



# **Law Society of Saskatchewan**

## **Rules**

*(January 1, 2020)*



Law Society  
of Saskatchewan

Bill 163, an Act to amend *The Legal Profession Act, 1990*, was introduced in the Saskatchewan Legislature on December 3, 2018 and *The Legal Profession Amendment Act, 2019* received Royal Assent on May 15, 2019. Amendments to Law Society Rules were necessitated by these changes.

Law Society Rules have not been re-written since 1990, so they were substantially redrafted in 2019 not only to align with the statutory changes, but to modernize the language, re-order and renumber as needed, as well as complete numerous housekeeping changes. The end result is a cleaner, more intuitive structure and numbering of the Rules.

**Timothy J. Brown, Q.C.**  
**Executive Director**

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## PART 1

### Definitions and Interpretation

#### Definitions and Interpretation

101(1) In these Rules:

“**Act**” means *The Legal Profession Act, 1990*;

“**Code**” means *The Code of Professional Conduct* adopted by the Benchers in 2012, as amended;

“**disbarment**” means a penalty imposed by a Hearing Committee appointed pursuant to Part 11, which consists of the striking of the member’s name from the roll of members and the removal of all rights and privileges in the membership;

“**Executive Committee**” means the Executive Committee established in subrule 601(1)(a);

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

“**firm**” means firm pursuant to clause 2(1)(f.1) of the Act;

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

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

“**member**” means member pursuant to clause 2(1)(h) of the Act;

“**resignation in the face of discipline**” means a resignation accepted by the Conduct Investigation Committee pursuant to Rule 1111;

“**resignation instead of continued proceedings**” means a resignation accepted by the Conduct Investigation Committee or the Chairperson of the Competency Committee pursuant to Rule 1112;

“**Rule or Subrule**” means:

- (a) Rule or subrule contained in these Rules; and
- (b) the Code published by the Society and as amended from time to time;

“**Schedule 1**” means the Schedule of Fees and Assessments appended to these Rules;

“**simple resignation**” means resignation pursuant to section 27 of the Act.

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

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

(4) These Rules are to be interpreted according to the interpretation principles in *The Legislation Act*.

[Rule 101(1), definition “member” amended, December 3, 2021]

## **PART 2**

### **Law Society Administration**

#### **Head Office**

**201** The head office of the Society shall be in the City of Regina.

#### **Seal of the Society**

**202**(1) The Society shall have a common seal.

(2) The seal of the Society shall remain in the custody of the Executive Director.

(3) A document to which the seal of the Society has been affixed shall:

(a) subject to clause (b), be signed by any two of the following:

(i) the President;

(ii) the Executive Director;

(iii) a Bencher described in clauses 6(2)(a) to (c) of the Act who was authorized by the Benchers to sign the document;

(iv) a person who was authorized by the President to sign the document; or

(b) in the case of a certificate or a document which certifies true copies of any document or resolution, be signed by any one of the persons described in clause (a).

(4) A document which is otherwise valid is not rendered invalid by a failure to comply with this Rule.

#### **Officers of the Society**

**203**(1) The Benchers may designate the offices of the Society, appoint as officers persons of full capacity, specify their duties and delegate to them powers to manage the business and affairs of the Society.

(2) A Bencher may be appointed to any office of the Society.

(3) Two or more offices of the Society may be held by the same person.

(4) The President and Executive Director acting together may designate any person to perform any of the duties assigned to an officer in these Rules, unless the context indicates otherwise.

#### **Fiscal Year**

**204** The fiscal year of the Society is the calendar year.

#### **Auditors**

**205**(1) The Benchers shall, in each year, appoint an auditor to audit the accounts of the Society.

(2) The Benchers shall not appoint a Bencher or an employee of the Society as an auditor.

(3) The auditor may access every record of the Society at all times.

(4) The auditor is entitled to require information and explanation considered necessary from the Benchers, officers and employees of the Society to prepare an Audit report.



**Signing Authority**

**206** The Benchers may, by resolution, designate the persons who have signing authority on behalf of the Society.

**Appointment of Representative to Other Organizations**

**207** The Benchers may appoint a person to represent the Society at a meeting of another organization.

## **PART 3**

### **Elections**

#### **A. Election of Benchers**

##### **Division of Saskatchewan into Electoral Divisions**

**301**(1) For the purpose of the election of Benchers, the Province shall be divided into nine divisions, namely:

- (a) the Regina City Electoral Division, from which there shall be elected not less than five Benchers;
- (b) the South East Electoral Division, from which there shall be elected not less than one Bencher;
- (c) the Saskatoon City Electoral Division, from which there shall be elected not less than five Benchers;
- (d) the Central Electoral Division, from which there shall be elected not less than one Bencher;
- (e) the South West Electoral Division, from which there shall be elected not less than one Bencher;
- (f) the North West Electoral Division, from which there shall be elected not less than one Bencher;
- (g) the North East Electoral Division, from which there shall be elected not less than one Bencher;
- (h) the Prince Albert City Electoral Division, from which there shall be elected not less than one Bencher; and
- (i) the East Central Electoral Division, from which there shall be elected not less than one Bencher.

(2) The boundary of each electoral division is as described in Schedule 2 to these Rules.

(3) The total number of Benchers, the number of boundaries of the divisions and the number of Benchers to be elected from each division may, subject to section 6 of the Act, be changed by a Rule made by the Benchers pursuant to:

- (a) a resolution of the Society passed by not less than two-thirds of the members present at a general meeting of which written notice embodying the proposed change has been given to the members; or
- (b) an affirmative vote of two-thirds of those members voting in a referendum respecting the proposed change.

(4) Where, as a result of a rule made pursuant to subrule (3), an additional Bencher is to be elected from a division, the Benchers may appoint a member of the Society eligible to be a candidate for election as Bencher from that division to be the additional Bencher, and the member appointed shall hold office until the next election for the office of Bencher.

##### **Election Date**

**302** The election of Benchers shall close on November 15, 2021 and on November 15 of each third year thereafter.

### **Qualification as Candidate**

**303**(1) To qualify to be nominated as a candidate for election as a Bencher, a member must:

- (a) meet the eligibility criteria described in section 17 of the Act; and
- (b) maintain the member's principal place of practice or employment, or if retired, reside within the division in which the member seeks to be a candidate.

(2) A member who is the Vice-President in an election year shall be deemed to be elected as a Bencher for the Electoral Division where the member is eligible to be nominated according to subrule (1).

(3) A person who has served as a Bencher is eligible as a candidate for re-election as a Bencher, but no person is eligible to be elected for more than two consecutive terms.

### **Nomination of Candidates**

**304** The nomination of a candidate for election as a Bencher is valid only if:

- (a) it is in writing, signed by at least two members in good standing who maintain their principal places of practice or employment, or if inactive or retired their residence, within the division in which the member seeks to be a candidate;
- (b) the member who seeks to be the candidate consents in writing to the nomination; and
- (c) the nomination and consent are received by the Executive Director by October 4 in the year of the election.

### **Acclamation**

**305** In a division where the number of candidates nominated does not exceed the number to be elected, the Executive Director shall declare that those nominated candidates are elected as Benchers for that division.

### **Voter List**

**306**(1) The Executive Director shall, by September 15 in the year of the election of Benchers:

- (a) prepare an alphabetical voter list of members who are entitled to vote in each electoral division from the membership database;
- (b) post the voter lists on the Society website; and
- (c) give notice to the membership that the voter lists have been posted.

(2) A member who is not in good standing is not entitled to vote in an election of Benchers.

(3) A member who resides in Saskatchewan may vote only for the candidates nominated in the division in which the member's principal place of practice or employment, or subject to subrule (4) if inactive or retired, residence is maintained.

(4) An inactive or retired member or a member who does not reside in Saskatchewan who, before the date specified in subrule (1) notifies the Society in writing of the division in which the member wishes to vote, may vote for candidates nominated in that division.

(5) Each member is responsible to determine if the member's name is on the voter list in the correct electoral division.

**Error in Voter List**

**307**(1) A member who reasonably believes that a voter list improperly includes or omits a name or contains an error respecting the division in which a member is entitled to vote may, before the election, report the error to the Executive Director.

(2) The Executive Director shall promptly investigate a report made pursuant to subrule (1) and shall correct any error which exists.

(3) A member who is not satisfied with the action taken by the Executive Director may apply in writing to the Executive Committee for a review.

(4) The Executive Committee shall promptly review an application made pursuant to subrule (3), and may:

- (a) confirm the decision made by the Executive Director; or
- (b) order that the voter list be corrected as the Committee directs.

**Entitlement to Vote**

**308** Only those members whose names appear on a voter list prepared pursuant to Rule 306 or corrected pursuant to Rule 307 are entitled to vote in an election for Benchers.

**Voting Procedure**

**309**(1) Electronic processes, including the internet, online voting and databases may be used for:

- (a) circulating election notices, forms, ballots, documents and other materials;
- (b) voting; and
- (c) counting and recording the votes.

(2) The Executive Director shall recommend for approval by the Benchers, the procedures by which an election is conducted.

(3) The election process should promote free and fair elections including maintaining the following principles:

- (a) secret ballot;
- (b) an audit function sufficient for the investigation of election irregularities;
- (c) security measures to reduce the risk of election fraud;
- (d) security measures for the confidential preservation of election information; and
- (e) accessibility for members.

(4) Not less than two weeks before the election date, the Executive Director shall cause to be prepared and distributed to each member whose name is on the voter list:

- (a) a ballot;
- (b) voting instructions in accordance with the procedures approved pursuant to subrule (3); and
- (c) a declaration.

(5) The unintentional failure to provide the material referred to in subrule (4) to any member or the non-receipt of the material mentioned in subrule (4) does not invalidate an election.

(6) A member who votes:

- (a) shall vote in accordance with the instructions and procedures established by the Executive Director;
- (b) may vote for any number of candidates up to the number to be elected in the division in which the member is entitled to vote; and
- (c) shall vote on or before November 15 of the election year.

### **Rejection of Ballot Papers**

**310**(1) A ballot shall be rejected if it:

- (a) was not cast in accordance with the instructions circulated by the Executive Director;
- (b) was cast by someone other than the member who was assigned the login name and password used to cast the ballot; or
- (c) is received by the Executive Director after November 15.

(2) A vote is void if it is:

- (a) a vote for a person other than a candidate whose name appears on the ballot paper as prepared by the Society; or
- (b) ambiguous or unclear as to the candidate voted for.

### **Counting of Votes**

**311** On the next business day following the deadline for casting election ballots, the Executive Director shall cause the votes for each candidate to be counted and recorded.

### **Declaration of Candidates Elected**

**312**(1) Subject to subrule 303(2) the Executive Director shall declare elected the candidate or candidates who receive the greatest number of votes, up to the number of Benchers to be elected in each division.

(2) Where not all candidates who are to be elected in a district can be determined because two or more candidates receive an equal number of votes, the Executive Director shall:

- (a) write the name of each candidate whose election cannot be determined on identical cards;
- (b) place all the cards into a ballot box;
- (c) draw from the ballot box by chance the number of cards necessary to make up the required number of Benchers from that division; and
- (d) declare elected the candidate or candidates named on the card or cards drawn.

### **Election Record and Disclosure of Votes Received**

**313**(1) The Executive Director shall keep a record of election data for at least one year.

(2) At the request of any candidate, the Executive Director shall disclose election information from that candidate's electoral division, including:

- (a) the number of votes received by each candidate;
- (b) the voter list;
- (c) the identity of the members who cast a vote; and

- (d) such other information that, in the Executive Director's discretion, does not violate the principles of a free and fair election.

### **Review by Review Committee**

**314(1)** In this Rule, "**Review Committee**" consists of members appointed pursuant to subrule (3).

(2) A candidate who is not elected pursuant to these Rules and who alleges that the person should have been elected in place of a candidate who was elected may, not more than 10 days after the election date, apply in writing to the Executive Committee for a review of the election in that division.

(3) The Executive Committee shall appoint not less than two other members of the Society who are not Benchers or employees of the Society to review the election in that division.

(4) The Review Committee shall promptly review the election in that division and shall:

- (a) confirm the declaration made by the Executive Director;
- (b) declare that the applicant or another candidate is elected in place of the candidate declared by the Executive Director to be elected pursuant to Rule 312; or
- (c) order that a new election be held in that division and give directions for it.

(5) The decision of the Review Committee pursuant to subrule (4) is final.

### **New Lawyer Bencher**

**315(1)** "**New Lawyer**" means a member of the Society who, at the date of the election, has been admitted to the practice of law in any jurisdiction cumulatively for fewer than 10 years.

(2) One New Lawyer shall be elected as a Bencher.

(3) Notwithstanding Rule 301, the electoral division for the election of the New Lawyer Bencher will be the Province of Saskatchewan.

(4) Notwithstanding Rule 303, to qualify to be nominated for election as a New Lawyer Bencher the member must:

- (a) maintain a principal place of practice or employment in the Province of Saskatchewan;
- (b) be a New Lawyer on the date of the first term election; and
- (c) not be nominated for election in any other electoral district.

(5) Notwithstanding Rule 304, the nomination of a New Lawyer Bencher is valid only if it is in writing and signed by at least two members in good standing who, at the time of the nomination, are New Lawyers.

(6) Notwithstanding subrule 306(3), a New Lawyer shall be entitled to vote for both a New Lawyer Bencher and any other candidate running in the member's electoral division.

(7) The general election procedures in Rules 302 to 314 shall apply with any necessary modifications to the election of a New Lawyer Bencher.

## **B. Election of President**

### **Election Date**

**316** The Benchers shall hold an election for the President at the last Convocation of each year.

**Qualification as Candidate**

**317** To qualify as a candidate for President, a person must be a Bencher as described in clauses 6(2)(a) to (c) of the Act.

**Acclamation**

**318** Where only one person stands for election as President, that person shall be declared President-elect of the Society.

**Entitlement to Vote**

**319** A Bencher described in clauses 6(2)(a) to (c) of the Act is entitled to vote in the election for President.

**Scrutineers**

**320(1)** The Executive Director and one other employee of the Society appointed by the Executive Director shall act as scrutineers of the election.

(2) The failure of one scrutineer to attend at the election does not prevent the votes from being counted at that time and place.

(3) The scrutineers shall:

- (a) ensure that all votes are counted in accordance with the Act and these Rules; and
- (b) decide whether a vote is void or a ballot paper is rejected, in which case their decision is final.

**Voting Procedure**

**321(1)** The election for President shall be held by secret ballot.

(2) The Executive Director shall supervise the counting of votes.

(3) A ballot paper which contains a marking that could identify the voter shall be rejected.

(4) A vote that is ambiguous or unclear as to the candidate voted for is void.

(5) All ballot papers which are not void shall be counted and recorded.

(6) In an election with two candidates, the candidate who receives a majority of votes is elected.

(7) In an election with three or more candidates, an alternative vote ballot shall be used in which voters may declare their preference for candidates, and the ballots shall be counted according to the following procedure:

- (a) on the first round, each voter's first preference shall be recorded in favour of the candidate preferred;
- (b) on the second round, the candidate who received the least votes on the first round is eliminated and that candidate's first round votes are distributed among the remaining candidates according to those voters' second preferences;
- (c) on each subsequent round, the candidate who received the least votes in the preceding round is eliminated, and that candidate's votes are distributed among the remaining candidates according to those voters' next preferences;
- (d) the first candidate to receive a majority of votes is elected.

### **Declaration of Candidate Elected**

**322**(1) The Executive Director shall declare elected the candidate who receives a majority of votes pursuant to subrule 321(6) or (7).

(2) Where the candidate elected cannot be determined because of an equality of votes, the Executive Director shall, unless the Benchers otherwise direct, follow the procedure described in subrule 312(2), with the necessary changes and so far as that procedure is applicable.

### **Term of Office**

**323** The President shall serve for a term of one year, commencing on the date set by the Benchers.

### **Vacancy**

**324** If the President-elect fails to take office or vacates the office before the term expires, the Benchers may:

- (a) appoint the Vice-President as President, to complete the unexpired term; or
- (b) order that an election be held for the office of President, in which case Rules 317 to 322 apply.

## **C. Election of Vice-President**

### **Election Date**

**325**(1) The election for Vice-President shall be held at the meeting of the Benchers at which the election for President is held.

(2) The election for Vice-President shall take place after the election for President.

### **Procedure**

**326** Rules 317 to 322 apply to the election for Vice-President, with the necessary changes and so far as they are applicable.

### **Vacancy**

**327** If the Vice-President elect fails to take office or vacates the office before the term expires, the Benchers shall hold an election for a successor, in which case Rules 317 to 322 apply, with the necessary changes and so far as they are applicable.

## **D. General**

### **Date falling on Saturday, Sunday or other Holiday**

**328** Where the time for doing an act in this Part falls or expires on a day when the administration office of the Society is not open during regular business hours, the time is extended to the next day that the office is open.

### **Interruption of Web Service**

**329** If an interruption of web service makes it impracticable to conduct an election according to the schedule set by this Part, the Executive Committee may:

- (a) postpone the election;
- (b) extend the time for doing of an act; or
- (c) make special arrangements for the delivery and receipt of notices and ballots.



**Extension of Dates**

**330** The Executive Committee may, on application by the Executive Director, extend any date mandated by this Part.

## **PART 4**

### **Meetings of the Society**

#### **Annual General Meeting**

**401**(1) The annual general meeting of the Society shall take place each year at the time and place set by the Benchers.

(2) Unless the Benchers otherwise direct, the annual general meeting shall be held in Saskatchewan.

(3) The Executive Director shall mail to every member of the Society, at least 21 days before the date set for the annual general meeting:

- (a) written notice of the date, time and place of the meeting;
- (b) copies of any resolutions received by the Executive Director pursuant to Rule 403;
- (c) notice that the audited financial statement of the Society's most recently completed fiscal year and a report of the Society's proceedings since the last annual report are available to every member; and
- (d) information as to how to obtain copies of the audited financial statement and the annual report.

(4) The unintentional failure to give notice of the meeting to any member or the non-receipt of the notice does not invalidate anything done at the meeting.

#### **Special General Meeting**

**402**(1) A special general meeting of the Society shall take place in Saskatchewan at the time and place set by the Benchers.

(2) The Benchers shall convene a special general meeting of the Society, on the written request of 50 members, that:

- (a) is delivered to the Executive Director; and
- (b) states the nature of the business that the members propose for consideration at the meeting.

(3) A special general meeting convened pursuant to subrule (2) shall be held not more than 60 days after the Executive Director receives the request.

(4) The Executive Director shall mail to every member of the Society, at least 21 days before the date set for a special general meeting:

- (a) written notice of the date, time and place of the meeting;
- (b) an agenda of the business to be considered at the meeting; and
- (c) any resolutions received by the Executive Director pursuant to Rule 403.

(5) The unintentional failure to give notice of the meeting to any member or the non-receipt of the notice does not invalidate anything done at the meeting.

(6) No business other than the business stated in the agenda referred to in subrule (4)(b) shall be considered at a special general meeting, unless at least two-thirds of those present at the meeting, and eligible to vote, vote in favour of considering that other business.

## **Resolutions**

**403** Any member may, at least 30 days before the date set for a general meeting of the Society, deliver to the Executive Director a resolution that:

- (a) is in writing; and
- (b) states the subject matter of the resolution in sufficient detail to permit members to form a reasoned judgment about it.

## **Procedure at General Meetings**

**404**(1) A member is entitled to be present and speak at a general meeting.

(2) The Chairperson of the general meeting may allow a person who is not a member to:

- (a) be present at a general meeting; or
- (b) be present and speak at a general meeting.

(3) Subject to subrule (4), the President or Vice-President or in the absence of both, one of the other Benchers present, shall preside at a general meeting.

(4) The members present shall choose one of their number to be Chairperson if at a general meeting:

- (a) no Bencher is present 30 minutes after the time appointed for holding the meeting, or
- (b) no Bencher who is present is willing to act as Chairperson.

(5) At a general meeting, 30 members in good standing present at the meeting constitute a quorum.

(6) At the commencement of the meeting, the Chairperson shall declare whether a quorum is present.

(7) If a quorum is not present 30 minutes after the time appointed for a general meeting, the meeting:

- (a) if convened on the written request of members, shall be terminated; or
- (b) in any other case may, as determined by the Chairperson, stand adjourned to a place and time within one week.

(8) No business, other than the election of a Chairperson and the adjournment or termination of the meeting, shall be commenced unless and until a quorum is present.

(9) If the Chairperson has declared that a quorum is present, a quorum shall be deemed to continue until a member present at the meeting challenges the existence of a quorum.

(10) The Chairperson shall set the agenda for a general meeting.

(11) A member may, with the unanimous consent of all members present at and entitled to vote at the meeting, introduce a resolution which the Executive Director did not mail to the membership pursuant to Rule 401 or 402.

(12) If a dispute which is not provided for in the Act or these Rules arises concerning the procedure to be followed at a general meeting, the Chairperson shall resolve the matter.

(13) When there is an appeal from the decision of the Chairperson, the members present shall, without debate, vote on whether they are in favour of or opposed to sustaining the Chairperson's decision.

(14) A member in good standing who is present at a general meeting is entitled to one vote.

(15) Voting at a general meeting shall be by show of hands, unless the Chairperson orders a secret ballot.

(16) A member may not vote by proxy.

(17) A general meeting may be adjourned from time to time and from place to place.

(18) When a general meeting is adjourned in accordance with subrule (17), the Society shall not transact any business other than the business left unfinished at the meeting from which the adjournment took place.

(19) The Benchers may conduct a general meeting by joining together two or more locations:

- (a) by telephone; or
- (b) by any other means of communication which permits all persons participating in and entitled to vote at the meeting to hear each other.

(20) When a general meeting is conducted in accordance with subrule (19):

- (a) the Executive Director may appoint a member to act as local Chairperson of a joined location; and
- (b) a person participating in such a meeting is considered present at the meeting.

## **PART 5**

### **Bencher Meetings**

#### **Time and Place**

**501**(1) Meetings of the Benchers shall be at the places and times set by the Benchers.

(2) Every meeting of the Benchers shall, unless the Benchers otherwise direct, be held in Saskatchewan.

(3) The Executive Director shall notify the Benchers of the date, time, and place of the next meeting of the Benchers or an adjourned meeting of the Benchers.

(4) The Executive Director shall, if instructed by the President, change the date, time or place of the next meeting of the Benchers or an adjourned meeting of the Benchers, and amend the notification accordingly.

(5) The Executive Director's notification pursuant to subrule (3) shall be given at least 48 hours before the meeting, or within such lesser time as is reasonable in the circumstances.

#### **Special Meetings of the Benchers**

**502**(1) A special meeting of the Benchers may be called by:

(a) the President; or

(b) any three Benchers, upon written notice to the Executive Director.

(2) The Executive Director shall notify the Benchers of the date, time, and place of the special meeting of the Benchers.

(3) In the case of a meeting called by any three Benchers, the notification shall be within ten days after the Executive Director received the notice.

(4) The Executive Director's notification pursuant to subrules (2) and (3):

(a) shall be given at least 5 days before the meeting, or within such lesser time as is reasonable in the circumstances; and

(b) shall state the nature of the business that is proposed for consideration at the meeting.

(5) No business other than the business stated in the notification referred to in subrule (4) shall be considered at a special meeting of the Benchers, unless at least two-thirds of those present at the meeting vote in favour of considering that other business.

(6) A Bencher may, with the unanimous consent of all Benchers present at the meeting, introduce a resolution that the Executive Director did not provide to the Benchers with the notification of the meeting.

#### **Procedure at Meetings of the Benchers**

**503**(1) The President, or in the President's absence or at the President's request the Vice-President, shall preside as Chairperson of a meeting of the Benchers.

(2) In the absence of the President and Vice-President, the Benchers present shall choose one of their number to be Chairperson.

(3) At a meeting of the Benchers, 10 Benchers present at the meeting constitute a quorum.

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

(5) At a meeting of the Benchers, business other than the election of a Chairperson and the adjournment of the meeting shall:

- (a) not be commenced until a quorum is present; and
- (b) where a quorum ceases to be present, be suspended and not resumed until a quorum is present.

(6) The Chairperson shall set the agenda for a meeting of the Benchers.

(7) If a dispute arises that is not provided for in the Act or these Rules concerning the procedure to be followed at a meeting of the Benchers, the Chairperson shall resolve the matter.

(8) When there is an appeal from a decision of the Chairperson, the Benchers present shall, without debate, vote on whether they are in favour of or opposed to sustaining the Chairperson's decision.

(9) A Bencher who is present at a meeting of the Benchers is entitled to one vote.

(10) Voting at a meeting of the Benchers shall be by show of hands or in accordance with subrule (15), unless the Chairperson orders a secret ballot.

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

(12) Subject to subrule (13), a resolution to add to, amend or delete from these Rules or the Code is not valid unless:

- (a) the resolution is read twice; and
- (b) a majority of Benchers voting on each reading vote in favour of the resolution.

(13) The Benchers may read a resolution referred to in subrule (12) twice on the same day, if two-thirds of the Benchers who are present at the meeting and who are voting consent to its second reading.

(14) A meeting of the Benchers may be adjourned from time to time and from place to place.

(15) The Benchers may conduct a meeting by joining together two or more locations:

- (a) by telephone; or
- (b) by any other means of communication which permits all persons participating in and entitled to vote at the meeting to hear each other.

(16) If a meeting is conducted according to subrule (15), a person participating in such a meeting is considered present at the meeting.

#### **Reimbursement for Bencher Expenses**

**504(1)** The Society shall reimburse Benchers described in clauses 6(2)(a) and (b) of the Act for all reasonable and necessary expenses actually incurred in performance of their duties.

(2) The Society shall reimburse, in the case of expenses actually incurred by Benchers described in clause 6(2)(c) of the Act, the greater of:

- (a) the amount determined pursuant to subsection 6(6) of the Act; or
- (b) all reasonable and necessary expenses actually incurred in performance of their duties.

### **Remuneration of Benchers**

**505**(1) The President shall receive remuneration in an amount fixed by the Benchers.

(2) Benchers described in clauses 6(2)(a) and (b) of the Act may receive remuneration in an amount fixed by the Benchers.

(3) Benchers described in clause 6(2)(c) of the Act shall receive remuneration in an amount which is the greater of:

- (a) the amount determined pursuant to subsection 6(5) of the Act; or
- (b) the amount fixed by the Benchers.

### **Bencher Suspension and Removal from Office**

**506**(1) Where, in the opinion of the President or Vice President, any Bencher:

- (a) fails, refuses or is unable to fulfil the duties of a Bencher; or
- (b) conducts themselves in such a way that renders them unfit to be a Bencher, such that a risk to the reputation or credibility of the Society is created;

the President or Vice President may request that the Bencher take a leave of absence from some or all of their duties or request that the Bencher resign.

(2) Where the Benchers are of the opinion that a Bencher has:

- (a) failed, refused or is unable to fulfil the duties of a Bencher; or
- (b) that the conduct of a Bencher renders that person unfit to continue to be a Bencher, such that a risk to the reputation or credibility of the Society is created;

the Benchers may, at a regularly scheduled or special meeting of the Benchers, make, consider and approve a motion to require that Bencher to take a leave of absence from some or all of their duties or to remove that Bencher from office.

(3) The Benchers shall not approve a motion pursuant to subrule 2 unless the Bencher has been given at least 7 days notice prior to the meeting where such a motion could be made, considered and approved along with the materials in support of any such motion.

(4) The Bencher who is, or may become, the subject of a motion pursuant to subrule 2 is entitled to submit written materials to the Benchers in opposition to any motion or potential motion at, or in advance of, the meeting where said motion may be considered.

(5) A motion made pursuant to subrule 2 must be supported by a 3/4 supermajority of Benchers in attendance at the meeting in order to pass.

[Rule 506 Bencher Absence deleted in its entirety, Heading amended and Rule 506(1) – (5) added, September 24, 2021]

## **PART 6**

### **Committees**

#### **Establishment**

**601**(1) The following Committees are established:

- (a) the Executive Committee;
- (b) the Competency Committee,
- (c) the Discipline Policy Committee;
- (d) the Ethics Committee;
- (e) the Insurance Committee;
- (f) the Audit Committee;
- (g) the Conduct Investigation Committee;
- (h) the Governance Committee;
- (i) the Equity and Access Committee; and
- (j) the Nominations Committee.

(2) The Benchers may establish any other Committee for the better governance of the Society.

[Rule 601(1) amended to add item (j) Nominations Committee, April 30, 2021]

#### **Membership**

**602**(1) The President shall, in the case of every Committee other than the Executive Committee, appoint the members, and designate one of them as Chairperson and another of them as Vice-Chairperson.

(2) The Executive Committee shall consist of:

- (a) the President of the Society, who shall be the Chairperson;
- (b) the Vice-President of the Society, who shall be the Vice-Chairperson;
- (c) the immediate Past President of the Society;
- (d) such other Benchers or members as appointed by the President; and
- (e) the Executive Director as a non-voting member.

(3) The Discipline Policy Committee shall consist of Benchers, members and former Benchers.

(4) The Conduct Investigation Committee shall consist of seven to nine members, the majority of whom shall be Benchers, with a Bencher as Chairperson and one or more Benchers as Vice-Chairpersons, and may include:

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

(5) The President shall appoint only Benchers and members to the Competency Committee.



(6) The President and Vice-President:

- (a) are non-voting members of each Committee established pursuant to Rule 601, other than the Audit Committee and the Conduct Investigation Committee; and
- (b) may be appointed as active members of any Committee.

(7) Any Vice-Chairperson of a Committee may perform the duties of the Chairperson of that Committee where it is desirable for that person to do so in furtherance of the objects of the Act and the Rules.

(8) The members of a Committee shall, if both the Chairperson and the Vice-Chairperson are unable or unwilling to act, choose one of their number to perform the duties of Chairperson.

(9) A member of a Committee appointed pursuant to subrule (1) holds office until the earlier of:

- (a) ceasing to be a member; or
- (b) being removed from office by the President.

(10) The President may fill a vacancy on any Committee for which the President has the power of appointment.

#### **Duties**

**603** A Committee shall, in addition to the duties assigned to it by these Rules, perform any duties assigned by the Benchers.

#### **Quorum**

**604**(1) At a meeting of any Committee, a majority of members constitutes a quorum.

(2) In determining whether a quorum exists, the President and Vice-President shall be counted only if they are active members of the Committee.

#### **Majority Decisions**

**605** Unless these Rules state to the contrary, a Committee may act by majority decision.

#### **Procedures**

**606** Unless these Rules state to the contrary, a Committee may set its own practice and procedures.

## PART 7

### Membership and Practice Privileges

#### A. Definitions

##### Definitions

**701** In this Part:

**“active member”** means a person with a valid practising certificate in accordance with the Act and Rule 719;

**“Appeal Panel”** means an admissions panel mentioned in sections 23 and 24 of the Act which is established to hear appeals from decisions of a Hearing Panel;

**“Bar Admission Program”** means Practice Readiness Education Program;

**“Canadian Legal Advisor”** means a member admitted pursuant to Rule 817;

**“Committee”** means the Competency Committee;

**“disqualified member”** means a member who has been disqualified in accordance with Rule 721, 724 or 1612;

**“Executive Director”** includes a person designated by the Executive Director to perform any of the duties assigned to the Executive Director in this Part;

**“former member”** means a person who was a member, but who has resigned, has been appointed to the judiciary or has been disbarred;

**“Hearing Panel”** means an admissions panel mentioned in sections 23 and 24 of the Act which is established to hear applications pursuant to subrules 729(4) or 729(5)(d);

**“inactive member”** means a person who has qualified in all respects to be admitted as a lawyer but has elected not to maintain a practising membership;

**“Law Professor member”** means an active member permitted to practise in accordance with Rule 716;

**“licence to practise”** means a licence as defined pursuant to clause 2(1)(g.2) of the Act;

**“Pro Bono member”** means an active member permitted to practise in accordance with Rule 717;

**“retired member”** means a member who has retired in accordance with Rule 726;

**“Senior Life member”** means a person who has been granted a senior life membership by the Benchers before December 31, 2017;

**“Student-at-law”** means a person admitted to the Society pursuant to Rule 703;

**“suitability to practise”** means honesty, governability, financial responsibility and respect for the rule of law and the administration of justice and “suitable to practise” has a corresponding meaning;

**“suspended member”** means a person who has been suspended pursuant to Rule 1121, 1129, 1131 or 1141.

[Rule 701 Definitions, “Bar Admission Program” amended, “Program” deleted, May 1, 2020]

## **B. Practising Status**

### **Entitlements and Restrictions**

**702**(1) An active member is entitled to practise law.

(2) A Canadian Legal Advisor is entitled to practise law within the scope of Rule 817.

(3) A disqualified member has none of the rights of membership and is not entitled to practise law for the period of the disqualification.

(4) A former member has none of the rights of membership and is not entitled to practise law.

(5) An inactive member has all the rights and duties of membership but is not permitted to practise law.

(6) A Law Professor member is permitted to practise in accordance with Rule 716.

(7) Pro Bono member is permitted to practise in accordance with Rule 717.

