

# *The Legal Profession Act, 1990*

*being*

Chapter L-10.1\* of the *Statutes of Saskatchewan, 1990-91* (effective October 1, 1991) as amended by the *Statutes of Saskatchewan, 1996, c.7; 1997, c.S-50.11 and T-22.2; 1998, c.C-45.2; 2005, c.38; 2006, c.25; 2007, c.5; 2009, c.T-23.01; 2010, c.B-12, and c.17 and 19; 2014, c.E-13.1 and c.15; 2015, c.21; 2016, c.27, 2017, c.16; 2018, c.42; and 2019, c.7.*

**\*NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

## **NOTE:**

**This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.**

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## CHAPTER L-10.1

### An Act respecting the Legal Profession, the Law Foundation and the Law Society of Saskatchewan

#### PART I

#### Short Title and Interpretation

##### Short title

1 This Act may be cited as *The Legal Profession Act, 1990*.

##### Interpretation

2(1) In this Act:

(a) **“admissions panel”** means a panel appointed in accordance with the rules for the purposes of any hearing related to admission;

(a.1) **“bencher”** means a bencher of the society who is elected, constituted or appointed in accordance with this Act;

(b) **Repealed.** 2019, c 7, s.3.

(b.1) **“competence”** means bringing adequate skill and knowledge to the practice of law including the management of a practice;

(c) **“complainant”** means a person who makes a complaint to the society about the conduct of a member;

(d) **“conduct unbecoming”** means any act or conduct, whether or not disgraceful or dishonourable, that:

(i) is inimical to the best interests of the public or the members; or

(ii) tends to harm the standing of the legal profession generally;

and includes the practice of law in an incompetent manner where it is within the scope of subclause (i) or (ii);

(e) **“court”** means the Court of Queen’s Bench, unless the context requires otherwise;

(f) **“financial institution”** means a chartered bank, a credit union incorporated or continued pursuant to *The Credit Union Act, 1998* or a trust corporation that holds a valid and subsisting licence issued pursuant to *The Trust and Loan Corporations Act, 1997*;

(f.1) **“firm”** means any of the following that provides or provide legal services to the public:

- (i) a sole proprietorship;
- (ii) a partnership;
- (iii) a corporation;
- (iv) two or more members holding themselves out as practising in association;
- (v) any other business entity;

but does not include any entity that receives all or substantially all of its funding from the Government of Saskatchewan;

(g) **“foundation”** means the Law Foundation continued pursuant to section 74;

(g.1) **“hearing committee”** means a hearing committee appointed in accordance with the rules;

(g.2) **“licence”** means a licence issued to a member pursuant to section 24 entitling the member to practise law in Saskatchewan;

(h) **“member”**:

(i) subject to subsections (2) and (2.1) and sections 34.1, 60 and 84.1 and except where the context requires otherwise, means a member of the society admitted pursuant to subsection 4(1) or declared to be a member pursuant to subsection 4(2); and

(ii) except where the context requires otherwise, includes a firm;

(i) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(j) **“prescribed”** means prescribed by the benchers;

(k) **“rules”** means:

(i) in Part VI other than in section 78, the rules made by the foundation pursuant to this Act; and

(ii) in any other Part and in section 78, the rules made by the benchers pursuant to this Act;

(l) **Repealed.** 2005, c.38, s.3.

(m) **“society”** means the Law Society of Saskatchewan continued pursuant to section 3;

(n) **“suspension”** includes disqualification in sections 16, 17, 28, 83 and 87.

(2) References to members in any of the following do not include students-at-law:

(a) sections 6, 12, 13.1, 16, 17, 20, 25, 26, and 74;

(b) Part V, other than section 63;

- (c) rules made:
  - (i) respecting any matter mentioned in the provisions set out in clauses (a) and (b); or
  - (ii) pursuant to section 10 respecting the election of benchers.
- (2.1) The following provisions apply to non-members who are authorized to engage in the practice of law in Saskatchewan:
  - (a) sections 38, 39, 40, 43, 54, 56, 57 and 84.1;
  - (b) rules made respecting any matter mentioned in the provisions set out in clause (a).
- (3) Words that direct or empower a chairperson of a committee established pursuant to this Act to do any act or thing, or words that otherwise apply to a chairperson by name of office, include any vice-chairperson.
- (4) Words that direct or empower the executive director to do any act or thing, or words that otherwise apply to the executive director by name of office, include the deputy executive director.

1990-91, c.L-10.1, s.2; 1996, c.7, s.3; 1997, c.T-22.2, s.90; 1998, c.C-45.2, s.476; 2005, c.38, s.3; 2007, c.5, s.3; 2010, c.17, s.3; 2014, c.15, s.3; 2018, c.42, s.65; 2019, c.7, s.3.

## PART II Law Society

### Law Society continued

- 3(1) The Law Society of Saskatchewan is continued as a corporation.
- (2) The society may acquire, hold, lease, sell or dispose of real and personal property for its corporate purposes.
- (3) All:
  - (a) fees payable and assessments levied; and
  - (b) fines and penalties imposed;
 pursuant to this Act are the property of the society.
- (4) The society may borrow moneys for its purposes, and may mortgage or charge any of its property or its sources of funds as security for moneys borrowed.
- (5) The society may invest its funds in investments authorized pursuant to section 44 of *The Pension Benefits Act, 1992* and may sell or otherwise dispose of those investments and may reinvest the proceeds in similar investments.

1990-91, c.L-10.1, s.3; 1996, c.7, s.4.

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**Duty of society**

**3.1** In the exercise of its powers and the discharge of its responsibilities, it is the duty of the society, at all times:

- (a) to act in the public interest;
- (b) to regulate the profession and to govern the members in accordance with this Act and the rules; and
- (c) to protect the public by assuring the integrity, knowledge, skill, proficiency and competence of members.

2010, c.17, s.4.

**Protection of the public**

**3.2** In any exercise of the society's powers or discharge of its responsibilities or in any proceeding pursuant to this Act, the protection of the public and ethical and competent practice take priority over the interests of the member.

2014, c.15, s.4.

**Membership**

**4(1)** The society may admit lawyers and students-at-law to be members.

**(2)** All persons who are members of the society pursuant to *The Legal Profession Act* on the day before this section comes into force are members pursuant to this Act.

1990-91, c.L-10.1, s.4.

**Officers**

**5(1)** The officers of the society may consist of a president, vice-president, executive director, deputy executive director and any other officers that the society considers necessary.

**(2)** The benchers may appoint a person other than a bencher to fill any office of the society, other than the offices of president and vicepresident.

**(3)** The executive director has the powers and duties given to the executive director by or pursuant to this Act and the rules, and those assigned or delegated to the executive director by a resolution of the benchers.

**(4)** Subject to subsection (5), the executive director may delegate to one or more employees of the society any of the executive director's powers, duties or functions.

**(5)** The benchers may impose any limitations or terms and conditions that they consider appropriate on a delegation pursuant to subsection (4).

1990-91, c.L-10.1, s.5; 2005, c.38, s.4; 2019, c 7, s.4.

**Benchers**

- 6(1) The benchers constitute the governing body of the society and:
- (a) are responsible for the governance of the society and the legal profession;
  - (b) shall manage and conduct the business and affairs of the society; and
  - (c) shall perform the duties imposed, and exercise the powers conferred, on the society or the benchers pursuant to this Act or otherwise.
- (2) The benchers consist of:
- (a) the Dean of the College of Law of the University of Saskatchewan, who is a bencher by virtue of that office;
  - (b) not less than 12 benchers elected or appointed pursuant to the rules;
  - (c) the benchers appointed pursuant to subsection (3); and
  - (d) the Attorney General of Canada and the Attorney General for Saskatchewan, who are benchers by virtue of those offices.
- (2.1) Rules respecting the election or appointment of benchers may be made with the approval of two-thirds of the members in attendance at the annual meeting held pursuant to section 21 or at a special meeting held pursuant to section 22.
- (3) The Lieutenant Governor in Council, after consultation with the society, may appoint as benchers not less than four persons who reside in Saskatchewan but are not members at least one of whom is to reside outside of Regina and Saskatoon.
- (4) A bencher appointed pursuant to subsection (3):
- (a) holds office at pleasure for a term not exceeding three years or until a successor is chosen and may be reappointed for not more than one additional consecutive term; and
  - (b) ceases to hold office if he or she ceases to reside in Saskatchewan.
- (5) The society shall remunerate and reimburse for expenses the benchers appointed pursuant to subsection (3) at the rate determined by the Lieutenant Governor in Council.
- (6) A bencher appointed pursuant to subsection (3) may exercise rights and serve as a member of committees to the same extent as other benchers.
- (7) **Repealed.** 2019, c 7, s.5.

1990-91, c.L-10.1, s.6; 1996, c.7, s.5; 2005, c.38, s.5; 2014, c.15, s.5; 2019, c 7, s.5.

**Attorney General benchers**

- 7 The Attorneys General who are benchers mentioned in clause 6(2)(d) have no right to vote at a meeting of the benchers in convocation.

2019, c 7, s.6.

**Appointment of representatives**

7.1(1) The chairperson of any committee established, continued or appointed pursuant to this Act or the rules may appoint any person to carry out any responsibility imposed on the chairperson pursuant to this Act or the rules or to exercise any of the powers conferred on the chairperson or a committee pursuant to this Act or the rules that the chairperson believes may be more conveniently carried out or exercised by that person.

