

**Certified True Copy of Amendments
to the Rules of the Law Society of Saskatchewan
May 2, 2014**

It was moved, seconded and carried that the *Rules* of The Law Society of Saskatchewan be amended. Please note that deletions have a “~~line through~~” for identification purposes.

The amendments contained herein are necessary to facilitate forthcoming amendments to *The Legal Profession Act, 1990*, (the “Act”) which are expected to come into force July 1, 2014. In some cases, new Rules were required to replace similar provisions which will be removed from the *Act* but remain necessary to fulfill the Law Society’s regulatory obligations. In other cases, new Rules were necessary to implement new provisions of the Act. In other cases, Rules have been added or amended to provide greater clarity as to the duties, functions and composition of Law Society committees.

Part 1 – Definitions

Definitions

1. (1) In these Rules:

“**Act**” means *The Legal Profession Act, 1990*, S. Sask 1991, c. L-10.1;

“**disbarment**” means a penalty imposed by the Discipline Committee which consists of the striking of the member’s name from the roll of members and the removal of all rights and privileges in the membership;

“**Executive Director**” means either the Executive Director, and unless otherwise specified, the Deputy Director;

“**firm**” means firm pursuant to section 2(1)(f.1) of *The Legal Profession Act, 1990*.

“**mail**” means delivery to a member by ordinary mail, prepaid courier, facsimile or electronic mail;

“**meeting of the Benchers**” means a meeting of the Benchers in convocation;

“**member**” means member pursuant to section 2(1)(h) of *The Legal Profession Act, 1990*.

“**resignation in the face of discipline**” means a resignation accepted by the Conduct Investigation Committee pursuant to Rule 400(4) or section 53(3)(a)(vii) of *The Legal Profession Act, 1990* and is deemed to be equivalent to disbarment;

“**resignation instead of continued proceedings**” means a resignation accepted by the Conduct Investigation Committee or Chair of the Professional Standards Committee pursuant to Rule 400.1;

“**Rule**” or “**subrule**” means a rule or subrule contained in these Rules;

“**section**” means a section of the *Act*; and

“**simple resignation**” means resignation pursuant to section 27 of *The Legal Profession Act, 1990*.

(2) A member of the Society who practices law in Lloydminster, Alberta or Flin Flon, Manitoba shall be deemed, for the purposes of these Rules, to be practising law in Saskatchewan.

(3) A member of the Society who is suspended or disqualified under the Act or these Rules is not, while suspended or disqualified, in good standing.

Part 6 – Committees

Establishment

110. (1) The following committees are established:
- (a) the Admissions & Education Committee;
 - (b) the Professional Standards Committee;
 - (c) the Discipline Committee;
 - (d) the Ethics Committee;
 - (e) the Executive Committee;

- (f) the Insurance Committee; ~~and~~
 - (g) the Legislation & Policy Committee
 - (h) the Discipline Executive Committee; and
 - (i) the Conduct Investigation Committee.
- (2) The Benchers may, by Rule, establish any other committee for the better governance of the Society.

Discipline Committee

128. (1) The Chairperson and each Vice-Chairperson of the Discipline Committee hold office until the earlier of:

- (a) ceasing to be a Bencher; or
 - (b) being removed from office by the Benchers.
- (2) ~~Any other A Bencher~~ member of the Discipline Committee holds office until that member ceases to be a Bencher.
- (3) The President shall fill a vacancy in the office of Chairperson, and may fill a vacancy in the office of each Vice-Chairperson.
- (4) The Committee shall perform the duties assigned to it by ~~the Act and~~ Part 8 of these Rules.

Discipline Executive Committee

135. (1) The Discipline Executive Committee consists of Benchers appointed by the President in accordance with Rule 111.

(2) The Discipline Executive Committee may perform any duties assigned to the Discipline Committee by the Act.

Hearing Committee

136. (1) Subject to Rule 450, a hearing committee appointed pursuant to section 47 of the Act shall consist of not more than three persons and may include:

- (a) Benchers;
- (b) former Benchers and members, as needed; and
- (c) any other persons who have reached the age of majority and have had tribunal hearing training or experience approved by the Benchers, as needed.

(2) The Chairperson of a hearing committee appointed in accordance with section 47 of the Act shall be a Bencher.

(3) Where possible, one member of any hearing committee appointed in accordance with section 47 of the Act should be a public representative Bencher.

(4) In the absence of a member of a hearing committee appointed pursuant to section 47 of the Act and this Rule:

- (a) the Chairperson of the Discipline Committee may fill a vacancy; or
- (b) the hearing committee may continue in the absence of that member.

(5) A hearing committee appointed pursuant to section 47 of the Act and this Rule is not a committee within the meaning of section 7.1 of the Act and the duties of the Chairperson of a hearing committee to hear and determine a formal complaint shall not be delegated to any other person.