(8) A retired member is not permitted to practise law.

(9) A Senior Life member is permitted to practise law.

(10) A suspended member has none of the rights of membership and is not entitled to practise law during the period of the suspension.

## **C. Students-at-Law**

### **Admission as a Student-at-law**

**703** A person applying for admission as a Student-at-law shall submit:

- (a) an application for admission in a form approved by the Committee;
- (b) original or notarial copies of certified government-issued documentation, such as a driver's license, birth certificate or passport, verifying the applicant's identity;
- (c) documents establishing the applicant's suitability to practise, including but not limited to:
  - (i) in the case of an applicant who is a member of another governing body of the legal profession, a certificate of standing, dated not more than 30 days before the date of the application, from each governing body stating:
    - (A) whether the applicant is a member in good standing;
    - (B) whether the applicant is presently the subject of any disciplinary proceedings; and
    - (C) the details of any previous disciplinary proceedings taken against the applicant; and
  - (ii) a police record check or such other information from law enforcement as may be required by the Executive Director;
- (d) documents verifying that the applicant:
  - (i) has successfully completed at least two years towards the requirements for a Bachelor's degree or Juris Doctor from a common law faculty of law in a Canadian university approved by the Federation of Law Societies of Canada;

- (ii) holds a Certificate of Qualification issued by the National Committee on Accreditation of the Federation of Law Societies of Canada; or
- (iii) has completed all courses and examinations required to obtain a Certificate of Qualification issued by the National Committee on Accreditation of the Federation of Law Societies of Canada;
- (e) in the case of an applicant who was previously a Student-at-law in another Canadian Province or Territory, a document stating the particulars of that experience;
- (f) in the case of an applicant that is not a Canadian citizen, proof of the applicant's entitlement to work in Canada;
- (g) any other information or documents requested by the Executive Director; and
- (h) the Student-at-law application fee as set out in Schedule 1.

[Rule 703(c)(i) deleted to remove testimonials requirement, changing numbering sequence, December 4, 2020]

### **Approval to Act as a Principal**

**704(1)** A lawyer seeking to act as a principal must:

- (a) meet the requirements of subrule 729(2);
- (b) be a lawyer currently practising full-time in Saskatchewan; and
- (c) have practised in Saskatchewan for at least the past five consecutive years.

(2) Before hiring a Student-at-law, a lawyer must submit:

- (a) an application to the Executive Director for approval as a principal in a form approved by the Committee and pursuant to Rule 729; and
- (b) any other information and documents required by the Act or these Rules or requested by the Executive Director.

(3) No lawyer shall commence acting as a principal before the Executive Director approves the application pursuant to Rule 729.

(4) A member shall only act as a principal to one Student-at-law at a time, except in the following circumstances, where a member may act as a principal to a maximum of two Students-at-Law:

- (a) during the final three months of one Student-at-law's articles; or
- (b) during a secondment pursuant to Rule 709.

(5) Pursuant to *The Justice and Attorney General Act*, subrule (4) does not apply to the Attorney General or Deputy Attorney General.

(6) The Executive Director may approve as a principal a member who does not meet the qualifications set by this Rule but who satisfies the Executive Director that the lawyer is suitable to act as a principal.

(7) A principal who ceases to meet the qualifications set by this Rule shall immediately notify the Executive Director in writing.

(8) If the Executive Director becomes aware that the principal no longer meets the requirements of subrule (1), the Executive Director may:

- (a) revoke the approval of the principal; or

- (b) refer the matter to the Committee for its consideration.

### **Commencement of Articles**

**705(1)** Following admission as a Student-at-law and approval of one or more principals, but before the commencement of articles, the Student-at-law and the principal must file:

- (a) an articling agreement in a form approved by the Committee;
- (b) documents verifying that the student:
  - (i) has successfully completed the requirements for a Bachelor's degree or a Juris Doctor from a common law faculty of law in a Canadian university approved by the Federation of Law Societies of Canada;
  - (ii) holds a Certificate of Qualification issued by the National Committee on Accreditation of the Federation of Law Societies of Canada; or
  - (iii) has successfully completed all courses and examinations required to obtain a Certificate of Qualification issued by the National Committee on Accreditation of the Federation of Law Societies of Canada; and
- (c) the articling fee as set out in Schedule 1.

(2) The Executive Director may require a Student-at-law and principal to submit an education plan within a specified time.

[Rule 705(1)(b)(iii) amended, 705(1)(d) deleted, May 1, 2020]

### **Articling Term**

**706(1)** The articling term will commence on the date when all conditions necessary for commencement of articles have been satisfied pursuant to Rule 705 and shall end on the expiry of 12 months.

(2) The 12-month articling term includes:

- (a) the period of time that the Student-at-law attends the Bar Admission Program; and
- (b) such reasonable time away from articles for vacation not to exceed 15 working days, and time away for illness or other personal reasons as may be approved by the principal, so long as the principal is satisfied that the time away shall not be detrimental to the Student-at-law's articling experience; but does not include:
  - (i) any time spent articling before the requirements referred to in subrule 705(1) have been fulfilled; and
  - (ii) any time spent at the Bar Admission Program before the fulfillment of the requirements of subrule 705(1)(b).

(3) A Student-at-law shall complete the twelve-month term within 24 months of commencement of the articling term, or the Student-at-law status may be revoked.

(4) The Executive Director may approve applications to:

- (a) amend the articling start date in exceptional circumstances; and
- (b) extend the articling term in circumstances where the Student-at-law requires an extended leave during the articling term.

### **Supervision by the Courts**

**707(1)** A Student-at-law may serve articles to a Justice of the Saskatchewan Court of Appeal, the Saskatchewan Court of Queen's Bench, the Supreme Court of Canada or any Federal Court of Canada or a Judge of the Provincial Court of Saskatchewan.

(2) A Student-at-law articulated to a court shall serve for not less than two months to a member approved as a principal pursuant to Rule 704.

(3) The rules applying to Students-at-Law and principals apply to Students-at-Law articling with a court, subject to any necessary modifications.

### **Transfer into Saskatchewan as a Student-at-law**

**708** A Student-at-law from another Canadian Province or Territory seeking to transfer into Saskatchewan must:

- (a) apply to be admitted as a Student-at-law pursuant to Rule 703; and
- (b) comply with all other Rules pursuant to this Part.

### **Secondment of Articles**

**709** A principal may permit a Student-at-law to work in the office of another member approved to act as a principal pursuant to Rule 704, or to a court pursuant to subrule 707(1), for a total of two months during the Student-at-law's articling term.

### **Assignment of Articles**

**710(1)** In this Rule, "Assignee Principal" means a principal to whom a Student-at-law's articles are assigned.

(2) The articles of a Student-at-law may be assigned from one principal to another principal, provided that:

- (a) the Assignee Principal is approved by the Executive Director pursuant to Rules 704 and 729;
- (b) the Student-at-law, the principal and the Assignee Principal execute and file an assignment of articles in a form approved by the Committee; and
- (c) the articling assignment fee as set out in Schedule 1 is paid.

(2) The Executive Director may require the Assignee Principal and Student-at-law to submit a revised education plan for approval.

### **Bar Admission Program**

**711** A Student-at-law must register with the Canadian Centre for Professional Legal Education for admission to the Bar Admission Program.

[Rule 711 amended, 711(1) – (11) deleted, May 1, 2020]

[Rule 712, Limitations, deleted in its entirety, May 1, 2020]

### **Services Performed by Students-at-Law**

**713(1)** Subject to the Act, *The Queen's Bench Rules of Court*, the *Criminal Code*, and subrule (2), a Student-at-law may perform any legal service that the principal:

- (a) is personally competent to perform;
- (b) supervises, to the extent necessary in the circumstances; and

- (c) is satisfied that the Student-at-law is, because of the principal's supervision, competent to perform.

(2) A Student-at-law shall not give or accept a professional undertaking.

## **D. Lawyers**

### **Admission as a Lawyer Following the Bar Admission Program**

**714(1)** A Student-at-law applying for admission as a lawyer must:

- (a) satisfactorily complete:
  - (i) the articling term;
  - (ii) the Bar Admission Program, subject to subrule (2) below; and
- (b) deliver to the Executive Director:
  - (i) an application for admission as a lawyer in a form approved by the Committee and pursuant to Rule 729;
  - (ii) a principal's affidavit in a form approved by the Committee;
  - (iii) the oath of office;
  - (iv) the lawyer admission application fee as set out in Schedule 1; and
  - (v) any other information and documents required by the Act, these Rules or requested by the Executive Director.

(2) Where an applicant successfully completed the Bar Admission Program more than five years immediately preceding the date of the application for admission as a lawyer, the applicant shall re-take and successfully complete the current Bar Admission Program, unless, in the view of the Executive Director, exceptional circumstances exist that justify the applicant completing something other than the full Bar Admission Program.

[Rule 714(a)(ii) amended; 714(b)(iii) deleted, re-numbering the balance, May 1, 2020]  
[Rule 714(1) and 714(1)(a)(ii) amended; 714(2) added, June 25, 2021]

### **Formal Admission**

**715(1)** A person who has been approved for admission pursuant to Rules 714 and 816 shall, within six months of the date of approval:

- (a) deliver to the Executive Director the lawyer enrollment fee or the admission on transfer enrollment fee as applicable, as set out in Schedule 1, and the following annual fees and insurance fees:
  - (i) one-twelfth of the annual fee payable pursuant to Rule 1402, multiplied by the number of months remaining in the year, including the month of admission as a lawyer; and
  - (ii) one-twelfth of the liability insurance assessment payable pursuant to Rule 1202, multiplied by the number of months remaining in the policy year, including the month of admission as a lawyer; and
- (b) at a date, time and place specified by the Executive Director:
  - (i) sign the Law Society Roll; and
  - (ii) take an oath or affirmation in a form approved by the Benchers.

(2) Each person who has complied with subrule (1) is thereby admitted to membership in the Society as a lawyer and shall have the person's name entered on the Law Society Roll.

(3) Upon the expiration of the time referred to in subrule (1), the Executive Director may:

- (a) upon application, extend the time to comply with subrule (1); or
- (b) require the person to submit a new application for admission.

### **Law Professor Members**

**716(1)** An active member who is a tenured or tenure-track member of the University of Saskatchewan College of Law may apply for a change of status to a Law Professor member.

(2) An applicant pursuant to this Rule must deliver to the Executive Director:

- (a) an application for change of status in a form approved by the Committee;
- (b) an undertaking, satisfactory to the Executive Director, to only engage in the practice of law in a limited manner, including a description of the applicant's practice; and
- (c) any other information and documents required by the Act or these Rules or requested by the Executive Director.

(3) A member who is not an active member may apply to be reinstated as a Law Professor member by:

- (a) applying pursuant to Rule 728; and
- (b) delivering an undertaking referred to in subrule (2)(b).

(4) A member granted Law Professor Membership pays one-half the active member practice fee as set out in Schedule 1 and is entitled to practise in a limited manner consistent with the undertaking given pursuant to subrule (2)(b).

(5) A practising licence shall be issued to a person admitted as a Law Professor member, each year upon receipt of an undertaking referred to in subrule (2)(b) and shall be endorsed with the words "Law Professor Membership."

(6) The membership of a person admitted pursuant to this Rule ceases:

- (a) for the time during which the person is on leave from the University of Saskatchewan College of Law; or
- (b) on the date that the person ceases to be a full-time tenured or tenure-track member of the University of Saskatchewan College of Law.

[Rule 716(4) amended, December 4, 2020]

### **Pro Bono Member**

**717(1)** An active member may apply for a change of status to a Pro Bono member.

(2) A member who is not an active member may apply to be reinstated as a Pro Bono member on the same terms and conditions as required pursuant to Rule 728 for reinstatement to active membership but will be exempt from the fee provided in subrule 728(2)(b).

(3) All applications for Pro Bono Membership shall include an undertaking to restrict practice to legal services provided through pro bono organizations approved by the Society.

(4) Each year Pro Bono members shall file the following:



- (a) a letter from an approved pro bono organization, certifying that the Pro Bono member continues to be actively serving the approved pro bono organization; and
- (b) an Annual Practice Declaration.

(5) Pro Bono members are exempt from paying the annual fee, the annual insurance levy, and any registration fees for Continuing Professional Development programs provided by the Society.

### **Senior Life Member**

**718(1)** Senior Life members are not required to pay the annual fee applicable to their category of membership.

(2) Senior Life members have all the remaining rights and duties of membership and may practise law if they maintain professional liability insurance pursuant to Rule 1202 and otherwise comply with these Rules and the Act.

## **E. Membership Duties**

### **Licence to Practise**

**719(1)** A member requires a valid licence to practise to be entitled to practise.

(2) The Executive Director shall, in respect of each practise year, issue a licence to practise to an active member who, before the commencement of that practise year:

- (a) has paid the fees fixed pursuant to Rule 1402;
- (b) has filed an Annual Practice Declaration in a form approved by the Executive Director;
- (c) has complied with the Act, these Rules and all requirements pursuant to them; and
- (d) is otherwise in good standing.

(3) The licence to practise of a disqualified or suspended member becomes invalid for the duration of the period of disqualification or suspension, as the case may be.

### **Liability Insurance**

**720** Unless exempted by these Rules, payment of all insurance premiums, surcharges and deductibles pursuant to Rule 1202 is a condition of the practice of law in Saskatchewan.

### **Continuing Professional Development Policy**

**721(1)** In this Rule, “CPD Policy” means the Continuing Professional Development Policy mentioned in subrule (2).

(2) All members shall comply with the Continuing Professional Development Policy approved by the Committee.

(3) The Executive Director may, with respect to any member who fails to comply with the CPD Policy:

- (a) refer the member to Professional Responsibility Counsel;
- (b) disqualify the member; or
- (c) notify the member that the member will be disqualified within 30 days, or such further period as may be determined by the Executive Director.

(4) A member who has been disqualified due to non-compliance with the CPD Policy may apply to the Executive Director for reinstatement by:

- (a) certifying compliance with the CPD Policy in a form approved by the Committee; and
- (b) submitting the fee required in Rule 1406.

### **Notification of Proceedings**

**722** A member, Student-at-law, applicant for admission or reinstatement, or a lawyer practicing in Saskatchewan pursuant to Rules 801 to 813 shall immediately report to the Executive Director:

- (a) particulars of charges and any disposition of the charges laid under the following:
  - (i) any law in force in Canada where the offence was prosecutable either as an indictable offence or as a summary conviction offence;
  - (ii) *The Securities Act, 1988* or any similar legislation of any province or territory of Canada;
  - (iii) an offence committed outside Canada and similar to any of the kinds of offences described in clauses (a) or (b);
- (b) any suspension, investigation, supervision, undertaking, conditions or similar processes including, but not limited to, discipline, professional standards, accounting, or audit proceedings, by a professional regulatory body in any jurisdiction.

### **Contact Information**

**723** All members are required to keep information current in the Society database as follows:

- (a) place of work;
- (b) work address;
- (c) work phone; and
- (d) email address.

## **F. Disqualification, Resignation, Retirement, Inactive Membership and Reinstatement**

### **Disqualification for Non-payment of Fees**

**724(1)** An active or inactive member who fails to pay any fee is disqualified from the rights and privileges of membership.

(2) A member disqualified pursuant to this Rule may apply for reinstatement pursuant to Rule 729.

(3) Notwithstanding subrule (2) a disqualified member who is the subject of an investigation by a Conduct Investigation Committee or Professional Responsibility Counsel or has been named in a formal complaint which has not yet been before a Hearing Committee remains subject to any outstanding discipline matters.

### **Notification of Disqualification**

**725** The Executive Director shall, promptly after each January 1:

- (a) notify all disqualified members of their disqualification;
- (b) give notification of those persons who have become disqualified members to:
  - (i) the Chief Justice of Saskatchewan;
  - (ii) the Chief Justice of the Court of Queen's Bench of Saskatchewan;

- (iii) the Chief Judge of the Provincial Court of Saskatchewan;
  - (iv) the Minister of Justice for Saskatchewan; and
  - (v) the Registrar of Titles; and
- (c) publish a notice on the Society website identifying those persons who have become disqualified members.

#### **Retired Member**

**726(1)** A member may apply to the Executive Director, pursuant to Rule 727, to be designated a retired member if the member is:

- (a) 55 years of age or older and has been a member of the Society or the judiciary for not less than the ten years immediately preceding the application; or
- (b) permanently unable to practise law due to disability.

(2) Retired members have all the rights and duties of membership in the Society except that they are not required to pay the annual fee and are not permitted to practise law.

#### **Resignation, Retirement or Inactive Status**

**727(1)** An active member may apply to resign or become a retired member or an inactive member by filing the applicable form with the Executive Director.

(2) The Executive Director may approve an application pursuant to this Rule subject to any condition, including subsequent reporting requirements on a matter mentioned in subrule (5).

(3) A member applying pursuant to this Rule who is currently under investigation or aware of any potential complaint to the Society must advise the Executive Director.

(4) When the Executive Director is aware of any complaint or potential complaint mentioned in subrule (3), the Executive Director may advise the member to apply for resignation pursuant to Rule 1111 or 1112, for consideration in accordance with the Part 11 Rules.

(5) In exercising the authority granted in subrule (2), the Executive Director shall consider whether:

- (a) the member has made adequate arrangements for clients, including management of:
  - (i) open and closed files;
  - (ii) wills and wills indices;
  - (iii) titles and other important documents and records;
  - (iv) other valuables;
  - (v) trust accounts and trust funds; and
  - (vi) other matters necessary for the protection of the public.
- (b) the member is in arrears of payment to the Society or delinquent in filing any report, response or document required by the Society; and
- (c) granting the application is inimical to the public interest or the members or would harm the standing of the legal profession.

## **Reinstatement or Change in Membership Category**

**728(1)** This Rule applies to:

- (a) former members;
- (b) inactive members;
- (c) retired members;
- (d) Law Professor members;
- (e) Pro Bono members; and
- (f) members disqualified pursuant to Rule 724.

(2) A member may apply to the Executive Director for reinstatement in the Society or change in membership category in accordance with Rule 729 and by delivering:

- (a) the application form required by the Executive Director;
- (b) the applicable fee as set out in Rule 1404; and
- (c) arrears, if any, of any fees payable to the Society and fulfillment of any obligation to the Society.

(3) Where an applicant has not been actively practising law within the five years immediately preceding the application, there will be a rebuttable presumption that the applicant lacks competency.

(4) An applicant pursuant to this Rule who:

- (a) was a Judge of the Supreme Court of Canada, the Federal Court of Canada, the Court of Appeal, the Court of Queen's Bench, or the Provincial Court of Saskatchewan, shall give a written undertaking not to appear as counsel in a Court in the Province for three years after ceasing to be a Judge; or
- (b) served in an adjudicative capacity on an administrative tribunal shall give a written undertaking not to appear as counsel before that tribunal for three years after ceasing to be a member of that tribunal.

[Rule 728(2)(b) amended, December 4, 2020]

## **G. Applications, Hearings and Appeals**

### **Application of Rule**

**729(1)** This section applies to the following applications in this Part of the Rules:

- (a) admission as a Student-at-law pursuant to Rule 703;
- (b) admission as a lawyer pursuant to Rule 714;
- (c) admission as a transfer lawyer pursuant to Rule 815;
- (d) admission as a Canadian Legal Advisor pursuant to Rule 817;
- (e) application to act as principal pursuant to Rule 704;
- (f) reinstatement of a former member who was disbarred, resigned in the face of discipline pursuant to Rule 1111 or resigned instead of continued proceedings pursuant to Rule 1112; and

- (g) all applications pursuant to Rule 728 other than those pursuant to subrule (1)(f).
- (2) In any application pursuant to this Part, applicants have the onus of proving that:
- (a) they are suitable to practise;
  - (b) they are competent to perform the required duties, as applicable; and
  - (c) granting the application would not be inimical to the public interest or the members and would not harm the standing of the legal profession generally.
- (3) All applications shall be submitted to the Executive Director, who shall:
- (a) review the application;
  - (b) make any inquiries and investigations necessary into the applicant's competence and suitability to practise, including:
    - (i) the applicant's education and training;
    - (ii) the applicant's experience in the legal profession;
    - (iii) any temporal gaps in the applicant's education and practice experience;
    - (iv) notices of proceedings pursuant to Rule 722;
    - (v) notices of bankruptcy pursuant to Rule 1538;
    - (vi) involvement with the Society or any other professional regulatory body including, without limitation:
      - (A) Professional Responsibility investigations and rulings;
      - (B) Competency Committee investigations;
      - (C) Special Fund claims or processes;
      - (D) professional liability insurance claims;
      - (E) failure to pay monies owing to the Society;
      - (F) complaints against the member;
      - (G) general correspondence from the administration office;
    - (vii) the applicant's place or proposed place of work or employment, including the type of work conducted and the involvement with the Society of members in that place of work or employment; and
    - (viii) any other relevant matter.
- (4) The Executive Director shall direct the Chairperson of the Committee to strike a Hearing Panel to hear and determine the application pursuant to Rules 731 to 741 for an application pursuant to subrule (1)(f).
- (5) The Executive Director may:
- (a) approve an application, other than an application pursuant to subrule (1)(f);
  - (b) approve an application pursuant to subrules (1)(a) to (e) and (g) with conditions;
  - (c) deny an application pursuant to subrules (1)(e) or (g), or any incomplete application; or

- (d) direct the Chairperson of the Committee to strike a Hearing Panel to hear and determine the application pursuant to Rules 731 to 741.

(6) An applicant pursuant to subrules (1)(a) to (e) and (g) may appeal the Executive Director's decision to approve the application with conditions or deny the application, as applicable.

(7) Rules 731 to 741 apply to appeals pursuant to subrule (6).

(8) Where the Executive Director denies an application or approves it with conditions, the Executive Director shall promptly provide written reasons to the applicant and advise the applicant of the right of appeal where applicable.

(9) Where the Chairperson of the Committee has referred an application to a Hearing Panel, the Executive Director shall promptly notify the applicant in writing.

(10) The Executive Director may waive any procedural defect in an application if it is not inimical to the public interest.

[Rule 729(1)(b), (c) and (d) amended, December 4, 2020]

### **Hearing Panel**

**730(1)** All hearings held pursuant to Rules 731 to 741 or an application pursuant to subrule 729(1)(f) will be heard by a Hearing Panel appointed by the Chairperson of the Committee.

(2) A Hearing Panel appointed pursuant to subrule (1) shall consist of not more than three persons and may include:

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

(3) The Chairperson of a Hearing Panel appointed pursuant to this Rule shall be a member of the Committee at the time of appointment.

### **Notice of Hearing**

**731(1)** When a Hearing Panel is appointed pursuant to this Part, the Society shall promptly notify the applicant in writing of:

- (a) the purpose of the hearing; and
- (b) the date, time and place of the hearing.

(2) A notice referred to in subrule (1) shall be served:

- (a) in accordance with section 85 of the Act; and
- (b) not less than 30 days before the date set for commencement of the hearing, unless the applicant consents, in writing, to a shorter period.

### **Disclosure**

**732** Rule 1125 applies to Hearings pursuant to this Part, with any necessary modifications.

### **Security for Costs**

**733(1)** Upon application by the Society, the Hearing Panel may order the applicant to pay security for costs in an amount determined appropriate in the circumstances.

(2) The Hearing Panel may, on cause being shown, rescind or vary an order made pursuant to subrule (1).

(3) The hearing shall not commence until the applicant pays to the Society the amount ordered to be paid pursuant to subrule (1) or (2).

### **Adjournment**

**734** The Chairperson of the Hearing Panel may adjourn the hearing from time to time.

### **Attendance at the Hearing and Right to Counsel**

**735**(1) The applicant:

- (a) shall, unless the Hearing Panel otherwise orders, personally attend the entire hearing; and
- (b) may appear with counsel.

(2) The Society may appear with counsel.

### **Onus and Burden of Proof**

**736** The onus is on the applicant to satisfy the Hearing Panel, on a balance of probabilities, that the applicant has met the applicable requirements of the Act and these Rules.

### **Public Hearing**

**737** Rule 1136 applies to hearings pursuant to this Part, with any necessary modifications.

### **Transcript**

**738**(1) All proceedings at a hearing shall be recorded by a Court Reporter.

(2) A person may obtain, at the person's expense, a transcript of any part of the hearing which the person was entitled to attend.

### **Procedure at Hearing**

**739** Subject to these Rules, the Hearing Panel may determine the practice and procedure for a hearing.

### **Decision of the Hearing Panel**

**740**(1) The Hearing Panel may:

- (a) approve the application with or without conditions; or
- (b) deny the application.

(2) The Hearing Panel decision shall be by majority vote.

(3) The Hearing Panel shall provide written reasons for its decision and advise the applicant of a right to apply to the Appeal Panel pursuant to subsections 23(4) and 24(3) of the Act where applicable.

(4) In the Hearing Panel's written reasons for its decision, it shall take reasonable precautions to avoid including information that is subject to solicitor-client privilege.

(5) The Society may publish any order or decision of a Hearing Panel in any or all of the following:

- (a) a newspaper of general circulation in each community in which the member maintained an office;
- (b) the Society website;
- (c) CanLII or any other decision publishing entity approved by the Benchers.

## **Costs**

**741** Rule 1135 applies to Hearings pursuant to this Part, with any necessary modifications.

## **Appeal Panel**

**742**(1) An applicant for a review pursuant to subsection 23(4) or 24(3) of the Act shall deliver an application to the Executive Director within 30 days after the action that is the subject of the review was taken.

(2) An Appeal Panel appointed for reviews conducted pursuant to sections 23 and 24 of the Act and Rule 741 shall:

- (a) be appointed by the Chairperson of the Committee; and
- (b) consist of not more than three Benchers, none of whom were members of a Hearing Panel appointed pursuant to Rule 729(4)(c) concerning the matter.

## **Appeal Panel Review**

**743**(1) Rules 731 to 741 apply to a review, with the necessary modifications and so far as they are applicable.

(2) Notwithstanding subrule (1), the Appeal Panel may only consider:

- (a) the transcript from and exhibits filed at a hearing conducted pursuant to this Part; and
- (b) submissions from the applicant and counsel for the Society.

(3) Following a review pursuant to subrule (2), the Appeal Panel may:

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

[Rule 743(2) and (3) amended, April 30, 2021]

## **H. Rule Waivers**

### **Rule Waivers**

**744**(1) Notwithstanding Rule 2404, an application to waive a Rule pursuant to this Part shall be directed to the Committee.

(2) For applications pursuant to this Rule, applicants have the onus of proving that:

- (a) the applicant's legal education or experience or both, constitute exceptional circumstances sufficient to justify a waiver of the Rule;
- (b) as a result of the applicant's legal education or experience or both, the applicant possesses the skills, competencies and qualifications equivalent to those required by the relevant Rule;
- (c) the waiver is not inimical to the public interest or the members, nor would it harm the standing of the legal profession generally; and
- (d) denial of the waiver would result in significant hardship for the applicant.

(3) The Committee may consider:

- (a) written submissions of the applicant; and



(b) with leave of the Committee Chairperson, oral submissions.

(4) The Committee may either grant the waiver, with or without, conditions or deny the application.

(5) The Committee shall notify the applicant of the decision in writing and provide reasons for the decision.

## PART 8

### National Mobility and Interjurisdictional Practice

#### Definitions

**801** In this Part, unless the context indicates otherwise:

**“Barreau”** means the Barreau du Québec;

**“Chambre”** means the Chambre des notaires du Québec;

**“Committee”** means the Competency Committee;

**“day”** means any calendar day or part of a calendar day in which a lawyer provides legal services;

**“discipline”** includes a finding by a governing body of any of the following:

- (a) professional misconduct;
- (b) incompetence;
- (c) conduct unbecoming a lawyer;
- (d) lack of physical or mental capacity to engage in the practise of law;
- (e) any other breach of a lawyer’s professional responsibilities;

**“disciplinary record”** includes any of the following, unless reversed on appeal or review:

- (a) any action taken by a governing body as a result of discipline;
- (b) disbarment;
- (c) a lawyer’s resignation or otherwise ceasing to be a member of a governing body as a result of or in the face of disciplinary proceedings;
- (d) restrictions or limits on a lawyer’s entitlement to practise, other than those imposed as a result of failure to pay fees to a governing body, insolvency or bankruptcy or other administrative matter;
- (e) any interim suspension or restriction or limits on a lawyer’s entitlement to practise imposed pending the outcome of a disciplinary hearing;

**“entitled to practise law”** means allowed, pursuant to all the legislation and regulation of a Home Jurisdiction, apart from any requirement to obtain liability insurance, to engage in the practise of law in the Home Jurisdiction;

**“Executive Director”** includes a person designated by the Executive Director to perform any of the duties assigned to the Executive Director in this Part;

**“governing body”** means any Law Society or Barristers’ Society in a Canadian jurisdiction;

**“Home Governing Body”** means any or all of the governing bodies of the legal profession in Canada of which a lawyer is a member, and “Home Jurisdiction” has a corresponding meaning;

**“lawyer”** means a member of a governing body, other than the Chambre;

**“liability insurance”** means compulsory professional liability errors and omissions insurance required by a governing body;

**“Mobility Defalcation Compensation Agreement”** means the 2010 Mobility Defalcation Compensation Agreement of the Federation of Law Societies of Canada, as amended from time to time;

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

**“National Registry”** means the National Registry of Practising Lawyers established pursuant to the National Mobility Agreement;

**“Permit”** means an interjurisdictional practice permit to provide legal services in Saskatchewan on a temporary basis issued pursuant to Rule 805;

**“practice of law”** has the meaning with respect to each jurisdiction that applies in that jurisdiction;

**“Protocol”** means the Interjurisdictional Practice Protocol of the Federation of the Law Societies of Canada signed February 18, 1994 in Jasper, Alberta;

**“provide legal services”** means to engage in the practise of law:

- (a) physically in Saskatchewan, except with respect to the law of another Canadian jurisdiction; or
- (b) with respect to the law of Saskatchewan, physically in any jurisdiction; and

includes the provision of legal services respecting federal jurisdiction in Saskatchewan;

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

**“suitability to practise”** means honesty, governability, financial responsibility and respect for the rule of law and the administration of justice and “suitable to practice” has a corresponding meaning;

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

**“visiting lawyer”** means a lawyer who is entitled to practise law in a Canadian jurisdiction other than Saskatchewan.

## **Application**

**802(1)** These Rules:

- (a) are intended to implement the provisions of the Protocol, the National Mobility Agreement and the Territorial Mobility Agreement; and
- (b) apply to a visiting lawyer, provided that the visiting lawyer is entitled to practise law in the jurisdiction of a governing body of which the visiting lawyer is a member.

(2) Unless it is inconsistent with the provisions of these Rules, the Protocol applies to temporary mobility pursuant to these Rules.

(3) Notwithstanding these Rules, a member of the Canadian Forces who is entitled to practise law in the jurisdiction of a governing body, other than the Chambre, who provides legal services exclusively for or on behalf of the Office of the Judge Advocate General:

- (a) may provide legal services for or on behalf of the Office of the Judge Advocate General without a Permit; and
- (b) does not establish an economic nexus with Saskatchewan pursuant to Rule 808.

### **National Registry of Practising Lawyers**

**803**(1) The Executive Director must provide to the National Registry the current and accurate information about practising lawyers required pursuant to the National Mobility Agreement.

(2) No one may use or disclose information obtained from the National Registry, except for the purposes of the Act and these Rules.

## **A. Temporary Mobility**

### **Temporary Mobility Without a Permit Pursuant to National Mobility Agreement and Protocol**

**804**(1) A visiting lawyer who qualifies pursuant to subrule (2) may provide legal services without a Permit for a maximum of 100 days in any calendar year.

(2) Subject to subrule (4), to qualify to provide legal services on a temporary basis pursuant to subrule (1) or (3), a visiting lawyer must at all times:

- (a) be entitled to practise law in a Home Jurisdiction other than the Chambre;
- (b) carry liability insurance that:
  - (i) is reasonably comparable in coverage and limits to that required pursuant to Rule 1202; and
  - (ii) extends to the lawyer's temporary practice in Saskatchewan;
- (c) have defalcation compensation coverage from a governing body that extends to the lawyer's practice in Saskatchewan;
- (d) not be subject to conditions of or restrictions on the lawyer's practice or membership in the governing body in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency or capacity;
- (e) not be the subject of criminal or disciplinary proceedings in any jurisdiction;
- (f) have no disciplinary record in any jurisdiction; and
- (g) not have or establish an economic nexus with Saskatchewan, as defined in Rule 808.

(3) On application of a visiting lawyer who otherwise qualifies pursuant to subrule (2), the Executive Director may:

- (a) subject to any conditions and restrictions the Executive Director considers appropriate, allow the visiting lawyer to provide legal services without a Permit beyond the time limit set in subrule (1); or
- (b) require the applicant to apply for a Permit pursuant to Rule 805 to provide legal services beyond the time limit set in subrule (1).

(4) The requirement in subrule (2)(b) does not apply to a visiting lawyer who is exempt from compulsory liability insurance pursuant to subrule 1202(3) with respect to legal services to be provided in Saskatchewan.

