applies to a law firm or an articled student as it does to a lawyer.

Administrative penalty

4-59 (1) If the Executive Director is satisfied on a balance of probabilities that a lawyer has breached a rule, the Executive Director may assess an administrative penalty.

(2) The maximum administrative penalty that the Executive Director may assess is as follows:

(a) if no previous administrative penalty has been assessed against the lawyer, $5,000;

(b) if one or more administrative penalties have previously been assessed against the lawyer, $10,000.

(3) At least 30 days before the effective date of an administrative penalty under this rule, the Executive Director must deliver to the lawyer notice in writing of the following:

(a) the effective date of the penalty, by which the penalty must be paid if not disputed;

(b) the amount of the penalty;

(c) the reasons for the penalty, including the specific rule breach alleged;

(d) the means by which the lawyer may apply to the chair of the Discipline Committee for an order under Rule 4-60 *[Review and order]* and the deadline for making such an application before the effective date of the penalty.

(4) A lawyer who has received a notice under this rule must do one of the following on or before the date specified in the notice:

(a) pay the administrative penalty in the amount specified in the notice;

(b) apply to the chair of the Discipline Committee for an order under Rule 4-60 *[Review and order]*.

(5) A lawyer is deemed to admit the breach of the rule as alleged in the notice from the Executive Director under subrule (3) if

(a) the lawyer pays the administrative penalty,

(b) the lawyer fails to comply with subrule (4), or

(c) the chair of the Discipline Committee orders under Rule 4-60 *[Review and order]* that a penalty be paid.

(6) When an administrative penalty has been imposed under this division and the lawyer has paid the amount assessed, the Discipline Committee must not take any action against the lawyer under Rule 4-4 *[Action on complaints]* with respect to the rule breach giving rise to the administrative penalty.

Review and order

4-60 (1) A lawyer who has received a notice of administrative penalty under Rule 4-59 *[Administrative penalty]* may apply before the effective date of the penalty to the chair of the Discipline Committee for a review of the penalty and an order under this rule.

(2) The chair of the Discipline Committee must consider submissions regarding the administrative penalty received within the time allowed under subrule (1) from the lawyer and, if satisfied that the lawyer has breached a rule as alleged, make an order

(a) confirming that the penalty must be paid in accordance with the notice delivered under Rule 4-59 *[Administrative penalty]*,

(b) reducing the amount of the penalty, or

(c) extending the date by which the penalty is to be paid.

(3) If not satisfied that the lawyer has breached a rule as alleged, the chair of the Discipline Committee must make an order cancelling the administrative penalty.

(4) The chair of the Discipline Committee must promptly notify the lawyer and the Executive Director of a decision under this rule.

(5) The lawyer must pay an administrative penalty as ordered under this rule.

PART 5 – TRIBUNAL, HEARINGS AND APPEALS

Application

5-1 (1) This part applies to

(a) a hearing of an application for enrolment, call and admission or reinstatement,

(b) a hearing of a citation, and

(c) unless the context indicates otherwise, a review by a review board of a hearing decision.

(2) In this part, a law firm may act through its designated representative or another lawyer engaged in the practice of law as a member of the law firm.

The Tribunal

Tribunal

5-1.1 (1) The Tribunal comprises

(a) the Tribunal Chair,

(b) hearing panels,

(c) review boards, and

(d) motions adjudicators.

(2) Subject to the Act and these Rules, the Tribunal may determine the practice and procedure to be followed at a hearing, review or other proceeding.

Service, filing and communication

5-1.2 (1) The provisions of Rule 10-1 *[Service and notice]* are subject to this rule.

(2) A document to be filed with the Tribunal must be delivered by

(a) leaving it at or sending it by ordinary or registered mail to the Tribunal Office,

(b) sending it by email to the Tribunal Office, subject to size limits set by practice direction, or

(c) sending it by other means permitted under a practice direction.

(3) The parties to a proceeding must inform the Tribunal and every other party of any change of address, regardless of any other notice to the Society.

(4) The Tribunal may use and rely on the address of a respondent or an applicant provided at the outset of proceeding or the most recently received change of address.

(5) All correspondence to the Tribunal or any of its constituent parts must be

(a) sent to the Tribunal Office, and

(b) copied to all parties.

(6) The fact that correspondence is received and accepted by the Tribunal Office does not, for that reason alone, indicate compliance with requests or demands contained in the correspondence.

(7) All correspondence between parties or counsel and with the Tribunal must be respectful and formal to an extent appropriate to the circumstances.

Tribunal Chair

5-1.3 (1) The Benchers must appoint a practising lawyer as Tribunal Chair.

(2) The Tribunal Chair must not be a Bencher or a member of the Discipline, Credentials or Practice Standards Committee.

(3) The term of office of the Tribunal Chair is to be set by the Benchers upon making the appointment, and must not exceed three years.

(4) If the office of Tribunal Chair becomes vacant for any reason, the Benchers must promptly appoint a practising lawyer to complete the term of office.

(5) The functions of the Tribunal Chair may be exercised by another practising lawyer designated by the Tribunal Chair

(a) if the Tribunal Chair is absent or otherwise unable to act, or

(b) with the authorization of the Tribunal Chair.

Practice directions

5-1.4 (1) The Tribunal Chair may issue practice directions that are consistent with the Act and these rules.

(2) A hearing panel or review board is not bound by a practice direction.

(3) Practice directions must be made accessible to the public.

Hearing panels

Appointment of hearing panel

5-2 (1) When a hearing is ordered under this part, Part 2, Division 2 *[Admission and Reinstatement]* or Part 4 *[Discipline]*, the Tribunal Chair must appoint a panel consisting of 3 persons.

(2) Despite subrules (1) and (3), a panel may consist of one Bencher who is a lawyer if

(a) no facts are in dispute,

(b) the hearing is to consider an admission under Rule 5-6.5 *[Admission and consent to disciplinary action]*,

(c) the hearing proceeds under Rule 5-4.5 *[Summary hearing]*,

(d) the hearing is to consider a preliminary question under Rule 5-4.3 *[Preliminary questions]*, or

(e) it is not otherwise possible, in the opinion of the Tribunal Chair, to convene a panel in a reasonable period of time.

(3) A panel must

(a) be chaired by the Tribunal Chair or by another lawyer, and

(b) include at least

(i) one Bencher or Life Bencher who is a lawyer, and

(ii) one person who is not a lawyer.

(4) Panel members must be permanent residents of British Columbia over the age of majority.

(5) The chair of a panel who ceases to be a lawyer may, with the consent of the Tribunal Chair, continue to chair the panel, and the panel may complete a hearing already scheduled or begun.

(5.1) If a member of a panel ceases to be a Bencher and does not become a Life Bencher, the panel may, with the consent of the Tribunal Chair, complete a hearing already scheduled or begun.

(6) Two or more panels may proceed with separate matters at the same time.

(7) The Tribunal Chair may refer a matter that is before a panel to another panel, fill a vacancy on a panel or terminate an appointment to a panel.

(8) Unless otherwise provided in the Act and these Rules, a panel must decide any matter by a majority, and the decision of the majority is the decision of the panel.

Panel member unable to continue

5-3 (1) Despite Rule 5-2 *[Hearing panels]*, if a member of a hearing panel cannot, for any reason, complete a hearing that has begun, the Tribunal Chair may order that the panel continue with the remaining members.

(2) If the chair of a hearing panel cannot, for any reason, complete a hearing that has begun, the Tribunal Chair may appoint another member of the hearing panel who is a lawyer as chair of the hearing panel.

Disqualification

5-4 (1) The following persons must not participate in a panel hearing a citation:

(a) a person who participated in the decision that authorized issuing the citation;

(b) a member of an interim action board that made an order under Rule 3-10 *[Interim suspension or practice conditions]* or 3-11 *[Medical examination]* regarding a matter forming the basis of the citation;

(c) a member of a panel that heard an application under Rule 3-12.3 *[Review of interim suspension or practice conditions]* to rescind or vary an interim suspension or practice condition or limitation in respect of a matter forming the basis of the citation.

(2) A person who participated in the decision to order the hearing of an application for enrolment as an articled student, for call and admission or for reinstatement must not participate in the panel on that hearing.

(3) A person must not appear as counsel for any party for three years after

(a) serving as a Bencher, or

(b) the completion of a hearing in which the person was a member of the panel.

Practice and procedure before a hearing panel

Hearing date and notice

5-4.1 (1) The date, time and place for the hearing to begin must be set

(a) by agreement between the parties, or

(b) on the application of a party, by the Tribunal Chair or by the motions adjudicator presiding at a pre-hearing conference.

(2) When a date is set under subrule (1) (b), the Tribunal must notify the parties in writing of the date, time and place of the hearing at least 30 days before the date set for the hearing to begin, unless the applicant or respondent consents to a shorter notice period.

(3) Written notice under subrule (2) may be made at the same time that the citation is served under Rule 4-19 *[Notice of citation]*, or at a later time.

Amending an allegation in a citation

5-4.2 (1) Law Society counsel may amend an allegation contained in a citation

(a) before the hearing begins, by giving written notice to the respondent and the Tribunal, and

(b) after the hearing has begun, with the consent of the respondent.

(2) The panel may amend a citation after the hearing has begun

(a) on the application of a party, or

(b) on its own motion.

(3) The panel must not amend a citation under subrule (2) unless each party has been given the opportunity to make submissions respecting the proposed amendment.

Preliminary questions

5-4.3 (1) Before a hearing begins, any party may apply for the determination of a question relevant to the hearing by filing with the Tribunal and delivering to the other party, written notice setting out the substance of the application and the grounds for it.

(2) When an application is made under subrule (1), the Tribunal Chair must do one of the following as appears to the Tribunal Chair to be appropriate:

(a) appoint a panel to determine the question;

(b) refer the question to a motions adjudicator;

(c) refer the question to the panel at the hearing of the citation or credentials application.