(2) **Repealed.** 2019, c7, s.7.

(3) The chairperson may impose any limitations or terms and conditions that the chairperson considers appropriate on an appointment pursuant to subsection (1).

(4) The exercise of any of the chairperson's or committee's powers or the carrying out of any of the chairperson's or committee's responsibilities by a person who is appointed pursuant to subsection (1) is deemed to be the exercise or the carrying out by the chairperson or the committee.

2010, c.17, s.5; 2014, c.15, s.6; 2019, c7, s.7.

**Committees**

7.2(1) The benchers may:

- (a) establish any committees that they consider necessary; and
- (b) make rules respecting:
  - (i) the practice and procedure of committees;
  - (ii) the appointment and termination of appointments to committees;
  - (iii) the admissibility of any report or other material submitted to a committee as evidence in a civil proceeding; and
  - (iv) any other matter respecting committees the benchers consider necessary or advisable.

(2) Subject to this Act and the rules, the benchers, on any terms or conditions that they may determine, may delegate any of their powers or duties to a committee that is provided for by this Act or the rules or that is established pursuant to subsection (1).

(3) The benchers shall not delegate the power to make rules.

(4) Subject to this Act and the rules, a committee may establish its own procedures.

2019, c7, s.8.

**8 Repealed.** 2005, c.38, s.6.

**Effect of disbarment, suspension**

9(1) If a member who is serving as a bencher is disbarred, the member ceases to be a bencher on the day that the member is disbarred.

(2) If a member who is serving as a bencher is suspended from practice, the member's powers and duties as a bencher are suspended for the same period.

1990-91, c.L-10.1, s.9.



**Rules**

**10** The benchers may make rules for the governing of the society, for the regulating of members, firms, articulated students-at-law and applicants, and for the carrying out of this Act, for the following purposes:

- (a) establishing committees, determining the duties of committees and conferring on committees the power to act for the benchers in and in relation to any matters that the benchers direct, other than the power to make rules;
  - (a.1) prescribing the organization, powers and procedures of the benchers and committees and regulating the benchers and committees in the performance of their duties;
  - (a.11) respecting the appointment of persons pursuant to section 7.1;
  - (a.12) delegating to the executive director, or to the delegate of the executive director, the authority to do any act or exercise any power or jurisdiction of the benchers pursuant to this Act and the rules, other than the power to make rules;
  - (a.13) authorizing a committee established pursuant to this Act or the rules to delegate authority granted to it pursuant to this Act to the executive director or to the delegate of the executive director;
- (a.2) regulating the election and appointment of benchers;
- (a.3) governing procedures for the appointment or election of officers of the society;
- (a.4) prescribing circumstances in which a person ceases to be a bencher or an officer of the society, or may be removed as a bencher or as an officer of the society;
- (b) subject to subsection 6(5), prescribing remuneration and reimbursement for expenses payable to benchers in carrying out their duties pursuant to this Act;
- (c) prescribing a code of professional conduct for members;
- (d) prescribing the qualifications, courses and manner of study and examinations of students-at-law and the requirements preliminary to their admission as lawyers;
- (e) prescribing the evidence and information to be submitted by persons applying to be admitted as students-at-law or lawyers;
- (f) regulating the admission of lawyers as members;
  - (f.1) respecting the resignation of members;
  - (f.2) respecting the establishment of the admissions panel pursuant to sections 23 and 24;
- (g) regulating the practice of law by members in association or otherwise in conjunction with persons who are resident or incorporated outside Saskatchewan;

- (h) fixing fees payable to the society:
  - (i) for the bar admission course;
  - (ii) for the admission of students-at-law and lawyers; and
  - (iii) from time to time, by members or categories of members;
- (i) providing for lawyers who are not members to practise law in specified situations, fixing fees payable by those lawyers and prescribing any terms and conditions or imposing any requirements on those lawyers that the benchers consider appropriate;
- (j) providing for the issuance of licences to members and persons authorized to practise law in accordance with rules made pursuant to clause (i) and requiring those licences to be displayed as prescribed;
- (k) requiring law firms or categories of law firms to apply to the society for and hold a permit, categorizing law firms, fixing fees payable for permits, imposing terms or conditions on the issuance of permits, providing for the revocation of permits and the effect of the revocation and otherwise regulating the issuance of permits;
  - (k.1) for the purposes of section 31, exempting persons and classes of persons from the prohibition against the unauthorized practice of law and, as a condition of the exemption, requiring any exempted person or class of exempted persons to comply with any term or condition;
- (l) prescribing standards of competence and practice management;
- (m) establishing procedures relating to the methods of assessment and review of competence;
- (n) providing for the making, investigating, hearing and determining of complaints against members and for any other matters necessary to carry out the discipline provisions of this Act;
  - (n.1) providing for the appointment and composition of panels to carry out the discipline provisions of this Act;
- (o) establishing criteria and procedures for taking disciplinary action against members for contraventions of rules;
  - (o.1) **Repealed.** 2010, c.17, s.6;
  - (o.2) providing for the method of sending a copy of a formal complaint and of serving notice of a hearing on a member;
- (p) providing for the manner and extent to which members may hold themselves out as engaging in the practice of law other than in the general practice of law;
  - (p.1) for the purposes of subsection 30(3), defining legal information;

- (q) providing for:
  - (i) the suspension from practice of members for contraventions of rules respecting the payment of fees or assessments levied, the filing of materials or the completion of continuing legal education requirements; and
  - (ii) the reinstatement, on any terms that the society considers appropriate, of members who have been suspended in accordance with rules made pursuant to subclause (i);
- (r) providing for the reinstatement of:
  - (i) persons who have been disbarred;
  - (ii) former students-at-law whose articles have been terminated;
  - (iii) persons who have resigned from the society; or
  - (iv) inactive members as active members;and providing for terms and conditions respecting their reinstatement;
- (s) requiring members to keep and maintain books, records and accounts in the prescribed form and manner with respect to all moneys, other negotiable property and other consideration received or disbursed in connection with the member's practice, and establishing criteria with respect to the furnishing of evidence that those books, records and accounts are being kept and maintained in accordance with the rules;
- (t) providing for:
  - (i) the investigation or inspection of books, records, accounts, files and office management systems of members by:
    - (A) the officers, auditors or agents of the society; or
    - (B) any other person designated by the benchers or appointed by the conduct investigation committee; and
  - (ii) the method of assessment against a member of the expenses of investigations or inspections pursuant to subclause (i) where it is determined that the member has not complied with rules respecting office management systems and the keeping of books, records, accounts and files;
- (t.01) for the purposes of section 14, prescribing the period that must elapse and the circumstances that must exist before a member may pay moneys from the member's trust account to the society or to the member's general account, and prescribing an amount for the purposes of clauses 14(1)(b) and 14(9)(b);
- (t.1) establishing procedures to prevent the disclosure of information that is privileged or confidential, which procedures may be made applicable to any person who, in the course of any proceeding pursuant to this Act, would acquire the confidential or privileged information;
- (u) regulating the content, form and manner of advertising by members;
- (v) regulating the provision of mediation services by members;

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- (v.1) regulating the provision of alternative dispute resolution services by members;
- (w) respecting the establishment and maintenance of a system of continuing legal education and the monitoring of legal education provided otherwise;
- (x) providing for the giving of notice with respect to annual and special meetings of the society, specifying the effects of that notice, and establishing procedures for those meetings;
- (y) specifying the form and content of written requests for special meetings of the society and the time within which the meetings are to be held;
- (z) prescribing the content of bills for fees and disbursements charged to clients by members;
- (z.1) subject to subsection 81(2), respecting the commencement of proceedings pursuant to this Act;
- (aa) providing that the society may provide funds and other assistance to establish or maintain law libraries;
- (bb) providing for the disbursement and appropriation of funds of the society;
- (cc) respecting any matter that is necessarily incidental to the matters set out in this section relating to the governance of the society and the legal profession.

1990-91, c.L-10.1, s.10; 1996, c.7, s.6; 2005, c.38, s.7; 2007, c.5, s.4; 2010, c.17, s.6; 2014, c.15, s.7; 2019, c.7, s.9.

**Insurance**

- 11(1)** Subject to section 11.1, the benchers shall require as a condition of membership in the society that members maintain insurance that provides indemnity against professional liability claims in an amount determined by the benchers.
- (2) The society may enter into a contract of insurance pursuant to which any member or category of members is insured with respect to professional liability claims.
- (3) The benchers may:
  - (a) establish, administer, maintain and operate a professional liability insurance scheme;
  - (b) fix the assessments levied on members or categories of members with respect to the insurance scheme mentioned in clause (a);
  - (c) establish categories of membership for the purposes of this section; and
  - (d) exempt any member or category of members from the requirement to:
    - (i) maintain professional liability insurance; or
    - (ii) pay an assessment.

- (4) For the purposes of this section, the society may:
  - (a) establish a subsidiary corporation;
  - (b) in its own right or through a subsidiary corporation, enter into a reciprocal insurance exchange agreement; and
  - (c) levy assessments and impose retroactive assessments on members.
- (5) The society is deemed to be the agent of the member:
  - (a) in entering into a contract of insurance pursuant to subsection (2); and
  - (b) in carrying out the activities described in subsection (4).

