Part I – Interpretation

Citation

1.01 These rules may be cited as the Law Society Rules.

Definitions

1.02 In these rules,

"**Act**" means the *Law Society Act, 1999*.

"**Fees**" means all fees, levies, and assessments chargeable by the Society and includes a levy, non-practising fee, certificate or membership fee, assurance fund fee, contingency fee, errors and omissions insurance fee and surcharges, bar admission course fee, student admission fee, administration fee, reinstatement fee, professional law corporation registration and annual fees, and any other fee, levy and assessment fixed by the Benchers and penalty, costs and expenses, fines and any other amounts imposed or ordered by an adjudication panel or the Benchers together with any interest thereon at rates fixed by the Benchers from time to time.

(Amended: Rule 1.02(b) Summer Term Convocation, June 10, 2005)

"**Bar Admission Committee**" means the bar admission committee created by Part VI of these rules as a sub-committee of the education committee.

"**Convocation**" means any regular meeting of Benchers, held as contemplated by section 17(1) of the Act.

"**Legal practitioner**" means a member, a person enrolled under section 39 of the Act and a member of the bar of another province or territory in Canada

(Adopted: Rule 1.02(e) Special Meeting, December 20, 1990)

"**Rules**" means the Law Society Rules.

"**Deductibles**" means errors and omissions insurance deductibles together with any interest thereon at rates fixed by the Benchers from time to time.

(Amended: Rule 1.02(g) Winter Term Convocation, January 25, 1999)

Rules of interpretation

1.03 (1) Words and phrases used in these rules having a defined meaning in the Act shall, except where an express provision herein, or the context, otherwise requires, have a corresponding meaning in these rules.

(2) Words used in these rules importing the masculine gender include the feminine and neutral gender, and vice versa; and words in the singular include the plural, and vice versa.

(Amended: Rule 1.03(2) Summer Term Convocation, June 10, 2005)

(3) Headings used in these rules are inserted for convenience of reference only and shall not be resorted to for the purpose of interpretation of these rules.

Reference to parts

1.04 A group of rules having the same numeral to the left of a decimal point and grouped together under a separate part in these rules may be cited separately as follows:

PART I – Interpretation

PART II – Organization of the Society

PART III – The Library

PART IV – Election Rules

PART V – Trust Account Rules

PART VI – Education and Bar Admission Rules

PART VII – Non-Member Appearances Rules

PART VIIA – National Mobility Agreement Rules

PART VIII – Professional Practice Rules

PART IX – Discipline Rules

PART X – Fees and Related Matters

PART XI- Professional Law Corporations

PART XII – Supervision of Legal Assistants

PART XIII – Assurance Fund Rules

PART XIV – Practice Investigation

PART XIVA – Practice Management Reviews

PART XV – Cash Transactions and Record Keeping Requirements

PART XVI – Client Identification and Verification Requirements

PART XVII – Miscellaneous

PART XVIII – Witnessing, Commissioning and Notarizing Documents

followed in each case by the number of the rule in question. For example, rule 4.01 of these rules may also be cited as “election rule 4.01.”

(Amended: Rule 1.04 Summer Term Convocation, June 10, 2005)

Compliance with forms

1.05 Whereby these rules a person is required to complete, sign or file a form, technical non-compliance with such requirement shall not invalidate such form provided that there is substantial compliance therewith.

Part II – Organization of the Society

Definitions

In these rules, “**firm**” includes an individual member, a professional law corporation, a partnership of members or professional law corporations or any combination thereof, carrying on the practice of law where one set of accounts is maintained.

(Rule 2.01: Adopted Summer Term Convocation, June 10, 2005)

Seat

2.02 The permanent seat of the Society shall be at the rooms of the Society in St. John’s.

Seal

2.03 Benchers may adopt a seal for the Society.

(Rule 2.03: Amended Special Meeting, May 30, 2019)

Terms

2.04 The terms of the Society shall be as follows: – Fall, December, Winter, Spring and Summer.

(Rule 2.04: Amended Fall Term Convocation, October 4, 2010)

Roll of the Society and other archives

2.05 (1) The roll of the Society, as required to be kept pursuant to section 28(1) of the Act shall comprise:

a.) the existing barristers' roll, as added to from time to time, which shall be kept on parchment and on which shall be entered the names of the barristers who shall have seniority according to the dates of their several enrollments.
b.) such other records, files and information pertaining to members as may be maintained from time to time by the vice president, including, but not limited to, records of the suspension, disbarment or resignation of a member from the Society.

(2) The register of students as required to be kept pursuant to section 28(2) of the Act shall comprise:

a.) the existing students register which shall be kept on parchment and on which shall be entered the names of all students according to the period of their several admissions.
b.) such other records, files and information pertaining to students as may be maintained from time to time by the vice president, including but not limited to, records of the suspension, striking from the register, or resignation of a student.

(3) When and so often as it shall be necessary to attach an additional piece of parchment to the roll or register of the Society, such addition shall be made in the presence of at least five members present in convocation.

(4) The vice president shall, during his or her term of office, safely keep the roll of the Society, the register of students and any other archives of the Society and shall take such steps as the vice president deems necessary for the preservation, conservation, restoration and separate storage of all or any part of same.

(5) No alteration or addition shall be made in or upon the parchment of the roll of the Society or the register of students, except under the authority of convocation.

Convocation and other meetings

2.06 (1) Benchers shall meet in convocation at least five times during the calendar year, provided that if any unfinished business so require, a meeting may be adjourned and held out of term until such business has been completed in which case such business may be deemed to have been done in term.