(3) A panel appointed under subrule (2) (a) is not seized of the application or any question pertaining to the application other than that referred under that provision.

Severance and joinder

5-4.4 (1) Before a hearing begins, any party may apply in writing to the Tribunal for an order that

(a) one or more allegations in a citation be determined in a separate hearing from other allegations in the same citation, or

(b) two or more citations be determined in one hearing.

(2) An application under subrule (1) must

(a) be copied to the party not making the application, and

(b) state the grounds for the order sought.

(3) When an application is made under this rule, the Tribunal Chair must designate a motions adjudicator to make a determination.

(4) The motions adjudicator designated under subrule (3)

(a) must consider the submissions of the parties,

(b) may require a pre-hearing conference before making a determination, and

(c) must dismiss the application or allow the application, with or without conditions.

Summary hearing

5-4.5 (1) This rule may be applied in respect of the hearing of a citation comprising only allegations that the respondent has done one or more of the following:

(a) breached a rule;

(b) breached an undertaking given to the Society;

(c) failed to respond to a communication from the Society;

(d) breached an order made under the Act or these rules.

(2) Unless the panel orders otherwise, the parties may adduce evidence by

(a) affidavit,

(b) an agreed statement of facts, or

(c) an admission made or deemed to be made under Rule 5-4.8 *[Notice to admit]*.

(3) Despite Rules 5-6.3 *[Submissions and determination]* and 5-6.4 *[Disciplinary action]*, the panel may consider facts, determination, disciplinary action and costs and issue a decision respecting all aspects of the proceeding.

Demand for disclosure of evidence

5-4.6 (1) At any time after a citation has been issued and before the hearing begins, a respondent may demand in writing that Law Society counsel disclose the evidence that the Society intends to introduce at the hearing.

(2) On receipt of a demand for disclosure under subrule (1), Law Society counsel must provide the following to the respondent by a reasonable time before the beginning of the hearing:

(a) a copy of every document that the Society intends to tender in evidence;

(b) a copy of any statement made by a person whom the Society intends to call as a witness;

(c) if documents provided under paragraphs (a) and (b) do not provide enough information, a summary of the evidence that the Society intends to introduce;

(d) a summary of any other relevant evidence in Law Society counsel's possession or in a Society file available to counsel, whether or not counsel intends to introduce that evidence at the hearing.

(3) Despite subrule (2), Law Society counsel must not provide any information or documents about any discussion or other communication with the Equity Advisor in that capacity.

Application for details of the circumstances

5-4.7 (1) Before a hearing begins, the respondent may apply for disclosure of the details of the circumstances of misconduct alleged in a citation by filing with the Tribunal and delivering to Law Society counsel written notice setting out the substance of the application and the grounds for it.

(2) If a motions adjudicator is satisfied that an allegation in the citation does not contain enough detail of the circumstances of the alleged misconduct to give the respondent reasonable information about the act or omission to be proven and to identify the transaction referred to, the motions adjudicator must order Law Society counsel to disclose further details of the circumstances.

(3) Details of the circumstances disclosed under subrule (2) must be

(a) in writing, and

(b) delivered to the respondent or respondent's counsel.

Notice to admit

5-4.8 (1) At any time, but not less than 45 days before a date set for the hearing of a citation, a party may request the other party to admit, for the purposes of the hearing only, the truth of a fact or the authenticity of a document.

(2) A request made under subrule (1) must

(a) be made in writing in a document clearly marked "Notice to Admit" and served in accordance with Rule 10-1 *[Service and notice]*, and

(b) include a complete description of the fact, the truth of which is to be admitted, or attach a copy of the document, the authenticity of which is to be admitted.

(3) A party may make more than one request under subrule (1).

(4) A party that receives a request made under subrule (1) must respond within 21 days by serving a response on the other party in accordance with Rule 10-1 *[Service and notice]*.

(5) The time for response under subrule (4) may be extended by agreement of the parties or by an order under Rule 5-4.3 *[Preliminary questions]* or 5-5.1 *[Pre-hearing conference]*.

(6) A response under subrule (4) must contain one of the following in respect of each fact described in the request and each document attached to the request:

(a) an admission of the truth of the fact or the authenticity of the document attached to the request;

(b) a statement that the party making the response does not admit the truth of the fact or the authenticity of the document, along with the reasons for not doing so.

(7) If a party who has been served with a request does not respond in accordance with this rule, the party is deemed, for the purposes of the hearing only, to admit the truth of the fact described in the request or the authenticity of the document attached to the request.

(8) If a party does not admit the truth of a fact or the authenticity of a document under this rule, and the truth of the fact or authenticity of the document is proven in the hearing, the panel may consider the refusal when exercising its discretion respecting costs under Rule 5-11 *[Costs of hearings]*.

(9) A party who has admitted or is deemed to have admitted the truth of a fact or the authenticity of a document under this rule may withdraw the admission with the consent of the other party or with leave granted on an application

(a) before the hearing has begun, under Rule 5-4.3 *[Preliminary questions]* or 5-5.1 *[Pre-hearing conference]*, or

(b) after the hearing has begun, to the hearing panel.

Compelling witnesses and production of documents

5-5 (1) In this rule **"respondent"** includes a shareholder, director, officer or representative of a respondent law firm.

(2) A panel may

(a) compel the applicant or respondent to give evidence under oath, and

(b) at any time before or during a hearing, order the applicant or respondent to produce all files and records that are in the applicant's or respondent's possession or control that may be relevant to the matters raised by the application or in the citation.

(2.1) A party applying for an order under subrule (2) (a) must give reasonable notice to the applicant or respondent.

(3) A person who is the subject of an order under subrule (2) (a) may be cross-examined by Law Society counsel.

(4) A party to a proceeding under the Act and these Rules may prepare and serve a summons requiring a person to attend an oral or electronic hearing to give evidence in the form prescribed in Schedule 5 *[Form of Summons]*.

(5) Before a hearing begins, any party may apply for an order under section 44 (4) *[Witnesses]* by filing with the Tribunal and delivering to the other party written notice setting out the substance of the application and the grounds for it.

(6) After considering any submissions of the parties, a motions adjudicator must

(a) make the order requested or another order consistent with section 44 (4) *[Witnesses]*, or

(b) refuse the application.

(7) On the motion of any party, the motions adjudicator may apply to the Supreme Court under section 44 (5) *[Witnesses]* to enforce an order made under subrule (6).

Pre-hearing conference

5-5.1 (1) With or without a request from any party, the Tribunal Chair may order a pre-hearing conference at any time before a hearing begins.

(2) When a conference has been ordered under subrule (1), the Tribunal Chair must

(a) set the date, time and place of the conference, and

(b) designate a motions adjudicator to preside at the conference.

(3) Law Society counsel and the applicant or applicant's counsel or both, must be present at the conference.

(4) A respondent may attend the conference in person, through counsel or both.

(5) If the respondent fails to attend the conference, the motions adjudicator presiding may proceed with the conference in the absence of the respondent and may make any order under this rule, if the motions adjudicator is satisfied that the respondent had notice of the conference.

(6) Any person may participate in a conference by telephone or by any other means of communication that allows all persons participating to hear each other, and a person so participating is present for the purpose of this rule.

(7) The conference may consider any matters that may aid in the fair and expeditious disposition of the matter, including but not limited to

(a) setting a date for the hearing,

(b) simplification of the issues,

(c) admissions or an agreed statement of facts,

(d) amendments to the citation,

(e) any matter for which the motions adjudicator may make an order under this rule,

(f) conducting all or part of the hearing in written form or by video conference or teleconference,

(g) disclosure and production of documents,

(h) agreement for the hearing panel to receive and consider documents or evidence under Rule 5-6.1 (3) (e) *[Preliminary matters]*,

(i) the possibility that privilege or confidentiality might require closure of all or part of the hearing to the public, or exclusion of exhibits and other evidence from public access,

(j) any application to withhold the identity or locating particulars of a witness, and

(k) any other matters that may aid in the disposition of the matter.

(8) The motions adjudicator may

(a) adjourn a pre-hearing conference generally or to a specified date, time and place,

(b) order discovery and production of documents,

(c) set a date for the hearing, and

(d) allow or dismiss an application under subrule (7) (k).

(9) A party may apply to the motions adjudicator for an order

(a) to withhold the identity or contact information of a witness,

(b) to adjourn the hearing of the citation,

(c) for severance of allegations or joinder of citations under Rule 5-4.4 *[Severance and joinder]*,

(d) for disclosure of the details of the circumstances of misconduct alleged in a citation under Rule 5-4.7 *[Application for details of the circumstances]*,

(e) that the motions adjudicator may make under subrule (10), or

(f) concerning any other matters that may aid in the fair and expeditious disposition of the citation.

(10) The motions adjudicator may, on the application of a party or on the motions adjudicator's own motion, make an order that, in the judgment of the motions adjudicator, will aid in the fair and expeditious disposition of the matter, including but not limited to orders

(a) adjourning the conference generally or to a specified date, time and place,

(b) setting a date for the hearing to begin,

(c) allowing or dismissing an application made under subrule (9) or referred to the conference by the Tribunal Chair,

(d) specifying the number of days to be scheduled for the hearing,

(e) establishing a timeline for the proceeding including, but not limited to, setting deadlines for the completion of procedures and a plan for the conduct of the hearing,

(f) directing a party to provide a witness list and a summary of evidence that the party expects that any or all of the witnesses will give at the hearing,

(g) respecting expert witnesses, including but not limited to orders

(i) limiting the issues on which expert evidence may be admitted or the number of experts that may give evidence,

(ii) requiring the parties' experts to confer before service of their reports, or

(iii) setting a date by which an expert's report must be served on a party, or

(h) respecting the conduct of any application, including but not limited to allowing submissions in writing.