1990-91, c.L-10.1, s.11; 2017, c 16, s.3.

#### Exemption from insurance

**11.1(1)** In this section, “**government institution**” means, subject to the regulations, a government institution as defined in *The Freedom of Information and Protection of Privacy Act*.

(2) Notwithstanding any other provision of this Act or the rules, a member who is employed by or on an exclusive contract with a government institution is exempt from any requirement to:

- (a) maintain professional liability insurance; or
- (b) pay to the society or any other insurer any liability insurance assessment, levy or other payment.

(3) The provision of legal services by a member mentioned in subsection (2) through a pro bono organization approved by the society does not affect the application of that subsection to that member.

(4) The Lieutenant Governor in Council may make regulations excluding any secretariat, agency, board, commission, Crown corporation or other body from the definition of “government institution”.

2017, c 16, s.4.

#### Special fund

**12(1)** In this section, “**fund**” means the special fund created pursuant to clause (2)(a).

(2) The benchers may:

- (a) create a special fund by the levy of an assessment on members for the purpose of reimbursing persons who suffer pecuniary loss as a result of a member’s misappropriation or wrongful conversion of moneys or other property entrusted to or received by the member in the member’s professional capacity; and
- (b) in cases where they are of the opinion that reimbursement should be made, reimburse a person described in clause (a), in whole or in part, out of the fund.

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(2.1) Money or other property entrusted to or received by a member that is to be applied to a financial or commercial undertaking, an investment or a project in which the member has an interest is deemed not to have been entrusted to or received by the member in the member's professional capacity unless the benchers are satisfied that:

- (a) the person who suffered the pecuniary loss mentioned in clause (2)(a) was unaware of the member's interest at the time the money or other property was entrusted to or received by the member; or
  - (b) it would be inequitable to deny payment to the person who suffered the pecuniary loss.
- (3) For the purposes of this section, the benchers may make rules:
- (a) respecting the administration and investment of the fund;
  - (b) prescribing limitations on amounts that may be paid out of the fund;
  - (c) providing for charging to the fund:
    - (i) expenses incurred in connection with audits, investigations and hearings pertaining to members' accounts; and
    - (ii) fees and expenses of trustees appointed pursuant to section 61; and
  - (d) fixing assessments payable by members or categories of members.
- (4) The fund:
- (a) is the property of the society; and
  - (b) is not subject to any trust.
- (5) The society shall deposit the fund in an account in a financial institution, separate and apart from all other funds of the society.
- (6) The benchers shall, not later than April 1 in each year:
- (a) prepare a report with respect to the fund and all payments out of the fund during the last preceding year; and
  - (b) deliver a copy of the report to the minister.

1990-91, c.L-10.1, s.12; 1996, c.7, s.7.

**Society subrogated**

**13(1)** Where a payment is made to a person pursuant to subsection 12(2), the society is subrogated in the amount of the payment to any rights or remedies of that person against the member or another person regarding the loss with respect to which the payment was made.

(2) In the event of the death, insolvency or other disability of the member or other person mentioned in subsection (1), the society may proceed against the personal representative or the person administering the estate, as the case may be, of the member or other person.

1990-91, c.L-10.1, s.13.

**National special fund**

**13.1(1)** In this section, “**national special fund**” means the national special fund established in accordance with an agreement mentioned in subsection (2).

(2) The society may enter into an agreement with the law societies in other provinces and territories of Canada to establish a national special fund for the purpose of reimbursing a person in cases where:

- (a) money or other property was entrusted to, or received by, a lawyer in the lawyer’s professional capacity;
- (b) the lawyer is entitled to practise law in jurisdictions in Canada where the lawyer is not a member of the law society in those jurisdictions;
- (c) the lawyer misappropriated or wrongfully converted the money or property; and
- (d) the person suffered a pecuniary loss as a result of the misappropriation or wrongful conversion.

(3) An agreement mentioned in subsection (2) may include provisions respecting:

- (a) the administration of the national special fund;
- (b) the circumstances in which payments may be made out of the national special fund; and
- (c) any other matters that the society considers appropriate or necessary for the purposes of this section and the national special fund.

(4) For the purposes of the national special fund, the society may:

- (a) levy an assessment on members in addition to the assessment mentioned in section 12; and
- (b) cause the assessments to be deposited in the national special fund.

(5) Subsections 12(2.1) to (6) and section 13 apply, with any necessary modification, to the national special fund.

2005, c.38, s.8; 2019, c 7, s.10.

**Insurance program established**

**13.2** The society may establish, administer, maintain and operate an insurance program to carry out the purposes of sections 12 and 13.1.

2005, c.38, s.8.

**Society trust account**

**14(1)** A member may pay moneys from the member’s trust account to the society if:

- (a) the moneys have been held in the member’s trust account for the period prescribed in the rules;
- (b) the moneys exceed the amount prescribed in the rules;
- (c) the circumstances prescribed in the rules have been met; and
- (d) the society is satisfied that the member is unable to pay the moneys to the person who is entitled to them.

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- (2) The society shall:
- (a) maintain a trust account consisting of moneys paid to the society from members' trust accounts pursuant to subsection (1); and
  - (b) pay to the foundation the interest accruing on moneys held in the account mentioned in clause (a).
- (3) Where a person establishes to the satisfaction of the society that the person is entitled to moneys held pursuant to subsection (2), the society shall pay the moneys to the person.
- (4) A dispute between the society and a person with respect to the person's entitlement to moneys held pursuant to subsection (2) may be determined on application to the court.
- (5) The society is not liable to account to any person other than the foundation for interest on moneys held pursuant to subsection (2).
- (6) Where no application by a person claiming to be entitled to money held by the society pursuant to subsection (2) has been made within 10 years after the money is received by the society, the society shall pay the money to the foundation.
- (7) If a person establishes to the satisfaction of the foundation that he or she is entitled to money paid to the foundation, the foundation shall pay an equivalent amount to that person out of the Law Foundation Account.
- (8) A dispute respecting a person's entitlement to money paid to the foundation may be determined on application to the court.
- (9) Notwithstanding subsections (1) to (8), a member may transfer moneys from the member's trust account to the member's general account if:
- (a) the moneys have been held in the member's trust account for the period prescribed in the rules;
  - (b) the moneys do not exceed the amount prescribed in the rules;
  - (c) the circumstances prescribed in the rules have been met; and
  - (d) the society is satisfied that the member is unable to pay the moneys to the person who is entitled to them.

1990-91, c.L-10.1, s.14; 1996, c.7, s.8; 2007, c.5, s.5; 2010, c.17, s.7.

**15 Repealed.** 2005, c.38, s.9.**Eligibility to vote**

**16** Subject to the rules, all members, except members under suspension, are eligible to vote at an election of benchers.

1990-91, c.L-10.1, s.16; 2019, c7, s.11.



**Eligibility as candidate**

**17** Subject to the rules, all members, except members under suspension, are eligible as candidates in an election of benchers.

2005, c.38, s.10; 2019, c 7, s.12.

**18 Repealed.** 2005, c.38, s.11.

**19 Repealed.** 2005, c.38, s.11.

**Vacancies**

**20** Where:

- (a) there is a failure to elect the required number of benchers; or
- (b) an elected bencher vacates office for any reason;

the remaining benchers may appoint a member who is eligible pursuant to section 17 and the rules to fill the vacancy for the remainder of the period for which the other benchers have been elected.

1990-91, c.L-10.1, s.20; 2005, c.38, s.12.

**Annual meeting**

**21(1)** The society shall hold an annual meeting of members at the place and time designated by the benchers.

(2) The benchers shall give at least 21 days' notice of an annual meeting to each member in accordance with the rules.

1990-91, c.L-10.1, s.21.

**Special meeting**

**22(1)** The benchers:

- (a) may convene a special meeting of members at any time;
- (b) shall convene a special meeting of members on the written request of at least 50 members.

(2) The request for and the calling, holding and procedure at a special meeting shall be in accordance with the rules.

(3) The benchers shall give at least 21 days' notice of a special meeting to each member in accordance with the rules.

1990-91, c.L-10.1, s.22.

PART III  
**Legal Services and the Practice of Law**

**Eligibility as student-at-law**

**23(1)** The society may admit as a student-at-law a person who produces the prescribed evidence and information and otherwise complies with the rules.

(2) **Repealed.** 2010, c.19, s.15

(3) Where a person is refused admission as a student-at-law, the society shall inform the person in writing of the reasons for the refusal.

(4) A person whose application to be admitted as a student-at-law is refused:

(a) may request the admissions panel to review the application; and

(b) has the right to appear before the admissions panel in support of the application.

(5) The benchers shall make rules with respect to the review pursuant to subsection (4) of applications.

1990-91, c.L-10.1, s.23; 2010, c.19, s.15; 2014,  
c.15, s.8.

**Eligibility as lawyer**

**24(1)** Any person may apply to the society to be admitted as a lawyer, and the society may admit that person as a member if that person:

(a) produces evidence satisfactory to the society of service as a student-at-law or practice as a lawyer;

(b) produces evidence that the person has completed a legal education program that is prescribed in the rules;

(c) complies with the rules; and

(d) fulfils any other requirement that the society may prescribe.