Conduct Investigation Committee

137. (1) The conduct investigation committee appointed in accordance with section 35.1 of the Act shall consist of a minimum of six persons and may include:

- (a) Benchers, former Benchers and members; and
- (b) any other persons who have reached the age of majority and have had investigation training or experience approved by the Benchers;

but a majority of the members of the Committee must be Benchers.

Conduct Investigation Panel

138. (1) For each complaint referred to the Conduct Investigation Committee, Complaints Counsel shall identify not more than three members of the Conduct Investigation Committee, subject to each member's:

- (a) business or personal conflicts of interest;
- (b) Society-related conflicts of interest; and
- (c) availability;

to constitute a conduct investigation panel, in accordance with section 7.1 of the Act and Part 8 of these Rules, to carry out the duties of the Conduct Investigation Committee set out in Part 8(D) of these Rules.

(2) When identifying the most appropriate members of a conduct investigation panel constituted in accordance with (1), Complaints Counsel shall also take into account each member's:

- (a) knowledge and expertise as it relates to the subject matter of the complaint; and
- (b) Society-related workload.

(3) When determining the appropriate number of members for a conduct investigation panel constituted in accordance with (1), Complaints Counsel should consider the seriousness and complexity of the complaint.

Part 7 - Admissions

Benchers- Admissions Panel Review

240. (1) An application for a review under section 23(4) or 24(3) of the Act shall be delivered to the Executive Director within 30 days after the action being reviewed was taken.

(2) Rule 230 applies to a review, with the necessary changes and so far as it is applicable.

(3) The ~~Benchers- Admissions Panel~~ may, ~~after consider:~~

- ~~(a) considering the transcript from and exhibits filed at a hearing conducted under Rule 230; and~~
- ~~(b) hearing submissions from the applicant and counsel for the Society; and~~
- ~~(c) considering any evidence that they may in their discretion permit the applicant to adduce,~~

~~confirm the decision, or approve the application, subject to any terms and conditions they consider appropriate.~~

~~(4) The Benchers may vary or remove any terms and conditions imposed under subrule (3).~~

(4) Following a review under subrule (3), the Admissions Panel may:

- (a) confirm the decision of the hearing committee;
- (b) vary or remove any terms and conditions imposed by the hearing committee; or
- (c) approve the application, subject to any terms and conditions they consider appropriate.

Admissions Panel

241. (1) An Admissions Panel appointed for the purpose of reviews conducted pursuant to sections 23 and 24 of the Act and Rule 240 shall:

(a) be appointed by the Chair of the Committee; and

(b) consist of not more than three Benchers, none of whom were members of a hearing committee appointed pursuant to Rule 162(2) or 183(2) with respect to the matter.

Part 8 – Professional Standards and Discipline

A. Definitions

299. In this Part,

“**competence**” means bringing adequate skill and knowledge to the practice of law including the management of a practice, as more particularly set out in Chapter II of *The Code of Professional Conduct* of the Law Society of Saskatchewan.

“**complainant**” means a person who has delivered a complaint about a member to the Society;

“**complaint**” includes:

- (a) a complaint made by a complainant under subsection 40(1)(a) or (c) of the Act; and
- (b) an allegation of conduct by a member as described in subsection 40(1)(b) or (d) of the Act;

“**complaints counsel**” means the person or persons designated by the Benchers under section 40(1) of the Act to review the conduct of members;

“**formal complaint**” means the document served on a member under 46(2) of the Act and Rule 430;

“**member**” ~~means a member of the Society as set out in 2(1)(h) of the Act and~~ includes a member of the governing body of the legal profession in another Canadian Province or Territory who is eligible to practice interjurisdictionally pursuant to the National Mobility Agreement and interjurisdictional practice protocol

under Rule 192 or holds an interjurisdictional practice certificate issued under Rule 196 except where this is inconsistent with the protocol or with *The Legal Profession Act* as amended;

“**practice advisor**” means the person or persons designated by the Benchers for the purposes of subsection 41(1.1)(b);

“**Rule or Subrule**” means:

- (a) rule or subrule contained in these rules; and
- (b) the *Code of Professional Conduct* published by the Society and as amended from time

to time.

Complainants’ Review Procedure

302. (3) (a) an application under subrule (2) shall be delivered to the complaints counsel: within 30 days after the complainant was notified of the decision under review; or
- (b) in exceptional circumstances, the 30 day time may be extended by the Complainants’ Review Committee.

(4) The complaints counsel shall direct the application to one or more members of the Complainants’ Review Committee and that member or members:

- (a) shall review the documents obtained, collected or produced by the complaints counsel under Rule 300;
- (b) may make such inquiries of the complainant, the member or any other person as it considers desirable; and
- (c) may, in its discretion, hear oral submissions from the complainant and/or the member whose conduct is the subject of the complaint.