(11) If an order made under this rule affects the conduct of the hearing, the hearing panel may rescind or vary the order on the application of a party or on the hearing panel's own motion.

Adjournment

5-5.2 (1) Before a hearing begins, a party may apply for an order that the hearing be adjourned by filing with the Tribunal and delivering to the other party written notice setting out the reasons for the application.

(2) Before a hearing begins, a motions adjudicator must decide whether to grant the adjournment, with or without conditions, and advise the parties accordingly.

(3) After a hearing has begun, the chair of the panel may adjourn the hearing, with or without conditions, generally or to a specified date, time and place.

(4) Rule 5-4.1 (2) *[Hearing date and notice]* does not apply when a hearing is adjourned and re-set for another date.

(5) When a hearing is adjourned under Rule 2-92 (5) *[Security for costs]*, Law Society Counsel must file a notice with the Tribunal and deliver a copy to the applicant.

Application moot

5-5.3 If the circumstances of the applicant have changed so as to make the outcome of the hearing moot, after hearing submissions on behalf of the parties, the panel may do one of the following:

(a) adjourn the hearing generally;

(b) reject the application;

(c) begin or continue with the hearing.

Procedure

5-6 (1) [rescinded]

(2) If a court reporter is employed to record the proceedings of a hearing, the chair of the panel must ensure that the reporter first takes an oath or makes a solemn affirmation to faithfully and accurately report and transcribe the proceedings.

(2.1) Unless the chair of the panel otherwise orders, an applicant must personally attend the entire hearing.

(2.2) If a respondent fails to attend or remain in attendance at a hearing, the panel may proceed under section 42 *[Failure to attend]*.

(3) The parties may call witnesses to testify.

(4) All witnesses, including an applicant or respondent ordered to give evidence under section 41 (2) (a) *[Panels]*,

(a) must take an oath or make a solemn affirmation, if competent to do so, before testifying, and

(b) are subject to cross-examination.

(5) The panel may make inquiries of a witness as it considers desirable.

(6) The hearing panel may accept any of the following as evidence:

(a) an agreed statement of facts;

(b) oral evidence;

(c) affidavit evidence;

(d) evidence tendered in a form agreed to by the respondent or applicant and Law Society counsel;

(e) an admission made or deemed to be made under Rule 5-4.8 *[Notice to admit]*;

(f) any other evidence it considers appropriate.

Preliminary matters

5-6.1 (1) Before hearing any evidence on the allegations set out in a citation, the panel must determine whether

(a) the citation was served in accordance with Rule 4-19 *[Notice of citation]*, or

(b) the respondent waives any of the requirements of Rule 4-19.

(2) If the requirements of Rule 4-19 *[Notice of citation]* have been met, or have been waived by the respondent, the citation or a copy of it must be filed as an exhibit at the hearing, and the hearing may proceed.

(3) Despite subrule (1), before the hearing begins, the panel may receive and consider

(a) the citation,

(b) an agreed statement of facts,

(c) an admission made or deemed to be made under Rule 5-4.8 *[Notice to admit]*,

(d) the respondent's admission of a discipline violation and consent to a specified disciplinary action submitted jointly by the parties under Rule 5-6.5 *[Admission and consent to disciplinary action]*, and

(e) any other document or evidence by agreement of the parties.

Burden of proof

5-6.2 At a hearing ordered under Part 2, Division 2 *[Admission and Reinstatement]*, the onus is on the applicant to satisfy the panel on the balance of probabilities that the applicant has met the requirements of section 19 (1) *[Applications for enrolment, call and admission, or reinstatement]* and that division.

Submissions and determination

5-6.3 (1) Following completion of the evidence, the panel must invite the parties to make submissions on the issues to be decided by the panel.

(2) After submissions under subrule (1), the panel must find the facts and

(a) make a determination on each allegation in a citation, or

(b) decide whether to

(i) grant the application

(ii) grant the application subject to conditions or limitations that the panel considers appropriate, or

(iii) reject the application.

(3) A panel must reject an application for enrolment if it considers that the applicant's qualifications referred to in Rule 2-54 (2) *[Enrolment in the admission program]* are deficient.

(4) The panel must prepare written reasons for its findings.

(5) A copy of the panel's reasons prepared under subrule (3) must be delivered promptly to each party.

Disciplinary action

5-6.4 (1) Following a determination under Rule 5-6.3 *[Submissions and determination]* adverse to the respondent, the panel must

(a) invite the parties to make submissions as to disciplinary action,

(b) take one or more of the actions referred to in section 38 (5) to (7) *[Discipline hearings]*,

(c) include in its decision under this rule

(i) any order, declaration or imposition of conditions under section 38(7), and

(ii) any order under Rule 5-11 *[Costs of hearings]* on the costs of the hearing, including any order respecting time to pay,

(d) prepare a written record, with reasons, of its action taken under paragraph (b) and any action taken under paragraph (c),

(e) if it imposes a fine, set the date by which payment to the Society must be completed, and

(f) if it imposes conditions on the respondent's practice, set the date by which the conditions must be fulfilled.

(2) A panel may proceed under subrule (1) before written reasons are prepared under Rule 5-6.3 (4) *[Submissions and determination]*

(a) if the panel gives reasons orally for its decision under Rule 5-6.3 (2) (a), or

(b) when the panel accepts an admission jointly submitted by the parties under Rule 5-6.5 *[Admission and consent to disciplinary action]*.

(3) Despite subrule (1) (b), if the respondent is a member of another governing body and not a member of the Society, the panel may do one or more of the following:

(a) reprimand the respondent;

(b) fine the respondent an amount not exceeding $50,000;

(c) prohibit the respondent from practising law in British Columbia permanently or for a specified period of time;

(d) declare that, had the respondent been a member of the Society, the panel would have

(i) disbarred the respondent,

(ii) suspended the respondent, or

(iii) imposed conditions or limitations on the practice of the respondent.

(4) A copy of the panel's reasons prepared under subrule (1) (d) must be delivered promptly to each party.

(5) The panel may consider the professional conduct record of the respondent in determining a disciplinary action under this rule.

(6) Regardless of the nature of the allegation in the citation, the panel may take disciplinary action based on the ungovernability of the respondent by the Society.

(7) The panel must not take disciplinary action under subrule (6) unless the respondent has been given at least 30 days' notice that ungovernability may be raised as an issue at the hearing on disciplinary action.

(8) The panel may adjourn the hearing on disciplinary action to allow compliance with the notice period in subrule (7).

Admission and consent to disciplinary action

5-6.5 (1) The parties may jointly submit to the hearing panel an agreed statement of facts and the respondent's admission of a discipline violation and consent to a specified disciplinary action.

(2) If the panel accepts the agreed statement of facts and the respondent's admission of a discipline violation

(a) the admission forms part of the respondent's professional conduct record,

(b) the panel must find that the respondent has committed the discipline violation and impose disciplinary action, and

(c) the Executive Director must notify the respondent and the complainant of the disposition.

(3) The panel must not impose disciplinary action under subrule (2) (b) that is different from the specified disciplinary action consented to by the respondent unless

(a) each party has been given the opportunity to make submissions respecting the disciplinary action to be substituted, and

(b) imposing the specified disciplinary action consented to by the respondent would be contrary to the public interest in the administration of justice.

(4) An admission of conduct tendered in good faith by a lawyer during negotiation that does not result in a joint submission under subrule (1) is not admissible in a hearing of the citation.

Rejection of admission

5-6.6 (1) A conditional admission tendered under Rule 4-29 *[Conditional admission]* must not be used against the respondent in any proceeding unless the admission is accepted by the Discipline Committee.

(2) An admission tendered under Rule 5-6.5 *[Admission and consent to disciplinary action]* must not be used against the respondent in any proceeding unless the hearing panel accepts the admission and imposes disciplinary action.

5-7 [rescinded]

Public hearing

5-8 (1) Every hearing is open to the public, but the panel or review board may exclude some or all members of the public.

(1.1) The panel or review board must not make an order under subrule (1) unless, in the judgment of the panel or review board

(a) the public interest or the interest of an individual in the order outweighs the public interest in the principle of open hearings in the present case, or

(b) the order is required to protect the safety of an individual.

(2) On application by anyone, or on its own motion, the panel or review board may make the following orders to protect the interests of any person:

(a) an order that specific information not be disclosed despite Rule 5-9 (2) *[Transcript and exhibits]*;

(b) any other order regarding the conduct of the hearing necessary for the implementation of an order under paragraph (a).

(3) Despite the exclusion of the public under subrule (1) in a hearing of a citation, the complainant and one other person chosen by the complainant may remain in attendance during the hearing, unless the panel orders otherwise.

(4) Except as required under Rule 5-9 *[Transcript and exhibits]*, when a hearing is in progress, no one is permitted to possess or operate any device for photographing, recording or broadcasting in the hearing room without the permission of the panel or review board, which the panel or review board in its discretion may refuse or grant, with or without conditions or restrictions.

(5) When a panel or review board makes an order or declines to make an order under this rule, the panel or review board must give written reasons for its decision.

Transcript and exhibits

5-9 (1) All proceedings at a hearing must be recorded by a court reporter or by other means.

(2) Subject to the Act, these rules and the *Freedom of Information and Protection of Privacy Act*, any person may obtain, at the person's own expense, a copy of

(a) a transcript of any part of the hearing that is open to the public, or

(b) an exhibit entered in evidence when a hearing is open to the public.

(3) This rule must not be interpreted to permit the disclosure of any information, files or records that are confidential or subject to a solicitor client privilege.

Decision

5-10 (1) A decision of a hearing panel is made by majority vote.

(2) On request, the Executive Director must disclose a panel's written reasons for its decision, subject to the protection of solicitor and client privilege and confidentiality.