[Rule 804(4) amended to correct subrule reference, December 3, 2021]

### **Temporary Mobility Requiring Interjurisdictional Practice Permit**

**805**(1) A visiting lawyer who fails to comply with any of the requirements set out in subrules 804(2)(d) to (g) may apply for a Permit.

(2) A visiting lawyer applying pursuant to subrule (1) shall deliver to the Executive Director:

- (a) a completed Permit application, including a written consent for the release of relevant information to the Executive Director;
- (b) subject to subrule (3), the interjurisdictional practice permit fee or the interjurisdictional practice permit renewal fee, as set out in Schedule 1;
- (c) certificates of standing, dated not more than 30 days before the date of the application and in a form acceptable to the Executive Director and issued by each governing body of which the visiting lawyer is a member;
- (d) proof of professional liability insurance that:
  - (i) is reasonably comparable in coverage and amount to that maintained by the Society in its compulsory program; and
  - (ii) extends to the visiting lawyer's practice in Saskatchewan; and
- (e) proof that the visiting lawyer has defalcation compensation coverage from a governing body that extends to the visiting lawyer's practice in Saskatchewan.

(3) Subrule (2)(b) does not apply to an application made by a visiting lawyer who is a member of a governing body in a jurisdiction in which:

- (a) the visiting lawyer is entitled to practise law; and
- (b) the governing body does not charge members of the Society a fee for permission to practise law in the jurisdiction on an occasional basis.

(4) On application pursuant to this Rule, the Executive Director may issue a Permit, subject to any conditions and restrictions that the Executive Director considers appropriate if, in the discretion of the Executive Director, it is consistent with the public interest to do so.

(5) A Permit issued or renewed pursuant to this Rule:

- (a) subject to subrule (c), is effective until one year from the date it is issued;
- (b) allows a visiting lawyer to provide legal services for not more than 100 days in that year; and
- (c) ceases to be valid if the holder of the Permit:
  - (i) ceases to be entitled to practise law in all Home Jurisdictions;
  - (ii) fails to maintain professional liability insurance as required pursuant to subrule (2)(d);
  - (iii) fails to maintain defalcation compensation coverage as required pursuant to subrule (2)(e); or
  - (iv) is suspended or disbarred in any jurisdiction.

(6) On application, the Executive Director may extend the authorization granted by the Permit mentioned in subrule (4).

### **Responsibilities of Visiting Lawyer**

**806(1)** The Act, these Rules and the Code apply to and bind a visiting lawyer providing legal services.

(2) It is the responsibility of a visiting lawyer providing legal services to:

- (a) record and verify the number of days in which the visiting lawyer provides legal services; and
- (b) prove compliance with these Rules.

### **Trust Funds**

**807** A visiting lawyer must not maintain a trust account in Saskatchewan and must:

- (a) promptly remit funds received in trust to the visiting lawyer's trust account in a Home Jurisdiction; or
- (b) ensure that trust funds received are handled:
  - (i) by a member of the Society entitled to practise law in Saskatchewan in a trust account controlled by that member of the Society; and
  - (ii) in accordance with the Act and these Rules.

### **Disqualification Due to Economic Nexus**

**808(1)** A visiting lawyer who has established an economic nexus with Saskatchewan is not permitted to provide legal services pursuant to these Rules.

(2) For the purposes of this Rule, an economic nexus is established by actions inconsistent with a temporary basis for providing legal services, including but not limited to doing any of the following in Saskatchewan:

- (a) providing legal services beyond 100 days, or longer period allowed pursuant to subrules 804(3)(a) or 805(6);
- (b) opening an office from which legal services are offered or provided to the public;
- (c) becoming Resident;
- (d) opening or operating a trust account, or accepting trust funds, except as permitted pursuant to Rule 807;
- (e) holding oneself out or allowing oneself to be held out as willing or qualified to practise law in Saskatchewan, except as a visiting lawyer.

(3) A visiting lawyer who provides legal services in or from an office affiliated with the lawyer's law firm in a Home Jurisdiction does not, for that reason alone, establish an economic nexus with Saskatchewan.

(4) A visiting lawyer who becomes disqualified pursuant to this Rule must cease providing legal services forthwith, but may apply pursuant to Rule 816 for call and admission or pursuant to Rule 805 for a Permit.

(5) On application by a visiting lawyer, the Executive Director may allow the visiting lawyer to continue to provide legal services pending consideration of an application pursuant to Rules 805 or 815.

### **Federal Jurisdiction**

**809(1)** As an exception to the requirements of Rule 808, a visiting lawyer who is not disqualified pursuant to Rule 811 may appear before any of the following tribunals in Saskatchewan without a Permit:

- (a) the Supreme Court of Canada;
- (b) the Federal Court of Canada;
- (c) the Tax Court of Canada;

- (d) a federal administrative tribunal;
- (e) service tribunals as defined in the *National Defence Act*; or
- (f) the Court Martial Appeal Court of Canada.

(2) The exception to Rule 808 established in subrule (1) extends to a visiting lawyer preparing for an appearance allowed pursuant to that subrule and otherwise furthering the matter giving rise to the appearance.

### **Enforcement**

**810(1)** The Executive Director may require a visiting lawyer to:

- (a) account for and verify the number of days spent providing legal services; and
- (b) verify compliance with any Rules specified by the Executive Director.

(2) If a visiting lawyer fails or refuses to comply with a requirement pursuant to subrule (1) within 20 calendar days, or such longer time that the Executive Director may allow in writing:

- (a) the visiting lawyer is immediately prohibited from providing legal services pursuant to Rule 804, and must apply for a Permit pursuant to Rule 805 to provide further legal services;
- (b) any Permit issued to the visiting lawyer pursuant to Rule 805 is rescinded; and
- (c) the Executive Director must advise the visiting lawyer's Home Governing Bodies of the visiting lawyer's failure to comply and the consequences.

(3) A visiting lawyer may appeal a decision of the Executive Director pursuant to subrule (2) to the Committee and the Committee may, in its discretion:

- (a) grant the application, subject to any conditions it considers to be in the public interest; or
- (b) deny the application.

(4) The Committee may establish its own practices and procedures for reaching a decision pursuant to subrule (3).

### **Discipline**

**811(1)** A visiting lawyer shall comply with the applicable legislation, regulations, rules and standards of professional conduct of Saskatchewan while providing legal services in, or with respect to the law of, Saskatchewan.

(2) Non-compliance with subrule (1) may result in disciplinary action in a jurisdiction determined in accordance with the National Mobility Agreement.

### **Notification of Proceedings**

**812(1)** A visiting lawyer, articling student or applicant shall immediately report to the Executive Director:

- (a) particulars of charges and any disposition of the charges laid pursuant to the following:
  - (i) any law in force in Canada where the offence was prosecutable either as an indictable offence or as a summary conviction offence;
  - (ii) *The Securities Act, 1988* or any other similar legislation of any province or territory of Canada;

- (iii) an offence committed outside Canada and similar to any of the kinds of offences described in clauses (i) or (ii);
  - (b) any suspension, investigation, supervision, undertaking, conditions or similar processes including, but not limited to, discipline, professional standards, competency, accounting, or audit proceedings, by a professional regulatory body in any jurisdiction.
- (2) Where the Executive Director becomes aware of any matter set out in subrule (1):
- (a) the visiting lawyer may be immediately prohibited from providing legal services pursuant to Rule 804, and may be required to apply for a Permit pursuant to Rule 805 to provide further legal services;
  - (b) any Permit issued to the visiting lawyer pursuant to Rule 805 may be rescinded; and
  - (c) the Executive Director must advise the visiting lawyer's Home Governing Bodies of the matter.

### **Special Fund**

**813(1)** The Mobility Defalcation Compensation Agreement applies to a claim pursuant to Rule 1305 involving inter-jurisdictional practice in a jurisdiction where a governing body has signed and implemented the Mobility Defalcation Compensation Agreement.

(2) The provisions of the Protocol concerning claims for compensation for misappropriation apply to a claim pursuant to Rule 1305 involving interjurisdictional practice in a jurisdiction where a governing body has not signed and implemented the Mobility Defalcation Compensation Agreement.

## **B. Permanent Mobility**

### **Transfer Pursuant to National Mobility Agreement and Territorial Mobility Agreement**

**814(1)** This Rule applies to an applicant for transfer from another Canadian jurisdiction, provided that the applicant is entitled to practise law in the jurisdiction of any governing body, other than the Chambre, of which the applicant is a member.

(2) An applicant pursuant to this Rule must fulfill all the requirements in Rule 815 for call and admission on transfer from another Canadian jurisdiction.

(3) To qualify for call and admission, applicants pursuant to this Rule must certify that they have reviewed and understand all the materials reasonably required by the Committee.

(4) A lawyer called and admitted pursuant to this Rule has no greater rights as a member of the Society than the more restrictive of:

- (a) those of the lawyer as a member of another governing body; or
- (b) any other member of the Society in similar circumstances.

### **Admission as a Transfer Lawyer**

**815(1)** To qualify for admission as a lawyer on transfer an applicant must:

- (a) be suitable to practise;
- (b) deliver to the Executive Director:
  - (i) a completed application for admission as a lawyer on transfer, in a form approved by the Committee;



- (ii) an original or notarial copy of a certified government issued identification document, such as a driver's license, birth certificate, passport or other document acceptable to the Society which verifies the applicant's identity;
- (iii) in the case of an applicant that is not a Canadian citizen, proof of the applicant's entitlement to work in Canada;
- (iv) certificates of standing, dated not more than 30 days before the date of the application, from each of the governing bodies of which the applicant is a member, stating:
  - (A) whether the applicant is a member in good standing;
  - (B) whether the applicant is presently the subject of any disciplinary proceedings; and
  - (C) the details of any previous disciplinary proceedings taken against the applicant;
- (v) the admission on transfer application fee as set out in Schedule 1; and
- (vi) any other information and documents required by the Act or these Rules that the Executive Director requests.

(2) Rules 715 and 729 apply to applications for admission as a transfer lawyer with any necessary changes.

[Rule 815(1)(b)(iv) deleted to remove testimonials requirement, changing numbering sequence, December 4, 2020]

#### **Liability Insurance Exemption for Members Entitled to Practise in More than One Canadian Jurisdiction**

**816(1)** A member of the Society may apply to the Executive Director for exemption from the requirement for professional liability insurance pursuant to Rule 1202, if the member has professional liability insurance which is reasonably comparable in coverage and limits to that required by the Society's insurance plan and extends to the lawyer's practice in Saskatchewan, as:

- (a) a member of another governing body, other than the Chambre or Barreau, which allows a similar exemption for members of the Society; or
- (b) a member of both the Barreau and another governing body, other than the Chambre, which allows a similar exemption for members of the Society.

(2) A member applying for an exemption pursuant to subrule (1)(b) must have insurance coverage from the professional liability insurance program of:

- (a) the Barreau, with respect to services provided by the lawyer as a member of the Barreau; and
- (b) the governing body in the jurisdiction in which the member has been continuously entitled to practise law for the longest period, with respect to services provided by the lawyer as a member of that governing body.

(3) A member applying for an exemption pursuant to this Rule must provide evidence that the member maintains the full mandatory professional liability insurance coverage required by the applicable governing bodies in accordance with this Rule.

## **C. Practice Privileges for Members of the Chambre**

### **Canadian Legal Advisor**

**817(1)** A member of the Chambre with a Canadian Civil Law degree or with a foreign degree and a certificate of equivalency from the Chambre, may apply for admission as a Canadian Legal Advisor by delivering to the Executive Director the following:

- (a) a completed application for admission as a Canadian Legal Advisor in a form approved by the Committee;
- (b) an original or notarial copy of certified documents verifying identity, including valid original government issued identification such as a driver's license, birth certificate, passport or other document acceptable to the Executive Director;
- (c) a certificate of standing, dated not more than 30 days before the date of application and in a form acceptable to the Executive Director and issued from each of the governing bodies of which the applicant is a member;
- (d) an errors and omissions insurance application or exemption form;
- (e) the admission transfer application fee and the admission on transfer enrollment fee, both as set out in Schedule 1; and
- (f) any other information and documents required by the Act or these Rules which is requested.

(2) Rules 715 and 729 apply to applications for admission as a Canadian Legal Advisor with any necessary changes.

[Rule 817(1)(c) deleted to remove testimonials requirement, changing numbering sequence, December 4, 2020]

### **Scope of Practice**

**818** A Canadian Legal Advisor's practice in Saskatchewan is limited to the following:

- (a) providing legal advice on:
  - (i) the law of Québec and matters involving the law of Québec;
  - (ii) matters under federal jurisdiction, or
  - (iii) matters involving public international law if insurance coverage is provided by the Chambre;
- (b) preparing and drawing-up documents for use in a proceeding concerning matters under federal jurisdiction, or
- (c) appearing as counsel or an advocate before any tribunal with respect to matters under federal jurisdiction.

### **Obligations**

**819** A Canadian Legal Advisor must:

- (a) continue to be a member in good standing of the Chambre authorized to practise law in Quebec; and
- (b) notify the Executive Director in writing if the person becomes disqualified from the practise of law in Québec;

- (c) obey and observe all duties and responsibilities of a practising lawyer pursuant to the Act, these Rules and the Code of Professional Conduct.

## **D. Foreign Legal Consultants**

### **Foreign Legal Consultants**

**820** A person who is qualified to practise law in a country other than Canada, or in an internal jurisdiction of that country, may apply to the Executive Director for a permit to act as a foreign legal consultant in Saskatchewan by delivering to the Executive Director:

- (a) a completed permit application in a form approved by the Benchers;
- (b) the foreign legal consultant permit fee as set out in Schedule 1; and
- (c) a written undertaking to:
  - (i) not accept, hold, transfer or in any other manner deal with funds which would, if accepted, held, transferred or dealt with by a member, constitute trust funds;
  - (ii) submit to the jurisdiction of the Society and comply with the Act, the Rules and the Code; and
  - (iii) notify the Executive Director promptly of a failure to satisfactorily complete whatever continuing legal education program is required of members of the applicable home country or internal jurisdiction.

### **Issuance of Permit**

**821(1)** The Executive Director may issue to an applicant a permit to act as a foreign legal consultant when satisfied that the applicant:

- (a) is a member in good standing of the legal profession in the applicant's home country or in one of its internal jurisdictions;
- (b) is Suitable to Practise;
- (c) has practised the law of the applicant's home country or one of its internal jurisdictions for the last three years, or undertakes in writing to work, while acting as a foreign legal consultant in Saskatchewan, only under the direct supervision of a foreign legal consultant from that country or internal jurisdiction who has satisfied the three-year practise requirement;
- (d) carries professional liability insurance or a bond, indemnity or other security:
  - (i) in a form and amount which is reasonably comparable with that maintained by the Society in its compulsory program; and
  - (ii) which specifically extends to services rendered by the foreign legal consultant while acting as such in Saskatchewan; and
- (e) participates in a program or carries a fidelity bond or other security satisfactory to the Society and in an amount of at least \$1,000,000, for the purpose of reimbursing persons who suffer pecuniary loss as a result of the misappropriation or conversion by the foreign legal consultant of money or other property entrusted to or received by the foreign legal consultant in Saskatchewan.

(2) The Executive Director may fix conditions that are attached to permits which are issued or renewed pursuant to this Rule.

(3) Subject to subrule (4), a permit issued pursuant to subrule (1) is valid from the issue date shown on it until the last day of the same calendar month in the next year.

(4) Notwithstanding subrule (3), a permit ceases to be valid if the foreign legal consultant:

- (a) is suspended as a result of proceedings pursuant to the Act; or
- (b) ceases to comply with any of the requirements of subrules (1) or (2).

### **Scope of Practice**

**822(1)** A foreign legal consultant's practice in Saskatchewan is limited to the practice of the following as the case may be:

- (a) the law of the foreign legal consultant's home country; or
- (b) the law in one of the internal jurisdictions of the foreign legal consultant's home country.

(2) Subject to Rule 825, a person may act as a foreign legal consultant in Saskatchewan only while holding a valid permit pursuant to Rule 821.

### **Marketing of Legal Services**

**823** A foreign legal consultant, when engaging in advertising or any other form of marketing activity in Saskatchewan:

- (a) shall use the term "foreign legal consultant";
- (b) shall state the country or internal jurisdiction in respect of which the foreign legal consultant is qualified to practise law, and the professional title used in that country or internal jurisdiction; and
- (c) shall not use any designation or make any representation from which a recipient might reasonably conclude that the foreign legal consultant is a member of the Society.

### **Renewal of Permit**

**824(1)** A foreign legal consultant who intends to continue to act as such in Saskatchewan shall, before the expiration of a permit issued pursuant to Rule 821, apply to the Executive Director for a renewal of the permit.

(2) A renewal application shall include:

- (a) a completed permit renewal application in a form approved by the Benchers;
- (b) evidence satisfactory to the Executive Director that the applicant continues to comply with the requirements set out in Rules 820 and 821; and
- (c) the foreign legal consultant renewal fee as set out in Schedule 1.

(3) The Executive Director may issue a renewal permit to a foreign legal consultant who has complied with the Act and these Rules.

(4) Subject to subrule (5), a renewal permit issued pursuant to subrule (3) is valid for one year.

(5) Subrule 821(4) applies to a permit which has been renewed pursuant to subrule (3).

### **Member of the Society with Dual Qualification**

**825** A member of the Society who is also qualified to practise law in another country or in one of its internal jurisdictions need not obtain a permit to act as a foreign legal consultant in Saskatchewan, provided the member holds liability insurance:

- (a) in a form and amount which is at least reasonably comparable with that maintained by the Society in its compulsory program; and
- (b) which specifically extends to services rendered by the member while acting as a foreign legal consultant in Saskatchewan.

## PART 9

### Firm Regulation

#### Definitions and Application

**901(1)** In this Part:

**“Assessment Tool”** means the Law Firm Practice Management Assessment Tool developed by the Society to assist:

- (a) members and firms in maintaining and enhancing their practice management systems; and
- (b) the Society in its engagement with firms;

**“communications”** means communications from the Society to the Designated Representative including:

- (a) a complaint against the firm pursuant to Part IV of the Act and Part 11 of these Rules;
- (b) reports of the firm or a member associated with the firm regarding an audit or practice review pursuant to Part 15 of these Rules;
- (c) a copy of each complaint against a member associated with the firm pursuant to Part IV of the Act and Part 11 of these Rules;
- (d) a copy of each determination or decision made pursuant to Part 11 of these Rules relating to a member associated with the firm;
- (e) information concerning a member's failure to comply with the requirements for continuing professional development pursuant to Rule 721; and
- (f) other materials relating to the processes prescribed by Part 11 of these Rules, if requested by the Designated Representative, provided that the member in question was associated with the firm at the time the matter that is the subject of the complaint took place;

**“Declaration”** means a declaration on behalf of a firm, in the form approved by the Executive Director, confirming that the Designated Representative has completed the Assessment Tool;

**“delivery of legal services”** means engaging in the practice of law;

**“Designated Representative”** means a member appointed by the firm to act as liaison with the Society for the purposes of these Rules;

**“firm”** means a firm as defined in the Act and includes any of the following that provides or provide legal services to the public in Saskatchewan:

- (a) a sole proprietorship or a member acting as a sole practitioner;
- (b) a partnership;
- (c) a corporation;
- (d) two or more members holding themselves out as practising in association;
- (e) any other business entity;

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

Saskatchewan, or any government institution as defined in *The Freedom of Information and Protection of Privacy Act*;

**“practice of law”** means the practice of law as defined in the Act and includes the delivery of legal services;

**“practising in association”** describes the practise of two or more lawyers who share any of the following:

- (a) trust accounts;
- (b) general accounts;
- (c) staff that has access to all files;
- (d) filing systems or electronic document management systems.

**“Registration Form”** means a form required pursuant to Rule 902 completed to the satisfaction of the Executive Director.

(2) This Part does not apply to the following:

- (a) a corporation that is not a law corporation;
- (b) a corporation that does not provide legal services to the public; or
- (c) a law corporation that provides legal services solely as part of another firm as a partner, associate or employee of the firm.

### **Registration**

**902(1)** A firm whose members are engaged in the practice of law on January 1, 2020 or commence or resume engaging in the practice of law after that date must complete and submit a Registration Form, in the form approved by the Executive Director, to the Society by January 31, 2020, or within 30 days of commencing or resuming engaging in the practice of law.

(2) After January 1, 2020, a new firm must be registered as a firm by the Executive Director before its members engage in the practice of law in Saskatchewan.

(3) A firm must immediately inform the Executive Director of a change of any information that it includes in the Registration Form.

(4) A sole practitioner must notify the Executive Director before the member begins to practise law as a sole practitioner.

(5) After January 1, 2020, a firm whose members commence to engage in the practice of law and who wish to operate a trust account must receive written approval from the Executive Director before opening a trust account, subject to the following;

- (a) the Executive Director may impose conditions on a firm’s or its members’ use of a trust account before providing approval; and
- (b) the Executive Director may deny approval or revoke approval if a firm fails to meet, or continue to meet, the requirements of this Part.

(6) This Rule applies, with any necessary changes, when two or more firms or parts of two or more firms join to create a new firm.

(7) If there is a material change in ownership of a firm, this Rule applies, with any necessary changes, unless the Executive Director otherwise determines.

(8) The requirements of this Rule are in addition to the requirements for a member or a group of members to apply to become a Professional Corporation for the practise of law pursuant to Rules 1802 to 1809 or a limited liability partnership pursuant to Rules 1811 to 1818.

### **Annual Report**

**903**(1) Subject to subrule (3), after January 1, 2020, and pursuant to subrule 1604(1)(a), all firms must file an Annual Report, in a form approved by the Executive Director, by March 31 each year.

(2) The Annual Report mentioned in subrule (1) shall relate to the 12 months ending December 31 of the previous year and shall include:

- (a) the names of all members associated with the firm, and the nature of their association;
- (b) the location and particulars of all firm bank accounts and trust accounts operated by the firm;
- (c) the names and responsibilities of employees of the firm, or others, who maintain the accounting records of the firm;
- (d) confirmation that all members associated with the firm have written succession plans pursuant to Rule 2302 and the location of those succession plans;
- (e) reports on compliance with:
  - (i) the requirements of Rule 1503 regarding cash transactions;
  - (ii) the requirements of Rule 1511 regarding trust accounting;
  - (iii) the requirements of Rules 1541 to 1550 regarding client identification and verification;  
and
- (f) such other information as may be required by the Executive Director.

(3) The Executive Director may prescribe a date for a firm to provide the Annual Report that is different from the date mentioned in subrule (1).

### **Designated Representative**

**904**(1) A firm whose members are engaged in the practice of law must designate as its Designated Representative one or more practising members associated with the firm.

(2) A firm whose members are engaged in the practice of law on January 1, 2020 or that commence or resume engaging in the practice of law after that date must notify the Executive Director of the designation of its Designated Representative as part of the registration process pursuant to Rule 902.

(3) Designated Representatives must:

- (a) be entitled to practise law in accordance with the Act and Rule 702;
- (b) be practising law at the firm for which they will act as Designated Representatives; and
- (c) have sufficient authority within the firm to fulfill the duties of the role in accordance with these Rules.

(4) A firm that changes its designation of any Designated Representative must notify the Executive Director within seven days following such change.



(5) The firm must appoint a new Designated Representative at the earliest opportunity and notify the Executive Director of the appointment if the Designated Representative for a firm of two or more members:

- (a) has been charged pursuant to Part 11 of the Rules;
- (b) has been suspended pursuant to Part IV of the Act or Part 11 of the Rules;
- (c) has any practice restrictions or conditions imposed by order of the Competency Committee or otherwise pursuant to the Rules; or
- (d) becomes unable to fulfill the obligations pursuant to this Rule for any other reason.

### **Designated Representative's Obligations**

**905(1)** The Designated Representative shall:

- (a) receive communications from the Society on behalf of the firm;
- (b) receive communications from the Saskatchewan Lawyers' Insurance Association Inc. relating to claims against any member of the firm on behalf of the firm;
- (c) respond promptly and completely to any communication from the Society;
- (d) complete the Assessment Tool on behalf of the firm as required by subrule 906(1) and retain a copy;
- (e) use reasonable efforts to provide complete and accurate information when completing the Assessment Tool;
- (f) complete a Declaration pursuant to subrule 906(1);
- (g) submit the Annual Report, and, if applicable, the Accountant's Report, as required by Rule 1604;
- (h) ensure that the firm maintains documents as required by this Part and Parts 15 and 18 of these Rules; and
- (i) complete any other responsibilities required by these Rules.

(2) The Designated Representative must not knowingly or recklessly provide false or inaccurate information in any form or report required pursuant to Rules 902 to 906.

(3) The Designated Representative is not responsible for conduct unbecoming of, or incompetence by, a firm or any member associated with the firm, solely as a result of being a Designated Representative.

### **Assessment Tool**

**906(1)** From and after January 1, 2020, the Executive Director may require a firm to complete the Assessment Tool and submit the results, along with the Declaration, by the date set by the Executive Director.

(2) Firms must retain a copy of each completed Assessment Tool.

(3) The Society will notify firms of the deadline for completing the Assessment Tool and submitting the Declaration at least three months in advance of the deadline.

(4) The regular reporting period for completion of the Assessment Tool by each firm is once every three years.

(5) The Executive Director may, when it is in the public interest, require a firm to complete the Assessment Tool at a time other than the firm's regular reporting period, or more frequently than once every three years.

(6) The Society may disclose information and documents received pursuant to this Rule to Society staff, the Benchers or Society Practice Advisors but shall not disclose to any other person without the firm's consent.

(7) Notwithstanding subrule (6), the Society may use and disclose information received pursuant to this Rule for the purpose of aggregated statistical analysis regarding the practice of law and delivery of legal services in Saskatchewan.

### **Firm Visit**

**907(1)** Pursuant to clause 10(t) of the Act, the Executive Director may direct a representative of the Society to visit a firm to:

- (a) meet with the Designated Representative, any member associated with the firm and any employee of the firm;
- (b) review the firm's completed Assessment Tool;
- (c) assess the firm's performance with respect to the practice management principles set out in the Assessment Tool;
- (d) discuss the steps the firm has taken to address deficiencies in practice management noted pursuant to Rule 908; and
- (e) offer assistance in addressing deficiencies where needed.

(2) Firms, their Designated Representatives, the members associated with the firm, and all employees of the firm shall cooperate with the Society representative conducting the visit mentioned in subrule (1) and comply with all reasonable requests, including requests to address deficiencies in practice management.

(3) Pursuant to subrule 905(1)(i), the firm, through its Designated Representative, is responsible for ensuring cooperation with the Society representative by all the individuals mentioned in subrule (2).

### **Deficiencies**

**908(1)** If a firm's completed Assessment Tool indicates that the firm does not have in place appropriate policies, practices, and systems to support the principles set out in the Assessment Tool, such reporting shall not result in an investigation pursuant to section 40 of the Act unless the Society becomes aware of conduct that is or may be conduct unbecoming or that displays incompetence.

(2) The Society may require the firm to address a deficiency if the Executive Director determines it would be in the public interest to do so, if:

- (a) the Society has identified a deficiency in a firm's practice management systems that raises a concern about the ability of members in the firm to meet their ethical obligations under the Code; and
- (b) the firm or any member associated with the firm has not cooperated with the Society to address the deficiency.

### **Failure to Comply**

**909(1)** A firm that fails to comply with Rules 902, 904, 905 or 906 by the date specified by the Executive Director is deemed to comply with the Rules if the firm does the following within 30 days following a written notice of non-compliance of the Executive Director:

- (a) complete the applicable requirement; and
- (b) pay the late delivery fee specified in Schedule 1.

(2) A firm that fails to comply with Rules 902, 904, 905 or 906, and that does not remedy such non-compliance in accordance with subrule (1) may be subject to:

- (a) a compliance fine in the amount specified in Schedule 1 if the firm fails to cooperate within 60 days of a written notice of non-compliance of the Executive Director; and
- (b) a revocation, suspension or conditions on use of the firm's trust account if the firm fails to cooperate within 90 days of a written notice of non-compliance of the Executive Director.

(3) Pursuant to Part 16 of these Rules, a firm that fails to comply with Rule 903, may be subject to:

- (a) a fine in the amount specified in Rule 1606; and
- (b) a revocation, suspension or conditions on use of the firm's trust account if the firm fails to cooperate within 90 days of a written notice of non-compliance of the Executive Director.

(4) A firm that fails to comply with Rules 907 or 908 may be subject to:

- (a) a compliance fine in the amount specified in Schedule 1 if the firm fails to cooperate within 60 days following written notice of non-compliance of the Executive Director;
- (b) remedial orders to address deficiencies in practice management systems, including but not limited to, the creation of policies or systems and completing training or continuing professional development;
- (c) a revocation, suspension or conditions on use of the firm's trust account if the firm fails to cooperate within 90 days of a written notice of non-compliance of the Executive Director; and
- (d) disciplinary measures in accordance with Part 11 of these Rules.

## PART 10

### Alternative Legal Services Providers

#### Definitions and Interpretation

**1001** For the purposes of clause 10(p.1) and subsection 30(3) of the Act, “legal information” means the provision of legal information of a general nature about the law and legal procedures to members of the public.

#### 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 (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 or currently funded through a service agreement or otherwise demonstrably accountable to 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.

[Rule 1002(1)(a) amended and (xiii) added; 1002(2)(e) amended, February 26, 2021]

[Rule 1002(1)(a)(vi) amended, December 3, 2021]

## PART 11

### Professional Responsibility

#### A. Definitions

##### Definitions

**1101** In this Part:

**“competence”** means bringing adequate skill and knowledge to the practice of law including the management of a practice, as more particularly set out in Chapter 3 of the Code;

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

**“complaint”** includes:

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

**“Designated Complaints Counsel”** means a person designated by the Benchers who has the same investigative powers as Professional Responsibility Counsel, to review the conduct of members where Professional Responsibility Counsel is in a conflict of interest;

**“Designated Representative”** means a member appointed by the firm to act as liaison with the Society pursuant to Part 9 of these Rules;

**“Hearing Committee Roster”** means the pool of persons eligible to be appointed to a Hearing Committee pursuant to Rule 1118;

**“Discipline Counsel”** means the individual assigned to prosecute a Formal Complaint;

**“Formal Complaint”** means the document outlining the allegations against a member of conduct unbecoming served pursuant to subrule 1110(4);

**“Hearing Administrator”** means a person appointed by the Benchers to:

- (a) assist the Benchers in the creation and maintenance of the Hearing Committee Roster;
- (b) develop and deploy programing to train the members of the Hearing Committee Roster including programming needed to maintain necessary competencies over time;
- (c) verify that the members of the Hearing Committee Roster have completed the required training programs or, in exceptional circumstances, verify that a member of the Hearing Committee Roster has obtained appropriate training elsewhere or is appropriately trained by way of practical experience;
- (d) manage the appointment of Hearing Committee Roster members to all Hearing Committees;
- (e) administer the case management process on all discipline matters set for hearing with a view to expediting the hearing process;
- (f) within the case management process, create a forum for settlement discussion between the parties;

- (g) manage the scheduling of hearings and preliminary motions before the Hearing Committee; and
- (h) monitor and encourage the timely completion of Hearing Committee decisions;

**“member”** means a member of the Society as set out in clause 2(1)(h) of the Act and includes:

- (a) a member of the governing body of the legal profession in another Canadian Province or Territory who is eligible to practise interjurisdictionally pursuant to the National Mobility Agreement 2013 and Interjurisdictional Practice Protocol pursuant to Rule 804 or holds an interjurisdictional practice certificate issued pursuant to Rule 805 except where this is inconsistent with the National Mobility Agreement 2013, the Interjurisdictional Practice Protocol or with the Act;
- (b) a member as designated by the Regulations made pursuant to subsection 2(2.1) of the Act; and
- (c) except where the context requires otherwise, includes a firm;

**“Practice Advisor”** means a person designated by the Benchers for the purposes of subrule 1108(1)(b);

**“Professional Responsibility Counsel”** means a person designated by the Benchers pursuant to subsection 40(1) of the Act to review the conduct of members and includes the Director of Professional Responsibility, Professional Responsibility Counsel and Designated Complaints Counsel where applicable;

**“public emergency period”** means the period during which an order of the chief medical health officer mentioned in subsection 2-59.1(2) of *The Employment Standards Act*, or an emergency declaration ordered pursuant to *The Emergency Planning Act*, is in force;

**“Summary Dismissal”** means a dismissal of a complaint that occurs where one or more criteria, set out in 1102(6), are met that indicate that the complaint should be dismissed.

[Rule 1101, Definitions, “public emergency period” added, March 22, 2020]  
 [Rule 1101, Definitions, “Hearing Committee Appointment Coordinator” deleted; “Hearing Administrator” and “Summary Dismissal” added, June 25, 2021]

## **B. Complaints**

### **Examination of Complaints**

**1102(1)** Any person may deliver to the Society a complaint against a member or firm.

(2) Professional Responsibility Counsel shall investigate either or both of the conduct or competence of the member when the Society:

- (a) receives a complaint with respect to a member;
- (b) otherwise becomes aware of either conduct by a member that is or may be conduct unbecoming or may display incompetence, or both; or
- (c) becomes aware that a firm fails to, or refuses to:
  - (i) pursuant to Rule 907, either cooperate with the Society representative conducting a firm visit or comply with all reasonable requests of the Society representative;

- (ii) pursuant to Rule 908, address deficiencies in policies, practices or systems that raise a concern about the ability of its members to meet their ethical obligations under the Code.