(1.1) Notwithstanding subsection (1), the society may admit as a member a person who produces evidence establishing to the satisfaction of the benchers that the person:

(a) has complied with the rules with respect to registration; and

(b) is a member in good standing of a law society established pursuant to the legislation of another jurisdiction in Canada, or the legislation of a jurisdiction outside of Canada that is recognized by the benchers.

(1.2) The society shall issue a licence to each member admitted pursuant to subsection (1) or (1.1) in accordance with the rules.

(2) Where a person is refused admission as a member, the society shall inform the person in writing of the reasons for the refusal.

- (3) A person whose application for admission pursuant to this section as a member is refused:
- (a) may request the admissions panel to review the application; and
  - (b) has the right to appear before the admissions panel in support of the application.
- (4) The benchers shall make rules with respect to the review of applications pursuant to subsection (3).
- (5) The benchers may make rules:
- (a) establishing categories of membership on the basis of the frequency or extent of members' practice of law in Saskatchewan;
  - (b) prescribing the conditions on and requirements of each category of member;
  - (c) exempting a member or category of members from any provision of this Act or the rules.

1990-91, c.L-10.1, s.24; 2010, c.19, s.15; 2014, c.15, s.9; 2019, c 7, s.14.

**Oath or affirmation**

**25** A person, before being admitted as a member, shall take and subscribe the prescribed oath or affirmation.

1990-91, c.L-10.1, s.25.

**Duty to keep roll**

**26** The executive director shall continue to keep a roll and enter on the roll the names of all persons who are admitted as members.

1990-91, c.L-10.1, s.26; 2005, c.38, s.13.

**Resignation**

- 27(1)** A member may resign from the society in accordance with the rules.
- (2) All of a member's rights and privileges as a member cease on the member's resignation.
- (3) Resignation of a member does not preclude the person from applying to the society at a later date for admission as a member.

1990-91, c.L-10.1, s.27; 2010, c.17, s.8.

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**28(1)** The rights and privileges of a member who is disbarred pursuant to this Act or by any competent authority are removed on disbarment, and the person ceases to be a member of the society.

(2) The rights and privileges of a member who is suspended from practice pursuant to this Act or by any competent authority are removed for the period of the suspension.

(3) If a member is disbarred or suspended from practice, the executive director shall:

(a) give notice immediately to the judges of the Court of Appeal, the court and the Provincial Court of Saskatchewan of the name of the member; and

(b) cause a notice of the disbarment or suspension to be published and posted in any manner that the executive director considers appropriate.

1990-91, c.L-10.1, s.28; 2005, c.38, s.14; 2010, c.17, s.9.

**Reinstatement**

**29(1)** A person who has been disbarred may apply for reinstatement in accordance with the rules after any period fixed by the order disbaring the member.

(2) A person whose application for reinstatement is refused may, within 30 days after the day of the refusal, appeal from the decision of the admissions panel to the Court of Appeal, and the Court of Appeal may allow or disallow the appeal.

(3) On an appeal pursuant to subsection (2), the Court of Appeal shall consider:

(a) the proceedings before the benchers on the application for reinstatement;

(b) the past record of the appellant as shown by the books and records of the society;

(c) the evidence taken before the admissions panel and the report of that panel; and

(d) the decision that is the subject of the appeal.

(4) The procedure on an appeal pursuant to section 56 applies, with any necessary modification, to an appeal pursuant to this section.

(5) The society shall give notice of the reinstatement of a member to all judges mentioned in clause 28(3)(a).

1990-91, c.L-10.1, s.29; 2005, c.38, s.15; 2010, c.17, s.10; 2019, c 7, s.16.

**Practice of law**

**29.1** The practice of law is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person that require the knowledge and skill of a person trained in the law, and includes the following:

(a) giving advice or counsel to others with respect to their legal rights or responsibilities or the legal rights or responsibilities of others;

(b) drafting or completing legal documents or agreements that affect the legal rights of an entity or person;

- (c) representing another entity or person in any of the following:
  - (i) a court;
  - (ii) a formal administrative adjudicative proceeding;
  - (iii) a formal dispute resolution process;
  - (iv) any other administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review;
- (d) negotiating legal rights or responsibilities on behalf of another entity or person.

2019, c 7, s.17.

**Authority to practise law**

**30(1)** Subject to section 31, no persons other than members who hold a licence shall:

- (a) practise law in Saskatchewan; or
- (b) hold themselves out as, or represent themselves to be, persons who may practise law in Saskatchewan.

(2) Subject to section 31, a person, other than a member who holds a licence, who commences, prosecutes or defends an action or proceeding in a court of civil or criminal jurisdiction or acts as counsel or a lawyer in an action or proceeding is:

- (a) incapable of recovering any fee, reward or disbursement on that account; and
- (b) deemed to be guilty of a contempt of the court in which the proceeding has been commenced, carried on, defended or prosecuted, and may be proceeded against for contempt before the Court of Appeal or a judge of the court sitting in chambers.

(3) Nothing in this section affects the ability of a person or entity to provide members of the public with information of a general nature about the law and legal procedures or any other legal information as defined in the rules.

2019, c 7, s.18.

**Exceptions re unauthorized practice**

**31** Section 30 does not apply to:

- (a) an articulated student-at-law or any other person required to serve under articles who, while serving under articles:
  - (i) appears as counsel in proceedings before a judge of the Provincial Court of Saskatchewan, justice of the peace or a judge of the court sitting in chambers;
  - (ii) acts as counsel in proceedings in which a student-at-law is authorized by The Queen's Bench Rules to act; or
  - (iii) performs under the supervision of a member any acts, not related to court appearances, that are prescribed in the rules;

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- (b) a person authorized to practise in accordance with the rules made pursuant to clause 10(i) while the person is acting within the scope of that authorization;
- (c) a member of a police force appearing for the Crown before a judge of the Provincial Court of Saskatchewan or justice of the peace;
- (d) an employee of the Government of Saskatchewan or the Government of Canada prosecuting summary conviction cases for the contravention of an Act or an Act of the Parliament of Canada, or a regulation made pursuant to an Act or an Act of the Parliament of Canada;
- (e) a sheriff with respect to proceedings taken for:
  - (i) relief pursuant to provisions relating to interpleader;
  - (ii) payment out of court of funds belonging to an execution debtor; or
  - (iii) directions of a court with respect to a seizure made or requested to be made by the sheriff;
- (f) a person who is a plaintiff or defendant in proceedings and who commences, prosecutes or defends in the person's own name an action or proceeding in a court of civil or criminal jurisdiction;
- (g) a person preparing a document for the person's own use or in relation to a proceeding to which the person is a party;
- (h) **Not Yet Proclaimed.**
- (i) any other person or class of persons, as prescribed in the rules.

1990-91, c.L-10.1, s.31 2019, c 7, s.19.

**False pretences**

**32(1)** No persons, other than members who hold a licence or persons who are authorized to practise in accordance with rules made pursuant to clause 10(i), shall pretend or hold themselves out to be a lawyer or a barrister and solicitor.

(2) No persons, other than members who hold a licence, or persons who are authorized to practise in accordance with rules made pursuant to clause 10(i), shall:

- (a) take, assume or use any name, title, addition or description:
  - (i) other than one that they actually possess and are legally entitled to; or
  - (ii) that implies or is calculated to lead people to infer that they are entitled to practise law in Saskatchewan; or
- (b) in any way publish or advertise themselves as entitled to practise law in Saskatchewan.

(3) No person who is not a member in good standing shall use the designations "barrister", "solicitor", "barrister and solicitor", "lawyer" or "attorney".

2019, c 7, s.20.

**Court form**

**33** No person shall use in any manner a document or writing that simulates or is intended or is likely to lead any person to the belief that it is a court process or form, if it is not.

1990-91, c.L-10.1, s.33.

**Officers of court**

**34** All members are officers of all duly constituted provincial and superior courts of civil and criminal jurisdiction in Saskatchewan.

1990-91, c.L-10.1, s.34.

## PART IV Competency and Discipline

**Interpretation of Part**

**34.1** In this Part, “**member**” includes a former member.

1996, c.7, s.9.

**Proceedings against former members**

**34.2(1)** No proceedings conducted pursuant to this Part shall be commenced against a former member more than two years after the day he or she became a former member.

(2) For the purposes of this section, a proceeding is commenced when the society, pursuant to subsection 40(1):

- (a) receives a complaint; or
- (b) becomes aware of conduct that is or may be conduct unbecoming or conduct that may display incompetence.

1996, c.7, s.9.

**34.3 Repealed.** 2019, c7, s.21.

**35 Repealed.** 2019, c7, s.21.

**Conduct investigation committee**

**35.1(1)** The conduct investigation committee is established in accordance with the rules.

(2) **Repealed.** 2019, c7, s.22.

(3) **Repealed.** 2019, c7, s.22.

(4) **Repealed.** 2019, c7, s.22.

(5) Subject to this Act and the rules, the conduct investigation committee shall:

- (a) determine all matters necessary to the convening, holding and adjournment of its meetings;
- (b) determine its procedure;

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- (c) establish a method by which it shall decide questions; and
- (d) determine generally the transaction and management of its business.

2010, c.17, s.15; 2014, c.15, s.10.