(Rule 2.06(1): Amended Fall Term Convocation, October 4, 2010)

(2) Special meetings of the Benchers may be convened, at any time, whether within or without term, in the manner provided in section 17(3) of the Act. A notice stating the objects of the special meeting shall be given to each Bencher at least one day previous to the day of meeting, and no other business shall be taken up at such meeting.

(3) In default of a quorum, after the lapse of thirty minutes beyond the hour of meeting, the president, or in his or her absence the vice president, or in the absence of the president or vice president, the Bencher being the senior barrister present, may adjourn convocation or any special meeting to another day.

(4) The proceedings of Benchers in convocation shall be conducted as nearly as may be according to the ordinary parliamentary mode.

(5) After any question is put, no further debate thereon shall be allowed, but the contents and the non contents shall be recorded at the request of any Bencher.

Order of procedures at convocation

2.07 *(Repealed: Rule 2.07 Spring Term Convocation April 11, 2022)*

Reading of minutes

2.08 It shall be the duty of the vice president at each convocation to read, or cause to be tabled, the minutes of the previous convocation or special meeting, which, after being approved, shall be signed by the president or the chair *pro tem*.

Vote by ballot

2.09 The election of the president, vice-president, and all other officers, and the co-option of any Bencher shall be by ballot, and by the majority of all votes cast.

Presiding officers in convocation

2.10 (1) The president for the time being shall preside in convocation and all special meetings of Benchers. In the absence or inability of the president to sit, the vice president shall preside; and in the absence or inability of the president and vice president to sit, Benchers shall choose from amongst the elective Benchers a presiding officer in accordance with section 20(5) of the Act.

(2) The President, as the presiding officer, shall determine the contents of the agenda for all Convocations and Meetings of Benchers and the Executive Committee.

(3) Where the President refuses to place any item on an agenda, they shall report the decision in writing at each meeting.

(4) Notwithstanding rule 2.07(3), Benchers may reverse, rescind, modify or vary any previous decision of the President with respect to the contents of the agenda if such decision has not, at the time of such reversal, rescission, modification or variation, been acted upon and if no third person will be adversely affected or prejudiced thereby.

Vacancy in office of president

2.11 (1) Where a vacancy occurs in the office of president during the term of office of a president, the vice president shall assume the office of president for the remainder of the term. In the event that the vice president refuses or is unable to act, the Benchers shall, at the first convocation after a vacancy in the office of president has occurred, or at a special meeting that is sooner called, elect a president from the elective Benchers who shall serve as president for the remainder of the term of office.

(2) A retiring president shall be eligible for re-election.

Vacancy in office of vice president

2.12 (1) Where a vacancy occurs in the office of vice president during the term of office of a vice president, whether by reason of the assumption of the office of president pursuant to rule 2.11 or for any other reason, the Benchers shall, at the convocation after a vacancy in the office of vice president has occurred, or at a special meeting that is sooner called, elect a vice president from the elective Benchers who shall serve as vice president for the remainder of the term of office.

(2) A retiring vice president shall be eligible for re-election.

Financial accounts

2.13 The president shall lay before convocation in spring term a statement of the financial affairs of the society. Such financial statements shall include a statement of revenue and expenditure for the fiscal period most recently ended and a balance sheet

as at the date of the society's most recent fiscal year end, and shall have been audited by the auditors of the society.

Banking

2.14 The bank or banks as designated by the Benchers shall be the bank of deposit and account for the Law Society of Newfoundland and Labrador, and the president and/or vice president shall from time to time cause to be deposited therein to the credit of the society all moneys received for and on account of the society.

Vice president's responsibilities

2.15 In addition to the duties required of the vice president by the Act, the vice-president shall keep the minutes of the proceedings in convocation, and record the names of the Benchers present, make up the journals, convene the meetings of convocation, conduct all necessary correspondence, prepare all necessary diplomas, certificates and other services incidental to the office.

Executive Committee

2.16 (1) Following the annual election, Benchers shall establish an executive committee to consist of:

1. the president;
2. the vice president;
3. the immediate past president;

4. 1 elective Bencher who will also serve as chairperson of the Complaints Authorization Committee;
5. 1 elective Bencher who will also serve as vice-chairperson of the Complaints Authorization Committee; and
6. 1 Lay Bencher, who sha ll be appointed or reappointed annually.

(2) At any time, Benchers may appoint to the executive committee an alternate member or members who,

i) may attend all meetings of the executive committee, and
ii) may vote at any meeting when the presence of such alternate member or members shall be necessary to establish a quorum.

(Amended: Rule 2.16(1) 5 June 2026 Benchers' Meeting)

(Amended: Rule 2.16(2) 27 September 2024 Benchers' Meeting)

(Rule 2.16(8)(9)(10) Amended 4 June 2021 Benchers' Convocation)

(3) Subject to sub-section (5) and any specific restrictions imposed by Benchers from time to time, the executive committee shall:

i) have, and may exercise, all the powers, duties and responsibilities of Benchers at all times when Benchers are not in meeting;
ii) act as a screening body for items being referred to Benchers;
iii) monitor significant financial planning management and reporting matters of the Law Society, by:

a) recommending to Benchers the selection of financial advisors for the Law Society and monitoring and assessing their performance;

b) meeting with the financial advisors on a quarterly basis;

c) reviewing the audit tender process;

iv) serve as the audit committee, by:

a) reviewing the audit tender process;

b) recommending to Benchers the appointment of an auditing firm;

c) meeting with auditors to ensure that the law society has:

a. implemented appropriate systems to identify, monitor and mitigate significant risk;

b. appropriate systems of internal control;

c. fairly represented its annual financial statements; and

d. addressed any other matter deemed relevant by the auditors.

(4) The executive committee shall report in writing at each meeting of Benchers all decisions taken by the executive committee since the preceding meeting of Benchers.