(3) Professional Responsibility Counsel may require that a complaint be reduced to writing.

(4) When a complaint that is received is determined by Professional Responsibility Counsel, in their sole discretion, to be a repetition of, or substantially the same as, one or more previous or current complaints, Professional Responsibility Counsel may notify the complainant that the information has been classified as repetition and no further action will be taken in regard to their complaint.

(5) Professional Responsibility Counsel may make or authorize a preliminary inquiry into the conduct of the member in order to determine the validity of a complaint.

(6) Upon completion of a preliminary inquiry under subrule (5), Professional Responsibility Counsel may direct the Summary Dismissal of a matter when one or more of the following criteria are met:

- (a) the complaint falls outside the Society's jurisdiction;
- (b) the complaint is premature;
- (c) the complaint alleges a technical breach of the Act, the Rules or the Code of Conduct but has no substantive consequence or is of insufficient regulatory concern;
- (d) the complaint is made for a collateral or improper purpose, including:
  - (i) for the purpose of harassing a member of the Society;
  - (ii) for the purpose of seeking relief which is more appropriately available through civil litigation;
  - (iii) by a party adverse in interest to a client of the member complained of:
    - i. for the purpose of harassing such client or the member; or
    - ii. as a form of discovery or for the gathering of information in another proceeding;
- (e) the complaint lacks substance or a factual basis;
- (f) there has been significant delay in bringing the complaint forward; or
- (g) the complaint is about the Society, or other, regulatory processes.

(7) Subject to subrule (8), Professional Responsibility Counsel shall deliver to the member and to the Designated Representative, a copy of the complaint or, where in the opinion of Professional Responsibility Counsel it is not practicable or appropriate, a summary of it.

(8) If Professional Responsibility Counsel considers it necessary for the effective investigation of the complaint, notification of the member and the Designated Representative pursuant to subrule (7) may be postponed.

(9) Professional Responsibility Counsel may require a response to the complaint from the member referred to in subrule (1).

(10) The response to the complaint shall:

- (a) be in writing unless Professional Responsibility Counsel instructs otherwise;
- (b) respond substantively to the complaint; and



- (c) be delivered to Professional Responsibility Counsel as soon as practicable, and in any event by the date set by Professional Responsibility Counsel.

(11) Professional Responsibility Counsel may deliver to the complainant a copy of the response to the complaint or, where in the opinion of Professional Responsibility Counsel it is not practicable or appropriate, a summary of it.

(12) If, on completion of a review pursuant to subrules (4) to (11), Professional Responsibility Counsel is of the opinion that:

- (a) the matter raises an issue of competence, Counsel shall refer the matter to the Chairperson of the Competency Committee;
- (b) the matter raises an issue of discipline, Counsel shall refer the matter to the Conduct Investigation Committee; or
- (c) the matter does not raise an issue of competence or discipline, Counsel may:
  - (i) refer the matter to the Ethics Committee; or
  - (ii) direct that no further action be taken in the circumstances described in subrule (13).

(13) After the investigation or other action pursuant to subrules (4) to (11), Professional Responsibility Counsel:

- (a) shall take no further action on the complaint if satisfied that:
  - (i) the complaint meets any of the criteria listed under subrule (6);
  - (ii) the complaint is not valid;
  - (iii) the complaint does not raise an issue of ethics, competence or discipline; or
  - (iv) it is otherwise in the public interest to do so.
- (b) may attempt to mediate a resolution to a complaint which raises an issue of ethics, competence or discipline; or
- (c) may issue a formal caution, providing advice to the member in relation to the member's conduct.

(14) Professional Responsibility Counsel may act pursuant to subrules (12) or (13)(c), notwithstanding that the matter giving rise to the complaint has been resolved.

(15) The member referred to in subrule (1) shall be given an opportunity to respond to the complaint before Professional Responsibility Counsel makes a determination pursuant to subrules (12) or (13)(c) except, where in the opinion of Professional Responsibility Counsel, there is a danger that the best interests of the public or the profession would be compromised by so doing;

(16) Where another complaint regarding the same member is already referred to a Committee and it would be appropriate to have all matters reviewed concurrently by the same Committee, Professional Responsibility Counsel may refer a matter prior to requesting the member's response.

(17) If the Chairperson of the Committee to which a matter is referred pursuant to subrule (12) is of the opinion that the matter is more appropriately dealt with by another Committee mentioned in subrule (12), the Chairperson may be referred to that other Committee.

(18) Notwithstanding subrule (12)(a), where the conduct of a member raises an issue of competence, it may nevertheless be referred by Professional Responsibility Counsel or the Chairperson of the

Competency Committee to the Conduct Investigation Committee to be dealt with through the discipline process.

[Rule 1102(3) – (16) amended to correct numbering errors not substantive in nature, June 1, 2020]  
[Rule 1102(4) and (6) added; 1102(5), (7) – (18) amended, June 25, 2021]

### **Notification to the Parties**

**1103**(1) Professional Responsibility Counsel shall advise the member, the Designated Representative of the member's firm, and the complainant, in writing, of the disposition pursuant to subrule 1102(12).

(2) If Professional Responsibility Counsel decides to take no further action on the complaint, the Professional Responsibility Counsel shall, unless it was previously done pursuant to subrule 1102(11):

- (a) deliver to the complainant a copy of the member's response if any or, where in the opinion of Professional Responsibility Counsel that is not practicable or appropriate, a summary of it; and
- (b) advise the complainant in writing of the right to apply for a review pursuant to section 43 of the Act and Rule 1104.

[Rule 1103(1) and (2) amended to correct numbering errors not substantive in nature, June 1, 2020]  
[Rule 1103(1) and (2) amended, June 25, 2021]

### **Complainants' Review Procedure**

**1104**(1) A Complainants' Review Committee is established, consisting of one or more persons appointed by the President, which may include any Benchers or Designated Complaints Counsel or both.

(2) A complainant may apply in writing for a review of a decision by Professional Responsibility Counsel that no further action will be taken on the complaint if the complainant is dissatisfied with the decision.

(3) Subject to subrule (4), an application pursuant to subrule (2) shall be delivered to Professional Responsibility Counsel within 30 days after the complainant was notified of the decision mentioned in subrule (2).

(4) In exceptional circumstances, the Complainants' Review Committee may extend the 30-day period mentioned in subrule (3).

(5) Professional Responsibility Counsel shall direct the application to one or more members of the Complainants' Review Committee and that member or members:

- (a) shall review the documents obtained, collected or produced by Professional Responsibility Counsel pursuant to Rule 1102; and
- (b) may make such inquiries of the complainant, the member or any other person as considered desirable.

(6) The Complainants' Review Committee referred to in subrule (4) shall:

- (a) confirm the decision of Professional Responsibility Counsel to take no further action; or
- (b) refer the complaint to:
  - (i) the Chairperson of the Competency Committee;
  - (ii) the Conduct Investigation Committee; or
  - (iii) the Ethics Committee.

(7) The Society shall promptly advise the complainant, the member and the Designated Representative of the member's firm, in writing, of the decision made pursuant to subrule (6).

### **Ethics Committee**

**1105**(1) The Ethics Committee shall review any referral or request made by:

- (a) Professional Responsibility Counsel;
- (b) other Committees;
- (c) a request for ruling made pursuant to subrule (2).

(2) Any member may request a ruling from the Ethics Committee on an ethical issue.

(3) Upon receipt by the Ethics Committee of a referral or request, the Committee may:

- (a) make whatever recommendations it sees fit to assist the member to resolve the ethical issue;
- (b) decline to make a ruling;
- (c) give opinions and make professional conduct rulings on questions of professional ethics, for the guidance of the profession;
- (d) make recommendations to the Benchers and to the Discipline Policy Committee respecting professional ethics and the development of and revisions to the Code; and
- (e) refer matters to the Conduct Investigation Committee or Competency Committee.

(4) The Ethics Committee may make whatever enquiries it thinks necessary and may follow whatever procedure it finds to be most efficient.

## **C. Competency**

### **Review of Referral by Chairperson**

**1106** The Chairperson of the Competency Committee shall review any referral made by:

- (a) Professional Responsibility Counsel;
- (b) the Ethics Committee; or
- (c) the Conduct Investigation Committee.

### **Further Inquiries**

**1107** The Chairperson of the Competency Committee may make or authorize further inquiries.

### **Action by Chairperson**

**1108**(1) Upon completion of the review mentioned in Rules 1106 and 1107, the Chairperson of the Competency Committee shall do any or all of the following:

- (a) conduct an investigation;
- (b) direct that a practice review of the member or firm be conducted by a Practice Advisor including, where appropriate, a review of some or all of the member's or firm's client files and an examination of the procedures in place to reduce the risk of complaints and liability for insurance claims;
- (c) request that the member:

- (i) complete satisfactorily a remedial program which may include one or more of the following:
    - (A) continuing legal education courses approved by the Chairperson;
    - (B) a remedial course approved by the Chairperson;
    - (C) courses approved by the Chairperson, which are offered by an approved education provider;
    - (D) a mentor program approved by the Chairperson; or
    - (E) any other remedial program specified by the Chairperson that is intended, if carried out, to improve the knowledge or skill of the member in carrying on the member's practice of law;
  - (ii) voluntarily restrict the member's practice to specified areas of law until the member's remedial program has been completed satisfactorily;
  - (iii) satisfactorily complete an examination approved by the Chairperson;
  - (iv) appear before a panel of examiners appointed by the Chairperson;
  - (v) implement measures to reduce the risk of liability insurance claims;
  - (vi) obtain a psychiatric or psychological assessment or counselling, or both, and if the Chairperson requests, provide a report on that assessment or counselling to the Chairperson;
  - (vii) obtain a medical assessment or assistance, or both, and if the Chairperson requests, provide a report of that assessment or assistance to the Chairperson;
  - (viii) practise in a setting approved by the Chairperson;
  - (ix) take such other steps as the Chairperson directs which are intended to improve the knowledge or skill of the member in carrying on the practice of law.
  - (d) hear an application by the member for resignation instead of continued proceedings as mentioned in Rule 1112 and may grant or reject the application as set out in Rule 1112;
  - (e) refer the matter to the Conduct Investigation Committee;
  - (f) refer the matter to the Ethics Committee; or
  - (g) direct that no further action be taken if the matter does not raise an issue of competence.
- (2) When making requests pursuant to subrule (1)(c), the Chairperson may:
- (a) receive, on behalf of the Society, undertakings given by the member;
  - (b) set one or more dates by which the member shall complete the requests; and
  - (c) request that the member pay part, or all the cost of the matters described in subrule (1)(d).
- (3) The Chairperson may, on application by the member or by the Society, extend the date by which a request shall be completed.
- (4) The Chairperson may request that the member meet with the Committee.

(5) Professional Responsibility Counsel shall advise the complainant in writing of the Chairperson's decision pursuant to subrule (1) but shall not deliver to the complainant a copy of the Practice Advisor's Report pursuant to subrule (1)(b) or the Chairperson's request pursuant to subrule (1)(c).

#### **Confidentiality of Practice Advisor Reports**

**1109** Any report of a Practice Advisor shall not to be used as evidence in any civil proceeding.

### **D. Discipline**

#### **Review by Conduct Investigation Committee**

**1110**(1) The Conduct Investigation Committee:

- (a) shall review, investigate and consider any complaint matter referred to it by Professional Responsibility Counsel, the Chairperson of the Competency Committee, the Ethics Committee or the Complainants' Review Committee;
- (b) may review, investigate and consider any conduct of a member that may constitute conduct unbecoming, whether or not it formed the substance of a complaint or the substance of the referral to the Conduct Investigation Committee; and
- (c) may direct Professional Responsibility Counsel to complete whatever further inquiries and investigations it considers desirable before concluding its review, investigation and consideration of a complaint matter.

(2) Upon completion of the review, investigation and consideration of a complaint matter referred to it along with any supporting materials and recommendations, the Conduct Investigation Committee shall make a motion mentioned in subrule (3) in relation to the matter under consideration and, where such motion is pursuant to subrule (3)(e) convey a report of that motion to the Hearing Administrator.

(3) The motions that may be made by the Conduct Investigation Committee mentioned in subrule (2) are to:

- (a) direct that no further action be taken, if it is of the opinion that the complaint does not constitute conduct unbecoming;
- (b) issue a formal caution, providing advice to the member in relation to the member's conduct;
- (c) invite the member under investigation to meet with a Conduct Review Committee pursuant to Rule 1113;
- (d) refer the complaint to the Ethics Committee or the Chairperson of the Competency Committee;
- (e) direct the Hearing Administrator to appoint a Hearing Committee pursuant to Rule 1118, to hear and determine a Formal Complaint respecting the allegations that the Conduct Investigation Committee determines to be appropriate; or
- (f) combine the actions set out in subsections (b)(c)(d) or (e).

(4) The Conduct Investigation Committee or its designate shall advise the member, the Designated Representative of the member's firm and the complainant, in writing, of the action taken pursuant to subrule (3) and if the Conduct Investigation Committee makes a motion pursuant to subrule (3)(e), the Society shall serve the member with a copy of the Formal Complaint.

[Rule 1110(2) and (3)(e) amended, December 3, 2021]

### **Resignation in the Face of Discipline**

**1111**(1) A member may apply to the Conduct Investigation Committee to resign in the face of discipline:

- (a) with consent of Counsel for the Conduct Investigation Committee;
- (b) at any stage of the investigation by a Conduct Investigation Committee prior to service of the Formal Complaint on the member; or
- (c) at any time after the service of the Formal Complaint on the member, prior to the commencement of the hearing.

(2) Resignation in the face of discipline is deemed to be equivalent to disbarment.

(3) In order to make an application to resign, the member must make admissions with respect to the conduct under investigation and enter into an Agreed Statement of Facts.

(4) The Conduct Investigation Committee may hear an application to resign in the face of discipline and may:

- (a) reject the application pending the completion of the discipline process;
- (b) grant the application and accept the member's resignation in the face of discipline, and may impose conditions on the acceptance of same;
- (c) impose conditions including a time period of up to five years during which the member will not apply for reinstatement;
- (d) direct that, upon any application for reinstatement, the Agreed Statement of Facts will be considered;
- (e) prior to any application for reinstatement, require the member to:
  - (i) complete a remedial educational program;
  - (ii) undertake to refrain from practicing in specified areas of law;
  - (iii) obtain one or more of:
    - (A) a psychiatric assessment;
    - (B) a psychological assessment; and
    - (C) an addictions assessment;
  - (iv) obtain one or both of:
    - (A) a medical examination; and
    - (B) a medical opinion respecting the member's capability to practise law;
  - (v) satisfy any other conditions, prior to application for reinstatement, that the Conduct Investigation Committee deems appropriate.

(5) Any application for reinstatement by a member whose application for resignation in the face of discipline was granted pursuant to this Rule shall be made pursuant to Rule 729 of the Rules.

(6) If the Conduct Investigation Committee accepts a resignation in the face of discipline, pursuant to this Rule, the Agreed Statement of Facts shall be published in the same manner and to the same persons as the Notice required by Rule 1137.

(7) Nothing in this Rule affects the ability of the Hearing Committee to permit a member to resign as a penalty.

### **Resignation Instead of Continued Proceedings**

**1112(1)** A member may make an application to resign instead of continued proceedings to:

- (a) a Conduct Investigation Committee in the early stage of an investigation or after a Formal Complaint has been served on the member but before commencement of a hearing; or
- (b) the Chairperson of the Competency Committee at any time during a review pursuant to Rule 1108.

(2) The Conduct Investigation Committee or Chairperson of the Competency Committee may hear the application to resign instead of continued proceedings, as follows:

- (a) by consent of Counsel for Conduct Investigation Committee or Counsel for the Society; and
- (b) if the member makes admissions and enters into an Agreed Statement of Facts.

(3) The Conduct Investigation Committee or the Chairperson of the Competency Committee may:

- (a) reject the application pending the completion of the respective discipline or competency processes;
- (b) grant the application and accept the member's resignation instead of continued proceedings, and may impose conditions on the acceptance of same;
- (c) impose conditions including a time period of up to five years during which the member will not apply for reinstatement;
- (d) direct that, upon any application for reinstatement, the Agreed Statement of Facts will be considered;
- (e) prior to any application for reinstatement, require the member to:
  - (i) complete a remedial educational program;
  - (ii) undertake to refrain from practicing in specified areas of law;
  - (iii) obtain one or more of:
    - (A) a psychiatric assessment;
    - (B) a psychological assessment; and
    - (C) an addictions assessment;
  - (iv) obtain one or both of:
    - (A) a medical examination; and
    - (B) a medical opinion respecting the member's capability to practise law;
  - (v) satisfy any other conditions, prior to application for reinstatement, that the Conduct Investigation Committee or Chairperson of the Competency Committee deems appropriate.

(4) The decision of the Conduct Investigation Committee or the Chairperson of the Competency Committee mentioned in subrule (3) shall remain on the member's file and be considered upon any future application for reinstatement.

(5) If the Conduct Investigation Committee accepts a resignation pursuant to this Rule, the Agreed Statement of Facts and any decision rendered by the Conduct Investigation Committee shall be published in the same manner and to the same persons as the Notice required by Rule 1137.

(6) If the Competency Committee Chairperson accepts a resignation pursuant to this Rule, the Agreed Statement of Facts shall not be published in accordance with Rule 1137.

### **Conduct Review Committee**

**1113(1)** The Conduct Investigation Committee may appoint one or more persons as a Conduct Review Committee, to make an informal investigation of a matter referred to it pursuant to Rule 1110(3)(c), and to counsel the member.

(2) At a Conduct Review:

- (a) the member shall appear personally;
- (b) the meeting shall be private; and
- (c) the proceedings shall be informal.

(3) Following the meeting pursuant to subrule (2) the Conduct Review Committee shall advise the Conduct Investigation Committee that the review has been completed by providing a report to the Conduct Investigation Committee.

(4) Conduct Review Reports may be summarized and published anonymously.

(5) When a hearing is held pursuant to Rule 1128 in respect of a matter investigated pursuant to this Rule:

- (a) any report prepared by the Conduct Review Committee may not be admitted at the hearing; and
- (b) a member of the Conduct Review Committee shall not, except in response to a question by the member, testify as to any statement made by the member during the conduct review.

### **Hearing Committee Roster**

**1114(1)** The Benchers, in consultation with and with the assistance of the Hearing Administrator, shall establish a roster of persons eligible to be appointed to sit on a Hearing Committee, consisting of:

- (a) Benchers;
- (b) former Benchers;
- (c) members; and
- (d) any other person who has reached the age of majority and has had appropriate tribunal hearing training or experience.

(2) In establishing the roster mentioned in subrule (1), the Benchers shall not include any member of the Conduct Investigation Committee.

(3) The Hearing Administrator shall review the qualifications and training of Hearing Committee Roster members to ensure that they are qualified and or trained prior to being appointed to sit on a Hearing Committee.

[Rule 1114(1) amended; 1114(3) added, June 25, 2021]

[Rule 1115, Hearing Committee Appointment Coordinator, deleted in its entirety, June 25, 2021]



### **Conduct Investigation Committee to Direct Prosecution**

**1116** The Conduct Investigation Committee, or a designated subcommittee thereof, shall direct the prosecution of a Formal Complaint.

[Rule 1116 amended, June 25, 2021]

### **Amendment to Formal Complaint Before Hearing**

**1117(1)** The Conduct Investigation Committee, or a designated subcommittee thereof, may amend the recommendation set out in its original motion made pursuant to subrule 1110(3)(e) at any time before the hearing.

(2) Amendments made pursuant to subrule (1) will form part of the Formal Complaint and may include, but are not limited to, removal or revision of allegations set out in the original motion.

(3) Notice of any amendments made pursuant to this Rule shall be served on the member not less than 30 days before the commencement of the hearing, unless the member consents in writing to a shorter period.

[Rule 1117(1) amended, June 25, 2021]

### **Appointment of Hearing Committee**

**1118(1)** The Hearing Administrator shall, after receiving notice of a motion pursuant to Rule 1110(3)(e), appoint a Hearing Committee and designate a Chairperson to hear and determine a Formal Complaint.

(2) Unless the Hearing Administrator concludes that there are extraordinary circumstances that make it impractical to appoint a Benchers as Chairperson of a Hearing Committee, the Chairperson of the Hearing Committee appointed in accordance with subrule (1) shall be a Benchers.

(3) If the Hearing Administrator concludes that there are extraordinary circumstances that make it impractical to appoint a Benchers as Chairperson of a Hearing Committee, a former Benchers or member may be appointed as the Chairperson of the Hearing Committee.

(4) Unless the Hearing Administrator concludes that there are extraordinary circumstances that make it impractical to appoint a public representative Benchers as one member of a Hearing Committee, one member of any Hearing Committee should be a public representative Benchers.

(5) If the Hearing Administrator concludes that there are extraordinary circumstances that make it impractical to appoint a public representative Benchers as one member of a Hearing Committee, the Hearing Administrator may appoint a public representative volunteer from the Hearing Committee Roster.

(6) If the Hearing Administrator concludes that there are extraordinary circumstances that make it impractical to appoint a public representative Benchers or volunteer as one member of a Hearing Committee, the Hearing Administrator may appoint a hearing panel which does not include a public representative Benchers.

(7) If a member of a Hearing Committee appointed pursuant to this Rule is absent or unable to continue:

(a) the Hearing Administrator may appoint another person to fill the vacancy; or

(b) the Hearing Committee may continue in the absence of that member.

(8) A Hearing Committee appointed pursuant to this Rule is not a Committee within the meaning of section 7.1 of the Act and the duties of the Chairperson of a Hearing Committee to hear and determine a Formal Complaint shall not be delegated to any other person.

[Rule 1118(1) – (7)(a) amended, June 25, 2021]

### **Notification of Parties**

**1119** The Society shall promptly serve the member with and notify the complainant and the Designated Representative in the member's firm, in writing, of any Formal Complaint and appointment of a Hearing Committee pursuant to Rule 1118.

### **Confidentiality**

**1120**(1) Any of the following information considered or decisions made or action taken prior to the service of a Formal Complaint on the member pursuant to subrule 1110(4) and the appointment of a Hearing Committee pursuant to Rule 1118 shall be kept confidential and, unless otherwise ordered by the Chairperson of the Hearing Committee, or otherwise set out in the Rules, shall not be disclosed except for the purpose of complying with the objects of the Act or in responding to an enquiry made for the purpose of a potential judicial appointment:

- (a) information and documents considered; and
- (b) reports prepared, other than publication of anonymous Conduct Review Reports mentioned in subrule 1113(4).

(2) A discipline matter becomes public as soon as a Hearing Committee is appointed pursuant to Rule 1118 and a Formal Complaint has been served on the member pursuant to Rule 1110.

(3) Notwithstanding subrule (1), 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 the Act.

### **Suspension of Member by Conduct Investigation Committee**

**1121**(1) The Conduct Investigation Committee may suspend a member from practice pending:

- (a) the completion of an investigation and report; or
- (b) the decision of a Hearing Committee appointed pursuant to Rule 1118 to determine the matter.

(2) Subject to subrule (3), a suspension imposed pursuant to this Rule expires:

- (a) if the Conduct Investigation Committee directs that no Hearing Committee be appointed, on the day on which the Conduct Investigation Committee makes that direction; or
- (b) if a Hearing Committee is appointed pursuant to Rule 1118, on the completion of the hearing, unless the Hearing Committee continues the suspension beyond that day.

(3) Where a suspension is imposed pursuant to this Rule, the Conduct Investigation Committee may direct the Society to apply pursuant to section 61 of the Act for the appointment of a trustee.

### **Interim Suspension**

**1122**(1) Subject to subrule (2), a Conduct Investigation Committee shall, before suspending a member pursuant to Rule 1121:

- (a) ensure that notice has been given to the member that consideration is being given to suspending the member, for the reasons specified in the notice; and
- (b) ensure that the member has a reasonable opportunity to make representations to the Conduct Investigation Committee respecting the suspension.

(2) A Conduct Investigation Committee may act pursuant to section 45 of the Act without complying with subrule (1) if it is satisfied that such action is necessary to protect the public or the member's clients, or both.

- (3) If a Conduct Investigation Committee orders an oral hearing in relation to subrule (1)(b):
- (a) the hearing shall be conducted in private, unless the Committee orders otherwise; and
  - (b) the proceedings shall be recorded by a court reporter and any person may obtain, at the person's expense, a transcript of any part of the hearing that the person was entitled to attend.
- (4) If a Conduct Investigation Committee concludes that a member should be suspended pursuant to section 45 of the Act, the Committee shall promptly advise:
- (a) the member and the Designated Representative of the member's firm in writing that the member is suspended and the reasons for it, and that the member has the right to request a review of the suspension pursuant to Rule 1123; and
  - (b) the Deputy Minister of Justice pursuant to subsection 54(1) of the Act.

### **Review of Interim Suspension**

**1123(1)** A member who is suspended from practice pursuant to this Rule may, at any time during the period of suspension, by notice in writing to the Hearing Administrator, request a review of the suspension.

(2) On receipt of a request pursuant to subrule (3), the Hearing Administrator shall appoint up to three Benchers as a Review Panel to conduct a review hearing.

(3) The Review Panel shall consider:

- (a) the record of materials before the Conduct Investigation Committee and its reasons;
- (b) any additional information as they see fit; and
- (c) any arguments from the member and Discipline Counsel as they see fit regarding the suspension.

(4) A review hearing shall be commenced as soon as practicable and, in any event, not later than 7 days after the date on which the request was received by the Hearing Administrator, unless the member consents to a longer time.

(5) No Bencher who was one of the following members shall participate as a panelist in a review pursuant to this Rule:

- (a) a member of the Conduct Investigation Committee that suspended the member pursuant to section 45 of the Act;
- (b) a member of a Conduct Review Committee that reviewed the matter; or
- (c) a member of a Complainants' Review Committee that reviewed the matter.

(6) A review of the suspension pursuant to this Rule shall be conducted in private, unless the Review Panel orders otherwise.

(7) All proceedings at a review pursuant to this Rule shall be recorded by a court reporter and any person may obtain, at the person's expense, a transcript of any part of the hearing that the person was entitled to attend.

(8) The Review Panel appointed pursuant to subrule (2) shall determine the practice and procedure to be followed at the hearing.

(9) The Review Panel shall inform the member of the decision and the reason for the decision.

(10) In the absence of a material change in circumstances, the decision of the Review Panel shall be final.

(11) Where a material change in circumstances is alleged, a new Review Panel shall be appointed to:

- (a) consider the prior decision of the Review Panel;
- (b) hear evidence in relation to the alleged material change in circumstances; and
- (c) determine whether a modification of the prior decision of the Review Panel is appropriate.

[Rule 1123(1), (2) and (4) amended, December 3, 2021]

### **Fixing a Date for Hearing**

**1124(1)** The Hearing Administrator shall, in consultation with all participants, fix the date, time and place of the hearing.

(2) Discipline Counsel shall notify the member, the Designated Representative of the member's firm and the complainant, in writing, of the date, time and place of the hearing.

(3) The Society shall publish the date, time and place of the hearing on the Society website.

[Rule 1124(1) amended, June 25, 2021]

### **Disclosure of Evidence**

**1125(1)** As soon as practicable after a Formal Complaint is served, Discipline Counsel shall disclose to the member a copy of all relevant documents in the possession of the Society or under its control or power, except to the extent that the documents are privileged.

(2) Not less than two weeks before the date set for the commencement of a hearing before the Hearing Committee, the member and Discipline Counsel shall provide to each other the following:

- (a) the names of each of the witnesses that the party intends to call to give evidence at the hearing;
- (b) copies of any written statements, or where no written statements exist, a summary of the evidence that the party expects will be given by that witness;
- (c) if a witness will be called to give expert evidence, a summary of the qualifications of that witness; and
- (d) copies of all documents that the party intends to introduce into evidence at the hearing unless those documents have already been provided pursuant to subrule (1).

(3) The Hearing Committee appointed to hear the Formal Complaint may, if it determines that Discipline Counsel has not complied with subrule (1) or (2), extend the time for making full disclosure and make any other order it considers necessary for the effective conduct of the hearing.

(4) A member may, at any time before the hearing commences, apply for disclosure of the circumstances of the alleged misconduct.

(5) An application pursuant to subrule (4) shall be made:

- (a) to the Chairperson of the Hearing Committee that has been appointed to hear the Formal Complaint; and
- (b) in writing or, with the approval of the Chairperson of the Hearing Committee, in person or by telephone.

(6) The Chairperson of the Hearing Committee shall, if satisfied that an allegation in the Formal Complaint does not contain sufficient detail of the circumstances of the alleged conduct unbecoming to give the member reasonable information with respect to the act or omission to be proved, and to identify the transaction referred to, order Discipline Counsel to disclose further details of the circumstances.

(7) Details of the circumstances disclosed pursuant to subrule (6) shall:

- (a) be in writing; and
- (b) be delivered to the member or the member's counsel.

(8) If, as a result of the information disclosed by the other party pursuant to subrule (1) or (2), a party intends to introduce evidence at the hearing in addition to the evidence it has disclosed, that party shall provide the information referred to in subrule (1) or (2) with respect to that additional evidence.

(9) The Hearing Committee shall not permit:

- (a) a witness to testify unless the name of that witness, a summary of that witness' evidence, and, if the witness is called to give expert evidence, a summary of that witness' qualifications has been disclosed in accordance with subrule (2) or (8); or
- (b) a document to be entered into evidence unless the information respecting that document has been disclosed in accordance with subrule (1) or (8).

(10) Notwithstanding subrules (1) and (2), if the Hearing Committee is satisfied that the failure to disclose the required information arose through inadvertence, or that the information was not in the possession of the party at the time that disclosure was required, or that for any other compelling reason it would be manifestly unfair to exclude evidence or documents not disclosed as required, or if the opposing party consents, the Hearing Committee may permit such evidence to be given, or such documents to be introduced into evidence.

(11) The Hearing Committee's permission pursuant to subrule (10) may be given on such terms or conditions as the Hearing Committee may determine, including the following:

- (a) the Hearing Committee may adjourn the hearing for such time as the Hearing Committee considers reasonable to permit the other party the opportunity to respond to such evidence;
- (b) the Hearing Committee may require the party who requests the introduction of such evidence to agree to pay an amount of costs, as estimated by the Committee, which may be incurred by the member or the Society as a result of the failure to disclose such evidence in accordance with subrules (1), (2) or (8).

### **Powers and Duties of Hearing Committee**

**1126(1)** A Hearing Committee shall hear the Formal Complaint with respect to which it is appointed and determine the matter.

(2) Subject to subrule (3), a Hearing Committee may:

- (a) make a finding of conduct unbecoming on any charge revealed by the facts; and
- (b) if the circumstances warrant for the purposes of clause (a), substitute the charge mentioned in clause (a) for, or amend or add to, the charge set out in the Formal Complaint that the Committee was appointed to hear.

(3) If, during the hearing, the evidence shows that the conduct of the member who is the subject of the hearing may warrant a charge that is different from or in addition to a charge specified in the Formal Complaint, the Hearing Committee:

- (a) shall notify the member of that fact; and
- (b) may amend, add to or substitute the charge in the Formal Complaint.

(4) If a Hearing Committee acts pursuant to clause (3)(b), it shall adjourn the hearing for any period that the Committee considers sufficient to give the member an opportunity to prepare a defence to the amended, added or substituted charge in the Formal Complaint, unless the member otherwise consents.

(5) Subject to Rule 1123 and subrule 1127(5), the Hearing Committee shall conduct all hearings in public.

### **Hearing Committee Procedure**

**1127(1)** The testimony of witnesses is to be under oath or affirmation administered by the Chairperson of the Hearing Committee.

(2) A member whose conduct is the subject of a hearing is competent and compellable to give evidence at the hearing.

(3) If the member whose conduct is the subject of the hearing fails to attend the hearing, the Hearing Committee, on proof of service of the notice mentioned in Rule 1119, may proceed with the hearing in the member's absence.

(4) A member who appears in person or by counsel before the Hearing Committee is deemed to have received proper notice unless the appearance is for the purpose of challenging the notice.

(5) The Hearing Committee may exclude the complainant or the public from any part of the hearing if the Hearing Committee is of the opinion that:

- (a) evidence brought in the presence of the complainant or the public may result in a breach of solicitor and client privilege; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of allowing the complainant or the public to be present during part of the hearing.

(6) The Hearing Committee may act pursuant to subrule (5) whether a member or any other person who may claim solicitor and client privilege has acted pursuant to subsection 84.1(3) of the Act.

(7) A Hearing Committee may accept any evidence that it considers appropriate and is not bound by the rules of law concerning evidence.