(5) The member or members of the Complainants’ Review Committee referred to in (4) above shall:

- (a) confirm the decision of the complaints counsel or ~~the Chairperson of~~ the Conduct Investigation Committee or the Chairperson of the Professional Standards Committee to take no further action; or
- (b) refer the complaint to:
 - (i) the Chairperson of the Professional Standards Committee; or
 - (ii) the Conduct Investigation Committee, to proceed with the complaint in accordance with section 42(2)(b) or (3) of the *Act*; or
 - (iii) the Chairperson of the Ethics Committee.

C. Professional Standards

There was a small error in Rule 323(2), (4) and (5), as well as a minor formatting amendment to Rule 326.

Review of Referral by Chairperson

323. (2) When making requests under subrule (1)(e.f), the Chairperson may:

- (a) receive, on behalf of the Society, undertakings given by the member; and
- (b) set one or more dates by which the member shall complete the requests; and
- (c) request that the member pay part or all of the cost of the matters described in subrule (1)(e).

(3) The Chairperson may, on application by the member or by the Society, extend the date by which a request shall be completed.

(4) The Chairperson shall advise the member of his or her decision under subrule (1) and may request that the member meet with the Committee where it has made a request under subrule (1)(e.f), deliver a copy of that request to the member.

(5) Complaints counsel shall advise the complainant in writing of the Chairperson’s decision under subrule (1), but shall not deliver to the complainant a copy of the Chairperson’s request under subrule (1)(e.f).

Confidentiality of Competence Matters

326. (1) Any:

- (a) information and documents which form part of a Professional Standards complaint, review or investigation.
- (b) ~~any~~ action taken or decision made respecting a Professional Standards complaint, review or investigation; and

~~any report prepared for a Professional Standards Committee Chairperson or~~

~~(c) report prepared for a Professional Standards Committee Chairperson or by a practice advisor~~

- ~~(c) by a practice advisor shall be treated confidentially and, unless otherwise ordered by the Professional Standards Committee, shall not be disclosed except for the purpose of complying with the objects of the Act or in responding to an enquiry made for the purpose of a potential judicial appointment.~~

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D. Discipline

Definitions

399. In this Part 8(D),

“Conduct Investigation Committee” means a conduct investigation panel constituted in accordance with Rule 138.

Review by Conduct Investigation Committee

400. (1) The Conduct Investigation Committee:

- (a) shall promptly review any complaint submitted to it by complaints counsel, by the Chairperson of the Professional Standards Committee, by the Complainants’ Review Committee or by the Ethics Committee; and
- (b) may investigate any conduct of a member that may constitute conduct unbecoming, and may make or authorize whatever inquiries and investigations it considers desirable.
- (c) may investigate any other matter that comes to its attention during the course of an investigation, that could potentially constitute conduct unbecoming.
- (d) shall complete an inquiry or investigation under this rule as soon as practicable.

Part 10 - Insurance

Definitions

600. In this Part,

“**Committee**” means the SLIA board of directors;

“**insurer**” includes SLIA and any other company providing liability insurance to members under the Society’s compulsory liability insurance program;

~~“**law firm**” includes a sole practitioner, a partnership and 2 or more sole practitioners holding themselves out to the public as practicing in partnership or in association;~~

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

“**SLIA**” means the Saskatchewan Lawyers’ Insurance Association Inc.

Part 13 - Accounting

A. Definitions

Definitions

900. In this Part,

“**cash**” means coins referred to in section 7 of the *Currency Act*, and notes issued by the Bank of Canada pursuant to the *Bank of Canada Act*, that are intended for circulation in Canada and coins or bank notes of countries other than Canada;

“**client**” includes a person or unincorporated body on whose behalf a member receives funds in connection with the member’s practice of law;

“**currency**” includes current coins, government or bank notes of Canada or any other country;

~~“**firm**” means a partnership of members carrying on the practice of law where one set of the books, records and accounts described in this Part is maintained;~~

“**funds**” means cash, currency, securities and negotiable instruments or other financial instruments or other financial instruments that indicate the person’s title or interest in them;

“**general account**” means an account in a savings institution maintained by a member into which is deposited funds received by the member in connection with the member’s practice of law, which are not trust funds;

~~“**member**” includes a member of the Law Society as defined in *The Legal Profession Act*;~~

“**mixed trust account**” means an account referred to in section 78(1) of the *Act*, into which is deposited money received or held in trust for or on account of clients generally;

“**money**” includes cash, cheques, drafts, credit card sales slips, post office orders and express and bank money orders;

“**public body**” means:

- (a) a department or agent of Her Majesty in right of Canada or of a province;
- (b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them, or
- (c) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* or an agent of the organization,

“**savings institution**” means:

- (a) the Bank of Canada;
- (b) a bank included in Schedule I or II to the *Bank Act* (Canada) which is insured by the Canada Deposit Insurance Corporation;
- (c) a credit union incorporated, continued or registered under the *Credit Union Act, 1985*; or
- (d) a trust company which:
 - (i) is incorporated under the *Trust Companies Act* (Canada); or
 - (ii) has net assets in excess of \$10,000,000;

“**separate trust account**” means an interest-bearing trust account or a savings, deposit, investment or similar form of account in a savings institution in Saskatchewan;

“**trust funds**” means any monies received by a lawyer, in his/her capacity as a lawyer, which are not intended to immediately become property of the lawyer and include:

- (a) funds from a client for services to be performed or for disbursements to be made on behalf of the client; or
- (b) funds which belong in part to a client and in part to the member, and it is not practicable to split the funds;
- (c) funds received from or held on behalf of a third party which relate to a transaction in which a client is involved, but does not include funds which are to be remitted to any government by way of taxes or employee payroll deductions.

N. Inspection of a Member’s Records

Spot Audits

995. (1) The auditor inspector employed by the Law Society is authorized to attend at the offices and branch offices of any member to review any or all of the member’s books and records required to be kept pursuant to the *Act* and the Rules.

(2) Members ~~are required to shall~~ co-operate with the auditor inspector and to comply with all reasonable requests.

Practice Reviews

996. (1) The Executive Director may direct a review of any member's practice to determine whether the member is in compliance with the Act, these Rules and The Code of Professional Conduct.

(2) The Executive Director shall appoint a person or persons authorized by section 10(t) of the Act to conduct any review conducted pursuant to this rule.

(3) Without limiting subrule (1), a review conducted in relation to a member's practice may include:

(a) a review of any or all of the member's:

(i) files;

(ii) books;

(iii) records, including electronic records; and

(iv) office management systems, including but not limited to the procedures in place to reduce the risk of complaints and liability for insurance claims; and

(b) interviews with the member's staff;

at any or all of the member's offices.

(4) Members shall co-operate with the person carrying out the practice review authorized by this rule and comply with all reasonable requests.

(5) A review under this rule may be conducted whether or not a complaint has been made against a member.

(6) Any report arising from a review conducted pursuant to this rule:

(a) shall be provided to the Executive Director and the member; and

(b) unless otherwise ordered by the Professional Standards Committee, shall not be disclosed except for the purpose of complying with the objects of the Act.

Costs

1004. (1) Where, as a result of section 10(t)(i) and proceedings under section 63 of the Act, the ~~Chairperson of the Discipline- Conduct Investigation~~ Committee determines that the member has not complied with the Rules in this Part respecting the keeping of books, records, ~~and~~ accounts, ~~files and office management systems,~~ the Chairperson may order that the member pay, by the date specified in the order, part or all of the expense of the investigations or a practice review conducted pursuant to rule 996.

(2) In subrule (1), "investigations" include:

(a) the inspection of the member's books, records and accounts by the officers, auditors or agents of the Society or by any other person designated by the Benchers or appointed by the ~~Chairperson of the Discipline- Conduct Investigation~~ Committee;

(b) an application under section 63(2) of the Act and any appeal therefrom;

(c) action taken under section 63(3) of the Act; and

(d) the copying, transportation, retention and disposition of the member's records or other property.

(3) A member who has not paid the full amount owing under subrule (1) by the date fixed or extended by the ~~Chairperson of the Discipline- Conduct Investigation~~ Committee is suspended from the practice of law until the amount owing is paid in full.

(4) The costs of any proceedings under section 63 of the Act which are not recovered from the member under subrule (1) may be recovered from the Special Fund.

Part 15 – Accountant's Report

Definitions

1200. In this Part,

"**fiscal period**" means the time period, not exceeding 12 months without the written approval of the Law Society, for which the accounts of a member have been or ordinarily are made up;

~~"firm" means a partnership of members carrying on the practice of law where one set of the books, records and accounts described in Part 13 is maintained;~~

~~"member" includes a member of the Society, a firm and an association of members who carry on the practice of law together other than as a firm.~~

Part 21 – Withdrawal from Practice

Succession Plan

1801. (1) A member who practices with a firm shall maintain a succession plan for the member's law practice.

(2) A member's succession plan shall contemplate the unique arrangements that will be necessary in the event of each of the following:

- (a) temporary disability;
- (b) long term disability; and
- (c) death

of the member.

(3) At a minimum, a member's succession plan shall include adequate arrangements for clients, including management of the following where applicable:

- (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; and
- (f) other accounts related to the member's practice; and

any other arrangements necessary to carry on or wind up the member's unique practice.



CERTIFIED to be a true copy of the resolutions passed by the Benchers of the Law Society of Saskatchewan at their meeting held May 2, 2014.

THOMAS J. SCHONHOFFER, Q.C.
Executive Director