

# **Certified True Copy of Amendments to the Rules of the Law Society of Saskatchewan**

**February 26, 2021**

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

## **PROPOSED AMENDMENTS:**

### **PART 10 – Alternative Legal Services Providers**

We have identified a potential legislative incongruity flowing from the recent changes to the *Act* and Rules governing unauthorized practice.

Section 29.1 and section 30(1) of the amended *Act* may be read as a complete bar on non-lawyers practicing law and representing another entity or person in court, regardless of whether or not a fee has been charged. This complete bar is subject only to the exceptions explicitly set out in section 31 of the *Act* and the additional exceptions that the Benchers authorize via Rule 1002.

Currently, nothing in section 31 or Rule 1002 addresses an exception for non-lawyers authorized to appear in court as an “agent” pursuant to *The Small Claims Act, 2016*, *The Summary Offences Procedure Act, 1990*, or the *Criminal Code of Canada*. Thus, our *Act* could be read as forbidding something (a non-lawyer appearing in court on behalf of another person) that is explicitly permitted by other legislation.

These amendments will clarify the Law Society’s intention and address the potential for an interpretation that is in conflict with other legislation that allows for agents to appear in court in certain circumstances and essentially maintains a status quo. The Law Society is currently working to create a space for alternative legal services providers in the interests of enhancing access to justice, which includes the development of limited licensing programs that would see non-lawyers providing certain legal services to the public in a safe manner with appropriate regulatory oversight.

#### **Exemptions from the Prohibition Against the Unauthorized Practice of Law**

**1002**(1) Subject to subrule (2), for the purposes of clause 10(k.1) and clause 31(i) of the *Act*:

- (a) the following persons are exempt from the prohibition against the unauthorized practice of law in section 30 of the *Act* insofar as they are carrying out the functions mentioned in clauses (i) to ~~(xii)~~ (xiii):
  - (i) a person serving in a neutral capacity as a mediator or conciliator;
  - (ii) a person participating in labour negotiations, arbitrations, conciliations or proceedings respecting collective bargaining rights or agreements;

- (iii) a person exercising an adjudicative function pursuant to statutory authority;
- (iv) a person acting as a legislative lobbyist;
- (v) a public officer acting within the scope of the person's authority as a public officer;
- (vi) a person employed by the government to act as a lay representative before administrative agencies or tribunals;
- (vii) a notary public exercising the powers conferred on the notary public by law;
- (viii) a person who delivers courtworker services to Aboriginal people through an Aboriginal delivery agency that has contracted with the Government of Saskatchewan or the Government of Canada to deliver courtworker services as part of the Aboriginal Courtworker Program;
- (ix) a person authorized to practice law in accordance with any provincial or federal statute;
- (x) an officer or employee of an incorporated or unincorporated organization preparing a document for the use of the organization or for an action or matter to which the organization is a party;
- (xi) a university law student in respect of services permitted to be provided by that student in accordance with the Rules; and
- (xii) an individual who is representing a person in an administrative adjudicative proceeding if the administrative tribunal determines that the individual would be of assistance to the person and the tribunal;

(xiii) an individual who is appearing in a court as an agent pursuant to *The Small Claims Act, 2016, The Summary Offences Procedure Act, 1990, or the Criminal Code of Canada*, provided that they are unpaid as required by clause 30(2) of the *Act*.

- (b) subject to the following, the Executive Director or the Executive Director's designate may provisionally allow any person not otherwise authorized to provide legal services to do so on a temporary basis, subject to any conditions and restrictions that the Executive Director considers appropriate:
  - (i) the Benchers shall review the provisional authorization given by the Executive Director at their earliest opportunity;
  - (ii) the Benchers may:
    - (A) confirm the provisional authorization of the Executive Director, subject to any conditions and restrictions that the Benchers consider appropriate, in which case the temporary authorization is deemed to be approved;
    - (B) refuse to confirm the decision of the Executive Director.

(2) Subrule (1)(a)(xii) and (b) do not exempt the following persons from the prohibition against unauthorized practice:

- (a) a former member who has been disbarred and has not been reinstated;
- (b) a member who is under suspension for any reason;
- (c) a person who has been denied admission on the basis that the person is not suitable to practice, as defined in Part 7 or that admission would otherwise be inimical to the best interests of the public;
- (d) a person against whom an injunction has been issued pursuant to section 32 of the Act during the time that the injunction is in effect; or

- (e) a person who charges a fee for the service provided pursuant to subrule (1)(a)(xii) unless explicitly authorized to do so by the governing legislation of the tribunal.



**CERTIFIED to be a true copy of the resolutions  
passed by the Benchers of the Law Society of  
Saskatchewan at their meeting held February 26,  
2021.**

---

**TIMOTHY J. BROWN, Q.C.**  
**Executive Director**