(8) A document purporting to be signed by the Executive Director or an equivalent officer of a law society in another province or territory that states that a person was convicted of a disciplinary offence by the law society in that province or territory and that may contain a summary of the facts surrounding that offence is admissible in evidence as proof, in the absence of evidence to the contrary, of its contents without proof of the appointment or signature of the Executive Director or other officer.

### **Hearing of the Formal Complaint**

**1128(1)** A person shall not participate as a panelist in the hearing of a Formal Complaint against the member pursuant to this Rule if the person was:

- (a) a member of a Complainants' Review Committee that reviewed the matter;
- (b) a Competency Committee Chairperson or Practice Advisor who reviewed the matter;
- (c) a member of a Conduct Review Committee that reviewed the matter; or
- (d) a member of the Conduct Investigation Committee that inquired into the matter pursuant to Rule 1110 or suspended the member pursuant to Rule 1121.

- (2) The Chairperson of the Hearing Committee may adjourn the hearing from time to time.
- (3) All proceedings at a hearing shall be recorded by a court reporter and any person may obtain, at the person's expense, a transcript of any part of the hearing that the person was entitled to attend.
- (4) A Hearing Committee may consider at a hearing one or more Formal Complaints, each of which may contain one or more allegations.
- (5) The Hearing Committee shall, where it is satisfied that the interests of justice so require, order that one or more allegations in a Formal Complaint be heard at a separate hearing before a differently constituted Hearing Committee.
- (6) The Hearing Committee shall determine the practice and procedure to be followed at the hearing.

#### **Suspension of Member by Hearing Committee**

**1129**(1) A Hearing Committee may suspend from practice the member whose conduct is the subject of the hearing pending its decision.

- (2) A suspension imposed pursuant to subrule (1) expires on the completion of the hearing, unless the Hearing Committee continues the suspension beyond that day.
- (3) Notwithstanding Rule 1121, the Hearing Committee may, at any time during the hearing, revoke a suspension imposed pursuant to Rule 1121 and section 45 of the Act.

#### **Hearing Committee Decision**

**1130**(1) The Hearing Committee shall, following completion of the evidence and submissions from Discipline Counsel and the member, by majority decision:

- (a) make its findings as to the facts in issue;
- (b) make its decision respecting each allegation in the Formal Complaint;
- (c) determine whether the member may be guilty of a criminal offence related to the member's practice, in which case subsection 54(2) of the Act applies.

(2) A Hearing Committee shall provide its decision as soon as possible following the conclusion of the hearing.

#### **Penalty Decision**

**1131**(1) This Rule applies if the Hearing Committee makes a finding of conduct unbecoming with respect to a Formal Complaint.

(2) The Hearing Committee:

- (a) may consider any relevant information respecting the member's professional conduct history; and
- (b) shall invite Discipline Counsel and the member to make submissions as to penalty.

(3) The Hearing Committee may, by order, do one or more of the following:

- (a) assess any penalties or impose any requirements that it considers appropriate, including but not limited to:
  - (i) directing that the member be disbarred and setting the period, not exceeding five years, during which the person is not eligible to apply for reinstatement;

- (ii) suspending the member from practice for a specified period or until specified requirements are met, including requirements that the member:
  - (A) successfully complete specified courses;
  - (B) obtain medical treatment or treatment for addiction to drugs or alcohol;
- (iii) specifying conditions under which the member may continue to practise, including conditions that the member:
  - (A) not do specified types of work;
  - (B) successfully complete specified classes;
  - (C) not have exclusive control of the member's trust account;
  - (D) obtain medical treatment or treatment for addiction to drugs or alcohol;
  - (E) practise only as a partner with, or as an associate or employee of, one or more members that the Committee may specify;
- (iv) imposing a fine in any amount that the Committee may specify;
- (v) requiring the member to pay restitution, in any amount that the Committee may specify, to any aggrieved party;
- (vi) requiring the member to pay costs of the inquiry calculated in accordance with Rule 1135;
- (vii) reprimanding the member;
- (viii) permitting the member to resign from the Society;
- (b) if the Formal Complaint relates to the transfer of identified property or funds in an ascertainable amount, require the member to transfer the property or the amount to the rightful owner;
- (c) make any other direction or set any additional requirement that the Committee considers appropriate.

(4) In addition to a decision made pursuant to subrule (3), the Hearing Committee may order that, if a member fails to make payment in accordance with an order pursuant to subclause (3)(a)(iv) or (v), the member be suspended from practice.

(5) When the Hearing Committee makes an order pursuant to this section, the Hearing Committee shall:

- (a) specify the penalty assessed or requirement imposed in its decision pursuant to subrule (3);
- (b) send the following to the member:
  - (i) a copy of the Committee's decision; and
  - (ii) a notice of the penalty assessed, or requirement imposed; and
- (c) send a notice of the penalty assessed or requirement imposed to the complainant, if any, and may send a notice of the penalty assessed or requirement imposed to any other person that the Hearing Committee considers advisable;
- (d) if it imposes a fine, fix the date by which payment to the Society shall be completed;



- (e) if it imposes costs, fix the date by which payment to the Society shall be completed;
- (f) if it imposes a requirement, fix the date by which the requirement shall be fulfilled; and
- (g) if it imposes restitution, fix the date by which restitution shall be paid.

#### **Costs Payable to Member**

**1132** The Hearing Committee may order the Society to pay the costs of the hearing to the member whose conduct was the subject of the hearing if:

- (a) the Hearing Committee does not make any finding of conduct unbecoming; and
- (b) it is established, to the satisfaction of the Hearing Committee, that the Formal Complaint was made without reasonable grounds.

#### **Penalty Regarding Non-member**

**1133(1)** Where a Hearing Committee makes a finding of conduct unbecoming against a non-member who is authorized to engage in the practice of law in Saskatchewan, the Hearing Committee may, by order, do one or more of the following:

- (a) reprimand the non-member;
- (b) require the non-member to pay the costs of the inquiry calculated in accordance with Rule 1135;
- (c) impose a fine in any amount that the Committee may specify;
- (d) prohibit the non-member from engaging in the practice of law in Saskatchewan for a specified period;
- (e) declare that, had the non-member been a member, the non-member would have:
  - (i) been disbarred or suspended from practice; or
  - (ii) had specified conditions imposed on the non-member's practice to enable the non-member to continue.

(2) The Hearing Committee may order that, if a non-member fails to make payment in accordance with an order pursuant to subrules (1)(b) or (c), the non-member is prohibited from engaging in the practice of law in Saskatchewan.

(3) The Hearing Committee may order the Society to pay the costs of the hearing to the non-member whose conduct was the subject of the hearing if:

- (a) the Hearing Committee does not make a finding of conduct unbecoming; and
- (b) it is established, to the satisfaction of the Hearing Committee, that the Formal Complaint was made without reasonable grounds.

#### **Extension of Time to Comply**

**1134** A member may apply to the Executive Director for an extension of the time within which to comply if the member has not:

- (a) paid the full amount owing for a fine imposed pursuant to subrule 1131(3)(a)(iv) by the date fixed;
- (b) paid the full amount owing for restitution pursuant to subrule 1131(3)(a)(v) by the date fixed;

- (c) paid the full amount owing for costs pursuant to subrule 1131(3)(a)(vi) by the date fixed; or
- (d) fulfilled all requirements imposed pursuant to subrule 1131(5)(f) by the date fixed.

### **Costs**

**1135** In calculating the costs payable pursuant to subrule 1131(3)(a)(iv) and subrule 1133(1)(b), a Hearing Committee may include all or part of one or more of the following costs actually incurred by the Society:

- (a) the cost of any enquiries or investigations ordered pursuant to this Part;
- (b) the daily witness fee fixed by the tariff enacted pursuant to The Queen's Bench Rules, multiplied by the number of days the witness was required to remain in attendance at a hearing or meeting pursuant to this Part;
- (c) reasonable travel and living costs of a witness;
- (d) the court reporter's fee for attendance at a hearing or meeting pursuant to this Part;
- (e) the cost of a transcript of a hearing or meeting held pursuant to this Part, if the Society would otherwise be liable for its cost;
- (f) the cost incurred by the Society in publishing the decision of a Committee pursuant to this Part;
- (g) a Hearing Committee attendance fee of \$225 per half day of hearing for the first three days of hearings multiplied by the number of Hearing Committee members in attendance;
- (h) reasonable fees or costs of Discipline Counsel as follows:
  - (i) actual fees of outside counsel engaged by the Society to prosecute the matter; or
  - (ii) a nominal fee of \$200 per hour for Discipline Counsel employed by the Society.
- (i) reasonable disbursements of Discipline Counsel; and
- (j) any other amount, arising out of the proceedings, for which the Society would otherwise be liable.

### **Hearings to be Public; Exception**

**1136(1)** Members of the public may attend and observe a hearing before a Hearing Committee pursuant to Rule 1128 except to the extent that the hearing is directed to be held in private pursuant to subrule (2).

(2) The Hearing Committee on its own motion or on the application of the member concerned, the complainant, any person expected to be a witness at the hearing, or any other interested party at the time before or during the proceeding may direct that all or part of the hearing is to be held in private in accordance with subrule 1127(5) and 84.1 of the Act.

### **Notice of Disciplinary Action**

**1137(1)** The Society shall publish a Formal Complaint on the Society website after it has been served on the member pursuant to Rule 1119.

(2) Where an order is made pursuant to Rules 1111, 1121 or 1131 against a member, the Executive Director shall:

- (a) publish and circulate to the membership a summary of the circumstances and the order made, in a form which identifies the member; and

- (b) notify in writing each governing body of the legal profession in which the Executive Director has been notified that the member is a member.

(3) Where a member is suspended or disbarred pursuant to Rules 1121, 1131, or 1141 or permitted to resign pursuant to Rule 1112, the Society:

- (a) shall notify in writing:
  - (i) the Chief Justice of Saskatchewan;
  - (ii) the Chief Justice of the Court of Queen's Bench;
  - (iii) the Chief Judge of the Provincial Court of Saskatchewan;
- (b) may notify in writing:
  - (i) the Minister of Justice for Saskatchewan;
  - (ii) the Registrar of Titles; and
  - (iii) any other person the Executive Director considers appropriate;
- (c) shall cause to be published a notice of the suspension or disbarment or resignation in the face of discipline as well as any related decision or order of the Conduct Investigation Committee in any or all the following:
  - (i) a newspaper of general circulation in each community in which the member maintained an office;
  - (ii) the Society website;
  - (iii) CanLII or any other decision-publishing entity approved by the Benchers; and
- (d) may cause to be published any order or decision of a Hearing Committee in accordance with subrule (c).

(4) Subject to Rules 1128 and 1136, the Executive Director shall publish a decision pursuant to subrule (1) or (2), or any other decision made by a Hearing Committee regardless of whether allegations of conduct unbecoming have been proven at one or more of the following times:

- (a) during or after a hearing in relation to allegations of misconduct; and
- (b) after a penalty has been assessed.

(5) Where part of a hearing is ordered to be held in private pursuant to Rule 1136, the Hearing Committee decision shall be published, but the details regarding those portions of the hearing which were ordered to be held in private shall be redacted.

(6) Any decision published pursuant to this Rule may identify the complainant or any witnesses that testified at the hearing by using their initials.

### **Retention of Documents**

**1138** The Society shall not dispose of or destroy any document within its possession or power relating to a proceeding pursuant to this Part until the later of:

- (a) the time for commencing a judicial review or an appeal from a decision pursuant to this Part has expired, and no such review or appeal has been commenced; or

- (b) all proceedings by way of judicial review or appeal from a decision pursuant to this Part have been completed.

### **Appeal to Court of Appeal**

**1139** The Executive Director may direct Discipline Counsel to proceed with an appeal within 30 days of the day of the decision of the Hearing Committee by filing notice with the Court of Appeal, pursuant to section 56 of the Act.

### **Dissolution of Hearing Committees**

**1140(1)** A Hearing Committee is dissolved when all appeals with respect to the matter for which it was appointed are exhausted or, if no appeal is taken, on the expiration of the time allowed to bring an appeal.

(2) Subject to subrule (3), if a member of any Committee appointed pursuant to this Part ceases to be a Benchler, the person continues as a member of that Committee until it is dissolved unless otherwise directed by the President, or unless the person voluntarily wishes to be removed as a member of that Committee.

(3) If a member appointed as a member of any Committee pursuant to this Part is suspended or disbarred, that person is removed as a member of that Committee as of the date that the member was suspended or disbarred.

### **Reciprocal Discipline**

**1141(1)** If the disciplinary body of an extra-provincial law society orders the suspension of the membership of a Saskatchewan member in that society, the Society, without any other proceedings pursuant to the Rules, shall suspend the Saskatchewan member's membership in the Society for a period co-extensive with the period of suspension ordered by the disciplinary body:

- (a) pending an investigation relating to the Saskatchewan member;
- (b) pending the outcome of any disciplinary proceedings against the Saskatchewan member;  
or
- (c) at the conclusion of any disciplinary proceedings against the Saskatchewan member.

(2) If a suspension in an extra-provincial law society is stayed, the suspension will also be stayed in Saskatchewan for a co-extensive period.

(3) If the disciplinary body of an extra-provincial law society orders the disbarment of a Saskatchewan member from that society, the Society, without any other proceedings pursuant to the Rules, shall disbar the Saskatchewan member.

### **Transition**

**1142** This Part applies to all discipline matters where a Formal Complaint is signed by the Society on or following July 1, 2010.

### **Practice Directives by Executive Director**

**1143(1)** During a public emergency period, the Executive Director may, at the direction of the Executive Committee, issue temporary directives governing the provision of legal services and where a directive has been issued it shall have the same force and effect as a Rule.

(2) Directives issued pursuant to subrule (1) may apply to all legal service providers or any subset thereof, as stipulated within the directive.

**1143.1** The Executive Director may, at the direction of the Executive Committee, issue enduring directives or continue temporary directives governing the following specific areas:

(a) the remote execution of documents via electronic means.

[Rule 1143(1) and (2) added, March 22, 2020]

[Rule 1143 Heading amended; 1143.1 added, September 18, 2020]

## PART 12

### Insurance

#### Definitions

**1201** In this Part:

“**CLIA**” means the Canadian Lawyers Insurance Association;

“**Committee**” means the Insurance Committee appointed pursuant to Rule 602;

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

“**resident**” has the meaning respecting a Canadian province or territory in the *Income Tax Act* (Canada);

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

#### **Saskatchewan Lawyers’ Insurance Association Inc.**

**1202**(1) Unless exempted pursuant to subrule (3) or Rule 717, each member other than a student-at-law shall in each year by the date set in Rule 1403(1) pay to SLIA a liability insurance assessment in the amount fixed by the Benchers.

(2) Unless exempted pursuant to subrule (3) or Rule 717, each member other than a student-at-law shall by the date set in subrule 1403(1) pay to SLIA any additional or retroactive assessment levied by the Benchers pursuant to section 11(4) of the Act.

(3) The following members are exempt from payment of the annual assessment pursuant to subrule (1) and any special assessments pursuant to subrule (2), and, subject to subrules (5) and (6), are not covered by the liability policy:

- (a) subject to the regulations, members employed by or on an exclusive contract with a Saskatchewan government institution as defined in *The Freedom of Information and Protection of Privacy Act*;
- (b) members employed by the Federal Department of Justice or the Public Prosecution Services of Canada;
- (c) Canadian Legal Advisors, pursuant to Rule 817;
- (d) members not resident in Saskatchewan who comply with Rule 816;
- (e) inactive members;
- (f) retired members;
- (g) Pro Bono members;
- (h) members who are not and will not be engaged in the practice of law in Saskatchewan, but who are required to be reinstated to active member status in Saskatchewan temporarily, for the sole purpose of completing their permanent transfer to another Canadian jurisdiction pursuant to national mobility; and
- (i) other members as approved by the Benchers.

(4) A member shall not engage in the practice of law until the assessment is paid if the member is not exempted from payment pursuant to subrule (3), or Rule 717 and has not paid:

- (a) the assessment pursuant to subrule (1) by the date fixed in subrule (1) or extended pursuant to subrule (9); and
- (b) any special assessment levied by the Benchers pursuant to subrule (2) by the date fixed by the Benchers or extended pursuant to subrule (9).

(5) A member who is exempt from paying the assessment pursuant to subrule (3)(a), (b), (c), (d) or (g) is covered by the liability policy for services provided through a pro bono organization approved by the Society, subject to the terms and conditions of the liability policy.

(6) A member who is exempt from paying the assessment pursuant to subrule (3) is covered pursuant to the liability policy for services provided during any period in which the member met the definition of an Insured pursuant to the liability policy, subject to the terms and conditions of the liability policy.

(7) Subrule (8) applies where the Society or SLIA has paid an individual insurance deductible amount on behalf of a member in respect of a claim against the member, and the member, by the date the annual assessment pursuant to subrule (1) is payable or by the date extended pursuant to subrule (9):

- (a) has not fully reimbursed the Society or SLIA; or
- (b) has breached an agreement made between the Committee and the member respecting the member's reimbursement of the Society or SLIA.

(8) The member mentioned in subrule (7) shall not, from the date mentioned in subrule (7), engage in the practice of law until the Society or SLIA has been fully reimbursed for the deductible.

(9) The Chairperson of the Committee may at any time extend the time for a member:

- (a) to pay an assessment pursuant to subrule (1) or (2); or
- (b) to reimburse the Society or SLIA for a deductible paid on the member's behalf pursuant to subrule (7).

(10) Where an extension of time is granted pursuant to subrule (9), the member shall be deemed to be insured during the period when the assessment or deductible was unpaid if the member pays:

- (a) the full amount of the assessment or the deductible owing by the date to which the time is extended; and
- (b) interest on that amount from the date upon which it was due to the date upon which it is paid calculated at the prime lending rate of the Bank of Montreal plus two percent per annum.

(11) The Society shall promptly, in the case of a member who has not, when due, paid an assessment pursuant to subrule (1) or (2) or reimbursed a deductible pursuant to subrule (7):

- (a) notify the member in writing that the member shall not engage in the practice of law until the amount owing is paid in full;
- (b) notify in writing:
  - (i) the Chief Justice of Saskatchewan;
  - (ii) the Chief Justice of the Saskatchewan Court of Queen's Bench;
  - (iii) the Chief Judge of the Provincial Court of Saskatchewan;

- (iv) the Minister of Justice for Saskatchewan; and
  - (v) the Registrar of Titles; and
- (c) cause a notice to be published in:
  - (i) the *Saskatchewan Gazette*; and
  - (ii) a newspaper of general circulation in each community in which the member maintained an office.

(12) A member who is an insured pursuant to a professional liability insurance policy shall report to, co-operate with and assist SLIA as required by the policy.

(13) A member who fails to comply with subrule (12) is, in addition to the other consequences flowing from the failure to comply, liable to disciplinary action for conduct unbecoming.

### **Condition of Practice**

**1203** Unless exempted by these Rules, payment of all insurance premiums, surcharges and deductibles is a condition of the practice of law in Saskatchewan.

### **Liability Insurance Coverage**

**1204** A member who becomes disqualified pursuant to Rule 721, 724 or 1612 and who is reinstated as an active member prior to March 1 of the current practice year is deemed to have been insured, while a disqualified member, for errors or omissions occurring before the member became, or while the member was, disqualified.

[Rule 1204 amended, June 25, 2021]



## **PART 13**

### **Special Fund**

#### **Annual Assessment**

**1301** Every member shall, in each year by the date set in subrule 1403(1), pay to the Society an annual assessment for the Special Fund in the amount determined by the Benchers.

#### **Special Assessments**

**1302**(1) The Benchers may, where they determine that there are insufficient funds in the Special Fund to pay the expenses authorized pursuant to Rule 1304 or to reimburse claimants pursuant to Rule 1308, make a special assessment on members of the Society.

(2) Every member shall, by the date fixed by the Benchers, pay a special assessment fixed by the Benchers pursuant to subrule (1).

#### **Investment of Fund and Proceeds**

**1303**(1) Funds received by the Society pursuant to Rules 1301 and 1302 shall be deposited into the Special Fund account maintained by the Society pursuant to subsection 12(5) of the Act.

(2) The Society may invest the Special Fund and its proceeds in any securities authorized pursuant to subsection 3(5) of the Act.

#### **Payment of Expenses**

**1304** The Executive Director may authorize payment out of the Special Fund for expenses incurred:

- (a) in administering the Special Fund;
- (b) in investigating claims against the Special Fund, including the audit of the books, records and accounts of a member or former member;
- (c) arising out of the appointment of a trustee pursuant to section 61 of the Act;
- (d) in improving members' records and accounting procedures; and
- (e) in any other matter relating to the protection and maintenance of the Special Fund.

#### **Application for Compensation**

**1305**(1) An application for compensation from the Special Fund shall be made in writing, addressed to the Executive Director.

(2) The Executive Director shall, upon receipt of an application pursuant to subrule (1), appoint a Claims Investigation Committee to investigate the claim and make recommendations to the Benchers in relation to the determination of the application.

(3) The Claims Investigation Committee may be comprised of Society staff lawyers or Benchers or a combination thereof.

(4) The Claims Investigation Committee shall have the same investigative powers as a person designated by the Benchers to review complaints as set out in the Act and the Rules.

#### **Procedure for Investigation**

**1306**(1) A Claims Investigation Committee may:

- (a) make such inquiries of the claimant, the member or former member in respect of whom the claim is made and any other person as it considers desirable;
- (b) require the claimant to provide the Claims Investigation Committee with information and documents relating to the claim, which the Committee reasonably requires; and
- (c) notify the public of the date by which all applications for compensation from the Special Fund respecting claims against a specified member or former member must be made.

(2) A Claims Investigation Committee may postpone its investigation of a claim and its recommendations to the Benchers pending:

- (a) final disposition of any disciplinary action, including judicial review or an appeal, taken against or by the member or former member in respect of whom the claim is made;
- (b) final disposition of any criminal prosecution, including appeal, taken against or by the member or former member in respect of whom the claim is made; or
- (c) the claimant obtaining, and assigning to the Society, part or all of a civil judgment or Criminal Code compensation order made against the member or former member respecting the money or other property claimed by the claimant.

(3) Where the Claims Investigation Committee is of the view that there is sufficient evidence to make recommendations to the Benchers in relation to an application prior to the conclusion of related disciplinary actions or criminal prosecutions, it may do so subject to the following:

- (a) no member of a Hearing Committee appointed in relation to the member or former member in respect of whom the claim is made shall participate in the consideration of the claim or be privy to the recommendations of the Claims Investigation Committee or to the outcome of the claim; and
- (b) evidence as to the outcome of a Special Fund claim shall not be admissible in the context of a related discipline proceeding and is not, in any event, determinative.

### **Recommendation to Benchers**

**1307** A Claims Investigation Committee shall, following completion of its investigation, make a report to the Benchers containing recommendations as to whether all or a portion of the compensation claimed should be paid.

### **Action by Benchers**

**1308**(1) Upon receipt of a report pursuant to Rule 1307 the Benchers may:

- (a) hear the claimant and any evidence that they may, in their discretion, permit; and
- (b) where they are satisfied that the claimant has suffered a pecuniary loss as a result of a member's misappropriation or conversion of moneys or other property entrusted to or received by the member in the member's professional capacity, in their discretion and on terms they think fit:
  - (i) subject to subrules (2) and (3), authorize payment of all or part of the claim; or
  - (ii) determine that no payment shall be made.

(2) Where a claim is authorized for payment, the Society shall administer the payment in accordance with the terms of coverage governing the National Special Fund Program.

(3) Liability for payment from the Special Fund shall not exceed the deductibles payable pursuant to the National Special Fund Program and further the Benchers shall not authorize payment of claims from the Special Fund beyond the limits of coverage contemplated by the National Special Fund Program.

### **Reconsideration**

**1309**(1) Where a claimant is not satisfied with a decision of the Benchers made pursuant to Rule 1308, and where such complainant gives notice to the Executive Director, in writing, that the complainant wishes to provide new or additional evidence in support of the claim, and where the Executive Director is satisfied that such new or additional evidence may result in a different ruling by the Benchers, the Executive Director may submit the original report of the Claims Investigation Committee along with the new information provided by the claimant to the Benchers for a reconsideration of the matter.

(2) Subject to subrule (3), no application for reconsideration pursuant to this Rule shall be considered unless received by the Executive Director within ninety (90) days of the decision of the Benchers pursuant to subrule 1308(1) being provided to the claimant.

(3) Where all, or a portion of, a claim has been denied by the Benchers prior to the completion of related discipline proceedings the claimant may, within ninety (90) days of receiving notice of the outcome of those proceedings, apply to have the claimant's claim reviewed in light of the findings made in the discipline proceeding.

### **Recovery of Payment Made**

**1310**(1) Where money is paid out of the Special Fund pursuant to subrule 1304(b) or subrule 1308(2), the Executive Director or the Benchers as the case may be:

- (a) may order that the member, on account of whose misappropriation or conversion the money is paid out, repay to the Society all or part of that amount; and
- (b) fix the date by which the repayment shall be completed.

(2) A member who has not paid the full amount owing pursuant to subrule (1) by the date fixed pursuant to subrule (1) is, unless the Benchers resolve otherwise, suspended from the practice of law until the amount owing is paid in full to the Society.

## PART 14

### Law Society Fees and Assessments

#### Active Member Annual Fee

**1401**(1) The active member annual fee for each calendar year, as set out in Schedule 1, including the applicable federal and provincial taxes is, subject to subrule (4), payable by the preceding December 1.

(2) The active member annual fee for each calendar year for Law Professor members and members whose principal place of practice or employment is in the City of Lloydminster is, subject to subrule (5), payable by the preceding December 1 and consists of:

(a) one-half the active member practice fee as set out in Schedule 1; and

(b) the applicable federal and provincial taxes payable thereon.

(3) A member who does not pay the active member annual fee by December 1, but who does pay it by December 31 shall pay, in addition, a late payment fee as set out in Schedule 1.

(4) A member may, upon approval from the Executive Director, pay the active member annual fee on a quarterly basis, payable in four equal instalments, commencing on the preceding December 1 and continuing on March 1, June 1 and September 1.

(5) A member who is approved to make quarterly payments shall pay, in addition, an administration fee as set out in Schedule 1 by the preceding December 1.

(6) Quarterly payments shall be made by way of pre-authorized automatic debit.

(7) A member who does not pay the administration fee and quarterly payments pursuant to subrules (4) and (5) becomes a disqualified member, effective January 1, March 2, June 2 or September 2, as applicable.

#### Inactive Member Annual Fee

**1402** The inactive member annual fee in respect of each year, as set out in Schedule 1, is payable by the preceding December 31.

#### Liability Insurance Assessment and Fee

**1403**(1) The liability insurance annual assessment payable pursuant to Rule 1202, as set out in Schedule 1, is payable by June 15.

(2) A member who does not pay the liability insurance assessment by June 15, but pays it by June 30 shall pay, in addition, a late payment fee as set out in Schedule 1.

(3) The late payment fee for a member who does not reimburse the Society or SLIA by the due date for an insurance deductible paid on the member's behalf pursuant to Rule 1202, is as set out in Schedule 1.

#### Reinstatement Fees

**1404**(1) The reinstatement fee payable by a former member who is applying for reinstatement after having been disbarred is as set out in Schedule 1.

(2) The reinstatement fee payable by a suspended or disqualified member who is applying for reinstatement as an active or inactive member is as set out in Schedule 1.

(3) The reinstatement fee payable in all cases other than as set out in subrules (1) and (2) is as set out in Schedule 1.

(4) A member who is reinstated as an active member shall pay, in addition to the fees payable pursuant to subrules (1) to (3):

- (a) one-twelfth of the liability insurance assessment payable pursuant to Rule 1202, multiplied by the number of months remaining in the policy year, including the month that the person is reinstated; and
- (b) one-twelfth of the annual fee payable pursuant to Rule 1402, multiplied by the number of months remaining in the year, including the month that the person is reinstated as a lawyer.

(5) A member who is reinstated as an inactive member shall pay, in addition to the fees payable pursuant to subrules (1) to (3), the inactive member annual fee as set out in Schedule 1.

### **Certificate of Standing Fee**

**1405** The fee payable for issuance of a certificate of standing is as set out in Schedule 1.

### **Continuing Professional Development Fees**

**1406**(1) The fee payable by an applicant for approval of a remedial CPD plan is as set out in Schedule 1.

(2) The fee payable for an appeal of decisions authorized in the CPD Policy is as set out in Schedule 1.

(3) The reinstatement fee payable by a member disqualified for failing to comply with the CPD Policy is as set out in Schedule 1.

(4) The late fee payable by a member who fails to comply with the CPD Policy by the December 31 deadline, but complies prior to being disqualified, is as set out in Schedule 1.

### **Refund of Fees**

**1407**(1) The Society shall, in the case of an active member who dies during the current year, refund one-twelfth of the current year's active member annual fee, multiplied by the number of months remaining in the calendar year excluding the month that the member dies.

(2) The Society shall, upon being satisfied that an active member has, during the current year, become an inactive member for the purpose of parenting a newly born or newly adopted child, refund one-twelfth of the current year's active member annual fee, multiplied by the number of months remaining in the calendar year excluding the month that the member becomes an inactive member.

(3) The Society shall, upon being satisfied that an active member has, during the current year, become unable to practise as a result of serious illness, refund one-twelfth of the current year's active member annual fee, multiplied by the number of months remaining in the calendar year.

(4) The Society may, upon being satisfied that there are circumstances that would impose undue hardship on the member, refund one-twelfth of the current year's active member annual fee, multiplied by the number of months remaining in the calendar year excluding the month that the member changes membership status.

### **Waiver of Rules**

**1408** A member shall pay, at the time of application for a variation, waiver or suspension of a Rule pursuant to Rule 2404, a rules waiver application fee as set out in Schedule 1.

## PART 15

### Accounting

#### A. Definitions

##### Definitions

**1501** In this Part:

**“auditor or investigator”** means a person designated to investigate, inspect or audit the accounts, books and records of a firm in accordance with clause 10(t) of the Act;

**“books of original entry”** means books or journals recording in chronological order the full details of all trust and general transactions including but not limited to receipts, payments and transfers between individual client trust ledgers;

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

**“client”** includes a person, corporate body or other legal entity on whose behalf the member or firm has been retained to provide legal services;

**“cooperate”** includes but is not limited to a firm and its members:

- (a) producing immediately and permitting the copying of all records and supporting documentation, including client files;
- (b) answering all questions satisfactorily; and
- (c) providing all information and explanations in paper or electronic form as requested by the auditor.

**“credit union central”** means a central cooperative credit society, as defined in section 2 of the *Cooperative Credit Associations Act*, or a credit union central or a federation of credit unions or caisses populaires that is regulated by a provincial or territorial Act other than one enacted by the legislature of Quebec;

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

**“disbursements”** means amounts paid or required to be paid to a third party by the member or the member's firm on a client's behalf in connection with the provision of legal services to the client by the member or the firm which will be reimbursed by the client;

**“double entry”** accounting means a system of accounting in which every transaction has a corresponding positive and negative entry (debit and credit);

**“electronic funds transfer”** means an electronic transmission of funds conducted by and received at a financial institution or a financial entity headquartered in and operating in a country that is a member of the Financial Action Task Force, where neither the sending nor the receiving account holders handle or transfer the funds, and where the transmission record contains a reference number, the date, transfer amount, currency and the names of the sending and receiving account holders and the conducting and receiving entities;

**“expenses”** means costs incurred by a member or firm in connection with the provision of legal services to a client which will be reimbursed by the client including such items as photocopying, travel, courier or postage, and legal assistant costs;

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

**“financial institution”** means:

- (a) a bank that is regulated pursuant to the *Bank Act*,
- (b) an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada,
- (c) cooperative credit society, savings and credit union or caisse populaire that is regulated by a provincial or territorial Act,
- (d) an association that is regulated by the *Cooperative Credit Associations Act* (Canada),
- (e) a financial services cooperative,
- (f) a credit union central,
- (g) a company that is regulated pursuant to the *Trust and Loan Companies Act* (Canada),
- (h) a trust company or loan company that is regulated by a provincial or territorial Act,
- (i) a department or ministry or an entity that is an agent of Her Majesty in right of Canada or of a province or territory when it accepts deposit liabilities in the course of providing financial services to the public, or
- (j) a subsidiary of the financial institution whose financial statements are consolidated with those of the financial institution;

**“financial services cooperative”** means a financial services cooperative that is regulated by *An Act respecting financial services cooperatives*, CQLR, c. C-67.3, or *An Act respecting the Mouvement Desjardins*, S.Q. 2000, c.77, other than a caisse populaire;

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

**“general account”** means an account other than a trust account opened with a financial institution maintained by a firm into which is deposited only funds received by the firm in connection with the practice of law, which are not trust funds;

**“member”** means an active member as defined in Part 7 of these Rules or a person entitled to practice law in Saskatchewan in accordance with mobility provisions set out in Part 8 of these Rules;

**“member who is the subject of bankruptcy proceedings”** means a member, including a student-at-law and an applicant for admission or reinstatement, who:

- (a) is bankrupt;
- (b) is an insolvent person;
- (c) commits an act of bankruptcy;
- (d) has made a proposal, including a consumer proposal; or
- (e) has applied for a consolidation order, pursuant to the *Bankruptcy and Insolvency Act*;

**“money”** includes cash, cheques, drafts, credit card sales slips, post office orders and express and bank money orders, electronic transfer of deposits at financial institutions, and any other financial or negotiable instruments;

**“online wire payments service”** means an electronic method by which the law firm has the ability to create and approve the wire transfer of money from the firm’s trust account through the financial institution’s platform using the financial institution’s website or mobile device application.