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

Costs of hearings

5-11 (1) A panel may order that an applicant or respondent pay the costs of a hearing referred to in Rule 5-1 *[Application]*, and may set a time for payment.

(2) A review board may order that an applicant or respondent pay the costs of a review under section 47 *[Review on the record]*, and may set a time for payment.

(3) Subject to subrule (4), the panel or review board must have regard to the tariff of costs in Schedule 4 *[Tariff for hearing and review costs]* to these Rules in calculating the costs payable by an applicant, a respondent or the Society.

(4) A panel or review board may order that the Society, an applicant or a respondent recover no costs or costs in an amount other than that permitted by the tariff in Schedule 4 *[Tariff for hearing and review costs]* if, in the judgment of the panel or review board, it is reasonable and appropriate to so order.

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

(6) In the tariff in Schedule 4 *[Tariff for hearing and review costs]*,

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

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

(7) If no adverse finding is made against the applicant, the panel or review board has the discretion to direct that the applicant be awarded costs.

(8) If the citation is dismissed or rescinded after the hearing has begun, the panel or review board has the discretion to direct that the respondent be awarded costs in accordance with subrules (3) to (6).

(9) Costs deposited under Rule 2-92 *[Security for costs]* must be applied to costs ordered under this rule.

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

(11) As an exception to subrule (10), the Credentials Committee may direct that an applicant be enrolled, called and admitted or reinstated even though costs ordered under this rule have not been paid in full and may make the direction subject to any conditions that the Committee finds appropriate.

Application to vary order

5-12 (1) A party may apply in writing to the Tribunal for

(a) an extension of time

(i) to pay a fine or the amount owing under Rule 5-11 *[Costs of hearings]*, or

(ii) to fulfill a condition imposed under section 22 *[Credentials hearings]*, 38 *[Discipline hearings]*, or 47 *[Review on the record]*,

(b) a variation of a condition referred to in paragraph (a) (ii),

(c) a change in the start date for a suspension imposed under section 38 *[Discipline hearings]* or 47 *[Review on the record]*, or

(d) a variation or rescission of another order that has not been fully executed or fulfilled.

(2) An application under subrule (1) (c) must be made at least 7 days before the start date set for the suspension.

(2.1) A party or anyone with an interest in information subject to an order made under Rule 5-8 (2) (a) *[Public hearing]* may make an application in writing to the Tribunal for rescission or variation of the order.

(3) [rescinded]

(4) The Tribunal Chair must refer an application under subrule (1) or (2.1) to one of the following, as may in the Tribunal Chair's discretion appear appropriate:

(a) the same panel or review board that made the order;

(b) a new panel;

(c) a motions adjudicator.

(5) The panel, review board or motions adjudicator that decides an application under subrule (1) must

(a) dismiss the application,

(b) extend to a specified date the time for payment,

(c) vary the conditions imposed, or extend to a specified date the fulfillment of the conditions,

(d) specify a new date for the start of a period of suspension imposed under section 38 *[Discipline hearings]* or 47 *[Review on the record]*, or

(e) grant the variation or rescission applied for or as otherwise appears appropriate to the panel, review board or motions adjudicator.

(5.1) The panel, review board or motions adjudicator that decides an application under subrule (2.1) must

(a) dismiss the application,

(b) rescind the order, or

(c) vary the order to one that the original panel or review board was permitted to make under Rule 5-8 (2) (a) *[Public hearing]*.

(6) [rescinded]

(7) An application under this rule does not stay the order that the applicant seeks to vary.

5-13 and 5-14 [rescinded]

The review board

Review by review board

5-15 (1) In Rules 5-15 to 5-28, **"review"** means a review of a hearing panel decision by a review board under section 47 *[Review on the record]*.

(2) [rescinded]

(2.1) Rule 5-4.3 *[Preliminary questions]* applies, with any necessary changes, to an application by a party to a review for the determination of a question relevant to the review.

(3) Delivery of documents to a respondent or applicant under Rules 5-15 to 5-28 may be effected by delivery to counsel representing the respondent or the applicant.

(4) If the review board finds that there are special circumstances and hears evidence under section 47 (4) *[Review on the record]*, the Rules that apply to the hearing of evidence before a hearing panel apply.

Review boards

5-16 (1) When a review is initiated under Rule 5-19 *[Initiating a review],* the Tribunal Chair must establish a review board consisting of

(a) an odd number of persons, and

(b) more persons than the hearing panel that made the decision under review.

(2) A review board must be chaired by a Bencher who is a lawyer or by the Tribunal Chair.

(3) Review board members must be permanent residents of British Columbia over the age of majority.

(4) The chair of a review board who ceases to be a lawyer may, with the consent of the Tribunal Chair, continue to chair the review board, and the review board may complete any hearing or hearings already scheduled or begun.

(5) Two or more review boards may proceed with separate matters at the same time.

(6) The Tribunal Chair may refer a matter that is before a review board to another review board, fill a vacancy on a review board or terminate an appointment to a review board.

(7) Unless otherwise provided in the Act and these Rules, a review board must decide any matter by a majority, and the decision of the majority is the decision of the review board.

Disqualification

5-17 The following must not participate in a review board reviewing the decision of a hearing panel:

(a) a member of the hearing panel;

(b) a person who was disqualified under Rule 5-4 *[Disqualification]* from participation in the hearing panel.

Review board member unable to continue

5-18 (1) Despite Rule 5-16 *[Review boards]*, if a member of a review board cannot, for any reason, complete a review that has begun, the Tribunal Chair may order that the review board continue with the remaining members, whether or not the board consists of an odd number of persons.

(2) If the chair of a review board cannot, for any reason, complete a review that has begun, the Tribunal Chair may appoint another member of the review board who is a lawyer as chair of the review board.

Practice and procedure before a review board

Initiating a review

5-19 (1) Within 30 days after being notified of the decision of the panel in a credentials hearing, the applicant may initiate a review by filing with the Tribunal and delivering to Law Society counsel a notice of review.

(2) Within 30 days after being notified of the decision of a panel under Rule 5-6.4 *[Disciplinary action]* or 5-11 *[Costs of hearings]*, the respondent may initiate a review by filing with the Tribunal and delivering to Law Society counsel a notice of review.

(3) Within 30 days after a decision of the panel in a credentials hearing, the Credentials Committee may initiate a review by resolution.

(4) Within 30 days after a decision of the panel in a hearing of a citation, the Discipline Committee may initiate a review by resolution.

(5) When a review is initiated under subrule (3) or (4), Law Society counsel must promptly file with the Tribunal and deliver to the other party a notice of review.

(6) Within 30 days after the order of the Practice Standards Committee under Rule 3-25 (1) *[Costs]*, the lawyer concerned may initiate a review by filing a notice of review with the Tribunal.

Extension of time to initiate a review

5-19.1 (1) A party may apply to the Tribunal to extend the time within which a review may be initiated under Rule 5-19 *[Initiating a review]* by filing with the Tribunal and delivering to the other party a notice of the appliation.

(2) When a party makes an application under subrule (1), a motions adjudicator must

(a) refuse the extension of time, or

(b) grant the extension, with or without conditions or limitations.

(3) [rescinded]

Stay of order pending review

5-20 (1) When a review is initiated under Rule 5-19 *[Initiating a review]*, the order of the panel or the Practice Standards Committee with respect to costs is stayed.

(2) When the Credentials Committee initiates a review under Rule 5-19 (3) *[Initiating a review]*, an order of the hearing panel to call and admit or reinstate the applicant is stayed.

(3) When a review has been initiated under Rule 5-19 *[Initiating a review]*, any party to the review may apply to the Tribunal for a stay of any order not referred to in subrule (1) or (2).

(4) When an application is made under this rule, a motions adjudicator must make a determination under subrule (3).

Notice of review

5-21 A notice of review must contain the following in summary form:

(a) a clear indication of the decision to be reviewed by the review board;

(b) the nature of the order sought;

(c) the issues to be considered on the review.

Record of credentials hearing

5-22 (1) Unless the parties agree otherwise, the record for a review of a credentials decision consists of the following:

(a) the application;

(b) a transcript of the proceedings before the panel;

(c) exhibits admitted in evidence by the panel;

(d) any written arguments or submissions received by the panel;

(e) the panel's written reasons for any decision;

(f) the notice of review.

(2) If, in the opinion of the review board, there are special circumstances, the review board may admit evidence that is not part of the record.

Record of discipline hearing

5-23 (1) Unless the parties agree otherwise, the record for a review of a discipline decision consists of the following:

(a) the citation;

(b) a transcript of the proceedings before the panel;

(c) exhibits admitted in evidence by the panel;

(d) any written arguments or submissions received by the panel;

(e) the panel's written reasons for any decision;

(f) the notice of review.

(2) If, in the opinion of the review board, there are special circumstances, the review board may admit evidence that is not part of the record.

Record of an order for costs by the Practice Standards Committee

5-24 (1) Unless the parties agree otherwise, the record for a review of an order for costs under Rule 3-25 *[Costs]* consists of the following:

(a) the order;

(b) all correspondence between the Society and the lawyer relating to the assessment and ordering of costs;

(c) the Committee's written reasons for any decision on costs;

(d) the notice of review.

(2) If, in the opinion of the review board, there are special circumstances, the review board may admit evidence that is not part of the record.

Preparation and delivery of record

5-24.1 (1) The party initiating a review must prepare the record for the review in accordance with the relevant rule.

(1.1) Within 60 days of filing a notice of review, a party must file the record with the Tribunal in the form specified in the relevant practice direction and deliver a copy to the other party.

(2) The time for producing the record may be extended by agreement of the parties.

(3) No date may be set for the hearing of a review unless the party initiating the review has delivered all copies of the record required under subrule (1.1).

