



AMENDMENTS TO THE *CODE OF PROFESSIONAL CONDUCT* (September 22, 2023):

At September 2023 Convocation, the Benchers approved amendments to the *Code*. Amendments are listed at the end of each Chapter.

The amendments are highlighted below.

At September Convocation, amendments to the *Code of Professional Conduct* were approved by the Benchers pertaining to *Chapter 5 – Relationship to the Administration of Justice, 5.1 The Lawyer as Advocate*. The amendments address concerns about legal professionals engaging in communications with courts and tribunals contrary to the general rule against discussing specific cases with judges in the absence of the other party, except in exceptional cases. The additions were made to outline the exceptional nature of ex parte proceedings and to highlight the care lawyers should take when engaging in routine, single-party correspondence with a tribunal.

The addition of Ex Parte Proceedings, Rule 5.1-2B and related Commentaries, addresses the duties of counsel and highlights the existing duty to act with the utmost good faith and inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision. The addition of Single-Party Communications with a Tribunal, Rule 5.1-2C and related Commentaries, sets out the established ethical principle that communicating with a tribunal on a matter of substance in the absence of opposing counsel or parties is not permitted except (1) where authorized by law or the tribunal, (2) where the opposing counsel or party has been made aware of the content of the communications and has consented, or (3) where the opposing counsel or party has appropriate notice.

Ex Parte Proceedings – heading added

5.1-2B – Rule added and Commentary [1] – [3] added.

Single-Party Communications with a Tribunal – heading added

5.1-2C – Rule added and Commentary [1] – [4] added.