**“organization”** means a body corporate, partnership, fund, trust, co-operative or an unincorporated association;

**“pooled trust account”** means an interest-bearing chequing account opened at a financial institution by a firm into which money received is deposited or held for the benefit of a number of clients as referred to in subsection 78(1) of the Act;

**“professional fees”** means amounts billed or to be billed to a client for legal services provided or to be provided to the client by the member or the firm;

**“public body”** means:

- (a) a department or ministry or agent of Her Majesty in right of Canada or of a province or territory;
- (b) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them;
- (c) a local board of a municipality incorporated by or under an Act of a province or territory of Canada;
- (d) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* or an agent of the organization;
- (e) a body incorporated by or under an Act of a province or territory of Canada for a public purpose; or
- (f) a subsidiary of a public body whose financial statements are consolidated with those of the public body.

**“reporting issuer”** means an organization that is a reporting issuer within the meaning of the securities laws of any province or territory of Canada, or a corporation whose shares are traded on a stock exchange designated under section 262 of the *Income Tax Act* (Canada) and operates in a country that is a member of the Financial Action Task Force, and including a subsidiary of that organization or corporation whose financial statements are consolidated with those of the organization or corporation;

**“securities dealer”** means persons or entities authorized under provincial or territorial legislation to engage in the business of dealing in securities or any other financial instruments or to provide portfolio management or investment advising services, other than persons who act exclusively on behalf of such an authorized person or entity;

**“SIBA”** means an interest-bearing account opened by a member or firm in trust for a specific client at a financial institution, which account must be a savings account, a term deposit, a guaranteed investment certificate, or a Government of Canada Treasury Bill purchased with trust funds through a financial institution;

**“signature”** as it relates to trust cheques and trust withdrawals in this Part means the member’s original signature in ink and not in electronic form;



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

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

**“trust property”** means any property of value received or held by a member in the member’s capacity as a lawyer pursuant to trust conditions that belongs to a client or is received on a client’s behalf, other than trust money, that can be negotiated or transferred by a member including but not limited to gems, jewelry, coins and similar property.

[Rule 1501, definition “online wire payments service” added, December 4, 2020]

## **B. Delegation and Accountability**

### **Member Remains Personally Responsible**

**1502(1)** If a firm maintains a trust or general account in the name of the firm, the individual members practicing through the firm remain personally responsible to ensure compliance with these Rules.

(2) Subrule (1) applies if the member:

- (a) is authorized by the firm through which the member practises law to open, maintain or deal with funds which are in a trust or general account; or
- (b) delegates to another person any of the duties or responsibilities assigned to that member pursuant to this Part.

## **C. Receipt of Trust Funds**

### **Cash Transactions**

**1503(1)** A member shall not receive or accept cash in an aggregate amount greater than \$7,500 Canadian dollars in respect of any one client matter.

(2) For the purposes of this Rule, when a member receives or accepts cash in a foreign currency the member will be deemed to have received or accepted the cash converted into Canadian dollars at:

- (a) the official conversion rate of the Bank of Canada for the foreign currency as published in the Bank of Canada’s Daily Noon Rates that is in effect at the time the member receives or accepts the cash; or
- (b) if the day on which the member receives or accepts cash is a holiday, the official conversion rate of the Bank of Canada in effect on the most recent business day preceding the day on which the member receives or accepts the cash.

(3) Subrule (1) applies when a member engages on behalf of a client or gives instructions on behalf of a client in respect of the following activities:

- (a) receiving or paying funds;
- (b) purchasing or selling securities, real property, business assets or entities; or

(c) transferring funds by any means.

(4) Notwithstanding subrule (3), subrule (1) does not apply when the member receives cash in connection with the provision of legal services by the member or the member's firm:

- (a) from a financial institution or public body;
- (b) from a peace officer, law enforcement agency or other agent of the Crown acting in an official capacity;
- (c) to pay a fine, penalty or bail; or
- (d) for professional fees, disbursements, or expenses, provided that any refund out of such receipts is also made in cash.

(5) Every member who pays a cash refund pursuant to this subrule must obtain a signed acknowledgement of the payment from the person receiving the refund showing the date, amount, client name or client reference, file number, if any, and name of the person who received the funds.

### **Recordkeeping for Cash Transactions**

(6) Every member, in addition to existing financial recordkeeping requirements to record all money and other property received and disbursed in connection with the member's practice, shall maintain;

- (a) books of original entry identifying the method by which money is received in trust for a client; and
- (b) a book of original entry showing the method by which money, other than money received in trust for a client, is received.

(7) Every member who receives cash for a client shall maintain, in addition to existing financial recordkeeping requirements, a book of duplicate receipts, with each receipt identifying the date on which cash is received, the person from whom cash is received, the amount of cash received, the client for whom cash is received, any file number in respect of which cash is received and containing the signature authorized by the member who receives the cash and of the person from whom cash is received.

(8) The financial records described in subrules (6) and (7) may be entered and posted by hand or by mechanical or electronic means, but if the records are entered and posted by hand, they shall be entered and posted in ink.

(9) The financial records described in subrules (6) and (7) shall be entered and posted so that they are current at all times.

(10) A firm or member shall keep the financial records described in subrules (6) and (7) for the six-year period immediately preceding the firm's most recent fiscal year end in accordance with Rule 1529.

### **Deposit of Trust Funds**

**1504(1)** A member who receives trust money shall deposit the money into a pooled trust account of the firm within 3 business days.

(2) Trust money may not be paid or transferred to any other person, entity or account until subrule (1) has been complied with.

(3) Where a member who receives trust money participates in an arrangement with another firm to share either or both of space and certain common expenses but otherwise practises as an independent practitioner:

- (a) the member must open a trust account in the name of the member's own firm; and

- (b) the member must not deposit trust money into a trust account opened by any other firm without the written approval of the Executive Director other than in the course of providing legal services to a client.

(4) If a member at the time this Rule comes into force participates in an arrangement for using another member's trust account, that member may apply to the Executive Director to continue to operate in the current manner until such time as the Executive Director advises that this Rule must be complied with.

(5) A member who receives trust funds with written instructions as to where the funds are to be placed shall first place the funds into a pooled trust account and then place the funds in accordance with instructions received.

(6) A member may not hold or invest monies outside the Province of Saskatchewan on behalf of a client unless the member's primary practice is outside of Saskatchewan, and the trust funds are handled in accordance with the Rules of the law society of that province or territory and the monies are received pursuant to that practice.

(7) A law firm may receive trust and general receipts by credit or debit cards subject to the following conditions:

- (a) trust receipts must be deposited, within 3 business days, directly into a trust account;
- (b) general receipts must be deposited within 7 business days directly into a general account or may be deposited to a pooled trust account subject to the following conditions:
  - (i) the general portion of the receipt must be paid within 3 business days from the trust account to the general account;
  - (ii) the firm shall maintain a trust ledger card recording the receipt and payout of the general receipts; and
  - (iii) the trust ledger card must distinguish the general receipts by client.
- (c) the payor, client name, and file number must be recorded on the merchant slip;
- (d) the word "Trust" must be recorded on the merchant slip for all trust receipts and the word "General" must be recorded on the merchant slip for all general receipts;
- (e) the receipt must be recorded in the applicable trust or general journal and the merchant slip must be attached to the deposit slip and filed in chronological order; and
- (f) all service charges and discounts, including those related to trust receipts, must be withdrawn from the law firm general account.

(8) A firm may receive money into its trust account electronically subject to the deposit of these monies being confirmed within 3 business days of receipt.

(9) The confirmation mentioned in subrule (8) shall be prepared by the bank or the firm, retained by the firm, and shall include:

- (a) the date monies are deposited into trust;
- (b) the name of the financial institution;
- (c) the account number into which these monies are deposited;
- (d) information identifying the remitter of the funds;
- (e) the client name or file number involved; and

- (f) the signature or initial of the member or person authorized by the member confirming the deposit of monies received electronically into the firm's trust account.

(10) Members may deposit trust and general receipts using automated teller machines (ATMs) but only subject to the following conditions:

- (a) ATM cards for trust accounts must be restricted to deposit only;
- (b) trust receipts must be deposited directly into a pooled trust account of the firm;
- (c) unless received by credit or debit card and handled in accordance with subrule (7), general receipts must be deposited directly into a general account of the firm; and
- (d) the payor, client name and file number, if applicable, must be recorded on all ATM slips;
- (e) the receipt must be recorded in the applicable trust or general journal and the ATM slip must be attached to a deposit slip and filed in chronological order.

(11) A member who receives trust funds which belong in part to a client and in part to the member shall:

- (a) deposit the funds into a pooled trust account; and
- (b) within 7 business days of receiving information that would enable the member to split the funds, withdraw the member's funds from the trust account.

(12) A member may handle the member's own legal transactions through a trust account provided the money is handled in the normal course of a legal file and the money is paid out expeditiously when the matter is concluded.

(13) Active members whose primary practice is outside Saskatchewan are not required to hold trust monies in Saskatchewan, but they must comply with the trust accounting rules in the jurisdiction in which they practise.

(14) In this Rule:

- (a) the cities of Lloydminster, Alberta, and Flin Flon, Manitoba, are deemed to be in Saskatchewan and the deposit of trust monies in a financial institution located in those two cities is deemed compliant with Rule 1505 and Rule 1507;
- (b) Alberta or Manitoba credit unions located in Lloydminster, Alberta or Flin Flon, Manitoba, which are incorporated, continued or registered under the Alberta or Manitoba equivalent to *The Credit Union Act, 1985* are deemed to be financial institutions.

[Rule 1504(3)(b) amended, December 4, 2020]

### **Pooled Trust Account**

**1505**(1) A pooled trust account referred to in Rule 1504 shall be in a financial institution in Saskatchewan, and shall be:

- (a) an account which is readily available to be drawn upon by the member, and in respect of which the firm receives all bank statements, cancelled cheques or cheque images in a form approved by the Society, each month;
- (b) an account in respect of which the financial institution has agreed with the firm to pay interest to the Law Foundation in accordance with subrule (2);
- (c) kept in the name of the firm;
- (d) designated as a "trust" account on the records of the financial institution and of the firm;

- (e) an account for which online access is restricted to read or view only;
- (f) an account which restricts bank card access to deposit and read or view only; and
- (g) insured by the Canada Deposit Insurance Corporation or the Credit Union Deposit Guarantee Corporation.

(2) A firm that opens or maintains a pooled trust account shall:

- (a) instruct each financial institution in writing to remit to the Law Foundation at least quarterly the interest earned on the account;
- (b) instruct each financial institution in writing to remit to the Law Foundation any and all monetary benefits received on the account; and
- (c) notify each financial institution in writing that the account is a trust account which will contain the funds of more than one client.

(3) Subject to subrule (4) and subrules 1504(11) and 1526(1), a member firm shall not deposit into or retain in a pooled trust account any funds which are not trust funds whether or not they were received by the firm in connection with its practice of law.

(4) A member shall pay out of the member's own funds any service fees, charges or discounts levied by the financial institution arising out of the operation of a pooled trust account, and for that purpose may direct that all such fees, charges or discounts be withdrawn from the firm's general account or the firm may maintain in each pooled trust account an amount up to \$300 of the firm's own funds, or greater, if approved in writing by the Executive Director, to meet reasonably anticipated service fees, charges or discounts.

#### **Approval of Trust Accounting Software Required**

**1506** Accounting software used by a firm to account for trust monies received, retained and paid out by the firm must be approved in writing by the Executive Director prior to installation.

#### **SIBAs**

**1507**(1) A member, after first depositing trust money into a pooled trust account, may transfer those trust monies into a SIBA held in trust for the client if the SIBA is opened in the name of the firm.

(2) The name of the bank account on the bank's records and the firm's records referred to in subrule (1) shall include a reference to the specific client, and unless otherwise directed in writing by the client, be insured by the Canada Deposit Insurance Corporation or the Credit Union Deposit Guarantee Corporation.

(3) A member who opens or maintains a SIBA shall instruct the financial institution in writing to deposit the interest earned on the account into the account when due.

(4) The SIBA must be recorded in the firm's trust records and interest earned on a SIBA shall be credited to the client's trust ledger account no later than 30 days after being paid into or added to the SIBA balance by the financial institution.

(5) Trust funds for deposit to a SIBA shall be deposited into a pooled trust account of the firm before any payment to the SIBA.

(6) Trust funds may be transferred to a SIBA in accordance with Rule 1515 or a trust cheque must be written in accordance with subrule 1514(1).

(7) Trust funds withdrawn from a SIBA shall only be transferred to a pooled trust account of the firm in the same financial institution before being paid out.

(8) Trust funds withdrawn from a SIBA in a different financial institution than the firm's pooled trust account must only be paid to the firm's pooled trust account.

(9) Subject to subrule 1526(1), a member shall not deposit into or retain in a SIBA any funds which are not trust funds.

## **D. Receipt of Non-Trust Funds**

### **Funds Which May be Deposited into a Member's General Account**

**1508**(1) A firm must maintain at least one general account.

(2) Except as provided for in subrule 1504(7)(b), a member shall deposit into a general account all and only those funds received in connection with the member's practice of law that are not trust funds.

(3) Payments from the general account may be made only for expenditures directly related to the operation of the firm or to the member's personal account.

### **Transactions Which Must be Recorded in Non-Trust Books and Records**

**1509**(1) A member shall record in the firm's non-trust books, records and accounts:

- (a) funds received from the practice of law which belong entirely to the member or to other persons associated with the member in the practice of law;
- (b) funds received by the member on account of fees for services already performed; and
- (c) funds received to reimburse the member for disbursements already made or expenses already incurred on behalf of a client.

(2) A member who receives funds pursuant to subrule (1) shall, within 3 business days, deliver an invoice to the client for the funds received, containing sufficient particulars to identify the services performed or disbursements incurred.

### **Non-Monetary Benefits from Use of Credit Cards**

**1510** Non-monetary benefits from the use of credit cards for payment of disbursements on behalf of clients that do not result in increased charges to the client or decreased benefits to the client may accrue to and be used to the benefit of the firm.

## **E. Funds In Trust**

### **Trust Accounting Rule**

**1511**(1) A member must only permit payment into, or withdrawal from a trust account, money that is directly related to legal services provided by the member or the member's firm.

(2) A member must pay out money held in a trust account as soon as practicable upon completion of the legal services to which the money relates.

### **Circumstances When Withdrawal is Permitted**

**1512**(1) A member shall not withdraw or authorize the withdrawal from a trust account of any trust funds unless the trust accounting records are current and there are sufficient funds held in that account to the credit of the client on whose behalf the funds are withdrawn, and:

- (a) the funds are properly required for payment to or on behalf of a client or to satisfy a court order;
- (b) the funds are properly payable to the member in respect of a liability of the client to the member for fees, disbursements or other expenses relating to the practice of law;

- (c) the withdrawal is to correct a deposit which was mistakenly made to the account;
- (d) the funds are being paid from one pooled trust account to another pooled trust account, to a SIBA in accordance with Rule 1515, or to a pooled trust account in accordance with Rule 1516;
- (e) the funds are unclaimed trust funds which are being paid to the Society in accordance with Part 17 of these Rules;
- (f) the withdrawal is in accordance with Rule 1532; or
- (g) the withdrawal is authorized in writing by the Executive Director.

(2) A member shall, as soon as practicable after becoming entitled to funds held in the member's trust account, withdraw those funds from trust.

(3) A member shall not pay any personal or general office expenses or costs from a trust bank account.

#### **Withdrawal for Payment of Fees and Accounting to Client**

**1513**(1) A member who withdraws or authorizes the withdrawal of trust funds pursuant to clause 1512(1)(b), where the liability of the client to the member is for fees earned by the member or disbursements paid by the member, must first prepare an invoice for those fees and disbursements or other expenses and, unless the client directs otherwise in writing, deliver the invoice or other written notification to the client prior to, or within 3 days, of the withdrawal.

(2) The invoice prepared in subrule (1) shall identify the amount of funds withdrawn from trust and applied against the amount of the bill.

(3) An invoice is delivered to the client within the meaning of subrule (1) if it is:

- (a) mailed by regular or registered mail to the client at the client's last known address;
- (b) delivered personally to the client;
- (c) transmitted by electronic facsimile to the client at the client's last known electronic facsimile number;
- (d) transmitted by electronic mail to the client at the client's last known electronic mail address; or
- (e) made available to the client by other means agreed to in writing by the client.

(4) The member shall account to the client, in writing, for all trust funds received and disbursed at the conclusion of the matter or more frequently upon reasonable client request.

(5) A member must not charge or accept a fee or disbursement, including interest, unless it is fair and reasonable, and the amount has been disclosed and invoiced to the client in a timely fashion.

(6) Payments may not be made from a trust account for the direct or indirect benefit of a member, a member's family or other members of the firm other than for fees and disbursements relating to the practice of law.

(7) A member must not:

- (a) pay a real estate commission before:
  - (i) the member confirms sufficient funds in trust to pay and satisfy all undertakings, including undertakings to maintain certain funds in trust as a holdback;

- (ii) the member is in a position to disburse the balance of the sale proceeds;
- (b) lend commission advances to real estate brokers or agents; or
- (c) enter into an arrangement with a real estate broker or agent that involves the broker or agent directing clients to the member in return for:
  - (i) a portion of the fee paid by the client to the member; or
  - (ii) a financial or other reward, direct or indirect.

**Procedure for Withdrawing Funds from a Pooled Trust Account**

**1514**(1) Subject to subrules (2) and (5), and subrule 1507(6), a member who makes or authorizes the withdrawal or transfer of funds from a pooled trust account shall:

- (a) effect the withdrawal or transfer by a consecutively numbered cheque marked “trust”;
- (b) not make the cheque payable to “cash” or “bearer”;
- (c) provide the client or file reference in the memo field of the cheque, on the cheque copy or the cheque stub;
- (d) ensure the cheque is dated, but not post-dated;
- (e) ensure the cheque is fully completed as to the payee and amount before being signed;
- (f) ensure that the cheque is signed by at least one member; and
- (g) not make transfers of trust money from one client’s account to another client’s account unless the money is held in a pooled trust account in the same financial institution and the member has obtained either:
  - (i) the written authorization of the client from whose account the money is transferred; or
  - (ii) the verbal authorization of the client from whose account the money is transferred, which authorization is subsequently confirmed in writing to the client by the member.

(2) Trust withdrawals must not be made by a bank draft except in exceptional circumstances and only with prior written approval of the Executive Director.

(3) If a withdrawal by a bank draft has been approved by the Executive Director pursuant to subrule (2), the member shall:

- (a) obtain the recipient’s authorization to receive the funds in the form of a bank draft in writing;
- (b) document the exceptional circumstances on the client’s file;
- (c) retain the written approval provided pursuant to subrule (2) on the client’s file;
- (d) purchase the bank draft only at a financial institution where the law firm has a pooled trust account;
- (e) make the bank draft payable to the client or a payee approved in writing by the client; and
- (f) maintain a copy of the bank draft and client approvals on the client’s file.

(4) Money may be electronically transferred by a firm subject to the following conditions:

- (a) the withdrawal from trust must be greater than or equal to \$25 million dollars;



- (b) the transfer system used must be able to produce, within one banking day of the transfer, a confirmation from the financial institution showing the details of the transfer;
- (c) the confirmation from the financial institution must be in hardcopy form and must contain the following details: date of transfer, source trust account information including account name, financial institution and account number, authorizing member reference and amount of the transfer;
- (d) the member must complete a \$25 Million Non-Cheque Transfer Requisition Form in Form TA-8;
- (e) the requesting member and authorizing member sections of Form TA-8 must be signed and dated by an active member of the firm;
- (f) the firm must obtain the confirmation from the financial institution and within two banking days an active member of the firm must:
  - (i) write the name of the client and file number on the confirmation;
  - (ii) sign and date the confirmation;
  - (iii) agree the particulars from the confirmation to the \$25 Million Non-Cheque Transfer Requisition Form;
  - (iv) verify that the money was properly transferred in accordance with the requisition; and
  - (v) sign and date the verifying lawyer section of Form TA-8.

(5) A member may make or authorize the withdrawal of funds from a pooled trust account by wire transfer using a manual requisition or an Online Wire Payments Service provided all the following conditions are met:

- (a) the system will produce, not later than the next banking day, a confirmation form from the financial institution confirming the details of the transfer, which includes the following:
  - (i) the date of the transfer;
  - (ii) source trust account information, including account name, financial institution and account number;
  - (iii) destination account information, including account name, financial institution, financial institution address and account number;
  - (iv) the name of the member authorizing the transfer; and
  - (v) amount of transfer.
- (b) if using a manual requisition for transfer, the requisition must be in a form approved by the Executive Director and the member must:
  - (i) complete and sign a requisition for the transfer;
  - (ii) submit the original requisition to the appropriate financial institution;
  - (iii) retain a copy of the requisition.
- (c) if using the Online Wire Payments Service offered by the financial institution, the member must follow the Wire Transfer Procedures via Online Wire Payments Service approved by the Executive Director.

- (d) in completing a wire transfer pursuant to subrule (b) or (c) the member must also:
  - (i) obtain the confirmation referred to in subrule (a) from the financial institution;
  - (ii) retain a hardcopy of the confirmation; and
  - (iii) immediately on receipt of the confirmation, verify that the money was drawn from the trust account as specified in the requisition.

(6) A member who withdraws or authorizes the withdrawal of trust funds for the payment of fees, disbursements or other expenses, must do so only on the basis of a previously prepared invoice.

(7) The withdrawal mentioned in subrule (6) must be made only by a consecutively numbered trust cheque payable to the firm's general account or by electronic payment or transfer of trust funds only to the firm's general account.

(8) Amounts paid from trust must relate to a particular invoice or the total of a group of invoices referenced to the payment.

(9) Once a legal matter is concluded, the member shall ensure all related trust money is paid out expeditiously or no longer than 6 months after the conclusion of the matter.

(10) Subrule (1) does not apply to the interest earned on a pooled trust account which the firm has instructed the financial institution to pay to the Law Foundation pursuant to subrule 1505(2).

[Rule 1514(1) and (2) amended; (5), (5)(b) and 5(b)(i) amended; 5(c) and (d) added, changing numbering sequence, 5(d)(iii) amended, December 4, 2020]

#### **Procedure for Transferring Funds to a SIBA**

**1515** A member who makes or authorizes the payment of funds from a pooled trust account to a SIBA shall ensure that the payment is made by cheque in accordance with subrule 1514(1) or by bank transfer if:

- (a) the transfer is authorized in writing;
- (b) the written authorization is signed by a member; and
- (c) the monies are in the same financial institution as the pooled trust account.

### **F. Withdrawal of Funds From a SIBA**

#### **Transfer of Funds to a Pooled Trust Account**

**1516** A member who makes or authorizes the withdrawal of funds from a SIBA shall do so only by providing the financial institution with written authorization signed by the member to pay or transfer the funds only into the firm's pooled trust account.

### **G. Books, Records and Accounts Required to be Maintained**

#### **Object of Maintaining Books, Records and Accounts**

**1517(1)** A firm shall maintain an adequate accounting system, including the books, records and accounts described in this Part, in order to record all funds and other negotiable property received and disbursed in connection with the practice of law by its members.

(2) A firm shall, at the written direction of the Executive Director, make such modifications to the firm's accounting system or accounting records as the Executive Director considers necessary.

**Form of Books, Records and Accounts**

**1518** (1) A firm's books, records and accounts shall be maintained in Saskatchewan and shall be:

- (a) in legibly handwritten form, in ink or other duplicated or permanent form;
- (b) in printed form; or
- (c) subject to subrule (2), in electronic form.

(2) A firm using a computerized accounting system shall:

- (a) print the following records monthly:
  - (i) trust journal;
  - (ii) trust reconciliation including client trust listing; and
  - (iii) trust property record.
- (b) print the client trust ledger cards:
  - (i) monthly, unless they can be printed in their entirety upon demand; and
  - (ii) at the conclusion of the matter and store a complete copy in the client file.
- (c) print the following records monthly, unless they can be printed in their entirety upon demand:
  - (i) general journal;
  - (ii) general bank reconciliation;
  - (iii) billing journal;
  - (iv) accounts receivable detail and listings; and
  - (v) billings for all fees, charges and disbursements in chronological or numerical order.
- (d) maintain an electronic backup of the accounting records updated on a weekly or more frequent basis in a safe and secure offsite location.

(3) The transactions recorded in a firm's books, records and accounts shall be up to date, recorded using the double entry basis of accounting, in chronological order, and in an easily traceable form.

**Trust Books, Records and Accounts Required to be Maintained**

**1519** A firm shall maintain at least the following trust books, records and accounts:

- (a) a daily journal or other book of original entry recording:
  - (i) for all funds received in trust for each client; the date of receipt, the receipt number, source of the funds, the form in which the funds are received, and the identity of the client on whose behalf the trust funds are received;
  - (ii) for all funds disbursed out of trust for each client; the cheque or reference number, the date of each disbursement, the name of the recipient and the identity of the client or the file reference on whose behalf the trust funds are disbursed; and
  - (iii) a running balance of the total amount in trust.
- (b) a client trust ledger recording separately for each client matter:

- (i) the name, matter description and file number of the client; and
  - (ii) all trust funds received and disbursed, and the unexpended balance.
- (c) a transfer record showing each transfer of funds between client trust ledgers containing:
  - (i) an explanation of the purpose for which each transfer is made; and
  - (ii) the member's signed approval of the transfer.
- (d) the monthly trust reconciliations required to be prepared pursuant to subrule 1524(1), and the detailed listings and reconciliations described in subrule 1524(2), along with any and all supporting documentation and reports;
- (e) a current listing of all valuable property showing all valuable property, other than money, held in trust for each client; and
- (f) all supporting documents and records, including but not limited to:
  - (i) validated, detailed deposit receipts or readable digital deposit images;
  - (ii) periodic bank statements;
  - (iii) passbooks;
  - (iv) voided cheques, and front and back of cancelled cheques or digital cheque images; and
  - (v) bank vouchers and similar documents.

#### **Non-Trust Books, Records and Accounts Required to be Maintained**

**1520(1)** A firm shall maintain at least the following non-trust books, records and accounts:

- (a) a daily journal or other book of original entry recording:
  - (i) for all non-trust funds received, the date of receipt, receipt number, the amount received, the form in which the money is received, and the source of the funds; and
  - (ii) for all non-trust funds disbursed, the amount, the cheque or reference number, the date of each payment or transfer and the name of each recipient.
- (b) an accounts receivable ledger or other suitable system to record in chronological order the firm and client position for each client showing statements of account rendered, payments on account and a continual running balance;
- (c) copies of billings for fees, charges and disbursements filed in chronological or numerical order in accordance with subrule 1513(1) showing all fees charged or other billings made to clients, the dates such charges are made, and the names of the clients charged; and
- (d) all supporting records, including:
  - (i) validated detailed deposit receipts or readable digital deposit images;
  - (ii) bank statements;
  - (iii) passbooks;
  - (iv) front and back images of cancelled cheques or digital cheque images;
  - (v) bank vouchers and similar documents;

- (vi) vendor invoices; and
- (vii) bills for fees, charges and disbursements.

(2) The information required to be recorded on the accounts receivable ledger referred to in subrule (1)(b) may be recorded on the client trust ledger referred to in subrule 1519(b), provided that the entries are clearly identified and are not combined with trust account information.

#### **Recording of Transactions in Books, Records and Accounts**

**1521**(1) A member shall ensure that each trust transaction is recorded in the firm's books, records and accounts including the trust journal and the client trust ledger promptly, and in any event, not more than 3 business days after the transaction.

(2) A member shall ensure that each non-trust transaction is recorded in the firm's books, records and accounts, including the general journal promptly, and in any event, not later than 7 business days after the end of the month in which the transaction occurred.

#### **Adding and Balancing Daily Journals**

**1522** A firm shall ensure that each trust and non-trust daily journal is added and balanced at least monthly, and in any event, not more than 30 days after the end of the month in which the transaction occurred.

#### **Disclosure by Financial Institution**

**1523**(1) A firm that maintains a trust account or trust accounts in any financial institution shall execute an authorization in Form TA-2 or its equivalent, permitting the institution to disclose to the Law Foundation of Saskatchewan any of the following:

- (a) an overdraft in that trust account;
- (b) the presentation of a cheque to the financial institution which, if honored, would result in an overdraft;
- (c) any other circumstance which may indicate that the balance of the trust account may be insufficient to satisfy the legitimate claims against it.

(2) The authorization referred to in subrule (1) shall contain a release and waiver signed by a member of the firm of any claim that the firm or members of the firm may have against the financial institution or any of its officers, agents or employees arising from such disclosure.

### **H. Monthly Trust and Non-Trust Reconciliations**

#### **Preparation of Monthly Reconciliations**

**1524**(1) A firm shall ensure that a monthly trust reconciliation is prepared for each pooled trust account and SIBA showing:

- (a) the total of all unexpended balances of funds held in trust for clients, as they appear in the client trust ledger; and
- (b) the total of trust fund balances held in all trust accounts, as they appear in the records of the financial institution together with the reasons for any differences between the totals.

(2) The monthly trust reconciliation shall include all pooled trust accounts and SIBAs and be supported by:

- (a) a detailed listing showing the unexpended balance of pooled trust funds held for each client, identifying each client for whom trust funds are held, and the date of the last transaction;
  - (b) recorded in that client's trust ledger for the fiscal year end listing;
  - (c) a detailed monthly bank reconciliation for each pooled trust account;
  - (d) a listing of balances of each SIBA identifying the client for whom each is held;
  - (e) a trust journal; and
  - (f) a listing of trust property received and delivered, and the undelivered portion of valuables held for each client.
- (3) The listings and reconciliations described in subrule (2) shall be retained as records supporting the monthly trust reconciliation.
- (4) The trust reconciliation required under subrule (1) shall be prepared and completed within 30 days after the end of the period to which it pertains.
- (5) A firm shall ensure that a monthly reconciliation is prepared for each non-trust account showing:
- (a) the amount of funds in the bank according to the firm's records;
  - (b) the amount of funds in the bank according to the bank's records; and
  - (c) a listing of reconciling items with supporting explanations and documentation as necessary.
- (6) Completed monthly trust and non-trust reconciliations shall be reviewed, signed and dated by a member not more than 30 days after the end of the period to which it pertains.

## **I. Maintaining a Sufficient Balance in Trust Accounts**

### **Balance in Trust Accounts**

**1525**(1) A firm must at all times maintain sufficient funds on deposit in each pooled trust account or SIBA to meet the firm's obligations with respect to funds held in trust for clients in each trust account.

(2) A member shall at no time permit:

- (a) any of the member's pooled trust accounts or SIBAs to be overdrawn; or
- (b) any individual client trust ledger account to be overdrawn.

(3) In this Rule, an account is overdrawn when, according to the firm's books, records and accounts, the firm holds less funds to the credit of a particular client or other person on whose behalf an account is maintained, than the firm owes to that particular client or other person under that account.

### **Duty to Eliminate a Trust Shortage and to Report to the Society**

**1526**(1) Members of a firm whose trust account becomes overdrawn shall pay funds into the account sufficient to eliminate the shortage within 3 business days of discovering the shortage, unless a written extension is provided by the Executive Director.

(2) Where the trust shortage referred to in subrule (1) exceeds \$1,000, the firm shall within 3 business days of discovery, report the shortage and the circumstances surrounding it, to the Executive Director in writing.

**Duty to Report to the Society an Inability to Deliver up Trust Funds or Trust Property when Due**

**1527** A member, who discovers that the member will be unable to deliver when due any trust funds or trust property held by the firm, shall immediately upon discovery, report that fact and the reasons for it to the Executive Director in writing.

**Duty to Report All Thefts**

**1528** As soon as practicable after any member of the firm becomes aware of any theft, by any person, of trust or non-trust monies from the firm, the firm shall report the theft to the Executive Director.

**J. Retention Period for Trust and Non-Trust Books, Records and Accounts****Retention Period**

**1529**(1) Subject to subrule (2), a member shall retain for at least six years all the books, records and accounts required to be maintained under this Part.

(2) Notwithstanding subrule (1), a member shall retain for at least 10 years the books, records and accounts referred to in subrule 1519(a) and (b) and subrule 1520(c), unless the Executive Director authorizes in writing a shorter retention period.

**Retention Location**

**1530**(1) Subject to subrules (2) and (3), a firm shall retain:

- (a) at its chief place of practice in Saskatchewan the books, records and accounts referred to in Rule 1529 pertaining to the most recent two-year period; and
- (b) at a location in Saskatchewan the other books, records and accounts required to be retained under this Part.