(4) By filing with the Tribunal written notice setting out the grounds for the application, and delivering a copy to the other party, the party initiating the review may apply for

(a) an extension of time to prepare and deliver the record, or

(b) an order that the Society bear all or part of the cost of obtaining and copying all or part of the record.

(5) When an application is made under subrule (4), a motions adjudicator must decide whether to grant all or part of the relief sought, with or without conditions, and must notify the parties accordingly.

(6) [rescinded]

(7) A determination under subrule (5) is without prejudice to an order of the review board under Rule 5-11 *[Costs of hearings]*.

Notice of review hearing

5-24.2 (1) The date, time and place for the hearing of a review to begin must be set

(a) by agreement between the parties, or

(b) on the application of a party, by the Tribunal Chair or by the motions adjudicator presiding at a pre-review conference.

(2) When a date is set under subrule (1), the Tribunal must notify the parties in writing of the date, time and place of the hearing at least 30 days before the date set for the hearing to begin, unless the parties agree to a shorter notice period.

Pre-review conference

5-25 (1) The Tribunal Chair may order a pre-review conference at any time before the hearing of a review, at the request of a party, or on the Tribunal Chair's own initiative.

(2) When a conference has been ordered under subrule (1), the Tribunal Chair must

(a) set the date, time and place of the conference and notify the parties, and

(b) designate a motions adjudicator to preside at the conference.

(3) Law Society counsel must be present at the conference.

(4) [rescinded]

(5) The applicant or the respondent, as the case may be, may attend the conference, in person, through counsel or both.

(6) If the applicant or the respondent, as the case may be, fails to attend the conference, the motions adjudicator presiding may proceed with the conference in the absence of that party and may make any order under this rule, if the adjudicator is satisfied that the party had been notified of the conference.

(7) The motions adjudicator presiding at a pre-review conference may allow any person to participate in the conference by telephone or by any other means of communication that allows all persons participating to hear each other, and a person so participating is present for the purpose of this rule.

(8) The conference may consider

(a) the simplification of the issues,

(b) any issues concerning the record to be reviewed,

(c) the possibility of agreement on any issues in the review,

(d) the exchange of written arguments or outlines of argument and of authorities,

(e) the possibility that privilege or confidentiality might require that all or part of the hearing be closed to the public or that exhibits and other evidence be excluded from public access,

(f) setting a date for the review, and

(g) any other matters that may aid in the disposition of the review.

(9) The motions adjudicator presiding at a pre-review conference may

(a) adjourn the conference or the hearing of the review generally or to a specified date, time and place,

(b) order the exchange of written arguments or outlines of argument and of authorities, and set deadlines for that exchange,

(c) set a date for the review, subject to Rule 5-24.1 (3) *[Preparation and delivery of record]*, and

(d) make any order or allow or dismiss any application consistent with this part.

Adjournment

5-26 (1) Before a hearing of a review begins, a party may apply for an order that the hearing be adjourned by filing with the Tribunal and delivering to the other party written notice setting out the grounds for the application.

(2) [rescinded]

(3) Before the hearing begins, a motions adjudicator must decide whether to grant the adjournment, with or without conditions, and must notify the parties accordingly.

(4) [rescinded]

(5) After a hearing has begun, the chair of the review board may adjourn the hearing, with or without conditions, generally or to a specified date, time and place.

Decision on review

5-27 (1) The decision of the review board on a review is made by majority vote.

(2) The review board must prepare written reasons for its decision on a review.

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

(4) A copy of the review board's written reasons prepared under subrule (2) must be delivered promptly to each party.

(5) On request, the Executive Director must disclose the review board's written reasons for its decision.

Inactive reviews

5-28 (1) If no steps have been taken for 6 months or more, a party may apply for an order dismissing a review by filing with the Tribunal and delivering to the other party a notice in writing that sets out the basis for the application.

(2) [rescinded]

(3) If it is in the public interest and not unfair to the respondent or applicant, a motions adjudicator may dismiss the review.

(4) [rescinded]

Corrections

Slip rule

5-28.1 At any time, the Tribunal may

(a) correct an error in an order or decision that arose from a clerical mistake or from any other accidental slip or omission, or

(b) amend an order or decision to provide for any matter that should have been but was not adjudicated.

Appeals

Appeal to Court of Appeal

5-29 (1) The Discipline Committee may, by resolution, instruct the Executive Director to commence an appeal under section 48 *[Appeal]* of a decision of a panel or review board in a discipline hearing.

(2) The Credentials Committee may, by resolution, instruct the Executive Director to commence an appeal under section 48 *[Appeal]* of a decision of a panel or review board in a credentials hearing.

(3) The Practice Standards Committee may, by resolution, instruct the Executive Director to commence an appeal under section 48 *[Appeal]* of a decision of a review board with respect to an order for costs under Rule 3-25 *[Costs]*.

[The next page is page 201]

PART 6 – CUSTODIANSHIPS

Co-operation in conduct of custodianship

6-1 A lawyer who is the subject of a custodianship order made under Part 6 of the Act must

(a) co-operate with the custodian in the conduct of the custodianship, and

(b) deliver to the custodian property, documents and information that may be reasonably necessary to facilitate the conduct of the custodianship.

Report of possible claim

6-2 Unless the lawyer has already done so, a custodian must report the following in writing to the Executive Director:

(a) any act or omission caused by the lawyer of which the custodian becomes aware that may render the lawyer, in the lawyer's professional capacity, liable to a client or other person;

(b) any circumstance that the custodian could reasonably expect to be the basis of a claim or suit against the lawyer.

Acting for lawyer's clients

6-3 The custodian of a lawyer's practice must not, until discharged as custodian, act for a client of the lawyer on any matter that the lawyer had acted on.

Acquiring lawyer's practice

6-4 A person who has at any time acted as custodian of a lawyer's practice must not bid on or acquire the lawyer's practice.

Notice of custodianship order

6-5 When a custodianship order is made, the Executive Director may publish to the profession and the public generally, in a form that appears appropriate to the Executive Director, the following information:

(a) the name of the lawyer who is the subject of a custodianship order;

(b) the name and contact information of the custodian;

(c) the reasons for the custodianship order.

PART 7 – LAW FOUNDATION

[no rules]

PART 8 – LAWYERS' FEES

Reasonable remuneration

8-1 (1) A lawyer who enters into a contingent fee agreement with a client must ensure that, under the circumstances existing at the time the agreement is entered into,

(a) the agreement is fair, and

(b) the lawyer's remuneration provided for in the agreement is reasonable.

(2) A lawyer who prepares a bill for fees earned under a contingent fee agreement must ensure that the total fee payable by the client

(a) does not exceed the remuneration provided for in the agreement, and

(b) is reasonable under the circumstances existing at the time the bill is prepared.

Maximum remuneration in personal injury actions

8-2 (1) Subject to the court's approval of higher remuneration under section 66 (7) *[Contingent fee agreement]*, the maximum remuneration to which a lawyer is entitled under a contingent fee agreement for representing a plaintiff up to and including all matters pertaining to the trial of an action is as follows:

(a) in a claim for personal injury or wrongful death arising out of the use or operation of a motor vehicle, 33 1/3% of the amount recovered;

(b) in any other claim for personal injury or wrongful death, 40% of the amount recovered.

(2) Despite subrule (1), a contingent fee agreement may provide that the lawyer may elect to forego any remuneration based on a proportion of the amount recovered and receive instead an amount equal to any costs awarded to the client by order of a court.

(3) This rule does not prevent a lawyer and client from making a separate agreement for payment beyond the amount specified in subrule (1) to compensate the lawyer for representing the client in an appeal from a trial judgment pronounced in the proceeding for which the lawyer was retained.

Form and content of contingent fee agreements

8-3 A contingent fee agreement must

(a) be in writing,

(b) state that the person who entered into the agreement with the lawyer may, within 3 months after the agreement was made or the retainer between the solicitor and client was terminated by either party, apply to a district registrar of the Supreme Court of British Columbia to have the agreement examined, even if the person has made payment to the lawyer under the agreement, and

(c) not include a provision that

(i) the lawyer is not liable for negligence or is relieved from any responsibility to which a lawyer would otherwise be subject,

(ii) the claim or cause of action that is the subject matter of the agreement cannot be abandoned, discontinued or settled without the consent of the lawyer, a law firm or a law corporation, or

(iii) the client may not change lawyers before the conclusion of the claim or cause of action that is the subject matter of the agreement.

Statement of rules in contingent fee agreements

8-4 (1) A contingent fee agreement between a lawyer and a plaintiff in a claim for personal injury or wrongful death arising out of the use or operation of a motor vehicle must include the following statement, prominently placed:

> Under the Rules of the Law Society of British Columbia, without court approval, a lawyer may charge a maximum of 33 1/3% of the total amount recovered in a claim for personal injury or wrongful death arising out of the use of a motor vehicle.
>
> The percentage limit applies to all matters related to the trial of a lawsuit, but does not include any appeal. A lawyer and a client may make a separate agreement for legal fees for an appeal.
>
> Fees charged by different lawyers vary.

(2) A contingent fee agreement between a lawyer and a plaintiff in a claim for personal injury or wrongful death not affected by subrule (1) must include the following statement, prominently placed:

> Under the Rules of the Law Society of British Columbia, without court approval, a lawyer may charge a maximum of 40% of the total amount recovered in a claim for personal injury or wrongful death.
>
> The percentage limit applies to all matters related to the trial of a lawsuit, but does not include any appeal. A lawyer and a client may make a separate agreement for legal fees for an appeal.
>
> Fees charged by different lawyers vary.

(3) If a contingent fee agreement includes a provision permitted under Rule 8-2 (2) *[Maximum remuneration in personal injury actions]*, the statement required under subrule (1) or (2) must include the following:

> The Law Society Rules allow a lawyer and client to agree that the lawyer may choose to charge the amount of costs awarded instead of a percentage of the amount recovered.