(5) Notwithstanding subsection (3) Benchers may reverse, rescind, modify or vary any previous decision of the executive committee if such decision has not, at the time of such reversal, rescission, modification or variation, been acted upon and if no third person will be adversely affected or prejudiced thereby.

(6) The executive director of the society shall be an ex officio, non-voting member of the executive committee and shall act as secretary thereof.

(Amended: Rule 2.16, 5 June 2026 Benchers' Meeting)

(Rule 2.16(8)(9)(10) Amended 4 June 2021 Benchers' Convocation)

Other committees

2.17 (1) Benchers may appoint committees to further the Law Society's mandate.

(2) Unless otherwise specified in the Law Society Act, 1999 or these Rules:

i) Committee members shall be appointed by Benchers;

ii) A committee shall consist of at least 3 members, at least 1 of whom is an elected Bencher, and, where possible, at least 1 of whom is a lay Bencher;

iii) Benchers shall have regard to regional representation on Committees;

iv) Benchers shall appoint from the members of the Committee a chair of the Committee, who shall be a Bencher;

v) Committee Chairs shall be appointed/reappointed on an annual basis;

vi) With the exception of the executive committee and committee chairs, members of the committees shall be appointed for a term of 3 years and are eligible for reappointment for one further term of 3 years. Members who have served for a total of 6 years on a committee are ineligible to be reappointed to that committee until a period of 1 year has expired.

vii) Notwithstanding the expiry of their term, a member of a committee continues to be a member until they are re-appointed or their replacement is appointed.

viii) Notwithstanding anything in this rule, Benchers may, in their discretion, extend the term of a member of a committee where they consider it necessary or desirable.

ix) The chair of the Committee shall notify Benchers of any vacancy on the committee, which shall be filled by Benchers.

x) A quorum of a Committee shall be 3.

(Amended: Rule 2.17, 5 June 2026 Benchers' Meeting)

Life membership by application or nomination

2.18 (1) A member who submits an application to resign their membership in the Law Society, pursuant to rule 2.23, a former member, who has previously resigned from membership in the Law Society, or a member who submits an application to take non-practising status, pursuant to rule 2.19, may, upon retirement from active practice, apply or be nominated for life membership in the Law Society by filing form 2.18 and, on the recommendation of the Honours and Awards Committee, Benchers may bestow life membership where the member or former member:

a.) has been a practising member in the Province of Newfoundland and Labrador for twenty (20) or more years prior to the date of their application to resign from membership, or their application to seek non-practising status pursuant to rule 2.19 upon their retirement from active practice, or, in the case of a former member, had been a practising member for twenty (20) or more years prior to the effective date of their resignation from membership;

b.) will be permanently retired from the practice of law upon the effective date of their resignation from membership, or, in the case of a former member, is

permanently retired from the practice of law at the time of their application or nomination for life membership;

c.) has made a significant contribution to the practice of law and/or the legal profession in the Province of Newfoundland and Labrador; and
d.) has not pleaded guilty before an adjudication tribunal to conduct deserving of sanction or been found guilty by an adjudication tribunal of conduct deserving of sanction in respect of conduct that would be deemed by Benchers to be inconsistent with the honour of life membership.

(2) Notwithstanding the requirement in 2.18(1)(a), a former member may apply or be nominated for life membership by filing form 2.18 and, on the recommendation of the Honours and Awards Committee, Benchers may bestow life membership where the former member:

a.) is unable to practise law due to a permanent disability;
b.) has made a significant contribution to the practice of law and/or the legal profession in the Province of Newfoundland and Labrador; and
c.) has not pleaded guilty before an adjudication tribunal to conduct deserving of sanction or been found guilty by an adjudication tribunal of conduct deserving of sanction in respect of conduct that would be deemed by Benchers to be inconsistent with the honour of life membership.

(3) A former member who is also a former member of the judiciary may apply or be nominated for life membership in the Law Society by filing form 2.18 and, on the

recommendation of the Honours and Awards Committee, Benchers may bestow life membership where the former member:

a.) has a combined service of not less than thirty-five (35) years as a practising member in the Province of Newfoundland and Labrador and as a judge of a court established by the legislature of the Province of Newfoundland and Labrador or any other province or territory of Canada or as a judge of a court established by the Parliament of Canada;
b.) is permanently retired from the practice of law and from the judiciary;
c.) has made an extraordinary contribution to the law of Newfoundland and Labrador or any other province or territory of Canada or of Canada; and
d.) has not pleaded guilty before an adjudication tribunal to conduct deserving of sanction or been found guilty by an adjudication tribunal of conduct deserving of sanction in respect of conduct that would be deemed by Benchers to be inconsistent with the honour of life membership.

(4) Conduct inconsistent with the honour of life membership may include, but is not limited to, any of the following:

a.) conduct resulting in any sanction other than a reprimand ordered by an adjudication tribunal; or
b.) conduct resulting in more than one order against a respondent by one or more adjudication tribunal(s).

(5) Benchers shall not bestow life membership where the member/former member is subject to an ongoing complaint.

(6) An application for life membership may be submitted by a member or former member, or, with the consent of the member or former member, a nomination for life membership may be submitted by a member in good standing with the Law Society on behalf of an eligible member or former member.

Removal or Surrender of Life Membership

(7) Life membership shall be revoked where:

a.) the member or former member resumes the practice of law; or
b.) the member or former member pleads guilty before an adjudication tribunal to conduct deserving of sanction or has been found guilty by an adjudication tribunal of conduct deserving of sanction in respect of conduct that would be deemed by Benchers to be inconsistent with the honour of life membership.

