

**SUMMARY OF PROPOSED AMENDMENTS TO *THE LEGAL PROFESSION ACT,*  
1990**

**FOR CONSULTATION WITH MEMBERS OF THE LAW SOCIETY OF  
SASKATCHEWAN**

The Law Society of Saskatchewan (LSS) is seeking amendments to *The Legal Profession Act, 1990*, to be introduced to the Saskatchewan Legislative Assembly as a Bill in the fall of 2013.

There are three primary categories of amendments, relating to: 1. the Hearing and Investigation Process; 2. Bencher Elections; and 3. Mandate of the LSS. Those concepts are discussed further below.

**GENERAL CONCEPTS:**

**1. Investigations and Hearings**

(a) Currently, the *Act* requires investigation committees and hearing panels to be populated by Benchers. Allowing the LSS to recruit non-Bencher members and representatives from the general public will alleviate the overtaxing workload of the volunteer Benchers, provide more options when conflicts arise, and fulfill the national standards requiring public representation. The Amendment will allow the LSS to make Rules regulating the composition and qualifications of these bodies. Sections of the *Act* that will be affected by these amendments are: 7.1(1), 10(n.1), 35.1(1) and (2), 47(2).

(b) The *Act* requires that hearing committees complete decisions within 45 days. While timeliness is always desirable, the current section is both unrealistic and ambiguous, as it is unclear which part of the bifurcated hearing process the deadline applies to. The proposed amendment removes the deadline and instead requires that the decision be provided as soon as possible. This is consistent with other professions in Saskatchewan in that it allows the common law to regulate the amount of time considered reasonable. It is also consistent with other law societies in Canada, as well as the national discipline standards. This amendment will affect section 53 of the *Act*.

(c) Sections 23 and 24 of the *Act* require an appeal of an admissions decision to be heard by all 23 Benchers, which makes for an unwieldy process. A proposed amendment to sections 23 and 24 would allow for a smaller panel of Benchers and is more consistent with the discipline sections of the *Act*. It also alleviates Bencher workload and improves efficiency in scheduling of hearings.

## **2. Bencher Elections**

The *Act* currently requires the election of 17 Benchers from prescribed geographic areas. Due to the trend towards urbanization, the rural electoral divisions have become significantly overrepresented. It is proposed that Section 6 of the *Act*, which sets out the requirements for the distribution of Benchers, be amended to allow Bencher composition to be established in the LSS Rules. The amendment would include a requirement that any changes to the Rules respecting Bencher distribution be approved by a 2/3 majority of members in attendance at the LSS Annual General Meeting. This proposed amendment will also allow other possibilities for Bencher representation in the future.

## **3. Mandate of the LSS**

(a) The LSS has an existing statutory duty to act in the public interest when discharging its duties. Recent developments in the common law have interpreted this duty to mean that public interest is paramount to the members' interests. The proposed amendment to section 3.1 therefore codifies the law.

(b) The LSS currently has a practice management advisor program designed to proactively assist members, on a voluntary basis, to improve practice management before difficulty or complaints arise. It is proposed that section 10 be amended to give the Benchers explicit authority to make Rules respecting mandatory practice management reviews.

(c) The reality of the legal profession is that law firms are often the entity that requires regulation rather than the individual member; one example being the regulation of a firm trust account. Proposed amendments would allow the Benchers to make Rules to regulate firms where appropriate.

### **MISCELLANEOUS:**

Finally, it is proposed that section 86 be amended to provide members of the Law Foundation with good faith immunity, which is already afforded to Benchers and members of other committees established in the *Act*.

### **COMMENTS:**

Comments or concerns should be addressed to Mary Ellen Wellsch at Legislative Services by September 15 at [MaryEllen.Wellsch@gov.sk.ca](mailto:MaryEllen.Wellsch@gov.sk.ca).