PART 9 – INCORPORATION AND LIMITED LIABILITY PARTNERSHIPS

Division 1 – Law Corporations

Corporate name

9-1 A corporation must use a name

(a) under which no other corporation holds a valid law corporation permit under this division,

(b) that does not so nearly resembles the name of another corporation holding a valid law corporation permit under this division that it is likely to confuse or mislead the public,

(c) that complies with the *Code of Professional Conduct*, section 4.2 *[Marketing]*, and

(d) that includes one of the following phrases:

(i) "law corporation";

(ii) "law ULC";

(iii) "law unlimited liability company."

Corporate name certificate

9-2 (1) A lawyer may apply to the Executive Director, in the prescribed form, for a certificate that the Society does not object to the incorporation of a company as a law corporation under a proposed name.

(2) On receipt of an application under subrule (1), the Executive Director must either

(a) issue a certificate to the lawyer if the Executive Director is satisfied that the intended name complies with Rule 9-1 *[Corporate name]*, or

(b) reject the application.

(3) The Executive Director must notify the lawyer in writing of the decision under subrule (2).

Review of Executive Director's decision

9-3 (1) A lawyer whose application is rejected under Rule 9-2 *[Corporate name certificate]* may apply in writing to the Ethics and Lawyer Independence Advisory Committee for a review.

(2) After considering any submissions received from the lawyer and from the Executive Director, the Ethics and Lawyer Independence Advisory Committee must

(a) direct the Executive Director to issue a certificate to the lawyer if it is satisfied that the intended name complies with Rule 9-1 *[Corporate name]*, or

(b) reject the application.

(3) The Ethics and Lawyer Independence Advisory Committee must notify the lawyer and the Executive Director in writing of its decision under this Rule.

Law corporation permit

9-4 A company may apply to the Executive Director for a law corporation permit by delivering to the Executive Director

(a) a completed permit application in the prescribed form,

(b) a true copy of the certificate of incorporation of the company and any other certificates that reflect a change in name or status, and

(c) the fee specified in Schedule 1.

Issuance of permit

9-5 (1) Subject to section 82 *[Law corporation permit]*, the Executive Director must issue a law corporation permit to a company that has complied with the Act and these rules.

(2) Subject to subrule (3), a law corporation permit issued under subrule (1) is valid from the effective date shown on it.

(3) A permit issued to a law corporation ceases to be valid if

(a) it is revoked under Rule 9-11 *[Revocation of permits]*,

(b) a practising lawyer who is a voting shareholder in the law corporation dies or otherwise ceases to be a practising lawyer, and no provision is made in the articles of the law corporation for the immediate and automatic disposition of that person's shares in that case,

(c) another law corporation that is a voting shareholder in the law corporation ceases to be registered as a company under the *Business Corporations Act* or ceases to hold a valid law corporation permit and no provision is made in the articles of the law corporation for the immediate and automatic disposition of the other law corporation's shares in that case, or

(d) the corporation surrenders the permit to the Executive Director.

Change of corporate name

9-6 (1) A law corporation may apply to the Executive Director in the prescribed form for a certificate that the Society does not object to a specific change of name for the law corporation.

(2) Rules 9-1 to 9-3 apply to an application under subrule (1), with the necessary changes and so far as they are applicable.

(3) A law corporation must not apply for a change of name under the *Business Corporations Act* unless it has been granted the certificate referred to in subrule (1).

(4) The Executive Director must issue a new permit to a law corporation that has

(a) obtained the certificate referred to in subrule (1),

(b) delivered to the Executive Director a true copy of the certificate of the Registrar of Companies showing the change of name and the date it is effective, and

(c) paid the fee specified in Schedule 1.

(5) Subject to Rule 9-5 (3) *[Issuance of permit]*, a law corporation permit issued under subrule (4) is valid until the date on which the permit that it replaces would have expired.

Public disclosure of corporate status

9-7 When a lawyer or law firm provides legal services to the public through a law corporation, all advertising for the lawyer or law firm must indicate that the law corporation provides the legal services.

Corporate information

9-8 A law corporation must deliver to the Executive Director copies of its Articles, Notice of Articles and amendments to its Articles or Notice of Articles

(a) when applying for a permit, and

(b) immediately on adoption of new or amended Articles or Notice of Articles.

Disclosure of corporate information

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

(2) As an exception to subrule (1), the Society may

(a) use information and documents for a purpose consistent with the Act and these rules,

(b) disclose information and documents to a governing body under Rule 2-27.1 *[Sharing information with a governing body]*, and

(c) disclose the following information, on request, to any person:

(i) the name of a corporation;

(ii) a corporation's place of business;

(iii) whether a company has a valid law corporation permit;

(iv) whether a specified lawyer is an employee or a voting shareholder of a corporation;

(v) whether a specified law corporation is a voting shareholder of a law corporation.

Notice of change in corporate information

9-10 The president of a company or the president's designate must promptly advise the Executive Director in writing of any change to the information contained in the permit application or renewal permit application most recently delivered to the Society.

Revocation of permits

9-11 (1) After a hearing, a panel may revoke a law corporation's permit if

(a) in the course of providing legal services the corporation does anything that, if done by a lawyer, would be professional misconduct or conduct unbecoming the profession,

(b) the corporation contravenes the Act or a rule, or

(c) the corporation ceases to comply with a condition of qualification referred to in section 81 *[Authorized and prohibited activities of law corporations]* or a condition under this division or section 82 *[Law corporation permit]*.

(2) Instead of revoking a law corporation permit under subrule (1), a panel may do one or more of the following:

(a) reprimand one or more of the voting shareholders of a law corporation;

(b) impose a fine on the law corporation in an amount not exceeding $50,000;

(c) impose conditions or limitations under which the law corporation may continue to provide legal services to the public.

(3) Any shareholder, director, officer or employee of or contractor to a law corporation may be

(a) compelled to give evidence at a proceeding under this division or under Part 5 *[Tribunal, Hearings and Appeals]*, or

(b) required to produce any file or record in that person's possession or control that is relevant to matters raised in the proceeding.

(4) To the extent reasonably possible, Parts 4 *[Discipline]* and 5 *[Tribunal, Hearings and Appeals]* apply to notice of a hearing on the revocation of a law corporation permit and to the hearing as they apply to a citation and the hearing of the citation.

(5) If a hearing has been ordered on the revocation of a law corporation permit and a citation has been directed to be issued against a shareholder, director, officer or employee of the corporation holding the permit, the Discipline Committee may direct that the citation and the question of the revocation of the law corporation permit be heard together.

(6) When the Discipline Committee has directed that a citation and the question of the revocation of a law corporation permit be heard together, the panel conducting the hearing may order that they be heard separately.

(7) When a panel imposes a condition or limitation under which a law corporation may continue to provide legal services to the public under subrule (2) (c), the Executive Director may disclose the fact that the condition or limitation applies and the nature of the condition or limitation.

(8) If the Executive Director discloses the existence of a condition or limitation under subrule (7) 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.

(9) Subrule (8) does not apply to a decision of Benchers, a hearing panel or a review board.

Division 2 – Limited Liability Partnerships

Definition

9-12 In this division **"person applying"** means a person applying or proposing to apply on behalf of a partnership for registration as a limited liability partnership or extraprovincial limited liability partnership under Part 6 *[Limited Liability Partnerships]* of the *Partnership Act*.

Practice through a limited liability partnership

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

LLP name

9-14 A limited liability partnership must not use a name contrary to the *Code of Professional Conduct*, section 4.2 *[Marketing]*.

Notice of application for registration

9-15 (1) Before an application to register a partnership or an extraprovincial limited liability partnership as a limited liability partnership is made on behalf of the partnership under Part 6 *[Limited Liability Partnerships]* of the *Partnership Act*, the person applying must

(a) submit to the Executive Director a copy of the registration statement that the person intends to file under that Act,

(b) pay the LLP registration fee specified in Schedule 1, and

(c) receive a statement of approval of LLP registration from the Executive Director.

(2) On receipt of a submission under subrule (1), the Executive Director must issue a statement of approval of LLP registration if the Executive Director is satisfied that

(a) the intended name complies with Rule 9-14 *[LLP name]*, and

(b) membership in the partnership complies with subrules (3) and (5).

(3) Each partner in an LLP must be

(a) a member of the Society,

(b) a member of a recognized legal profession in another jurisdiction,

(c) a law corporation holding a valid permit under this part or the equivalent in the jurisdiction in which it provides legal services, or

(d) a non-lawyer participating in the partnership in another Canadian jurisdiction as permitted in that jurisdiction.

(4) Despite subrule (3), an LLP that is an MDP in which a lawyer has permission to practise law under Rules 2-38 to 2-49 may include non-lawyer members as permitted by those rules.

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

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

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

Review of Executive Director's decision

9-16 (1) If the Executive Director declines to issue a statement of approval under Rule 9-15 *[Notice of application for registration]*, the person applying may apply in writing to the Ethics and Lawyer Independence Advisory Committee for a review.

(2) After considering any submissions received from the partners and from the Executive Director, the Ethics and Lawyer Independence Advisory Committee must

(a) direct the Executive Director to issue a statement of approval if it is satisfied that

(i) the intended name complies with Rule 9-14 *[LLP name]*, and

(ii) Rule 9-15 (3) *[Notice of application for registration]* has been satisfied, or

(b) reject the application.

(3) The Ethics and Lawyer Independence Advisory Committee must notify the person applying and the Executive Director in writing of its decision under this rule.

Disclosure of LLP status

9-17 (1) When a firm provides legal services to the public through a limited liability partnership, all advertising for the firm must indicate that the limited liability partnership provides the legal services.