(8) A life member may surrender their life membership by providing notice, in writing, to the executive director.

(Amended: Rule 2.18: 13 December 2021 Benchers' Convocation)

Non-practising membership

2.19 (1) Where a member applies for permission to assume non-practising status pursuant to section 32(1) of the Act the member shall forthwith file with the society a completed application for discontinuance of practice in form 2.19A.

(2) A member, including a member who is the sole voting shareholder of a professional law corporation, who applies under this rule must satisfy the executive director that arrangements for the storage of inactive files and records, the servicing of active client files and the closing out or continued maintenance and operation of the trust accounts of the member and the professional law corporation have been satisfactorily made and accord with all of the Society's policies and procedures.

(3) Upon approval by the executive director, a member shall have the status of a non-practising member, until reinstated as a practising member by the vice-president or the education committee pursuant to rules 2.21, 6.18 and 10.02.

(4) A non-practising member shall not, while holding such status, actively engage in, or hold themself out as actively engaging in the practice of law within the meaning thereof in section 2(2) of the Act

(5) A non-practising member is exempted from payment of the annual practice fee for each year that they have the status of non-practising member but shall be required to pay a non-practising member's fee as provided for in these rules.

(Rule 2.19(2), (3) & (4): Amended Winter Term Convocation, February 8, 2021)

Changes in association of practice

2.20 (1) Where a member:

a.) gives notice of changing the member's association in practice from one firm to another or gives notice of changing the name or style under which the member carries on practice;
b.) gives notice of continuing the active practice of law as a sole practitioner or as a sole voting shareholder of a professional law corporation after having practised in association with a firm or one or more legal practitioners; or
c.) gives notice of continuing the active practice of law in association with a firm or one or more legal practitioners after having practised as a sole practitioner or as the sole voting shareholder of a professional law corporation or after having practised in association with a firm or legal practitioners different from those with whom the member now proposes to associate;
d.) the member shall forthwith file with the society a completed notice of change in association of practice in form 2.20A, together with form 5.07C attesting that the member or firm with whom the member proposes to associate has in place a trust accounting system that will enable the member to comply with the trust account rules and that the member is full educated in the procedures to be followed in order to operate the trust accounting system.

(2) The form 5.07C required by sub-paragraph (1) shall not be required in circumstances where the member is associating in practice with persons who are members of an existing firm who are not in contravention of rule 5.07 and who propose

to continue to use the same trust accounts and books of account as were previously operated by that firm.

(3) A member required to give notice under this rule shall comply with all directions of Benchers relative to the storage of the member's inactive files and records, the making of arrangements for the servicing of the member's active files and the closing out or continued maintenance and operation of the member's trust accounts.

(4) If a member referred to in rule 2.20(3) is the sole voting shareholder of a professional law corporation then the member shall comply with all directions of Benchers relative to the storage of the professional law corporation's inactive files and records, the making of arrangements for the servicing of the professional law corporation's active files and the closing out or continued maintenance and operation of the professional law corporation's trust accounts.

(Rule 2.20(1)(d) & (2): Amended February 19, 2024)

Commencement or resumption of practice

2.21 (1) Where a member

a.) applies to commence the active practice of law; or
b.) applies to resume the active practice of law after having resigned, being suspended or being disbarred, or having held non-practising status;

the member shall forthwith file with the society a completed application for commencement or resumption of practice in form 2.21A together with

form 5.07C attesting that the member or firm with whom the member proposes to associate has in place a trust accounting system that will enable the member to comply with the trust account rules and that the member is fully educated in the procedures to be followed in order to operate the trust accounting system.

(2) The form 5.07C required by sub-paragraph (1) shall not be required in circumstances where the member is associating in practice with persons who are members of an existing firm who are not in contravention of rule 5.07 and who propose to continue to use the same trust accounts and books of account as were previously operated by that firm.

(3) An application for the commencement or resumption of practice in Form 2.21A must be approved by the Education Committee or the Director of Admissions and Education in accordance with Rule 6.15.

(4) Where a member applies to resume the active practice of law after having resigned, being suspended or being disbarred, the member is subject to an administration fee approved by benchers.

(Rule 2.21(3): Amended Summer Term Convocation, June 20, 2008)

(Rule 2.21(1)(b), (3) & (4): Amended Winter Term Convocation, February 8, 2021)

(Rule 2.21(1) & (2): Amended, February 19, 2024)

(Rule 2.21(3): Amended, May 26, 2026)

Insurance Exemption

2.22 Where a member applies for exemption from the requirement for professional liability insurance, the member shall forthwith file with the society a completed application in form 2.22A.

Resignations

2.23 (1) Where a member applies for permission to resign membership in the society pursuant to section 30(1) of the Act the member shall forthwith file with the society a completed application for discontinuance of practice in form 2.19A.

(2) No member shall be permitted to resign membership in the society unless:

a.) there are no outstanding and unresolved allegations and complaints pending involving the member, with the exception of those before the fitness to practice committee, and the committee has agreed that the member be permitted to permanently withdraw from practice;
b.) there are no outstanding discipline proceedings pending involving the member or no appeals are pending from any discipline decision;
c.) the member, including a member who is the sole voting shareholder of a professional law corporation, satisfies the executive director that arrangements for the storage of inactive files and records, the servicing of active client files and the closing out or continued maintenance and operation of the trust accounts of the member and the professional law corporation have been satisfactorily made and accord with all of the society's policies and procedures.

(Amended: Rule 2.23(2a), Benchers' Meeting, June 10, 2022)

(3) Upon approval by the executive director, a member shall have the status of a former member, until reinstated as a practising member by the vice president or the education committee pursuant to rules 2.21, 6.18 and 10.02.