**36 Repealed.** 2019, c7, s.23.**Assistance employed by committees**

**37** In the execution of its duties pursuant to this Act, the conduct investigation committee, a hearing committee, the discipline committee or any other committee designated in the rules may employ, at the expense of the society, any legal or other assistance that it considers necessary.

1990-91, c.L-10.1, s.37; 2005, c.38, s.19; 2010, c.17, s.17; 2019, c7, s.24.

**Right of members to counsel**

**38** A member whose conduct is the subject of proceedings conducted pursuant to this Part is entitled to be represented by counsel, at the member's expense, throughout the proceedings and to examine, cross-examine and re-examine all witnesses and to present evidence in defence and reply.

1990-91, c.L-10.1, s.38.

**Subpoena**

**39(1)** Within the context of a hearing pursuant to this Act and the rules, the following may apply to the court for a writ of *subpoena ad testificandum* or *subpoena duces tecum*:

- (a) a member whose conduct is under investigation;
- (b) counsel for the society.

(2) On receipt of an application pursuant to subsection (1), the local registrar of the court at any judicial centre, on payment of the appropriate fees, shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum*.

(3) If a writ issued pursuant to subsection (2) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.

2019, c7, s.25.

**Preliminary investigation**

**40(1)** A person designated by the society shall investigate the conduct of any member if the society:

- (a) receives a complaint with respect to a member, alleging conduct unbecoming;
- (b) otherwise becomes aware of conduct by a member that is or may be conduct unbecoming;



- (c) receives a complaint questioning the competence of a member but not alleging conduct unbecoming; or
  - (d) otherwise becomes aware of conduct by a member that may display incompetence, but that does not constitute conduct unbecoming.
- (2) For the purposes of an investigation authorized pursuant to subsection (1), a person designated by the society may, at any time, make a written demand requiring a person to do either or both of the following:
- (a) attend, in person or by electronic means, before the designated person to answer questions on oath or affirmation, or in any other manner;
  - (b) produce for the designated person a record or thing in the person's possession or control that the designated person reasonably believes is required for the purposes of an investigation pursuant to this Act.
- (3) The society may apply to a judge of the court for an order:
- (a) directing a person to comply with a demand made pursuant to subsection (2); or
  - (b) directing an officer or governing member of a person to cause the person to comply with a demand made pursuant to subsection (2).
- (4) A person subject to an order pursuant to subsection (3) is liable to be committed for contempt if the person fails or refuses to:
- (a) attend before the designated employee or appointed person;
  - (b) take an oath or make an affirmation;
  - (c) answer questions; or
  - (d) produce records or things in the person's possession or control.
- (5) If any member's records, or other property, are produced pursuant to subsection (2), the person designated by the society to whom the records or other property were produced may:
- (a) make or cause to be made one or more copies of the records or other property produced and return the originals to the person who produced them; or
  - (b) retain any of the member's records or other property and dispose of them in accordance with the rules.
- (6) A copy or extract of a member's records or other property certified by a person mentioned in subsection (5) who made the copy or extract is admissible in evidence in any action, proceeding or prosecution and, in the absence of evidence to the contrary, is proof of the original record or property and its contents without proof of the signature or capacity of the person.
- (7) After conducting a preliminary investigation pursuant to this section, the person designated by the society may:
- (a) direct that further action be taken in accordance with the rules; or
  - (b) direct that no further action be taken.

**40.1 Repealed.** 2019, c 7, s.25.

**41 Repealed.** 2019, c 7, s.25.

**42 Repealed.** 2019, c 7, s.25.

**Review re complaints not proceeded with**

**43(1)** If there is a decision that no further action be taken with respect to the determination of a complaint, a complainant may apply to the society for a review of that decision.

(2) The benchers shall make rules respecting a procedure for reviews mentioned in subsection (1).

(3) **Repealed.** 2019, c 7, s.26.

(4) **Repealed.** 2005, c.38, s.25.

1990-91, c.L-10.1, s.43; 1996, c.7, s.11; 2005, c.38, s.25; 2010, c.17, s.23; 2019, c 7, s.26.

**44 Repealed.** 2010, c.17, s.24.

**Suspension of member by conduct investigation committee**

**45** The conduct investigation committee may suspend a member from practice in accordance with the rules.

2019, c 7, s.27.

**46 Repealed.** 2019, c 7, s.27.

**47 Repealed.** 2019, c 7, s.27.

**48 Repealed.** 2019, c 7, s.27.

**49 Repealed.** 2019, c 7, s.27.

**50 Repealed.** 2010, c.17, s.26.

**51 Repealed.** 2010, c.17, s.26.

**52 Repealed.** 2019, c 7, s.28.

**53 Repealed.** 2019, c 7, s.28.

**Possible criminal offence**

**54(1)** If the conduct investigation committee suspends a member pursuant to the rules, the chairperson of that committee shall immediately report the suspension to the Deputy Minister of Justice.

(2) If a hearing committee, on making its decision pursuant to the rules, believes that the member who is the subject of the hearing may be guilty of a criminal offence related to the member's practice, the chairperson of that committee shall immediately report the belief and surrounding circumstances to the Deputy Minister of Justice.

(3) The executive director, in the executive director's sole discretion, may, at any time, disclose to a law enforcement authority any information about possible criminal activity on the part of a member that is obtained during an investigation or audit pursuant to this Ac.

2019, c.7, s.29.

**55 Repealed.** 2010, c.17, s.30.

**Appeal to Court of Appeal**

**56(1)** If a formal complaint against a member is determined by the hearing committee to be well founded:

(a) the member may appeal the decision of the hearing committee or a penalty assessed or requirement imposed by the hearing committee resulting from the decision to the Court of Appeal within 30 days after the day of the decision or the assessment of a penalty or imposition of a requirement, whichever is later, by:

- (i) filing a notice of appeal with the registrar of the Court of Appeal; and
- (ii) serving a copy of the notice of appeal on the executive director; and

(b) the society, at the direction of the conduct investigation committee, may appeal a penalty assessed or requirement imposed by the hearing committee resulting from the decision to the Court of Appeal within 30 days after the day of the assessment of a penalty or imposition of a requirement by:

- (i) filing a notice of appeal with the registrar of the Court of Appeal; and
- (ii) serving a copy of the notice of appeal on the member whose conduct was the subject of the hearing.

(1.1) If a formal complaint against a member is determined by the hearing committee not to be well founded, the society may appeal the decision of the hearing committee to the Court of Appeal within 30 days after the day of the decision, by:

- (a) filing a notice of appeal with the registrar of the Court of Appeal; and
- (b) serving a copy of the notice of appeal on the member whose conduct was the subject of the hearing.

(2) The Court of Appeal may extend the time for commencing an appeal pursuant to subsection (1) or (1.1) if, in its opinion, exceptional circumstances exist.

(3) Subject to subsection (4), the commencement of an appeal to the Court of Appeal does not stay the effect of a penalty assessed or requirement imposed by the hearing committee.

(4) An appellant, on five days' notice to the executive director, may apply to the Court of Appeal for a stay of proceedings pending the disposition of the appeal.

(5) On hearing an appeal pursuant to this section, the Court of Appeal may make any order that it considers appropriate.

1990-91, c.L-10.1, s.56; 2005, c.38, s.29; 2010, c.17, s.31; 2019, c.7, s.30.

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**Non-compliance with order**

**57(1)** If a member does not comply with a requirement imposed in an order to transfer property or funds to a rightful owner within 15 days after the day on which a notice of the penalty assessed or requirement imposed by the hearing committee is sent to the member, the rightful owner named in the order may file a certified copy of the order with the court and enforce the order as if it were a judgment of the court.

(2) If a member does not comply with a requirement imposed in an order to pay a fine or costs within 15 days after the day on which a notice of the fine or costs assessed by the hearing committee is sent to the member, or within any other period specified in the order, the society may file a certified copy of the order with the court and enforce the order as if it were a judgment of the court.

2019, c 7, s.31.

**58 Repealed.** 2019, c 7, s.31.

**Improper conduct of certain others**

**59** This Part applies, with any necessary modification, to a student-at-law, a person required to serve under articles or a person authorized to practise law in accordance with the rules made pursuant to clause 10(i).

2019, c 7, s.32.

**PART V**  
**Members' Property and Fees**

**Interpretation of Part**

**60** In this Part:

- (a) **“member”** includes a former member;
- (b) **“member’s records”** means anything kept or acquired by a member or the firm in which a member practises or given to a member or the firm in which a member practises by or for a client or any other person, and, without restricting the generality of the foregoing, includes ledgers, books of account, records, files, documents, papers, securities, shares, trust money in cash or on deposit and negotiable instruments:
  - (i) if they relate in any way to the member’s practice or former practice as a lawyer or to the business or affairs of the member’s clients or former clients; and
  - (ii) whether they were acquired before or after the member ceased to practise as a lawyer;
- (c) **“records”** includes electronic records.

1990-91, c.L-10.1, s.60; 2010, c.17, s.34; 2019, c 7, s.33.

**Appointment of trustee**

**61(1)** The society may apply to a judge of the court, either *ex parte* or on any notice that the judge may direct, for an order pursuant to subsection (2) where:

- (a) a member has been disbarred;
- (b) a member is suspended from practice;
- (c) a member dies;
- (d) a member is for any reason unable to practise as a lawyer;
- (e) a member has absconded or is otherwise improperly absent from the member's place of practice or has neglected the member's practice for an unduly extended period;
- (f) there is reason to believe that the trust moneys held by a member are not sufficient to meet the member's liabilities for those moneys; or
- (g) there are reasonable grounds to believe that circumstances warrant the appointment of a trustee.