(2) When a firm is continued as a limited liability partnership, the firm must promptly take reasonable steps to notify in writing each existing client of the firm of the change and the effect of a limited liability partnership in respect of the liability of partners.

(3) The notice required under subrule (2) must include a statement to the following effect, prominently placed:

> The partners in a limited liability partnership are not personally liable for the negligent acts or omissions of another partner or an employee unless the partner knew of the negligent act or omission and did not take reasonable steps to prevent it. Partners are personally liable for their own actions, and the partnership continues to be liable for the negligence of its partners, associates and employees. Accordingly, there is no reduction or limitation on the liability of the partnership.

(4) When a firm is registered as an extraprovincial limited liability partnership under Part 6 *[Limited Liability Partnerships]* of the *Partnership Act*, the firm must promptly take reasonable steps to notify in writing each existing client of the firm in British Columbia of the registration and any change, resulting from the registration, in the liability of the partners.

(5) Subrule (4) does not apply to a client outside of British Columbia if the firm provides legal services to the client primarily through lawyers outside of British Columbia.

(6) The notice required under subrule (2) or (4) may be

(a) mailed by regular or registered mail to the client at the client's last known address,

(b) delivered personally to the client,

(c) transmitted by electronic facsimile to the client at the client's last known electronic facsimile number,

(d) transmitted by electronic mail to the client at the client's last known electronic mail address, or

(e) published in a newspaper distributed in the area in which the client resides or carries on business.

Change in LLP information and annual reports

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

(a) an annual report;

(b) an amendment to the registration statement.

Disclosure of LLP information

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

(2) As an exception to subrule (1), the Society may

(a) use information and documents for a purpose consistent with the Act and these rules,

(b) disclose information and documents to a governing body under Rule 2-27.1 *[Sharing information with a governing body]*, and

(c) disclose to any person on request the name and place of business of a limited liability partnership.

Notification of non-compliance

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

PART 10 – GENERAL

Service and notice

10-1 (0.1) In this rule, **"recipient"** means a lawyer, former lawyer, law firm, articled student or applicant.

(1) A recipient may be served with a notice or other document by

(a) leaving it at the place of business of the recipient,

(b) sending it by

(i) registered mail, ordinary mail or courier to the last known business or residential address of the recipient,

(ii) electronic facsimile to the last known electronic facsimile number of the recipient,

(iii) electronic mail to the last known electronic mail address of the recipient, or

(iv) any of the means referred to in subparagraphs (i) to (iii) to the place of business of the counsel or personal representative of the recipient or to an address given to Law Society counsel by a respondent for delivery of documents relating to a citation, or

(c) posting it to an electronic portal operated by the Society to which the recipient has been given access and notifying the recipient of the posting by a method enumerated in paragraph (b) (ii) or (iii).

(2) If it is impractical for any reason to serve a notice or other document as set out in subrule (1), a motions adjudicator may order substituted service, whether or not there is evidence that

(a) the notice or other document will probably

(i) reach the intended recipient, or

(ii) come to the intended recipient's attention, or

(b) the intended recipient is evading service.

(3) [rescinded]

(4) A document may be served on the Society or on the Benchers by

(a) leaving it at or sending it by registered mail or courier to the principal offices of the Society, or

(b) personally serving it on an officer of the Society.

(4.1) A document required under the Act or these rules to be delivered to the President or the Executive Director must be left at or sent by registered mail or courier to the principal offices of the Society.

(5) A document sent by ordinary mail is deemed to be served 7 days after it is sent.

(6) A document that is left at a place of business or sent by registered mail or courier is deemed to be served on the next business day after it is left or delivered.

(7) A document sent by electronic facsimile or electronic mail is deemed to be served on the next business day after it is sent.

(7.1) A document that is posted to an electronic portal operated by the Society is deemed to be served the next business day after the document is posted and notice is sent to the recipient.

(8) Any person may be notified of any matter by ordinary mail, registered mail, courier, electronic facsimile or electronic mail to the person's last known address.

Duty not to disclose

10-2 A person performing any duty or fulfilling any function under the Act or these rules who receives or becomes privy to any confidential information, including privileged information,

(a) has the same duty that a lawyer has to a client not to disclose that information, and

(b) must not disclose and cannot be required to disclose that information except as authorized by the Act, these rules or an order of a court.

Communication with Equity Advisor and Practice Advisor confidential

10-2.1 (0.1) For the purpose of this rule, "Advisor" means an Equity Advisor or a Practice Advisor.

(1) This rule must be interpreted in a manner to facilitate an Equity Advisor assisting in mediation through communication without prejudice to the rights of any person.

(2) Communication between an Advisor acting in that capacity with any person receiving or seeking assistance from an Advisor is, subject to subsection (3), confidential and must remain confidential in order to foster an effective relationship between an Advisor and individuals who seek or receive their assistance.

(3) Advisors must hold in confidence and must not disclose all information acquired in their capacity as an Advisor, other than to another Advisor acting in the same capacity, unless:

(a) information received reveals a trust shortage that will not otherwise be reported to the Society;

(b) disclosure of the information is required by law or court order;

(c) the individual seeking assistance provides express consent, verbally or in writing, to the disclosure or release of the information provided; or

(d) an Advisor has reasonable grounds to believe from the information provided that there is an imminent risk of death or serious bodily harm to the individual seeking advice or to another person, and disclosure is necessary to prevent such death or harm.

Records

10-3 (1) In this rule, **"storage provider"** means any entity storing or processing records outside of a lawyer's office, whether or not for payment.

(2) When required under the Act or these rules, a lawyer must, on demand, promptly produce records in any or all of the following forms:

(a) printed in a comprehensible format;

(b) accessed on a read-only basis;

(c) exported to an electronic format that allows access to the records in a comprehensible format.

(3) A lawyer who is required to produce records under the Act or these rules must not alter, delete, destroy, remove or otherwise interfere with any record that the lawyer is required to produce, except with the written consent of the Executive Director.

(4) A lawyer must not maintain records, including electronic records, with a storage provider unless the lawyer

(a) retains custody and control of the records,

(b) ensures that ownership of the records does not pass to another party,

(c) is capable of complying with a demand under the Act or these rules to produce the records and provide access to them,

(d) ensures that the storage provider maintains the records securely without

(i) accessing or copying them except as is necessary to provide the service obtained by the lawyer,

(ii) allowing unauthorized access to or copying or acquisition of the records, or

(iii) failing to destroy the records completely and permanently on instructions from the lawyer, and

(e) enters into a written agreement with the storage provider that is consistent with the lawyer's obligations under the Act and these rules.

(5) If the Executive Committee declares, by resolution, that a specific entity is not a permitted storage provider for the purpose of compliance with this rule, no lawyer is permitted to maintain records of any kind with that entity.

Security of records

10-4 (1) A lawyer must protect all records related to the lawyer's practice and the information contained in them by making reasonable security arrangements against all risks of loss, destruction and unauthorized access, use or disclosure.

(2) A lawyer must immediately notify the Executive Director in writing of all the relevant circumstances if the lawyer has reason to believe that

(a) the lawyer has lost custody or control of any records related to the lawyer's practice for any reason,

(b) anyone has improperly accessed or copied any of the lawyer's records, or

(c) a third party has failed to destroy records completely and permanently despite instructions from the lawyer to do so.

SCHEDULE 1 – 2026 LAW SOCIETY FEES AND ASSESSMENTS

A. Annual fee	**$**
1. Practice fee (Rule 2-105 *[Annual practising and indemnity fee instalments]*) ..	2,536.00
2. Indemnity fee base assessment (which may be increased or decreased in individual cases in accordance with Rule 3-40 (1) *[Annual indemnity fee]*):	
(a) full-time practice	1,800.00
(b) part-time practice	900.00
3. Indemnity surcharge (Rule 3-44 (2) *[Deductible, surcharge and reimbursement]*)	2,000.00
4. Late payment fee for practising lawyers (Rule 2-108 (3) *[Late payment]*)	150.00
5. Retired member fee (Rule 2-105.1 (1) *[Annual non-practising and retired member fees]*)	125.00
6. Late payment fee for retired members (Rule 2-108 (4))	nil
7. Non-practising member fee (Rule 2-105.1 (1))	325.00
8. Late payment fee for non-practising members (Rule 2-108 (5))	40.00
9. Administration fee (R. 2-116 (3) *[Refund on exemption during practice year]*)	70.00
B. Trust administration fee	
1. Each client matter subject to fee (Rule 2-110 (1) *[Trust administration fee]*) ..	20.00
C. Special assessments	
D. Articled student and training course fees	
1. Application fee for enrolment in admission program (Rules 2-54 (1) (e) *[Enrolment in the admission program]* and 2-62 (1) (b) *[Part-time articles]*) .	275.00
2. Application fee for temporary articles (R. 2-70 (1) (c) *[Temporary articles]*) ..	150.00
3. Application fee for temporary articles (legal clinic) (Rule 2-70 (1) (c))	50.00
4. Training course registration (Rule 2-72 (4) (a) *[Training course]*)	2,600.00
5. Remedial work (Rule 2-74 (8) *[Review of failed standing]*):	
(a) for each piece of work	100.00
(b) for repeating the training course	4,000.00
E. Transfer fees	
1. Application fee for transfer from another Canadian province or territory – investigation fee (Rule 2-79 (1) (f) *[Transfer from another Canadian jurisdiction]*)	1,150.00
2. Transfer or qualification examination (Rules 2-79 (6) and 2-90 (5) *[Conditions on returning to practice]*)	325.00

F. Call and admission fees	$
1. After enrolment in admission program (Rule 2-77 (1) (c) *[First call and admission]*)	250.00
1.1 Without enrolment in admission program (Rule 2-77 (1) (c))	525.00
2. After transfer from another Canadian province or territory (Rule 2-79 (1) (f) *[Transfer from another Canadian jurisdiction]*)	250.00