(4) A resigned member shall not, while holding such status, actively engage in, or hold themself out as actively engaging in the practice of law within the meaning thereof in section 2(2) of the Act.

(Rule 2.23: Amended Winter Term Convocation, February 8, 2021)

Failure to comply

2.24 Failure by a member or former member to comply with rules 2.19, 2.20, 2.21 or 2.22 constitutes an allegation of conduct deserving of sanction.

Part III – The Library

(Repealed: Rules 3.01, 3.02, 3.03, 3.04 Spring Term Convocation April 10, 2017)

Part IV – Election Rules

Nomination for election as Bencher

4.01 (1) The nomination of a member of the society eligible to serve as a Bencher is valid only if:

a.) it is in writing on a nomination paper in form 4.01A, signed by two (2) members in good standing;
b.) the member who seeks to be the candidate consents in writing to the nomination; and
c.) form 4.01A is received by the society not later than sixty (60) days before the annual general meeting of the society.

(Rule 4.01(1): Amended Winter Term Convocation, February 12, 2018)

(Rule 4.01(2): Amended Summer Term Convocation, June 6, 2003)

(Rule 4.01(2): Repealed: Winter Term Convocation, February 12, 2018)

When ballots required

4.02 If more members are nominated than there are positions to be filled then within fifteen (15) days of the close of nominations the executive director shall have electronic ballots prepared containing the names of the members nominated pursuant to rule 4.01(1) and shall email one of each such ballots along with all necessary instructions to each member of the society.

(Rule 4.02: Amended Summer Term Convocation, June 6, 2003)

(Rule 4.02: Amended Winter Term Convocation, February 12, 2018)

(Rule 4.02: Amended Special Convocation, April 17, 2020)

Electronic process

4.03 (1) Electronic processes shall be used for:

a.) circulating election notices, forms, ballots, documents and other materials;

b.) voting; and

c.) counting and recording votes.

(2) Benchers shall approve the electronic process(es) to be used so as to ensure the clarity, accuracy and confidentiality of the voting process.

(Rule 4.03: Adopted Winter Term Convocation, February 12, 2018)

(Rule 4.03: Amended Special Convocation: April 17, 2020)

Voting

4.04 (1) Each member of the society may vote for a number of candidates in each district equal to the number of vacancies to be filled by election for that district at that election.

(2) Members wishing to vote in the election must do so by electronic ballot in accordance with the instructions provided.

(3) All ballots must be received by the society not less than fourteen (14) days prior to the first day of the annual general meeting, as provided in the instructions.

(Rule 4.04: Amended Winter Term Convocation, February 12, 2018)

(Rule 4.04: Amended Special Convocation, April 17, 2020)

Counting of ballots

4.05 (1) As soon as possible after the date fixed for the return of ballots in accordance with 4.04(3), the executive director shall receive, from the electronic process approved by Benchers, the total number of ballots received for each candidate. The executive director along with two other scrutineers appointed by the executive director shall access, obtain and verify the results of the electronic voting.

(Rule 4.05(1): Amended Summer Term Convocation, June 6, 2003)
(Rule 4.05(1): Amended Winter Term Convocation, February 12, 2018)

(2) A plurality of votes cast shall decide the members elected as benchers. In the event of a tie occurring for the last position of a bencher to be filled, all persons present at the annual general meeting shall be advised of the names of the members who are tied, and the members present at the annual general meeting and qualified to vote shall vote in the manner prescribed by the president or the person presiding at the annual general meeting and the person receiving the plurality of votes shall be declared elected.

(Rule 4.05(2): Amended Winter Term Convocation, February 12, 2018)
(Rule 4.05(3): Repealed Winter Term Convocation, February 12, 2018)
(Rule 4.03: Amended Special Convocation, April 17, 2020)

Rejection of Ballots

4.06 (1) A member shall not:

a.) use another member's identification information to vote electronically; or

b.) permit another person to use the member's identification information to vote electronically.

(2) A ballot shall be rejected where it:

a.) was not cast in accordance with the instructions provided;
b.) was cast by someone other than the member assigned to the ballot; or
c.) is received after the specified deadline.

(3) Any ballot which contains:

a.) a vote for any person who is ineligible to be an elective bencher; or
b.) a vote which is ambiguous or unclear as to the member voted;

is null and void in respect of that district and election shall be declared as if such votes had not been cast.

(Rule 4.06: Adopted Winter Term Convocation, February 12, 2018)

Results of elections

4.07 The president or the person presiding at the annual general meeting shall advise the meeting of the results of the votes for each district and shall cause the result of the election and names of the elected benchers to be published by any mode of publication the president considers appropriate.

(Rule 4.07: Amended Summer Term Convocation, June 6, 2003)

(Rule 4.07: Amended Winter Term Convocation, February 12, 2018)

Part V – Uniform Trust Account Rules

Definitions

5.01 In these rules,

"**Accountant**" means

i.) the Society's Trust Compliance Auditor; or

ii.) another person retained or approved by the Society to carry out the functions of an accountant under these rules who is licenced as a public accountant by the Association of Chartered Professional Accountants of Newfoundland and Labrador.

(Rule 5.01 Definition of Accountant, Amended Winter Term Convocation, February 14, 2022)

"**Act**" means the *Law Society Act, 1999*;

"**Acting in a representative capacity**" means acting as:

i.) the personal representative, executor or administrator, or one of the personal representatives, executors or administrators, of the estate of a deceased person,

ii.) a trustee, or one of the trustees, of a trust under an appointment made pursuant to a trust instrument creating the trust,

iii.) a trustee that holds property in trust for third parties until the occurrence of a condition or event that is specified in an [escrow] agreement between the third parties,

iv.) a trustee, or one of the trustees, of the property of another person under an appointment by a court, or

v.) an attorney, or one of the attorneys, of a person under a power of attorney, whether general or special, enduring or otherwise.