(2) On an application pursuant to subsection (1), a judge may, by order:

- (a) appoint a person with or without bond to be trustee:
  - (i) to take possession of all of the member's records and other property pertaining to:
    - (A) the practice of the member concerned; and
    - (B) any trust with respect to which the member is or was the sole trustee; and
  - (ii) to do anything that the member was capable of doing in connection with the member's practice;

for the purpose of managing or winding up the practice of the member;

- (b) make an order described in subsection (9);
- (c) direct any financial institution or other depository of the member's records and other property to deal with, hold, pay over or deliver any of that property to the trustee, or otherwise deal with the property;
- (d) give directions and advice to a trustee appointed pursuant to this section relating to the disposition of the member's records or other property;
- (d.1) direct that the costs of the trustee appointed pursuant to this section be paid by the member or the member's estate, as the case may be;
- (e) give any directions or make any further order that the situation requires.

- (3) On an application, a judge of the court may:
- (a) amend an order made pursuant to subsection (2);
  - (b) remove a trustee appointed by an order made pursuant to subsection (2) and appoint another trustee;
  - (c) make any other order that the judge considers appropriate.
- (4) If a member with respect to whom an order is sought pursuant to this section belongs to a firm that is a member in good standing in the society, the society shall give notice to the firm of the application unless the judge dispenses with service on the firm.
- (5) A trustee who is appointed with respect to the trust property of a deceased or incapacitated member shall, from the day of the appointment, be substituted as trustee of that property in the place of the personal representative or property guardian of that member.
- (6) In every order made pursuant to this section, the judge shall give directions to the society with respect to the method and time for service of the order.
- (7) A person who receives notice that an order has been made pursuant to this section shall retain and shall not dispose of any of the member's records or other property until directed to do so by the trustee or by order of a judge of the court.
- (8) Where a judge of the court is satisfied by the oath of a person designated by the benchers that the person believes, on reasonable and probable grounds, that:
- (a) any of the circumstances set out in clauses (1)(a) to (g) exists with respect to a member; and
  - (b) any of the member's records or property of the member pertaining to the member's practice is or is likely to be found in a specified place;
- the judge may make an order described in subsection (9).
- (9) An order pursuant to subsection (8) authorizes the person named in the order, together with any peace officer that the person may call on for assistance, at any reasonable time, to enter by force if necessary the place named in the order and every part of the place named in the order and of the premises connected with that place to:
- (a) examine the place and connected premises;
  - (b) search for and seize and take possession of anything that there are reasonable and probable grounds to believe constitute:
    - (i) the member's records; or
    - (ii) property of the member that pertains to the member's practice; and
  - (c) place in the custody of the trustee any records or other property seized pursuant to clause (b).

**Property in custody**

**62(1)** If a member's records, or other property, have been placed in the custody of a trustee pursuant to section 61, the person designated by the society for the purpose may examine the records or property.

(2) The trustee shall, on any notice and in any form that the trustee considers appropriate, inform the member's clients and any other person that the trustee considers necessary that:

- (a) the member's records and other property are in the custody of the trustee;
- (b) an examination of the records and other property indicates that the client or other person appears to have an interest in it; and
- (c) the client or other person may apply to the trustee in person or by counsel or agent, subject to any solicitor's lien of the member that the trustee may exercise on or with respect to the member's records or other property:
  - (i) for the delivery of those records and that other property; or
  - (ii) for leave to make copies of any documents and papers among the records and other property that the client or other person considers necessary to copy with respect to any dealings the client or other person had with the member.

1990-91, c.L-10.1, s.62; 2019, c 7, s.35.

**Investigation of records, etc.**

**63(1)** Every member and every person who keeps any of a member's records or other property shall comply with a demand of a person designated by the society to produce any of the member's records, or other property, that the designated person reasonably believes are required for the purposes of an investigation pursuant to this Act.

(2) Where, on an application without notice by the society, a judge of the court is satisfied by the oath of a person designated by the society that the person believes, on reasonable and probable grounds, that:

- (a) a member whose records or other property have been demanded pursuant to subsection (1), or a person who keeps records or other property of that member, has:
  - (i) refused to comply with a demand pursuant to subsection (1); or
  - (ii) failed to comply with a demand pursuant to subsection (1) within a reasonable time of the demand; and
- (b) records or other property that are the subject of a demand pursuant to subsection (1):
  - (i) are required for the purposes of an investigation pursuant to this Act; and
  - (ii) are or are likely to be found in a specified place;

the judge may make an order described in subsection (3).

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(3) An order pursuant to subsection (2) authorizes the person named in the order, together with any peace officer that the person may call on for assistance, at any reasonable time, to enter by force if necessary the place named in the order and every part of the place named in the order and of the premises connected with that place to:

- (a) examine the place and connected premises; and
- (b) search for and seize and take possession of the member's records and other property demanded pursuant to subsection (1).

(4) If any member's records, or other property, are produced pursuant to subsection (1) or seized pursuant to an order described in subsection (3) or 61(9), the person designated by the society or the trustee may:

- (a) make or cause to be made one or more copies of the records or other property produced or seized and return the originals to the person who produced them or from whom they were seized; or
- (b) retain any of the member's records or other property and dispose of them in accordance with the directions of the chairperson of the discipline committee.

(5) Every entry and search pursuant to this section or subsection 61(9) is to be made during normal business hours unless the judge who issues the order authorizing the entry and search authorizes entry and search at another time.

(6) A copy or extract of a member's records or other property certified by a person mentioned in subsection (4) who made the copy or extract is admissible in evidence in any action, proceeding or prosecution as prima facie proof of the original record or property and its contents without proof of the signature or capacity of the person.

1990-91, c.L-10.1, s.63; 2018, c 42, s.65; 2019, c 7, s.36.

**Contracts for remuneration**

**64(1)** Notwithstanding any law or usage to the contrary, a member may contract in writing with a person with respect to the remuneration of the member, on a basis other than fee for service, for services rendered or to be rendered to the person.

(2) The benchers may make rules:

- (a) respecting the form, content and scope of fee agreements;
- (b) prescribing the subjectmatter of provisions that shall or shall not be included in fee agreements.

(2.1) A member and a person who has entered into a fee agreement with a member pursuant to subsection (1) may attend a mediation session with respect to the fee agreement.



(3) A member or a person who has entered into a fee agreement with a member pursuant to subsection (1) may apply to a judge of the court for a determination as to whether or not the agreement is fair and reasonable.

(4) Where, on an application pursuant to subsection (3), a judge determines that a fee agreement is fair and reasonable, the agreement is deemed for all purposes to be fair and reasonable.

1990-91, c.L-10.1, s.64; 2015, c.21, s.64; 2019, c.7, s.37.

#### **Courts' powers not limited**

**65** Nothing in this Act limits the powers of the courts with respect to the revision or assessment of a bill of costs.

1990-91, c.L-10.1, s.65; 2005, c.38, s.32.

#### **Solicitor's lien**

**66(1)** A member who is employed to prosecute or defend a proceeding in a court or tribunal may apply to the court for an order granting the member a lien or charge against any personal property not in the member's possession that is recovered or preserved as a result of the member's services for the proper fees and expenses of or in relation to the proceedings, including counsel fees.

(2) On an application pursuant to subsection (1) or for the enforcement of an order made pursuant to subsection (1), a judge may make any order that the judge considers appropriate for payment of the lien or charge out of the property recovered or preserved.

(3) A member has a lien or charge for the member's proper fees and expenses in relation to all legal services performed by the member for a client against any property owned by the client that is in the member's possession.

(4) Nothing in subsection (3) overrides the exceptions to a solicitor's lien at common law.

(5) On application by a client, the court may, on any terms and conditions that the court considers appropriate, order the delivery of any of the client's property in a member's possession that is held pursuant to subsection (3).

1990-91, c.L-10.1, s.66.

#### **Application for taxation**

**67(1)** A bill of fees or disbursements with respect to services performed by a member may be assessed:

- (a) on application to the court:
  - (i) by the person charged with the bill, within 30 days after the day on which the person received the bill;
  - (ii) by the member, if no application is made pursuant to subclause (i); or
  - (iii) by the person charged with the bill, after the expiration of the time set out in subclause (i), if the court is satisfied that it is in the interests of justice to do so; or

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- (b) on application to the local registrar described in subsection (2), at the request of both the member and the person charged with the bill, at any time.
- (2) An application pursuant to clause (1)(a) shall be referred by the court to the local registrar of the court at the judicial centre nearest to which the member who performed the services carries on the member's practice.
- (2.1) On or before the referral by the court to the local registrar pursuant to subsection (2), a member and a person charged with the bill may attend a mediation session with respect to the bill.
- (3) The court may restrain the bringing of an action with respect to that bill pending a reference pursuant to subsection (2).
- (4) On an assessment of a bill pursuant to this Act, the local registrar may order any further particulars or details of the services for which the bill was ordered.

1990-91, c.L-10.1, s.67; 2005, c.38, s.33; 2019, c.7, s.38.