(2) A firm practicing in Lloydminster, Alberta or Flin Flon, Manitoba shall retain:

- (a) at its chief place of practice in Lloydminster or Flin Flon, as the case may be, the books, records and accounts referred to in Rule 1529 pertaining to the most recent two-year period; and
- (b) at a location in Lloydminster or Flin Flon, as the case may be, the other books, records and accounts required to be retained under this Part.

(3) Prior to giving up possession of a file, the member shall make a copy of the parts of the file that support financial transactions and record the name and contact information of the person receiving the file.

(4) A member of the Society who practices law as a member of an interjurisdictional law firm shall ensure that, with respect to the firm's practice of law in Saskatchewan, the firm's books, records and accounts, wherever maintained, are available on demand by the Executive Director or its designated agent.

**K. Canadian Deposit Insurance Corporation ("CDIC") Requirements****Filing Annual CDIC Report with Each Savings Institution**

**1531** A firm that maintains a pooled trust account in a financial institution which is insured by CDIC shall file an annual report for each such account with that institution in accordance with the *Canada Deposit Insurance Corporation Act*, so that each client's funds, rather than the pooled trust account itself, is insured up to the limit of CDIC insurance.

## **L. Member's Right to Claim Funds**

### **Rules Do Not Deprive Member of Right to Claim Funds**

**1532** Nothing in this Part deprives a firm or members of the firm of any recourse or right, whether by way of lien, set-off, counterclaim, charge or otherwise, against:

- (a) funds standing to the credit of a client in a trust account maintained by the firm; or
- (b) valuables held for a client.

## **M. Examination of a Firm's Records**

### **Audits**

**1533**(1) The auditor is authorized to attend at the offices and branch offices of any member to review any or all of the member's books and records required to be kept pursuant to the Act and these Rules.

(2) The auditor may conduct an examination of the books and records mentioned in subrule (1) in order to ascertain compliance with the Act, these Rules or the Code.

(3) The examination mentioned in subrule (2) may be performed in the office of the firm, the Society's offices or such other location approved by the Executive Director.

(4) The firm and its members shall cooperate with the auditor or such other persons authorized by clause 10(t) of the Act and comply on a timely basis with all reasonable requests.

(5) A firm shall, upon request, grant authorization to their financial institutions to provide firm bank account information directly to the Society or its representatives.

(6) Costs relating to the provision of bank account information mentioned in subrule (5) are the responsibility of the firm unless otherwise directed by the Executive Director.

(7) The auditor may complete or cause to be completed the financial or other records of any firm when considered necessary to ascertain as to whether the provisions of the Act, these Rules and the provisions of the Code have been or are being complied with by the firm and its members.

(8) At the discretion of the Executive Director, any or all costs associated with the completion of records mentioned in subrule (7) may be charged to the firm and or its members.

### **Practice Reviews**

**1534**(1) The Executive Director may direct a review of any member's practice to determine whether the member is in compliance with the Act, these Rules and the Code.

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

(3) Without limiting subrule (1), a review conducted in relation to a member's practice may be conducted at any or all of the member's offices and may include:

- (a) a review of any or all of the member's:
  - (i) files;
  - (ii) books;
  - (iii) records, including electronic records; and
  - (iv) office management systems, including but not limited to the procedures in place to reduce the risk of complaints and liability for insurance claims; and



(b) interviews with the member's staff.

(4) Members shall cooperate with the person carrying out the practice review authorized by this Rule and comply with all reasonable requests and directions, including, without limitation, successfully completing the practice management course, or any comparable or successor course.

(4.1) The Executive Director may, upon application in prescribed form, exempt any member from completing the practice management course, in whole or in part.

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

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

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

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

[Rule 1534(4) amended; Rule 1534(4.1) added, December 3, 2021]

### **Person Designated to Make a Demand**

**1535** The person designated by the Benchers to make a demand pursuant to subsection 63(1) of the Act is the Executive Director.

### **Contents of Service of a Demand**

**1536** A demand pursuant to subsection 63(1) of the Act shall:

(a) be in writing and signed by the Executive Director;

(b) state:

(i) the nature of the investigation in respect of which the demand is made;

(ii) which categories of the member's records or other property are to be produced;

(iii) the time by which and the person to whom the member's records or other property are to be produced; and

(iv) the text outlining sections 60 and 63 of the Act; and

(c) be given personally to the member or served on the member in accordance with section 85 of the Act.

### **Duty to Preserve Confidentiality**

**1537** A person who, in the course of acting pursuant to subsection 63(4) of the Act or pursuant to Rule 1533 becomes privy to information, files or records that are confidential or are subject to solicitor and client privilege, has the same obligation respecting the disclosure of that information as the member from whom the information, files or records were obtained.

## **N. Bankruptcy of a Member**

### **Duty to Report Bankruptcy to the Society**

**1538** A member who is the subject of bankruptcy proceedings shall immediately:

(a) notify the Executive Director in writing; and

- (b) provide to the Executive Director such information and documents in the member's possession or control relating to the bankruptcy proceedings that the Executive Director reasonably requests.

### **Practice Conditions**

**1539** With respect to a member who is the subject of bankruptcy proceedings, the Executive Director may:

- (a) impose any practice conditions that are determined to be appropriate in the circumstances, including but not limited to restrictions on access to trust accounts;
- (b) in cases where the Executive Director has reason to believe that the bankruptcy proceedings are a result of conduct unbecoming, refer the matter to Professional Responsibility Counsel, in accordance with clause 40(1)(b) of the Act; or
- (c) in cases where the Executive Director has reason to believe that the member's competency may be a factor in the bankruptcy proceedings, refer the matter to Professional Responsibility Counsel, in accordance with clause 40(1)(d) of the Act.

### **Notification to the Membership**

**1540(1)** There will be no notification to the membership that a member has become the subject of bankruptcy proceedings unless the Chairperson of the Competency Committee is of the opinion that there is a significant reason to do so.

(2) If the Chairperson mentioned in subrule (1) forms the opinion that there is a significant reason for notification, the Chairperson shall direct the Executive Director to promptly notify the membership of:

- (a) the identity of the member who becomes the subject of bankruptcy proceedings;
- (b) any practice conditions imposed on the member pursuant to Rule 1539; and
- (c) the identity of a member who has ceased to be the subject of bankruptcy proceedings, where that member's identity was published under clause (a).

## **O. Client Identification and Verification Requirements**

### **Requirement to Identify Client**

**1541(1)** Subject to subrule (3), a member who is retained by a client to provide legal services must comply with the requirements of this Rule in keeping with the member's obligation to know the member's client, understand the client's financial dealings in relation to the retainer with the client and manage any risks arising from the professional business relationship with the client.

(2) A member's responsibilities under this Rule may be fulfilled by any lawyer, associate or employee of the member's firm, wherever located.

(3) Rules 1542 through 1549 do not apply to:

- (a) a member when the member provides legal services or engages in or gives instructions in respect of any of the activities described in Rule 1543 on behalf of the member's employer;
- (b) a lawyer:
  - (i) who is engaged as an agent by the member for a client to provide legal services to the client; or
  - (ii) to whom a matter for the provision of legal services is referred by the member for a client, when the client's lawyer has complied with Rules 1542 through 1549; or

- (c) a member providing legal services as part of a duty counsel program sponsored by a non-profit organization, except where the member engages in or gives instructions in respect of the receiving, paying or transferring of funds other than an electronic funds transfer.

### **Information Required to be Recorded**

**1542**(1) A member who is retained by a client as described in subrule 1541(1) must obtain and record, with the applicable date, the following information:

- (a) for individuals:
  - (i) the client's full name;
  - (ii) the client's home address and home telephone number;
  - (iii) the client's occupation or occupations; and
  - (iv) the address and telephone number of the client's place of work or employment, where applicable.
- (b) for organizations:
  - (i) the client's full name, business address and business telephone number;
  - (ii) other than a financial institution, public body or reporting issuer, the organization's incorporation or business identification number and the place of issue of its incorporation or business identification number, if applicable;
  - (iii) other than a financial institution, public body or a reporting issuer, the general nature of the type of businesses or activities engaged in by the client, where applicable; and
  - (iv) the name and position of and contact information for the individual who is authorized to provide and gives instructions to the member with respect to the matter for which the member is retained.

(2) if the client is acting for or representing a third party, information about the third party as set out in subrules (1)(a) or (b) as applicable.

### **When Verification of Client Identity is Required**

**1543** Subject to Rule 1544, Rule 1545 applies where a member who has been retained by a client to provide legal services engages in or gives instructions in respect of the receiving, paying or transferring of funds.

### **Exemptions Regarding Certain Funds**

**1544** Rule 1545 does not apply:

- (a) where the client is a financial institution, public body or reporting issuer;
- (b) in respect of funds:
  - (i) paid by or to a financial institution, public body or a reporting issuer;
  - (ii) received by a member from the trust account of another member;
  - (iii) received from a peace officer, law enforcement agency or other public official acting in an official capacity;
  - (iv) paid or received to pay a fine, penalty or bail; or
  - (v) paid or received for professional fees, disbursements or expenses.
- (c) to an electronic funds transfer.

### **Requirement to Verify Client Identity**

**1545**(1) When a member is engaged in or gives instructions in respect of any of the activities described in Rule 1543, including non-face-to-face transactions, the member must:

- (a) obtain from the client and record, with the applicable date, information about the source of funds described in Rule 1543; and
- (b) verify the identity of the client, including the individuals described in subrule 1542(1)(b)(iv), and, where appropriate, the third party, using documents, data or information described in subrule (6).

### **Use of an Agent**

(2) A member may rely on an agent to obtain the information described in subrule (6) to verify the identity of an individual client, third party or individual described in subrule 1542(1)(b)(iv) provided the lawyer and the agent have an agreement or arrangement in writing for this purpose as described in subrule (4).

(3) Notwithstanding subrule (2), where an individual client, third party or individual described in paragraph 1542(1)(b)(iv) is not physically present in Canada, a member must rely on an agent to obtain the information described in subrule (4) to verify the person's identity provided the lawyer and the agent have an agreement or arrangement in writing for this purpose as described in subrule (4).

### **Agreement for Use of Agent**

(4) A member who enters into an agreement or arrangement referred to in subrule (2) or (3) must:

- (a) obtain from the agent the information obtained by the agent under that agreement or arrangement; and
- (b) satisfy themselves that the information is valid and current, and that the agent verified identity in accordance with subrule (6).

(5) A member may rely on the agent's previous verification of an individual client, third party or an individual described in subrule 1542(1)(b)(iv) if the agent was, at the time the agent verified the identity:

- (a) acting in the agent's own capacity, whether or not the agent was required to verify identity under this Rule; or
- (b) acting as an agent under an agreement or arrangement in writing, entered into with another lawyer who is required to verify identity under this Rule, for the purpose of verifying identity under subrule (6).

### **Documents and Information for Verification**

(6) For the purposes of subrule (1)(b), the client's identity must be verified by referring to the following documents, which must be valid, original and current, or the following information, which must be valid and current, and which must not include an electronic image of a document:

- (a) if the client or third party is an individual:
  - (i) an identification document containing the individual's name and photograph that is issued by the federal government, a provincial or territorial government or a foreign government, other than a municipal government, that is used in the presence of the individual to verify that the name and photograph are those of the individual;

- (ii) information that is in the individual's credit file if that file is located in Canada and has been in existence for at least three years that is used to verify that the name, address and date of birth in the credit file are those of the individual;
- (iii) any two of the following with respect to the individual:
  - (A) information from a reliable source that contains the individual's name and address that is used to verify that the name and address are those of the individual;
  - (B) information from a reliable source that contains the individual's name and date of birth that is used to verify that the name and date of birth are those of the individual, or
  - (C) information that contains the individual's name and confirms that the person has a deposit account or a credit card or other loan amount with a financial institution that is used to verify that information.
- (b) for the purposes of subrules (6)(a)(iii)(A) to (C), the information referred to must be from different sources, and the individual, member and agent cannot be a source;
- (c) to verify the identity of an individual who is under 12 years of age, the member must verify the identity of one of the individual's parents or guardians;
- (d) to verify the identity of an individual who is at least 12 years of age but not more than 15 years of age, the lawyer may refer to information under clause (6)(a)(iii)(A) that contains the name and address of one of the individual's parents or guardians and verify that the address is that of the individual;
- (e) if the client or third party is an organization such as a corporation or society that is created or registered pursuant to legislative authority, a written confirmation from a government registry as to the existence, name and address of the organization, including the names of its directors, where applicable, such as:
  - (i) a certificate of corporate status issued by a public body;
  - (ii) a copy obtained from a public body of a record that the organization is required to file annually under applicable legislation; or
  - (iii) a copy of a similar record obtained from a public body that confirms the organization's existence; and
- (f) if the client or third party is an organization, other than a corporation or society, that is not registered in any government registry, such as a trust or partnership, a copy of the organization's constituting documents, such as a trust or partnership agreement, articles of association, or any other similar record that confirms its existence as an organization.

#### **Requirement to Identify Directors, Shareholders and Owners**

(7) When a member is engaged in or gives instructions in respect of any of the activities in Rule 1543 for a client or third party that is an organization referred to in subrule (6)(e) or (f), the member must:

- (a) obtain and record, with the applicable date, the names of all directors of the organization, other than an organization that is a securities dealer; and
- (b) make reasonable efforts to obtain, and if obtained, record with the applicable date:
  - (i) the names and addresses of all persons who own, directly or indirectly, 25 per cent or more of the organization or the shares of the organization;

- (ii) the names and addresses of all trustees and all known beneficiaries and settlors of the trust; and
- (iii) in all cases, information establishing the ownership, control and structure of the organization.

(8) A member must take reasonable measures to confirm the accuracy of the information obtained under subrule (7).

(9) A member must keep a record, with the applicable date, that sets out the information obtained, and the measures taken to confirm the accuracy of that information.

(10) If a member is not able to obtain the information referred to in subrule (7) or to confirm the accuracy of that information in accordance with subrule (8), the member must:

- (a) take reasonable measures to ascertain the identity of the most senior managing officer of the organization;
- (b) determine whether the following are consistent with the purpose of the retainer and the information obtained about the client as required by this Rule:
  - (i) the client's information in respect of its activities;
  - (ii) the client's information in respect of the source of the funds described in Rule 1543; and
  - (iii) the client's instructions in respect of the transaction.
- (c) assess whether there is a risk that the member may be assisting in or encouraging fraud or other illegal conduct; and
- (d) keep a record, with the applicable date, of the results of the determination and assessment under subrules (b) and (c).

#### **Timing of Verification for Individuals**

(11) Upon engaging in or giving instructions in respect of any of the activities described in Rule 1543, a member must verify the identity of:

- (a) a client who is an individual; and
- (b) the individual authorized to provide and give instructions on behalf of an organization with respect to the matter for which the lawyer is retained.

(12) Where a member has verified the identity of an individual, the member is not required to subsequently verify that same identity unless the member has reason to believe the information, or the accuracy of it, has changed.

#### **Timing of Verification for Organizations**

(13) A member must verify the identity of a client that is an organization upon engaging in or giving instructions in respect of any of the activities described in Rule 1543, but in any event no later than 30 days thereafter.

(14) Where the member has verified the identity of a client that is an organization and obtained information pursuant to subrule (7), the member is not required to subsequently verify that identity or obtain that information, unless the member has reason to believe the information, or the accuracy of it, has changed.

### **Recordkeeping and Retention**

**1546**(1) A member must obtain and retain a copy of every document used to verify the identity of any individual or organization for the purposes of subrule 1545(1).

(2) The documents referred to in subrule (1) may be kept in a machine-readable or electronic form, if a readable paper copy can be readily produced from it.

(3) A member must retain a record of the information with the applicable date and any documents obtained for the purposes of Rule 1542 and subrule 1545(3) and copies of all documents received for the purposes of subrule 1545(1) for the longer of:

- (a) the duration of the lawyer and client relationship and for as long as is necessary for the purpose of providing service to the client; and
- (b) a period of at least six years following completion of the work for which the member was retained.

### **Application**

**1547** Rules 1541 through 1546 do not apply to matters in respect of which a member was retained before this Rule comes into force but they do apply to all matters for which the member is retained after that time regardless of whether the client is a new or existing client.

### **Criminal Activity, Duty to Withdraw at Time of Taking Information**

**1548** (1) If, in the course of obtaining the information and taking the steps required in Rule 1542 and subrules 1545(1) or (3), a member knows or ought to know that the member is, or would be assisting a client in fraud or other illegal conduct, the member must withdraw from representation of the client.

(2) This section applies to all matters, including new matters for existing clients, for which a member is retained after this Rule comes into force.

### **Monitoring**

**1549** During a retainer with a client in which the member is engaged in or gives instructions in respect of any of the activities described in Rule 1543, the member must:

- (a) monitor on a periodic basis the professional business relationship with the client for the purposes of:
  - (i) determining whether the following are consistent with the purpose of the retainer and the information obtained about the client as required by this Rule:
    - (A) the client's information in respect of the client's activities;
    - (B) the client's information in respect of the source of the funds described in Rule 1543; and
    - (C) the client's instructions in respect of transactions.
  - (ii) assessing whether there is a risk that the member may be assisting in or encouraging fraud or other illegal conduct; and
- (b) keep a record, with the applicable date, of the measures taken and the information obtained with respect to the requirements of subrule (a) above.

### **Criminal Activity, Duty to Withdraw**

**1550**(1) If, while retained by a client, a member knows or ought to know that the member is or would be assisting the client in fraud or other illegal conduct, the member must withdraw from representation of the client.

(2) This Rule applies to all matters for which a member was retained before this Rule comes into force and to all matters for which the member is retained after that time.

## **P. Withdrawal from Practice**

### **Duties of Firms and Members**

**1551**(1) A firm shall close all trust accounts within 90 days after withdrawing from or winding up a practice, unless written consent from the Society is obtained.

(2) Within 90 days after withdrawing from the practice of law in Saskatchewan, a member or former member must:

- (a) confirm to the Executive Director in writing that all trust accounts have been closed in accordance with Rule 2301(2)(b); and
- (b) provide a letter from each bank in which a trust account was located stating that the trust account is closed.



## **PART 16**

### **Reporting Requirements**

#### **Definitions**

**1601** In this Part:

“**disqualified**” means not entitled to practise law for the period of the disqualification;

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

“**member**” means an active member as defined in Part 7 of these Rules or a person entitled to practise law in Saskatchewan in accordance with mobility provisions set out in Part 8 of these Rules.

#### **Filing of Report on Commencement of Practice**

**1602** A firm shall, within 30 days after commencing to practise law, deliver to the Society a Registration Form, as mentioned in Rule 902.

#### **Change in Fiscal Period**

**1603** A firm that changes the fiscal period shown in the Registration Form mentioned in Rule 1602 or the Annual Report filed most recently with the Executive Director shall, within 30 days of the change, notify the Executive Director in writing of the firm’s new fiscal period.

[Rule 1603 amended, December 4, 2020]

#### **Filing of Annual Reports**

**1604**(1) A firm shall, within three months after the end of each fiscal period deliver or cause to be delivered to the Executive Director:

- (a) an Annual Report;
- (b) a Power of Attorney; and
- (c) an Accountant’s Report, unless exempt pursuant to Rule 1605.

(2) A firm shall, within three months after termination of practice or termination of the existence of the firm or association in or with which a member formerly practised, deliver or cause to be delivered to the Executive Director:

- (a) an Annual Report;
- (b) a Power of Attorney; and
- (c) an Accountant’s Report, if required.

(3) The Executive Director may approve a firm’s written request that the firm’s Accountant’s Report cover a time period greater than 12 months.

(4) The Annual Report, Accountant’s Report, and Power of Attorney filed for the purposes of this Rule must be completed in a form acceptable to the Executive Director.

#### **Exemption from Filing Accountant’s Report**

**1605**(1) The Executive Director may exempt a firm from the filing of the documents referred to in subrule 1604(1) for that time period if the firm satisfies the Executive Director that during the most recent

completed fiscal period or during the partial fiscal period immediately preceding ceasing or terminating practice, the firm:

- (a) did not maintain a trust bank account or handle trust money at any time; or
- (b) only used a trust bank account or handled trust money as a member of a firm required to file an annual trust account report;
- (c) has not withdrawn any funds held in trust;
- (d) was employed exclusively by a government body, except the Saskatchewan Legal Aid Commission and did not practise law outside the scope of that employment;
- (e) has complied with Part 15 of these Rules; and
- (f) within the time referred to in subrule 1604(1), has delivered to the Executive Director a statutory declaration in a form approved by the Executive Director.

(2) The Society may establish criteria upon which it may exempt a firm from the filing of document referred to in subrule 1604(1)(c).

#### **Late Filing of Reports**

**1606(1)** A firm that does not comply with Rule 1602 or 1604 is in breach of these Rules and must pay an assessment of \$500 per month for each month until the Society receives the reports.

(2) A firm that does not comply with Rule 1604 shall, when the firm delivers the Accountant's Report, include a copy of listings and reconciliations referred to in subrule 1524(2) for each month subsequent to the period to which the Accountant's Report applies.

(3) A firm that does not comply with subrule 1604(1) within 4 months after the end of the fiscal period shall, unless the Executive Director authorizes in writing to the contrary, deliver to the Executive Director by the end of each month until subrule 1604(1) is complied with, the monthly trust reconciliation referred to in subrule 1524(1).

(4) If a firm has not delivered an Accountant's Report when required, the Executive Director may do one or both of the following:

- (a) engage or assign a qualified accountant to complete the Accountant's Report;
- (b) order an examination of the firm's books, records and accounts pursuant to subrule 1533(1).

#### **Credentials to Complete Accountant's Report**

**1607** An Accountant's Report shall be completed and signed by a licensed Chartered Professional Accountant in public practice.

#### **Instruction Respecting Minimum Standards**

**1608** An Accountant's Report shall be completed in accordance with the minimum standards published by the Society.

#### **Monthly Reports**

**1609(1)** A firm shall deliver to the Society, on a monthly basis or on demand, any of the books, records and accounts described in Part 15 if required by:

- (a) Rule 1602, Registration Form;
- (b) any penalty or requirement assessed pursuant to subrules 1108(1) or 1131(3); or

(c) the Society, at its discretion.

(2) The books, records and accounts to be delivered pursuant to subrule (1) shall be delivered not more than 30 days after the end of the period to which they pertain, unless otherwise permitted in writing by the Society.

[Rule 1609(1)(a) and (b) amended, December 4, 2020]

#### **Late Filing of Monthly Reports**

**1610** A firm that does not comply with Rule 1609 is in breach of these Rules and must pay an assessment, to be invoiced by the Society, at \$500 per month for each month until the reports are received by the Society.

#### **Appeal of Late Filing Assessment**

**1611** A firm assessed a penalty pursuant to Rules 1606 or 1610 may appeal the penalty in writing to the Executive Director within 15 days of the receipt of the assessment.

#### **Disqualified from the Practice of Law**

**1612(1)** The Executive Director may disqualify a member from the practice of law who is in breach of Rule 1602, 1604, 1606, or 1609.

(2) The Executive Director may notify the member that the member will be disqualified within 30 days or such further period as may be determined by the Executive Director.

(3) A member who has been disqualified from the practice of law pursuant to subrule (1), may apply to the Executive Director for reinstatement by;

- (a) complying with Rules 1602, 1604, 1606 or 1609; and
- (b) paying to the Society any fees, assessments, fines, costs, arrears or other amounts owing and fulfillment of any obligation to the Society pursuant to Parts 9 and 16.

[Rule 1612(1) and (3)(a) amended, February 14, 2020]

[Rule 1612(1) and (3)(a) and (b) amended, September 24, 2021]

## **PART 17**

### **Unclaimed Trust Funds**

#### **Definitions**

**1701** In this Part:

“**member**” means an active member as defined in Part 7 of these Rules or a person entitled to practise law in Saskatchewan in accordance with mobility provisions set out in Part 8 of these Rules.

#### **Payment of Unclaimed Trust Funds to the Society**

**1702**(1) A member may enter the name of a client, the date of payment, and the amount held on a list when funds held in trust for the client meet all the following criteria:

- (a) the funds have been held in trust for at least two years;
- (b) the amount of the funds in trust does not exceed \$50; and
- (c) reasonable efforts have been made to locate, identify and pay the person or entity entitled to receive the funds.

(2) The member shall file the list along with a cheque for the sum of all such funds annually with the Society as part of the annual trust reporting process.

(3) When the circumstances listed in subrule (4) exist, a firm may apply for permission to pay the funds to the Society by submitting a properly completed Unclaimed Trust Funds Form (TA9) to the Executive Director.

(4) The circumstances mentioned in subrule (3) are:

- (a) funds exceeding \$50 have been held in trust by a firm for a client for two years or more;
- (b) there are no trust conditions or unfulfilled undertakings relating to the funds; and
- (c) the firm has made reasonable efforts to:
  - (i) locate and pay the person or entity entitled to receive the funds; and
  - (ii) ascertain the identity of the person or entity entitled to receive the funds.

(5) A firm that cannot provide all the information described in subrule (4) must advise the Executive Director of the reasons why the firm does not have that information and deliver to the Executive Director copies of all records in the firm’s power or possession that relate to the ownership and source of the funds.

(6) When a practice has been terminated:

- (a) the firm may apply to pay trust funds to the Society before the time periods specified in subrules (2) and (3); and
- (b) the Executive Director may accept such funds if it is in the public interest.

**Procedure to Claim Unclaimed Trust Funds**

**1703** (1) A person or the person's legal representative who claims entitlement to funds held by the Society pursuant to section 14 of the Act may make a claim in writing to the Society within 10 years of the Society receiving those funds.

(2) A claimant shall provide the Society with information and documents relating to the claim that the Society reasonably requires.

(3) The Society may make or authorize such inquiries or further investigations as it considers necessary to determine the validity of the claim.

**Procedure for Adjudication of Claims**

**1704** (1) The Executive Director may:

- (a) approve or reject a claim based on the information received pursuant to Rule 1703; or
- (b) appoint a Hearing Committee to conduct a hearing to determine the validity of the claim.

(2) Where a hearing is ordered pursuant to subrule (1):

- (a) the Society shall notify the claimant in writing of the date, time and place of the hearing;
- (b) a notice referred to in subrule (a) shall be served in accordance with section 85 of the Act and, unless the claimant consents in writing to a shorter time, not less than 30 days before the date set for the commencement of the hearing;
- (c) the hearing shall be conducted in private unless the Hearing Committee determines, in the public interest, that a specific individual or the public generally may be present for part or all of the hearing;
- (d) the Hearing Committee may determine, subject to the Act and these Rules, the practice and procedure to be followed at the hearing;
- (e) any witness shall, before testifying, take an oath or make a solemn affirmation;
- (f) if the Hearing Committee decides that the proceedings at a hearing shall be recorded by a Court Reporter, a person may obtain, at the person's expense, a transcript of any part of the hearing which the person was entitled to attend; and
- (g) the Hearing Committee may:
  - (i) make such inquiries of a witness as it considers desirable; and
  - (ii) accept any evidence that it considers appropriate and is not bound by the rules of law concerning evidence.

(3) Following the hearing of the evidence and submissions, the Hearing Committee shall determine whether the claimant is entitled to the funds held in trust by the Society.

(4) Where a claim is approved pursuant to subrule (1)(a) or (3), the amount owing to the claimant shall be determined by the Executive Director or the Hearing Committee, as the case may be, and the Executive Director shall pay that amount to the claimant out of the trust account referred to in clause 14(2)(a) of the Act.

## PART 18

### Forms of Practice

#### A. Professional Corporations

##### Registrar

**1801** The Executive Director is designated as the “Registrar” as defined in *The Professional Corporations Act*.

##### Approval for Incorporation

**1802**(1) Any member or members who intend to incorporate a Professional Corporation for the practice of law in Saskatchewan shall provide the Executive Director with the proposed articles of incorporation in advance.

(2) The Executive Director may provide consent to the incorporation of a Professional Corporation if the Executive Director is satisfied that:

- (a) the proposed name of the corporation complies with the provisions of Part 20 of these Rules and is not so similar to other Professional Corporate names as to be misleading or confusing;
- (b) the voting shares will be legally and beneficially owned by practicing members of the Society; and
- (c) the directors will be members of the Society.

##### Application for Permit

**1803**(1) A member may apply to the Society on behalf of a corporation for a permit pursuant to section 8 of *The Professional Corporations Act* by providing to the Executive Director:

- (a) a completed Form C-1;
- (b) a copy of the articles of incorporation including any amendments;
- (c) either:
  - (i) a current certificate of status issued pursuant to *The Business Corporations Act*; or
  - (ii) a certificate of incorporation, showing that the corporation was incorporated less than 60 days prior to the application having been received by the Society;
- (d) the fee as set out in Schedule 1; and
- (e) any other information required by the Executive Director.

(2) Subject to subrule (3), the Executive Director may issue a permit to a corporation which complies with the requirements of *The Professional Corporations Act*, the Act and these Rules.

(3) A permit shall be in Form C-2 and may contain any conditions that the Executive Director considers appropriate.

(4) A permit shall, unless sooner revoked, expire on December 31 in the year in which it was issued.

### **Renewal of Permit**

**1804** A corporation wishing to have its permit renewed for the following calendar year shall forward to the Executive Director:

- (a) Form C-3;
- (b) either:
  - (i) a Certificate of Status; or
  - (ii) a written certification signed by the member that the corporation remains in good standing; and
- (c) the renewal fee as set out in Schedule 1.

### **Revocation of Permit**

**1805**(1) The Executive Director may revoke the permit of any Professional Corporation which fails to meet the requirements set out in *The Professional Corporations Act* or these Rules or fails to comply with any term or condition contained in the permit.

(2) A permit shall be immediately revoked where only one member of the Society provides legal services in the name of the Professional Corporation and that person:

- (a) dies; or
- (b) is disbarred or is suspended from the practice of law or ceases to be a member.

(3) The Executive Director shall notify the corporation by registered mail of the revocation of its permit.

### **Changes in the Corporate Structure**

**1806**(1) A Professional Corporation shall notify the Executive Director in writing within 10 days of any change in its corporate structure, ownership or directors.

(2) Upon receipt of a notice pursuant to subrule (1), the Executive Director may:

- (a) continue the permit;
- (b) amend the permit to add or delete any terms or conditions; or
- (c) revoke the permit.

### **Corporate Register**

**1807**(1) The Executive Director shall maintain a corporate register containing the name and address of each Professional Corporation to which a permit is issued and the name and address of each director of the Professional Corporation to which a permit is issued.

(2) The information contained in the corporate register shall be available to the public and the corporate register shall be open for inspection by the public at the Society office during office hours.

### **Review of the Executive Director's Decision**

**1808**(1) A decision by the Executive Director pursuant to this Part may be reviewed on the application of an aggrieved person by giving notice in writing to the Society that the person wishes the matter to be reviewed by the Benchers.

(2) The Benchers may designate a review panel composed of Benchers to consider the application for review and report to the Benchers with recommendations.

(3) If the application for review states that the applicant wishes to appear personally before the Benchers, the applicant shall be given an opportunity to speak to the matter at the next Convocation of Benchers.

(4) The Executive Director shall advise the applicant in writing of the results of the review pursuant to this Rule.

### **Professional Responsibility of Members**

**1809** All members who are directors of a Professional Corporation are responsible for the activities of the corporation and may be subject to discipline for any breach of the Rules or Code by the Corporation.

## **B. Limited Liability Partnerships**

### **Definitions**

**1810** In this Part:

“**Director of Corporations**” means the Director of Corporations as defined by clause 2(n.1) of *The Business Corporations Act*.

“**LLP**” means Limited Liability Partnership.

### **Limited Liability Partnerships**

**1811** A law firm that intends to apply to the Director of Corporations to be registered as an LLP shall forward to the Executive Director a copy of the proposed application, the prescribed fee pursuant to Schedule 1, and any other information necessary to process the application.

### **Executive Director’s Initial Review**

**1812** The Executive Director shall, upon receiving the material mentioned in Rule 1811, review the status of each partner listed in the application and may:

- (a) provide the law firm with a certificate in Form C-4 certifying:
  - (i) the names of the proposed partners who are eligible to practice law in Saskatchewan in a LLP; and
  - (ii) the name of the LLP; and
- (b) impose any conditions or limitations on the partners’ practice.

### **Extra-jurisdictional LLP**

**1813** A law firm that is registered as an LLP in another jurisdiction and intends to apply to the Director of Corporations to be registered in Saskatchewan as an LLP shall forward to the Executive Director:

- (a) the prescribed fee as set out in Schedule 1;
- (b) a copy of the proposed application; and
- (c) any other information the Executive Director may require.

### **Executive Director’s Decision**

**1814**(1) Upon receiving the material mentioned in Rule 1813, the Executive Director shall review the application and if satisfied that the requirements mentioned in subrule (2) are met, may provide a certificate in Form C-5 certifying that the proposed LLP and its Saskatchewan partners meet the eligibility requirements of the Act and the Rules.