"**Client**" means any person or body of persons, whether or not incorporated, from whom or on whose behalf a member, or professional law corporation, in connection with the member's practice, receives money or other property;

(Rule 5.01(c): Amended Winter Term Convocation, February 6, 2012)

"**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.

"**Disbursements**" means amounts paid or required to be paid to a third party by the lawyer or the lawyer's firm on a client's behalf in connection with the provision of legal services to the client by the lawyer or the lawyer's firm which will be reimbursed by the client.

"**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 law 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/postage, and paralegal costs.

"**Financial institution**" means

a.) a bank that is regulated by 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.) a 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 by the *Trust and Loan Companies Act (Canada)*,

h.) a trust company or loan company that regulated by a provincial or territorial Act,

i.) a department 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.

"**Firm**" includes an individual member, a professional law corporation, a partnership of members or professional law corporations or any combination thereof, carrying on the practice of law where one set of books of account is maintained;

(Rule 5.01(e): Amended Summer Term Convocation, June 10, 2005)

"**Foundation**" includes one or other of the Law Foundations of New Brunswick, Newfoundland and Labrador, Nova Scotia and Prince Edward Island, as the context requires;

(Rule 5.01(f): Adopted Winter Term Convocation, February 6, 2012)

"**General account**" means a deposit account in a financial institution authorized by law to receive money on deposit, maintained by a member in connection with the practice of law, other than a trust account;

(Rule 5.01(g): Amended Winter Term Convocation, February 6, 2012)

"**General trust account**" means a regular interest-bearing deposit account in a financial institution authorized by law to receive money on deposit, maintained by a member and designated as a trust account into which the member deposits money received in trust from or on account of more than one client, at interest that is remitted to the Foundation by the financial institution on instructions filed by the member in accordance with the by-laws of the Foundation;

(Rule 5.01(h): Amended Winter Term Convocation, February 6, 2012)

"**Member**" includes an individual member of the Society, a firm and an association of members who carry on the practice of law together other than as a firm, and in Nova Scotia member means a barrister;

(Rule 5.01(i): Amended Winter Term Convocation, February 6, 2012)

"**Legal services**" means the practice of law as defined in s. 2(2) of the *Law Society Act, 1999*.

"**Money**" includes cash, cheques, drafts, credit card transactions, post office orders, express and bank money orders, and electronic transfer of deposits at financial institutions.

(Rule 5.01(j): Amended Winter Term Convocation, February 6, 2012)

"**Specific trust account**" means a separate deposit account or instrument in a financial institution authorized by law to receive money on deposit, maintained by a member on behalf of a specific client, and designated as a trust account on behalf of that client, into which the member deposits money received in trust, at interest that is, and is intended to remain, the property of the client;

(Rule 5.01(k): Amended Winter Term Convocation, February 6, 2012)

"**Society**" includes one or other of the Law Societies of New Brunswick, Newfoundland and Labrador and Prince Edward Island, and the Nova Scotia Barristers' Society, as the context requires;

(Rule 5.01(l): Amended Winter Term Convocation, February 6, 2012)

"**Trust account**" means a general trust account or a specific trust account;

(Rule 5.01(m): Amended Winter Term Convocation, February 6, 2012)

"**Trust money**" includes

a.) money entrusted to or received by a member in the member's capacity as a barrister and solicitor in connection with the practice of law, and that belongs in whole or in part to a client; and
b.) money advanced to a member in the member's capacity as a barrister and solicitor in connection with the practice of law for fees for services not yet rendered or for disbursements not yet made.

(Rule 5.01(n): Amended Winter Term Convocation, February 6, 2012)

"**Trust property**" includes any property of value belonging to a client, other than trust money, received by a member in trust, or to be held on behalf of or at the direction or order of the client, and over which the member has sole signing authority or control in any capacity with respect to the administration of an estate or a trust, as a guardian or under a power of attorney.

(Rule 5.01(o): Amended Winter Term Convocation, February 6, 2012)

General account

5.01.1 A member who maintains a trust account shall also maintain a general account.

(Adopted Rule 5.01.1, Summer Term Convocation, June 9, 2007)

Maintenance of records

5.02 (1) Every member shall maintain, so as to be clearly distinguishable from the record of money received and disbursed in the member's general account, books,

records and accounts to record all trust money and trust property received and disbursed in connection with the member's practice, and as a minimum requirement every member shall maintain

a.) a book of original entry or data source showing the date of receipt and source of trust money for each client and identifying the client on whose behalf the trust money is received,
b.) a book of original entry or data source showing all disbursements out of trust money for each client and showing each cheque number, the date of each disbursement, the name of each recipient, and identifying the client on whose behalf each disbursement is made out of trust money,
c.) a client's trust ledger showing separately for each person on whose behalf trust money has been received all such money received and disbursed and any unexpended balance,
d.) a record showing all transfers of money between client's trust ledger accounts and explaining the purpose for which each transfer is made,
e.) a book of original entry or data source showing the date of receipt and source of all money received other than trust money,
f.) a book of original entry or data source showing all disbursements of money other than trust money and showing each cheque or voucher number, the date of each disbursement and the name of each recipient,
g.) a book, data source or chronological file of copies of billings showing all fees charged and other billings to clients, the dates such charges are made and identifying the clients so charged,

h.) a record showing a comparison made monthly of the total of balances held in all trust accounts and the total of all unexpended balances of funds held in trust for clients as they appear from the books and records together with the reasons for any differences between the totals and supported by

    i.) a detailed listing made monthly showing the amount of trust money held for each client and identifying each client for whom trust money is held, and

    ii.) a detailed reconciliation made monthly of each trust account in a financial institution, and such detailed listings and reconciliations shall be retained as records supporting the monthly trust comparisons,

i.) a record showing all trust property held in trust from time to time for all clients, and identifying the client on whose behalf the property is held,

j.) bank statements or pass books, cashed cheques and detailed deposit slips for all trust and general accounts, and

k.) a record of the instructions filed by the member with the financial institutions, in accordance with the by-laws of the Foundation, to remit to the Foundation the interest earned on the account numbers of all general trust accounts listed in form 5.07A maintained at the branch addresses of the financial institution.