**Assessment if party fails to attend**

**68** If either party to a reference pursuant to section 67, having received notice, fails to attend the assessment, the local registrar may proceed to assess the bill in the person's absence.

2005, c.38, s.34.

**Costs**

**69** Every order for a reference pursuant to clause 67(1)(a) shall direct, and every reference pursuant to clause 67(1)(b) shall request, the local registrar to:

(a) assess the costs; and

(b) certify the amount that the local registrar may determine to be due to or from each party with respect to the bill and the costs of the assessment.

1990-91, c.L-10.1, s.69; 2005, c.38, s.35.

**Rights of persons other than principal**

**70(1)** Subject to subsections (2) and (3), the provisions of this Act with respect to an application for assessment by a person charged with a bill apply, with any necessary modification, to a person who, although not charged with the bill, is liable to pay or has paid a bill to the member or to the person charged with the bill.

(2) Where an application is made pursuant to subclause 67(1)(a)(iii) by a person who is not charged with the bill, the court may take into consideration any circumstances raised by the applicant even if those circumstances would not have been considered if the person charged with the bill were the applicant.

(3) If an application for assessment is brought by a person who is not charged with the bill, the court may order the member who charged the bill to deliver a copy of the bill to the applicant, and the applicant is responsible for the costs of the copy.

1990-91, c.L-10.1, s.70; 2005, c.38, s.36.

**Taxation after payment**

**71(1)** Payment of a bill does not preclude the court from referring the bill for assessment if:

- (a) an application for assessment is made within 30 days after the day on which the bill was paid; or
- (b) an application for assessment is made within six years after the day on which the bill was paid and the court is satisfied that it is in the interests of justice to allow the assessment after the expiration of the time specified in clause (a).

(2) A reference pursuant to this section is subject to any terms and directions that the court considers proper in the circumstances.

1990-91, c.L-10.1, s.71; 2005, c.38, s.37.

**Appeal of taxation**

**72** A party to a reference may appeal the decision of the local registrar to the court.

1990-91, c.L-10.1, s.72.

**Status of taxed bill**

**73(1)** Subject to an appeal pursuant to section 72, the certificate of the local registrar given on assessment is final and conclusive as to the amount specified.

(2) Payment of the amount certified by the local registrar to be due and directed to be paid may be enforced in the same manner as a judgment of the court.

1990-91, c.L-10.1, s.73; 2005, c.38, s.38.

**Action pursuant to *The Small Claims Act, 2016* for fees and disbursements**

**73.1(1)** If, in an action pursuant to *The Small Claims Act, 2016* respecting a bill of fees and disbursements with respect to services performed by a member, an issue arises respecting the amount of the bill and no application has been made pursuant to section 67, the judge, notwithstanding section 67, has jurisdiction to determine the amount of the bill.

(2) Subject to an appeal pursuant to *The Small Claims Act, 2016*, a determination by a judge pursuant to subsection (1) is final.

2016, c27, s.3.

## PART VI Law Foundation

**Foundation continued**

**74(1)** The Law Foundation is continued as a corporation consisting of:

- (a) the minister or the minister's designate;
- (b) three persons appointed by the minister, of whom at least one is not a member of the society; and
- (c) five persons who are members of the society and are appointed by the benchers.

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- (2) A member of the foundation, other than the minister or the minister's designate, holds office for a term of two years and until a successor is appointed.
- (3) The benchers shall appoint one of the members of the foundation mentioned in clause (1)(c) to be chairperson of the foundation.
- (4) Where a vacancy occurs in the office of a member of the foundation, the person or body by whom the member was appointed may appoint to the vacant office any person eligible to be appointed to that office.
- (5) A person appointed pursuant to subsection (4) holds office for the remainder of the term of the member of the foundation being replaced and until a successor is appointed.
- (6) The members of the foundation may act notwithstanding a vacancy in the membership of the foundation.
- (7) No act done by the authority of the foundation is invalid in consequence of any defect that is discovered in the appointment of the members of the foundation.
- (8) An appointed member of the foundation may resign by giving 30 days' notice in writing to the foundation of the intention to do so, and the resignation takes effect on the earlier of:
- (a) the expiration of the notice; or
  - (b) the acceptance of the resignation by the foundation.
- (9) Membership in the foundation terminates when:
- (a) a member of the foundation ceases to possess the qualifications necessary for appointment; or
  - (b) the member's appointment is terminated for cause by the minister or the benchers, as the case may be.

1990-91, c.L-10.1, s.74; 2010, c.17, s.35.

**Powers of foundation**

**75** The foundation may acquire, hold, mortgage, dispose of and otherwise deal with real and personal property for the purposes of the foundation.

1990-91, c.L-10.1, s.75.

**Fund of foundation**

**76(1)** The purpose of the foundation is to establish and maintain a fund to be used for the purposes of legal education, legal research, legal aid, law libraries and law reform.

(2) The foundation shall apply the funds of the foundation in any manner that it may decide for its purposes.

(3) The funds of the foundation shall consist of all moneys paid to the foundation by the society pursuant to subsection 14(6), all moneys paid to the foundation by members pursuant to section 78, interest accruing from investment of the funds of the foundation and any other moneys received by the foundation.

- (4) The costs, charges and expenses:
- (a) of the administration of the foundation; and
  - (b) incurred by the foundation in carrying out its purposes;
- shall be paid out of the funds of the foundation.
- (5) The foundation shall pay all moneys of the foundation into accounts in a financial institution pending investment or application in accordance with this section, and those accounts are to be used for the purposes of the foundation.
- (6) The foundation:
- (a) may invest, in the name of the foundation, any funds of the foundation that are not required immediately for the purposes of the foundation; and
  - (b) for the purposes of that investment and any subsequent variation or transposition of it, has all the powers of investment and all the other powers of a trustee pursuant to *The Trustee Act, 2009*.
- (7) The accounts of the foundation are to be audited annually by an individual who:
- (a) is a member in good standing of a recognized accounting profession that is regulated by an Act; and
  - (b) is appointed by the benchers.

1990-91, c.L-10.1, s.76; 2006, c.25, s.4; 2007, c.5, s.7; 2009, c.T-23.01, s.64; 2019, c7, s.39.

#### **Power to make rules**

**77(1)** The foundation may make rules for purposes relating to the affairs, business, property and objects of the foundation and, without limiting the generality of the foregoing, may make rules respecting:

- (a) the number and designation of its officers;
  - (b) subject to subsection 74(3), the appointment and terms of office of its officers and all matters relating to its officers;
  - (c) the resignation or removal of its officers;
  - (d) the number and designations of its employees, other than officers, and the terms and conditions of their employment;
  - (e) the remuneration, if any, of its officers and employees; and
  - (f) the operation of the accounts of the foundation.
- (2) Sections 88 to 92 apply, with any necessary modification, to rules of the foundation.

1990-91, c.L-10.1, s.77; 2006, c.25, s.4; 2019, c7, s.40.

#### **Payment of interest to foundation**

**78(1)** A member who receives or holds moneys in trust for or on account of clients generally shall deposit the moneys in an interest bearing account.

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- (2) A member who is credited with interest on moneys received or held in trust for or on account of clients generally:
- (a) is deemed to hold the interest in trust for the foundation; and
  - (b) shall remit the interest to the foundation in accordance with the rules.
- (3) The benchers shall make rules to ensure that all interest described in subsection (2) is paid to the foundation.
- (4) No member is liable, by virtue of the relation between lawyer and client or by virtue of the relation between the member as trustee and a *cestui que trust*, to account to any person other than the foundation for interest described in subsection (2).
- (5) Subject to subsection (6), nothing in this section or in the rules made pursuant to this section affects an arrangement in writing between the member and the member's client as to the application of the client's moneys or interest on the moneys.
- (6) No arrangement described in subsection (5) applies to any interest on moneys of the client that has been credited to the member prior to their entering into the arrangement.
- (7) Notwithstanding anything in this section or in rules made pursuant to this section, interest earned on moneys deposited in a separate account for a client is and remains the property of the client.

1990-91, c.L-10.1, s.78.

**Annual report**

**79(1)** The foundation shall:

- (a) annually prepare and submit to the minister and the society a report respecting the work performed by the foundation in the immediately preceding fiscal year in carrying out its purposes;
  - (b) submit to the minister and the society the report of the auditor who has audited the accounts of the foundation for its immediately preceding fiscal year.
- (2) The reports submitted pursuant to subsection (1) shall be laid before the Legislative Assembly by the minister in accordance with section 13 of *The Executive Government Administration Act*.

1990-91, c.L-10.1, s.79; 2014, c.E-13.1, s.62.

**PART VII**  
**General**

**Offence and penalty**

**80** Every person who contravenes section 30, 32 or 33 is guilty of an offence and liable on summary conviction:

- (a) in the case of a first offence, to a fine of not more than \$2,000; and
- (b) in the case of a second or subsequent offence, to a fine of not more than \$5,000.

1990-91, c.L-10.1, s.80.

**Power to commence proceedings**

**81(1)** Subject to subsection (2), the society may commence or authorize the commencement of proceedings for any alleged contravention of this Act.

(2) No prosecution with respect to an alleged offence pursuant to section 30, 32 or 33 shall be commenced or authorized to be commenced pursuant to subsection (1) after two years from the day of commission of the alleged offence.