G. Reinstatement fees	
1. Application fee following disbarment, resignation or other cessation of membership as a result of disciplinary proceedings (Rule 2-85 (1)(b) *[Reinstatement of former lawyer]*)	700.00
2 Application fee following 3 years or more as a former member (Rule 2-85 (1) (b))	550.00
3. Application fee in all other cases (Rule 2-85 (1) (b))	450.00

H. Change of status fees	
1. Application fee to become retired member (Rule 2-4 (2) (b) *[Retired members]*)	35.00
2. Application fee to become non-practising member (Rule 2-3 (1) (b) *[Non-practising members]*)	70.00
3. Application fee for non-practising or retired member applying for practising certificate (Rule 2-5 (1) (b)) *[Release from undertaking]*	70.00

I. Inter-jurisdictional practice fees	
1. Application fee (Rule 2-19 (3) (b) *[Inter-jurisdictional practice permit]*)	500.00
2. Renewal of permit (Rule 2-19 (3) (b))	100.00

J. Corporation and limited liability partnership fees	
1. Permit fee for law corporation (Rule 9-4 (c) *[Law corporation permit]*)	400.00
2. New permit on change of name fee (Rule 9-6 (4) (c) *[Change of corporate name]*)	100.00
3. LLP registration fee (Rule 9-15 (1) *[Notice of application for registration]*	400.00

K. Practitioners of foreign law	
1. Application fee for practitioners of foreign law (Rule 2-29 (1) (b) *[Practitioners of foreign law]*)	700.00
2. Permit renewal fee for practitioners of foreign law (Rules 2-29 (1) (b) and 2-34 (2) (c) *[Renewal of permit]*)	150.00
3. Late payment fee (Rule 2-34 (6))	100.00

L. Late fees	$
1. Trust report late filing fee (Rule 3-80 (2) (b) *[Late filing of trust report]*)	200.00
2. Professional development late completion fee (Rule 3-31 (1) (c) *[Late completion of professional development]*)	500.00
3. Professional development late reporting fee (Rule 3-31 (3) (b))	200.00
4. Late registration delivery fee (Rule 2-12.4)	200.00
5. Late self-assessment delivery fee (Rule 2-12.4)	500.00
6. Indigenous intercultural course late completion fee (Rule 3-28.11 (1) (c) *[Late completion of Indigenous intercultural course]*)	500.00
7. Indigenous intercultural course late reporting fee (Rule 3-28.11 (2) (b))	200.00

M. Multi-disciplinary practice fees	
1. Application fee (Rule 2-40 (1) (b) *[Application to practise law in MDP]*).....	300.00
2. Application fee per proposed non-lawyer member of MDP (Rules 2-40 (1) (c) and 2-42 (2) *[Changes in MDP]*).....	1,125.00

Note: The federal goods and services tax applies to Law Society fees and assessments.

SCHEDULE 2 – 2026 PRORATED FEES AND ASSESSMENTS FOR PRACTISING LAWYERS

[Rules 2-77 (1) *[First call and admission]*, 2-79 (1) *[Transfer from another Canadian jurisdiction]*, 2-85 (4) *[Reinstatement of former lawyer]*, and 3-45 (1) and (2) *[Application for indemnity coverage]*]

	Practice fee		**Indemnity fee assessment**	
	Payable prior to call	**Payable by May 31**	**Payable prior to call**	**Payable by May 31**
Full-time indemnification				
January	1,268.00	1,268.00	900.00	900.00
February	1,056.67	1,268.00	750.00	900.00
March	845.33	1,268.00	600.00	900.00
April	634.00	1,268.00	450.00	900.00
May	422.67	1,268.00	300.00	900.00
June	211.33	1,268.00	150.00	900.00
July	1,268.00	0.00	900.00	0.00
August	1,056.67	0.00	750.00	0.00
September	845.33	0.00	600.00	0.00
October	634.00	0.00	450.00	0.00
November	422.67	0.00	300.00	0.00
December	211.33	0.00	150.00	0.00
Part-time indemnification				
January	1,268.00	1,268.00	450.00	450.00
February	1,056.67	1,268.00	375.00	450.00
March	845.33	1,268.00	300.00	450.00
April	634.00	1,268.00	225.00	450.00
May	422.67	1,268.00	150.00	450.00
June	211.33	1,268.00	100.00	450.00
July	1,268.00	0.00	450.00	0.00
August	1,056.67	0.00	375.00	0.00
September	845.33	0.00	300.00	0.00
October	634.00	0.00	225.00	0.00
November	422.67	0.00	150.00	0.00
December	211.33	0.00	100.00	0.00

Note: The federal goods and services tax applies to Law Society fees and assessments.

SCHEDULE 3 – 2026 PRORATED FEES FOR NON-PRACTISING AND RETIRED MEMBERS

[Rules 2-3 (1) *[Non-practising members]*, 2-4 (2) *[Retired members]* and 2-85 (5) *[Reinstatement of former lawyer]*]

	Non-practising members fee	**Retired members fee**
January	325.00	125.00
February	297.92	114.58
March	270.83	104.17
April	243.75	93.75
May	216.67	83.33
June	189.58	72.92
July	162.50	62.50
August	135.42	52.08
September	108.33	41.67
October	81.25	31.25
November	54.17	20.83
December	27.08	10.42

Note: The federal goods and services tax applies to Law Society fees and assessments.

SCHEDULE 4 – TARIFF FOR HEARING AND REVIEW COSTS

[Rule 5-11 *[Costs of hearings]*]

Item no.	Description	Number of units
Citation hearing		
1.	Preparation/amendment of citation, correspondence, conferences, instructions, investigations or negotiations after the authorization of the citation to the completion of the discipline hearing, for which provision is not made elsewhere	Minimum 1 Maximum 10
2.	Proceeding under s. 26.01 *[Suspension during investigation]*, 26.02 *[Medical examination]* or 39 *[Suspension]* and any application to rescind or vary an order under the Rules, for each day of hearing	30
3.	Disclosure under Rule 5-4.6 *[Demand for disclosure of evidence]*	Minimum 5 Maximum 20
4.	Application for particulars/preparation of particulars under Rule 5-4.7 *[Application for details of the circumstances]*	Minimum 1 Maximum 5
5.	Application to adjourn under Rule 5-5.2 *[Adjournment]* • if made more than 14 days prior to the scheduled hearing date • if made less than 14 days prior to the scheduled hearing date	 1 3
6.	Pre-hearing conference	Minimum 1 Maximum 5
7.	Preparation of agreed statement of facts • if signed more than 21 days prior to hearing date • if signed less than 21 days prior to hearing date • delivered to Respondent and not signed	 Min. 5 to max. 15 Min. 10 to max. 20 Min. 10 to max. 20
8.	Preparation of affidavits	Minimum 5 Maximum 20
9.	Preparation of Notice to Admit	Minimum 5 Maximum 20
10.	Preparation of response to Notice to Admit	Minimum 5 Maximum 20
11.	All process and correspondence associated with retaining and consulting an expert for the purpose of obtaining opinion(s) for use in the proceeding	Minimum 2 Maximum 10
12.	All process and communication associated with contacting, interviewing and issuing summons to all witnesses	Minimum 2 Maximum 10
13.	Interlocutory or preliminary motion for which provision is not made elsewhere, for each day of hearing	10
14.	Preparation for interlocutory or preliminary motion, per day of hearing	20

Item no.	Description	Number of units
15.	Attendance at hearing, for each day of hearing, including preparation not otherwise provided for in tariff	30
16.	Written submissions, where no oral hearing held	Minimum 5 Maximum 15
S. 47 review		
17.	Giving or receiving notice under Rule 5-21 *[Notice of review]*, correspondence, conferences, instructions, investigations or negotiations after review initiated, for which provision is not made elsewhere	Minimum 1 Maximum 3
18.	Preparation and settlement of hearing record under Rule 5-23 *[Record of discipline hearing]*	Minimum 5 Maximum 10
19.	Pre-review conference	Minimum 1 Maximum 5
20.	Application to adjourn under Rule 5-26 *[Adjournment]* • If made more than 14 days prior to the scheduled hearing date • If made less than 14 days prior to the scheduled hearing date	 1 3
21.	Procedural or preliminary issues, including an application to admit evidence under Rule 5-23 (2) *[Record of discipline hearing]*, per day of hearing	10
22.	Preparation and delivery of written submissions	Minimum 5 Maximum 15
23.	Attendance at hearing, per day of hearing, including preparation not otherwise provided for in the tariff	30
Summary hearings		
24.	Each day of hearing	$2,000
Hearings under Rule 5-6.5 *[Admission and consent to disciplinary action]*		
25.	Complete hearing, based on the following factors: (a) complexity of matter; (b) number and nature of allegations; and (c) the time at which respondent agreed to make an admission relative to scheduled hearing and amount of pre-hearing preparation required.	$1,000 to $3,500
Credentials hearings		
26.	Each day of hearing	$2,000

Value of units:

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

SCHEDULE 5 – FORM OF SUMMONS

[Rule 5-5 (4) *[Compelling witnesses and production of documents]*

IN THE MATTER OF THE LEGAL PROFESSION ACT

AND

IN THE MATTER OF A HEARING CONCERNING

_____

(As the case may be: a [former] member of the Law Society of British Columbia/ an articled student/an applicant for enrolment/call and admission/reinstatement)

SUMMONS

TO: _____

TAKE NOTICE that you are required to attend to testify as a witness at the time, date and place set out below.

Time: _____

Date: _____

Place: The Law Society of British Columbia
845 Cambie Street
Vancouver BC V6B 4Z9 (or other venue)

Dated at _, _____ _____
Party/Counsel

this day of _____, 20___