(Rule 5.02(1):Amended Fall Term Convocation, October, 2004)

(Rule 5.02(1)(k): Adopted Winter Term Convocation, February 6, 2012)

(2) The entries in the books, records, data sources and accounts required to comply with subsection 5.02(1)

a.) shall be entered and posted forthwith, and the trust comparison required by subsection 5.02(1)(h) shall be made monthly within thirty days from the effective date of each comparison,
b.) shall be entered and posted in ink or a duplication thereof, or electronically, and shall be preserved for at least seven years from the most recent fiscal year end of the member.

(3) This section applies, with necessary modifications, to members acting in a representative capacity in accordance with sections 5.01 and 5.14.

Deposits and withdrawals from the trust account

5.03 (1) A member must pay into and withdraw from, or permit the payment into or withdrawal from, a trust account, only money that is directly related to legal services that the lawyer or the lawyer's law firm is providing.

(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.

Deposits in trust accounts

5.04 (1) Subject to subsection 5.04(6), a member who receives trust money shall forthwith, but no later than the first banking day following receipt, pay it into an account which

a.) is designated as a trust account,
b.) is kept in the name of the member,

c.) is kept at a financial institution, and

d.) bears interest which is remitted to the Law Foundation of Newfoundland and Labrador by the financial institution on instructions filed by the member, computed and payable in accordance with the requirements applicable to the Society and the by-laws of the Foundation, except as payable to the client on money deposited in a specific trust account.

(Rule 5.03(1)(d): Amended Winter Term Convocation, February 6, 2012)

(2) Notwithstanding subsection 5.03(1), trust money received by means of an electronic funds transfer is deemed to be deposited in a trust account when the member receives written confirmation from the financial institution providing details of the electronic funds transfer. Online confirmation may be accepted by the member provided a copy of the confirmation with the amount highlighted is printed and place in the respective client file.

(Rule 5.03(2): Amended Summer Term Convocation, June, 2006)(Rule 5.04(2): Amended Winter Term Convocation, February 6, 2012)

(3) A member shall seek the written confirmation referred to in subsection 5.04(2) no later than the close of the banking day immediately following the day on which the member was notified of the electronic funds transfer into the member's trust account.

(4) A member may keep more than one trust account.

(5) A member shall pay into a trust account only

a.) trust money,
b.) money which has been drawn inadvertently from the trust account in contravention of this section, and
c.) money received by the member representing in part money belonging to a client and in part money belonging to the member if it is not practicable to divide the payment, provided that money belonging to the member shall be drawn from the trust account without delay.

(Rule 5.03(5): Amended Winter Term Convocation, February 6, 2012)

(6) A member need not pay trust money into a trust account if

a.) in the ordinary course of business, upon its receipt, it is paid forthwith in the form in which it is received to or on behalf of the client,
b.) the client in writing requests the member to pay the trust money into a specific trust account opened in the name of the client, a person named by the client, or the authorized agent of the client, provided the member shall keep a record of the receipt and disbursement of such money, or
c.) the money is received by a member under escrow conditions whereby the money is required to be held without deposit.

(7) A member shall not pay into a trust account

a.) money which belongs to the member unless intended for payment to a third party for the purpose of completing a personal transaction being handled by the firm on behalf of the member, or
b.) money received by the member
    i.) for fees for which a billing has been delivered,
    ii.) for services already performed for which a billing is delivered forthwith thereafter, or
    iii.) to reimburse the member for disbursements made or expenses incurred on behalf of a client.

(8) Money held in trust for or on account of a client with respect to the practice of law in a specific province shall be maintained in compliance with the National Mobility Agreement or such other mobility agreements as apply to the Society, unless instructed otherwise by the client in writing.

Withdrawals and transfers from trust accounts

5.05 (1) Subject to subsection 5.05(2), a member who becomes entitled to money in a trust account shall withdraw it as soon as reasonably possible after becoming entitled.

(2) A member shall not withdraw or transfer money from a trust account except

a.) money properly required for payment on behalf of a client,
b.) money required to reimburse the member for money properly expended or for expenses properly incurred on behalf of a client,

c.) money properly required for or toward payment of the members fees for which a billing or other written notification has been delivered to the client,
d.) money that is directly transferred into another trust account and held on behalf of a client, or
e.) money that has been deposited inadvertently into a trust account in contravention of this rule,

but in no case shall withdrawals or transfers exceed the balance of the money held in trust for the client

(3) Other than allowed by subsection 5.05(2), money shall not be withdrawn or transferred from a trust account unless a person designated by the Society specifically authorizes its withdrawal or transfer in writing.

(4) A member shall only withdraw money from a trust account

a.) by a cheque made in compliance with subsection 5.05(5), or
b.) by means of an electronic funds transfer completed in accordance with subsection 5.05(6).