(2) The requirements mentioned in subrule (1) are that:



- (a) the proposed LLP will engage only in the practice of law;
- (b) there are one or more partners in the proposed LLP who are eligible to practice law in Saskatchewan;
- (c) each member of the LLP who is eligible to practice law in Saskatchewan has professional liability insurance which is substantially equivalent to that provided by SLIA; and
- (d) the proposed LLP has made adequate arrangements to ensure that it will comply with Parts 15 and 20 of the Rules.

#### **Register of LLPs**

**1815** The Executive Director shall keep a register of every LLP carrying on the practice of law in the Province of Saskatchewan, including the names and addresses of all partners, and any limitations on the practice of the LLP.

#### **LLP Notice to Clients**

**1816** Upon registration, an LLP shall immediately give notice to all its existing clients advising of its registration and explaining in general terms the potential changes in liability to the partners.

#### **Reporting of Changes**

**1817** An LLP shall report immediately any changes in its partnership to the Executive Director.

#### **Responsibilities of Partners**

**1818** All members of the Society who are partners in an LLP are responsible to ensure that the LLP, and any persons practicing through it, comply with *The Partnership Act*, the Act and the Rules.

### **C. Sharing Premises with Non-Lawyers**

#### **Sharing Premises**

**1819.** A member may share premises, facilities and staff with a person who is not a member of the Society, provided that:

- (a) the non-member's reputation or activities do not jeopardize the integrity of the profession;
- (b) the business of the member and the non-member are kept entirely separate; and
- (c) clients of the member are not confused as to the person with whom they are dealing.

## PART 19

### Contingent Fee and Retainer Agreements

#### Definitions

**1901** In this Part:

**“contingent fee agreement”** means an agreement which provides that a member’s remuneration for services to be provided for or on behalf of a client is contingent, in whole or in part, on the successful disposition of the matter in respect of which the services are provided;

**“retainer agreement”** means an agreement which provides that a member is retained by a client to act on the client’s behalf for one or more matters or generally for a specified period of time for a sum of money paid by the client in advance of any services performed by the lawyer.

#### Contents of Contingent Fee Agreements

**1902**(1) Every contingent fee agreement that a member enters into with a client shall be in writing.

(2) A member who enters into a contingent fee agreement with a client shall ensure that the agreement:

- (a) is fair and the member’s remuneration provided for in the agreement is reasonable, under the circumstances existing at the time the contract is entered into;
- (b) states that any party to the agreement may apply to the Court pursuant to subsection 64(3) of the Act for a determination as to whether the agreement is fair and reasonable;
- (c) does not purport to exclude the member’s liability for negligence;
- (d) does not purport to require the member’s consent before a client may abandon, discontinue or settle the cause; and
- (e) does not purport to prevent the client from changing lawyers before the conclusion of the retainer.

(3) Each party to a contingent fee agreement must sign it, and the member shall deliver a copy of the agreement to each such party.

#### Prohibited Agreements

**1903** A member shall not enter into a contingent fee agreement:

- (a) for services that relate to a child custody or access matter; or
- (b) for services that relate to a family law dispute, unless the form and content of the agreement have been approved by the Court.

#### Fees Payable Pursuant to Contingent Fee Agreements

**1904** A member who prepares a bill for fees earned and disbursements and other expenses charged pursuant to a contingent fee agreement shall ensure that the total remuneration payable to the member:

- (a) does not exceed the remuneration provided for in the agreement; and
- (b) regardless of the remuneration provided for in the agreement, is reasonable under the circumstances existing at the time that the member prepares the bill.

#### Retainer Agreements

**1905**(1) Every retainer agreement that a member enters into with a client shall be in writing.

- (2) A member who enters into a retainer agreement with a client shall ensure that the agreement:
- (a) specifies in clear and unequivocal language the term of the agreement, whether any further fees or disbursements will be charged, what specific matters are covered by the agreement; and
  - (b) does not mislead clients in any way with respect to the services covered by the agreement.
- (3) Funds received pursuant to a retainer agreement are considered trust funds as defined in Rule 1501 and must be treated as such, in accordance with Part 15 of these Rules.

**Application of Part**

**1906** (1) In this Rule, “**Former Rules**” means the Rules of the Society that were in force before these Rules come into force.

(2) This Part applies only to agreements that a member enters into with a client on or after the date on which the individual Former Rules came into force.

## PART 20

### Marketing of Legal Services

#### Definitions

**2001** In this Part:

“**weakened state**” means a physical, emotional or mental condition which may render a prospective client unduly vulnerable to persuasion or importuning by a lawyer and shall, without limiting the generality of the foregoing, be deemed to include the state of any prospective client who is an alleged victim of physical or sexual abuse or both.

#### Specific Prohibitions

**2002**(1) No member shall initiate contact with a prospective client who is in a weakened state for the purpose of soliciting the prospective client’s legal work except by mail or advertisement.

(2) Any correspondence, brochure or informational package sent to or intended to be provided to prospective clients shall state in bold letters at the bottom of every page “Advertising material. This is a commercial solicitation.”

(3) Any correspondence sent to a named prospective client in physical and sexual abuse cases must be marked personal and confidential and state how the member obtained the identity of the prospective client.

(4) A member may only attend a meeting held to provide information to a group of prospective clients who are in a weakened state if:

- (a) the meeting is arranged by the prospective clients or other non-members who are not connected to the member; and
- (b) the member has been invited by the prospective clients or non-members who are arranging the meeting.

## PART 21

### Prepaid Legal Services

#### Definitions

**2101** In this Part:

“**lawyer**” means a member as defined in Part 1;

“**plan**” means an agreement or arrangement whereby a lawyer agrees to provide legal services to a plan member according to the terms of the plan;

“**plan sponsor**” means any person or persons including trade unions, associations and corporations;

“**plan member**” means any person who is eligible to receive legal services from a lawyer by virtue of and pursuant to the terms of a plan.

#### No Participation Fee

**2102** No lawyer may participate in a plan which requires that the lawyer provide any fee or consideration of any kind directly or indirectly to the plan sponsor as a condition of the lawyer's participation in the plan.

#### Agreement with the Plan Sponsor

**2103** Before participating in a plan, every lawyer shall execute with the plan sponsor a written agreement containing the following provisions or their equivalent:

- (a) a stated recognition by the plan sponsor that there is no solicitor and client relationship between the plan sponsor and the lawyer, and that the plan member, in all cases, is the client; and
- (b) agreement that:
  - (i) after referral by the plan sponsor of a plan member to a lawyer, the plan sponsor shall not communicate with the plan member concerning the matters upon which the plan member is seeking legal advice;
  - (ii) the plan sponsor shall not purport to direct the lawyer with respect to the conduct of the plan member's affairs or in any way attempt to influence the plan member or the lawyer, respecting legal matters;
  - (iii) monies paid into trust by or on behalf of a client are not subject to direction by the plan sponsor;
  - (iv) all information received by the lawyer in the course of the member's representation of a plan member shall be confidential and, subject to clause (v), shall not be communicated to the plan sponsor;
  - (v) the lawyer may release information to the plan sponsor which, in the opinion of the lawyer, is necessary for the purposes of billing or paying of fees or for statistical purposes, upon execution by the plan member of a written authorization for such release;
  - (vi) it shall not be a requirement of participation in the plan by any plan member that any information other than the information mentioned in clause (v) shall be released to the plan sponsor;

- (vii) the lawyer may withdraw from representation of the plan member where it is appropriate to do so having regard to the Code;
- (viii) any complaints against a lawyer involving professional conduct by either the plan member or the plan sponsor will be referred to the Society;
- (ix) in case of any dispute with respect to a lawyer's fees, the taxation provisions of the Act are available in all cases.

**Duties Regarding Conflicts of Interest**

**2104** A lawyer shall not participate in a plan that interferes with the lawyer's duties and obligations with respect to conflicts of interest as defined by the Code.

**Duties Regarding Plan's Advertising**

**2105** A lawyer may only participate in the plan if the plan's advertising and promotional material conforms to the Society's Part 20 and the Code.

**Duties Regarding Unauthorized Practice**

**2106** A lawyer shall not participate in a plan that attempts to limit the lawyer's duty to report unauthorized practise to the Society.

**Acceptance of Responsibilities**

**2107** A lawyer shall ensure that every plan sponsor is aware of and accepts the lawyer's responsibilities pursuant to the Code and the Rules relating to prepaid legal service plans.

**Prohibition**

**2108** A lawyer shall not participate in a plan which attempts to circumvent any of the provisions of this Part.

## **PART 22**

### **Commencement of Proceedings**

#### **Summary Offences**

**2201** The Executive Director, or any other person authorized by the Executive Committee in a specific case, may act as informant in proceedings instituted pursuant to *The Summary Offences Procedure Act, 1990*.

#### **Injunction**

**2202** The Executive Director, or any other person authorized by the Executive Committee in a specific case, may authorize the initiation of proceedings for an injunction pursuant to section 82 of the Act.

#### **Unauthorized Practice Proceedings**

**2203** The Executive Director shall supervise the Society's activities respecting unauthorized practice in accordance with this Part and sections 30, 32, 33 and 80 to 82 of the Act.

## PART 23

### Withdrawal from Practice

#### **Disposition of Files, Trust Monies and Other Documents and Valuables**

**2301**(1) Subject to subrule (4), a member who intends to withdraw from the practice of law in Saskatchewan shall, before the withdrawal occurs, advise the Executive Director in writing of the member's intended disposition of all:

- (a) open and closed files;
- (b) wills and wills indices;
- (c) titles and other important documents and records;
- (d) other valuables; and
- (e) trust accounts and trust funds which relate to the member's practice and are within the member's possession or power.

(2) Subject to subrule (4), a member who has withdrawn from the practice of law in Saskatchewan shall, within 3 months after the withdrawal occurs, confirm to the Executive Director in writing that:

- (a) the documents and property referred to in subrule (1)(a) to (d) have been disposed of, and any way in which the disposition differs from that reported under subrule (1); and
- (b) all trust accounts referred to in subrule (1)(e) have been closed and that:
  - (i) all the balances have been:
    - (A) remitted to the clients or other persons on whose behalf they were held; or
    - (B) transferred to another member with written instructions concerning the conditions attaching to them; and
  - (ii) any interest earned on a mixed trust account has been remitted to the Law Foundation in accordance with Part 15 of these Rules.

(3) The Executive Director may, upon application in writing by the member or former member, extend the time limit referred to in subrule (2).

(4) A member who withdraws from a law firm in circumstances where the firm will continue in existence and will continue to have possession and power over the documents, property and accounts described in subrule (1), is not required to comply with subrule (1) or (2).

#### **Succession Plan**

**2302**(1) A member who practises with a firm shall maintain a written succession plan for the member's law practice.

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

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



(d) any other event resulting in the invalidation of the member's licence to practise.

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

- (a) open and closed files;
- (b) wills and wills indices;
- (c) titles and other important documents and records;
- (d) other valuables;
- (e) trust accounts and trust funds; and
- (f) other accounts related to the member's practice; and

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

[Rule 2302(1) amended, December 4, 2020]  
[Rule 2302(2)(d) added, June 25, 2021]

## PART 24

### Repeal, Coming into Force and Transition

#### Repeal of Former Rules

**2401**(1) In this Rule and Rule 2402, “**Act**” means *The Legal Profession Amendment Act, 2019*.

(2) The Law Society Rules that were in effect immediately before section 1 of the Act comes into force are repealed as of the date on which section 1 of the Act comes into force.

#### Coming into Force

**2402** These Rules come into force on the day on which section 1 of the Act comes into force.

#### Transitional

**2403**(1) In this Rule, “**Former Rules**” means the Rules of the Law Society of Saskatchewan that were in force immediately before these Rules come into force.

(2) Subject to Rule 1142, every investigation and action commenced pursuant to any of the Former Rules is continued and is to be conducted in conformity with these Rules as far as is consistent with these Rules.

(3) Every requirement, obligation, condition or prohibition pursuant to the Former Rules respecting any matter governed by these Rules:

- (a) remains in effect and is continued; and
- (b) may be enforced and otherwise dealt with pursuant to these Rules as if the requirement, obligation, condition or prohibition had been imposed, acquired, accrued, incurred, undertaken or made pursuant to these Rules.

(4) Every licence issued pursuant to the Former Rules that is in force on the day on which the Former Rules are repealed:

- (a) is continued subject to the same terms and conditions, if any, pursuant to which it was issued until it expires or is amended, cancelled or renewed pursuant to these Rules; and
- (b) may be dealt with as if made pursuant to these Rules.

#### Waiver of Rule

**2404** The Benchers may, by a decision of two thirds of the Benchers present and entitled to vote, vary, waive or suspend any Rule other than subrule 503(3).

## SCHEDULE 1

### Law Society Fees and Assessments

*Note:* The federal goods and services tax applies to Law Society fees and assessments.

<b>A. Active Member Annual Fee</b>	<b>\$</b>
1. Practice fee .....	2,175
2. Special Fund assessment (included in Practice fee) .....	100
3. Late payment fee.....	75/wk or part thereof
4. Quarterly payment administration fee .....	100
<b>B. Inactive Member Fees</b>	
1. Inactive member annual fee.....	150
<b>C. Liability Insurance Assessment</b>	
1. Annual Assessment.....	926
2. Late payment fee.....	75/wk or part thereof
3. Insurance deductible reimbursement late payment fee .....	100
<b>D. Student-at-law Fees</b>	
1. Student-at-law application fee .....	175
2. Articling fee .....	175
3. Articling assignment fee .....	175
<b>E. Admission as a Lawyer Fees</b>	
1. Lawyer admission application fee .....	175
2. Lawyer enrollment fee .....	175
3. Admission on transfer application fee (Lawyer or Canadian Legal Advisor) .....	175
4. Admission on transfer enrollment fee (Lawyer or Canadian Legal Advisor) .....	750
<b>F. Interjurisdictional Practice Permit</b>	
1. Interjurisdictional Practice Permit .....	175
2. Interjurisdictional Practice Permit Renewal .....	175

**G. Reinstatement Fees**

1. By former member, following disbarment ..... 2,000
2. By disqualified member becoming an active or inactive member .... 175 plus fee for year of default
3. All other applications for reinstatement ..... 175

**H. Certificate of Standing Fee**

1. Certificate of Standing Fee ..... 100

**I. License and Permit Fees**

1. Foreign legal consultant permit fee ..... 500
2. Foreign legal consultant renewal fee ..... 150

**J. Waiver of Rules**

1. First application ..... 100
2. Each subsequent application respecting the same Rule ..... 250

**K. Professional Corporation**

1. Application for registration of Professional Corporation ..... 200
2. Application for registration of Limited Liability Partnership ..... 200
3. Annual renewal for Professional Corporation ..... 200

**L. Continuing Professional Development**

1. Approval of remedial CPD plan ..... 500
2. Appeal of decisions ..... 100
3. Reinstatement fee payable by member disqualified for failing to comply with  
the CPD Policy ..... 750
4. Late compliance fee ..... 400

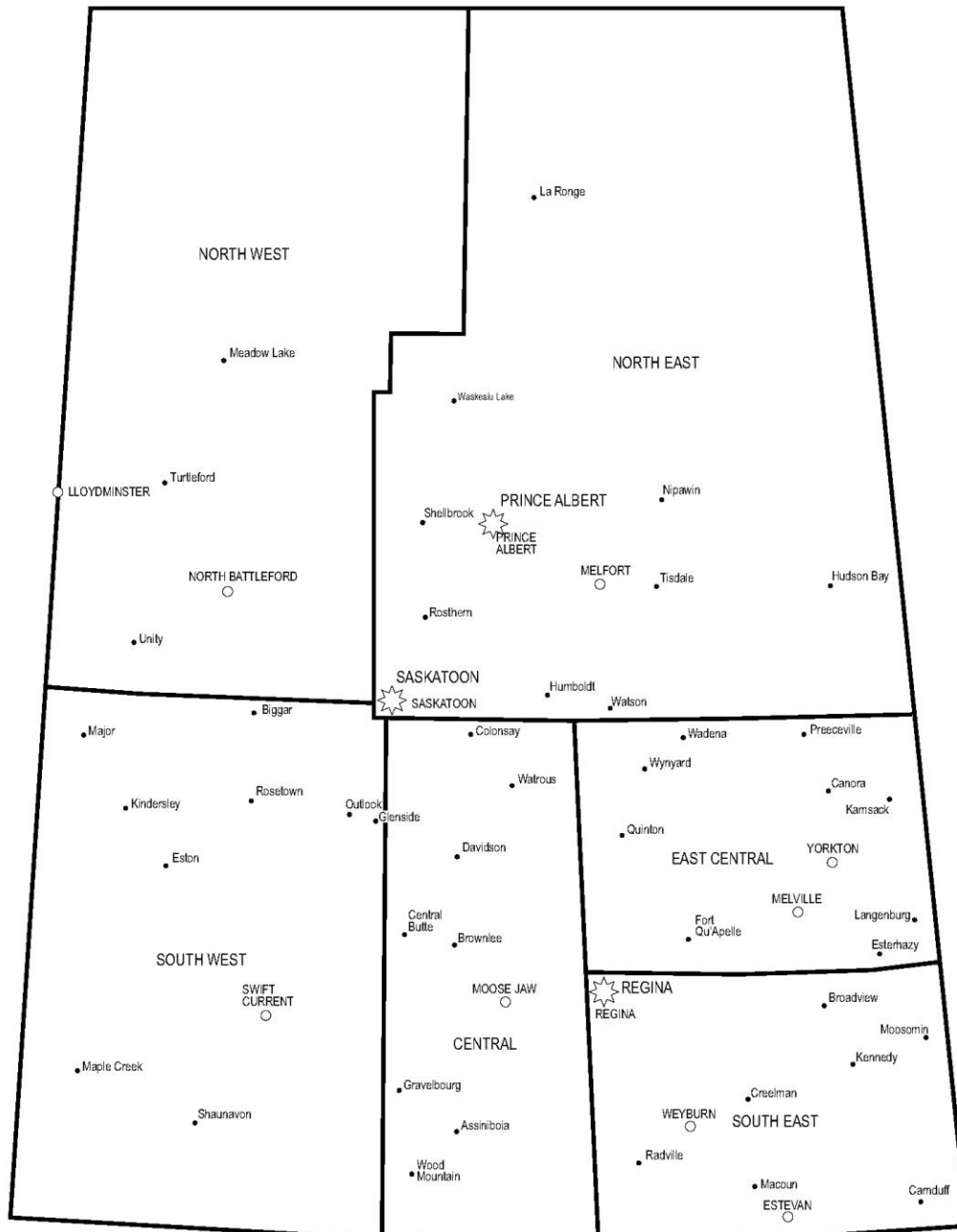
**M. Firm Regulation Compliance**

1. Late delivery fine ..... 200
2. Compliance fine ..... 500 per month

[Item D(4) and (5), Student-at-law Fees, deleted, May 1, 2020]

## SCHEDULE 2

### Electoral Divisions



The Law Society of Saskatchewan  
Electoral Districts

# PRACTICE DIRECTIVES

## Practice Directive Number 1 – Remote Execution of Certain Documents via Electronic Means

(Enacted March 25, 2020)  
(Amended August 7, 2020)

### Law Society of Saskatchewan Practice Directive

#### Number 1

#### Remote Execution of Certain Documents Via Electronic Means

WHEREAS the Government of Saskatchewan has enacted *The Electronic Information and Documents (Remote Witnessing) Amendment Regulations, 2020*, *The Land Titles (Remote Witnessing) Amendment Regulations, 2020*, and *The Powers of Attorney (Remote Witnessing) Amendment Regulations, 2020* that modify the requirements of how the execution of certain documents may be witnessed by lawyers to allow for the witnessing of signatures via electronic means;

AND WHEREAS ‘electronic means’ is defined as being an electronic method of communication that includes both audio and visual aspects, such that the lawyer and the signator can both hear and see each other during the course of the meeting and execution of the document;

AND WHEREAS the Law Society of Saskatchewan is entitled to impose additional regulatory requirements in relation to the manner in which lawyers avail themselves of these regulations;

AND WHEREAS the Law Society of Saskatchewan is authorized to issue directives;

THE LAW SOCIETY OF SASKATCHEWAN HEREBY DIRECTS that lawyers who avail themselves of these regulations shall:

- require that a signator(s) display photo identification, and ensure that they obtain a screen capture (or alternatively a photo of their screen) showing the face of the signator(s) of the documents alongside their photo identification;
- manage risks associated with fraud, identity theft, undue influence, duress and potential lack of capacity by:
  - o Considering whether there are red flags of fraud in the matter;
  - o Assessing whether there is a risk that the client may be subject to undue influence or duress, including observing who else is physically in the room with the client during the execution of documents. If there is such a risk, consider if you are able to assist the client at this time without meeting in person;
  - o Confirming your client’s understanding about the documents they are executing and provide adequate opportunity for them to ask questions during the meeting carried out by electronic means.
  - o Being alert to the fact that persons may attempt to use the execution of documents by electronic means as an opportunity to commit fraud or other illegal acts.
- amend any jurats as required to include the words “via electronic means” or other appropriate details to ensure that users of the signed document are fully aware of the manner in which the document was signed.

- prepare a written record, in Form PD1 prescribed by the Law Society of Saskatchewan for placement on the client file, detailing how the above noted risks associated with the execution of documents by electronic means were addressed.

Lawyers continue to be required to adhere to all Law Society of Saskatchewan Rules governing client identification and verification.

*The Land Titles (Remote Witnessing) Amendment Regulations, 2020* do not apply to lawyers from outside of Saskatchewan who are not members of the Law Society of Saskatchewan.

## Form PD1 – Declaration of Lawyer Who has Witnessed Documents via Electronic Means

(Enacted March 25, 2020)  
(Amended August 7, 2020)

### FORM PD1

#### DECLARATION OF LAWYER WHO HAS WITNESSED DOCUMENTS

#### VIA ELECTRONIC MEANS

I \_\_\_\_\_, of \_\_\_\_\_, in the Province of \_\_\_\_\_, a Lawyer, did on \_\_\_\_\_, \_\_\_\_\_ witness \_\_\_\_\_ sign the following documents via electronic means:

- 1.
- 2.
- 3.

Pursuant to Law Society of Saskatchewan Practice Directive 1, issued March 25, 2020 and amended on August 7, 2020, I have turned my mind to the risks associated with the witnessing of documents via electronic means. I have assessed the following risks, and have answered “yes” or “no” to indicate where I have identified concerns:

1. Have I identified any indicia that the transaction might be fraudulent? \_\_\_\_\_
2. Did I identify concerns, including the physical presence of a third party in the company of my client while they were signing the documents, suggesting that there is a risk that the client may be subject to undue influence or duress? \_\_\_\_\_
3. Did I identify concerns about my client’s understanding about the documents they are executing? \_\_\_\_\_
4. Did I identify concerns about my client not having an adequate opportunity to ask questions about the document being signed? \_\_\_\_\_

Where I have indicated “yes” to the statements above, I managed the risks by the following means:

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Attached hereto is a screen capture of my client with their photo identification that was presented to me via electronic means during the session where the above noted documents were executed.

I DO SOLEMNLY DECLARE that the statements contained in this form are complete and true in every respect. AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

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DATE

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Signature of Lawyer



## **Practice Directive Number 2 – Wire Transfer Procedures via Online Wire Payments Service**

(Enacted April 16, 2020)

### **Law Society of Saskatchewan Practice Directive**

#### **Number 2**

#### **Wire Transfer Procedures Via Online Wire Payments Service**

WHEREAS the Law Society of Saskatchewan wishes to facilitate the wire transfer process for lawyers during the current state of emergency, by permitting lawyers to complete wire transfers through their firm's financial institution's Online Wire Payments Service;

AND WHEREAS 'Online Wire Payments Service' is defined as being an electronic method by which the lawyer has the ability to create and approve the wire transfer of money from the lawyer's trust account through the bank's platform using the bank's website or mobile phone application;

AND WHEREAS Law Society Rule 1514(5) states:

A member may make or authorize the withdrawal of funds from a pooled trust account by wire transfer provided all the following conditions are met:

- (a) the system will produce, not later than the next banking day, a confirmation form from the financial institution confirming the details of the transfer, which includes the following:
  - (i) the date of the transfer;
  - (ii) source trust account information, including account name, financial institution and account number;
  - (iii) destination account information, including account name, financial institution, financial institution address and account number;
  - (iv) the name of the member authorizing the transfer; and
  - (v) the amount of the transfer
- (b) the member must:
  - (i) complete and sign a requisition for the transfer in a form approved by the Executive Director;
  - (ii) submit the original requisition to the appropriate financial institution;
  - (ii) retain a copy of the requisition;
  - (iv) obtain the confirmation referred to in subrule (a) from the financial institution;
  - (v) retain a hardcopy of the confirmation; and
  - (vi) immediately on receipt of the confirmation, verify that the money was drawn from the trust account as specified in part (a) of the requisition.

AND WHEREAS subrule 1514(5)(b)(i)-(iii) may result in unnecessary challenges to lawyers in completing wire transfers during the current state of emergency;

AND WHEREAS the Law Society of Saskatchewan is entitled to impose and amend regulatory requirements in relation to the manner in which lawyers complete wire transfers;

AND WHEREAS the Law Society of Saskatchewan is authorized to issue directives pursuant to Law Society of Saskatchewan Rule 1143;

AND THE LAW SOCIETY OF SASKATCHEWAN HEREBY DIRECTS that lawyers who avail themselves of Online Wire Payments Services shall:

- When setting up Online Wire Payments Service with the financial institution:
  - Ensure Electronic Funds Transfer (EFT's) or any other withdrawals from the account, other than by cheque, are disabled and obtain written confirmation from the bank confirming such;
  - All wire transfers to be approved with Dual Authentication;
  - All wire transfers must be approved by a lawyer. A non-lawyer may initiate the transfer but a lawyer must approve the transfer;
  - In firms with 3 or more lawyers, a wire transfer must be approved by 2 lawyers;
  - In firms with 10 or more lawyers, firms must limit the number of lawyers to five that are set up to approve wire transfers;
  - A "user name" for each lawyer approving the transfers, will be chosen by the firm and assigned by the financial institution. This user name must be the first letter of the first name and the last name for this user name (i.e. jdoe) rather than a numerical identifier.
- When initiating an online wire transfer:
  - Implement segregation of duties, where possible;
  - Obtain the details of the wire transfer from the client in written form and verbally confirm those details with the client;
  - The bookkeeper should create the wire transfer by entering the details of the transaction into the banking software;
  - The bookkeeper must send the written details of the transaction to the lawyer(s) approving the transfer and the lawyer must ensure the information entered into the banking software is correct prior to approving the transfer;
  - The lawyer(s) will approve the transfer either via the mobile app or the bank's online website with Dual Authentication;
  - If mobile phones are being used to approve wire transfers, the phone must be password protected and have automatic screen lock;
  - If the transfer is not confirmed as received by the client within 24 hours the lawyer must trace the transfer through the wire transfer tracking system and contact the bank if required;
  - In accordance with Rule 1514(5), confirmation of the wire transfer details must be produced no later than the next banking day.
- Consider whether there are red flags of wire transfer fraud in the transaction.

## **Practice Directive Number 3 – Remote Execution of Wills via Electronic Means**

(Enacted April 16, 2020)

(Amended August 7, 2020)

### **Law Society of Saskatchewan Practice Directive**

#### **Number 3**

### **Remote Execution of Wills Via Electronic Means**

WHEREAS the Government of Saskatchewan has amended *The Wills Regulations* in a manner that modifies the requirements of how the execution of wills may be witnessed by lawyers to allow for the witnessing of signatures via electronic means;

AND WHEREAS ‘electronic means’ means an electronic means of communication that includes both audio and visual aspects by which the testator of a will and the witnesses are able to hear and see each other at all times during the course of their meeting;

AND WHEREAS the Law Society of Saskatchewan is entitled to impose additional regulatory requirements in relation to the manner in which lawyers avail themselves of these measures and regulations;

AND WHEREAS the Law Society of Saskatchewan is authorized to issue directives;

THE LAW SOCIETY OF SASKATCHEWAN HEREBY DIRECTS that lawyers who avail themselves of these amended regulations shall:

- upon receipt of a signed but unwitnessed, or partially witnessed, non-holograph will from a testator, a lawyer must, before signing as a witness, complete a line by line comparison of that document against the document that the lawyer created and sent to the client to ensure that no unauthorized alterations have been made while the document has been in transit;
- where the lawyer did not draft the will and is acting as a witness only, and therefore has no document to compare the partially signed will against, the lawyer shall, before signing as a witness, read the entirety of the will to the testator during the meeting via electronic means to confirm the intentions of the testator;
- where the testator has made handwritten amendments or interlineations on the face of the will, the amendments/interlineations must be confirmed by the lawyer, word for word, with the testator during the meeting via electronic means;
- require that the signator(s) display photo identification, and ensure that they obtain a screen capture (or alternatively a photo of their screen) showing the face of the signator(s) of the documents alongside their photo identification;
- manage risks associated with fraud, identity theft, undue influence, duress and potential lack of capacity by:
  - o Considering whether there are red flags of fraud in the matter;
  - o Assessing whether there is a risk that the testator may be subject to undue influence or duress, including observing who else is physically in the room with the testator during the execution of documents. If there is such a risk, consider if you are able to assist the testator at this time without meeting in person;

- o Confirming the testator's understanding about the documents they are executing and provide adequate opportunity for them to ask questions during the meeting carried out by electronic means; and
  - o Being alert to the fact that persons may attempt to use the execution of documents by electronic means as an opportunity to commit fraud or other illegal acts.
- amend any jurats as required to include the words "via electronic means" or other appropriate details to ensure that users of the signed document are fully aware of the manner in which the document was signed.
  - prepare a written record, in Form PD3 prescribed by the Law Society of Saskatchewan for placement on the client file, detailing how the above noted risks associated with the execution of documents by electronic means were addressed and detailing that the contents of the will were verified through line by line comparison or, where necessary, through oral recitation.

Lawyers continue to be required to adhere to all Law Society of Saskatchewan Rules governing client identification and verification.

## Form PD3 – Declaration of Lawyer Who has Witnessed a Will via Electronic Means

(Enacted April 16, 2020)  
(Amended August 7, 2020)

### FORM PD3

#### DECLARATION OF LAWYER WHO HAS WITNESSED A WILL

##### VIA ELECTRONIC MEANS

I \_\_\_\_\_, of \_\_\_\_\_, in the Province of \_\_\_\_\_, a Lawyer, did on \_\_\_\_\_, \_\_\_\_\_ witness, via electronic means, \_\_\_\_\_ (the “Testator”) acknowledge their signature affixed to their will as Testator.

During the meeting via electronic means the second witness signature was dealt with via the following means:

\_\_\_\_\_ I was physically in the presence of \_\_\_\_\_, who acted as the second witness to the Testator’s acknowledged signature;

**OR**

\_\_\_\_\_ The Testator was physically in the presence of \_\_\_\_\_, who acted as a first, in-person witness to the will and that individual acknowledged their signature to me;

**OR**

\_\_\_\_\_ the Testator and I were joined via electronic means by \_\_\_\_\_, who acted as the first remote witness to the will and that individual acknowledged their signature to me and the Testator. The Testator acknowledged the Testator’s signature to both of us.

Pursuant to Law Society of Saskatchewan Practice Directive 3, issued April 16, 2020 and amended August 7, 2020, I confirm that:

\_\_\_\_\_ I have completed a line by line comparison of the will that I prepared against the partially executed will that I received back from the Testator and have confirmed that no unauthorized alterations were made.

**OR**

\_\_\_\_\_ I was acting as a witness only in relation to the Testator’s will, and as I had no document that I had created to compare to, I read the entirety of the will aloud to the Testator during our meeting via electronic means to confirm the Testator’s intentions.

Any alterations or interlineations on the face of the will that I received from the Testator were read aloud to the Testator and confirmed during our meeting via electronic means.

I have turned my mind to the risks associated with the witnessing of documents via electronic means. I have assessed the following risks, and have answered “yes” or “no” to indicate where I have identified concerns:

1. Have I identified any indicia that the transaction might be fraudulent? \_\_\_\_\_
2. Did I identify concerns, including the physical presence of a third party in the company of my client while they were signing the documents, suggesting that there is a risk that the client may be subject to undue influence or duress? \_\_\_\_\_
3. Did I identify concerns about my client's understanding about the documents they are executing? \_\_\_\_\_
4. Did I identify concerns about my client not having an adequate opportunity to ask questions about the document being signed? \_\_\_\_\_

Where I have indicated "yes" to the statements above, I managed the risks by the following means:

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Attached hereto is a screen capture of, or a photograph of a screen showing my client with their photo identification that was presented to me via electronic means during the session where the above noted documents were executed.

I DO SOLEMNLY DECLARE that the statements contained in this form are complete and true in every respect. AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Signature of Lawyer

[Practice Directives 1 – 3 and Form PD1 added for historical purposes, June 1, 2020]  
[Form PD3 added for historical purposes. Was inadvertently missed in the June 1, 2020 additions]  
[Practice Directive 1 and Form PD1; Practice Directive 3 and Form PD3 amended, September 18, 2020]