2019, c 7, s.42.

**Injunction**

**82(1)** Where it appears that a person is acting or is likely to act in contravention of this Act or the rules, the society may apply to the court for an injunction enjoining any person from doing any act or thing that contravenes this Act or the rules, notwithstanding any penalty that may be provided by this Act with respect to that contravention.

(2) On an application pursuant to subsection (1), the court may grant an injunction, interim injunction or any other relief that it considers just.

1990-91, c.L-10.1, s.82.

**Executive director's certificate as evidence**

**83** A certificate of the executive director certifying all or any of the following facts is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or official position of the person purporting to have signed the certificate:

- (a) that a named person was or was not, on a specified day or during a specified period a member, an active member, an inactive member or a suspended member, according to the roll;
- (b) that a named person was or was not, on a specified day or during a specified period, an articled student-at-law, according to the records of the society; or
- (c) that a named person was or was not, on a specified day or during a specified period an officer of the society or a bencher, according to the records of the society.

2005, c.38, s.39.

**Certain conduct protected**

**84(1)** No person who submits documents or discloses information before any proceeding conducted pursuant to this Act is liable at law or liable to any penal proceeding pursuant to any Act for so doing.

(2) No committee appointed pursuant to this Act that discloses a report or part of a report of the committee to the public or any person is liable at law or liable to any penal proceeding.

(3) Subsection (2) applies, with any necessary modification, to a member of a committee who, with the consent of the committee, discloses a report or part of a report of the committee.

1990-91, c.L-10.1, s.84.

**Solicitor and client privilege during proceeding****84.1(1)** In this section:

- (a) **“member”** includes a former member, a non-member who is authorized to engage in the practice of law in Saskatchewan, a student-at-law, a person required to serve under articles and a person authorized to practise law in accordance with the rules made pursuant to clause 10(i);
  - (b) **“member’s records”** means anything kept or acquired by a member or the partnership in which a member practises or given to a member or the partnership in which a member practises by or for a client or any other person, and, without restricting the generality of the foregoing, includes ledgers, books of account, records, files, documents, papers, securities, shares, trust money in cash or on deposit and negotiable instruments:
    - (i) if they relate in any way to the member’s practice or former practice as a lawyer or to the business or affairs of the member’s clients or former clients; and
    - (ii) whether they were acquired before or after the member ceased to practise as a lawyer;
  - (c) **“records”** includes electronic records.
- (2) A member shall not in any proceedings pursuant to this Act refuse to answer inquiries or provide any information, member’s records or other property within the member’s possession or power on the grounds of solicitor and client privilege.
- (3) If a member is required to answer inquiries or provide any information, member’s records or other property pursuant to subsection (2) and the member may claim solicitor and client privilege with respect to the answers, information, member’s records or other property, the member or any other person who may claim the solicitor and client privilege may require that:
- (a) all or part of any proceedings pursuant to this Act that deal with the answers, information, member’s records or other property be held in private; and
  - (b) the public be refused access to the information, member’s records or other property and to any other document containing the answers.
- (4) If the Court of Queen’s Bench or the Court of Appeal on an application or appeal pursuant to this Act considers it necessary to prevent the disclosure of answers, information, a member’s records or other property with respect to which solicitor and client privilege may be claimed, the court shall order that:
- (a) all or any part of the proceedings before the court that deal with the answers, information, member’s records or other property be held in private; and
  - (b) the public be refused access to the information, member’s records or other property and to any other document containing the answers.



- (5) Subsections (3) and (4) apply, with any necessary modification, to:
- (a) every person who keeps any of a member's records or other property; and
  - (b) records or other property of a member seized pursuant to an order described in subsection 61(9) or 63(3).
- (6) Compliance with subsection (2) or (5) does not breach or constitute a waiver of solicitor and client privilege and the privilege continues for all other purposes.

2007, c.5, s.8.

#### **Service of documents**

**85(1)** A notice or document required by Part IV or V to be given or served shall, unless otherwise provided for, be served in any manner set out in The Queen's Bench Rules other than by ordinary mail.

(2) A document served by registered mail is deemed to have been received on the seventh day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the document or received it at a later day.

1990-91, c.L-10.1, s.85.

#### **Limitation on liability**

**86** No action lies or shall be instituted against the society, a benchler, a committee or member of a committee continued or established by or pursuant to this Act or the rules, the executive director or any other officer, employee or agent of the society or of a committee or the Law Foundation or a member of the Law Foundation for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise of or supposed exercise of any power conferred by this Act or the rules or in the carrying out or supposed carrying out of any duty imposed or order made by or pursuant to this Act or the rules.

1990-91, c.L-10.1, s.86; 2005, c.38, s.40; 2014, c.15, s.13.

#### **Reference to barrister, solicitor**

**87** A reference in any other Act to a barrister, solicitor, barrister and solicitor or lawyer is deemed to be a reference to a lawyer:

- (a) who is duly admitted as a member; and
- (b) whose right to practise is not suspended;

pursuant to this Act.

1990-91, c.L-10.1, s.87.

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**Rules to be filed**

**88(1)** The society shall file with the Director of Corporations two copies, certified by the executive director to be true copies, of:

- (a) all rules and all amendments to those rules made pursuant to this Act; and
- (b) all amendments to rules or bylaws made pursuant to *The Legal Profession Act* prior to the day on which this Act comes into force;

within 30 days after the day on which they are made.

(2) Where the society adopts a code of professional conduct governing its members, and subscription to or observance of the code is a condition of membership, the code of professional conduct is, for the purpose of this section and sections 89 to 92, deemed to be a rule.

(3) Where a rule or bylaw is amended, the society shall file two copies of the rule or bylaw with the amendment.

1990-91, c.L-10.1, s.88; 2005, c.38, s.41; 2010, c.B-12, s.35.

**Effective date**

**89** Rules and amendments to the rules take effect on the day on which they are made or on the day specified in the rule or amendment.

1990-91, c.L-10.1, s.89.

**Effect of failure to file**

**90** Failure to file a rule or amendment as required by section 88 renders it ineffective as from the expiration of the time allowed for filing, and the rule or amendment is deemed to have been revoked.

1990-91, c.L-10.1, s.90.

**Review by Legislative Assembly**

**91(1)** One copy of all rules and amendments filed pursuant to subsection 88(1) is to be laid before the Legislative Assembly by the minister responsible for the administration of *The Business Corporations Act* in accordance with section 13 of *The Executive Government Administration Act*.

(2) Where a rule or amendment laid before the Legislative Assembly is found by the Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, the rule or amendment ceases to have effect and is deemed to have been revoked.

1990-91, c.L-10.1, s.91; 2005, c.38, s.42; 2010, c.B-12, s.35; 2014, c.E-13.1, s.62.

**Record of revocation and notification**

**92(1)** Where it appears from any Votes and Proceedings of the Legislative Assembly that a rule or amendment has ceased to have effect, the Clerk of the Assembly shall forward two copies of the Votes and Proceedings to the Director of Corporations and at the same time advise that director that the copies are forwarded pursuant to this subsection.

(2) On receipt of the copies mentioned in subsection (1), the Director of Corporations shall:

- (a) file one of the copies with the rule or amendment to which it relates; and
- (b) forward the other copy to the society, and at the same time advise the society that the copy is forwarded pursuant to this subsection.

1990-91, c.L-10.1, s.92; 2005, c.38, s.43; 2010, c.B-12, s.35.

**PART VIII****Transitional, Repeal, Consequential and Coming into Force****Transitional**

**93(1)** Subject to section 9 of this Act, a person who is a bencher of the society pursuant to section 9 of *The Legal Profession Act* on the day before the day on which section 6 of this Act comes into force continues as a bencher until:

- (a) benchers are elected or appointed pursuant to section 6 of this Act; or
- (b) that bencher resigns, dies or is removed in accordance with this Act.

(2) A person who is a member of the foundation pursuant to section 45 of *The Legal Profession Act* on the day before the day on which section 74 of this Act comes into force continues as a member of the foundation until:

- (a) members of the foundation are appointed pursuant to section 74 of this Act; or
- (b) that member of the foundation resigns, dies or is removed in accordance with this Act.

(3) Rules and bylaws that:

- (a) were made pursuant to *The Legal Profession Act*, as that Act existed on the day before the coming into force of this Act; and
- (b) are subsisting on the day before the coming into force of this Act;

continue in force as rules until amended or repealed pursuant to this Act.

(4) Any proceedings arising from circumstances described in section 54 or 55 of *The Legal Profession Act* are continued pursuant to this Act, and the provisions of this Act apply, with any necessary modification, to those proceedings.

(5) A prosecution that was commenced or authorized to be commenced pursuant to *The Legal Profession Act*, as that Act existed on the day before the coming into force of this Act, is deemed to be commenced or authorized pursuant to this Act.

1990-91, c.L-10.1, s.93.

**c L-10.1**

LEGAL PROFESSION, 1990

**R.S.S. 1978, c.L-10 repealed**

**94** *The Legal Profession Act* is repealed.

1990-91, c.L-10.1, s.94.

**95 to 101** **Dispensed.** These sections make consequential amendments to other Acts. The amendments have been incorporated into the corresponding Acts.

**Coming into force**

**102** This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.

1990-91, c.L-10.1, s.102.