(5) A cheque drawn on a trust account shall

a.) be marked as a trust cheque,
b.) be payable to a named payee,
c.) not be payable to cash or to bearer,

d.) not be released from the member's office or law firm until there are funds on deposit to the credit of the client on whose behalf the cheque is drawn,
e.) to be signed by a member, and
f.) include the date, the payee and the amount prior to the signing of the cheque. A member shall not sign a blank trust cheque.

(Rule 5.04(5)(d): Amended Summer Term Convocation, June 10, 2005)
(Rule 5.04(5)(e): Adopted Summer Term Convocation, June 9, 2006)
(Rule 5.04(5)(f): Amended Summer Term Convocation, June 9, 2006)

(5.1) Where a member practices alone and without any partners or associates, arrangements must be made for another member to sign the trust cheque during periods of absence from the firm.

(Rule 5.1: Adopted Summer Term Convocation, June 9, 2006)

(6) A member shall only withdraw money from a trust account by means of electronic funds transfer if the following conditions are met:

a.) the electronic transfer system used by the member does not permit an electronic transfer of funds without a password or access code to authorize a financial institution to carry out the transfer;
b.) the member maintains the password or access code referred to in subsection 5.05(6)(a);

c.) the electronic funds transfer system will produce, no later than the close of the banking day immediately following the day on which the electronic transfer of funds was authorized, a written confirmation from the financial institution confirming that the data describing the details of the transfer and authorizing the financial institution to carry out the transfer was received;

d.) the confirmation referred to in subsection 5.05(6)(c) contains

    i.) the number of the trust account from which the trust money is drawn,

    ii.) the name, branch name and address of the financial institution where the account to which the money is transferred is kept,

    iii.) the name of the person or entity in whose name the account to which money is transferred is kept,

    iv.) the number of the account to which money is transferred or such other identifying reference as may be required to confirm the payment on account of the client as requested,

    v.) the time and date that the data describing the details of the transfer and authorizing the financial institution to carry out the transfer are received by the financial institution, and

    vi.)the time and date that the confirmation from the financial institution was sent to the member;

e.) before any data describing the details of the electronic funds transfer or authorizing the financial institution to carry out the transfer is entered into the electronic funds transfer system, an electronic trust transfer requisition in a form approved by the Society and signed by the member; and

f.) the data entered into the electronic funds transfer system describing the details of the transfer and authorizing the financial institution to carry out the transfer is specified in the electronic funds transfer requisition.

(Rule 5.04(6)(c): Amended Summer Term Convocation, June 10, 2005)

(7) No later than the close of the banking day immediately following the day on which the confirmation referred to in subsection 5.05(6)(c) is sent to a member, the member shall

a.) produce a printed copy of the confirmation,
b.) compare the printed copy and the signed electronic funds transfer requisition relating to the transfer to verify whether the money was withdrawn from the trust account as specified in the signed requisition,
c.) indicate on the printed copy of the confirmation the name of the client, the subject matter of the file and any file number in respect of which trust money was withdrawn from the trust account, and
d.) after complying with subsections 5.05(7)(a) to (c), sign and date the printed copy of the confirmation.

(8) For greater certainty, a member shall not make cash withdrawals from a trust account by means of a debit card.

(9) At all times a member shall maintain sufficient balances on deposit in trust to meet the member's obligations with respect to money held in trust for clients, and all shortages shall be restored immediately by the member.

Reporting overdrafts

5.06 (1) Subject to subsection 5.06(2), the member shall report immediately to the executive director any overdrafts in the member's trust account, which report shall include a full explanation for how the overdraft occurred.

(2) A transaction which creates an overdraft in a trust account below an amount sufficient to meet all of the member's obligations shall not be a violation of these Rules and does not have to be reported if the transaction which caused the overdraft resulted from:

a.) a debit memo for financial institution charges or services charges,
b.) an error on the part of the financial institution,
c.) a delay by the financial institution in posting a cheque deposited to the account, or
d.) a cheque deposited to the account being returned by the financial institution it was drawn upon, provided the member, within three banking days of notification of the error, deposits sufficient money in the trust account to offset the shortage.

(3) An accountant shall not be required to report an incident referred to in subsection 5.06(2) if the overdraft in the trust account was less than one hundred dollars.

Reporting

5.07 (1) Upon the opening or closing of a general trust account every member shall forthwith give written notice to the executive director of the Society in which jurisdiction the member is engaged in practice.

(2) Where a member gives notice under subsection 5.07(1) of opening a trust account, the member shall also file with the executive director a form 5.07C attesting that the member has in place a trust accounting system that will enable the member to comply with the trust account Rules and that the member is fully educated in the procedures to be followed in order to operate the trust accounting system.

(Rule 5.06(2): Amended Fall Term Convocation, September 26, 2005; Rule 5.06(2) Renumbered January 2, 2020; Amended: Rule 5.07(2) Winter Term Convocation, February 19, 2024)

(3) Every member shall complete and file with the executive director not later than a date fixed by the Society a member's Annual Report in form 5.07A or a declaration in form 5.07B.

(Rule 5.06(3): Amended Fall Term Convocation, September 26, 2005)

(4) The Member's Annual Report filed under subsection 5.07(3) shall be signed only by the member, or in the case of a firm, by the managing partner or other member in authority designated by the firm, and the bookkeeper of the firm.

(Rule 5.06(4): Amended Fall Term Convocation, September 26, 2005)

(5) If, in the opinion of the executive director, a member fails to provide sufficient information in the Member's Annual Report to confirm that the member is complying with these Rules, the executive director may request the member in writing to provide additional information by such time and to such extent as the executive director considers necessary, including filing a further report on a fixed or periodic basis.

(6) Every member who is subject to exemption under subsection 5.09(1), shall complete and file with the executive director not later than a date fixed by the Society a declaration in form 5.07B confirming the exemption.

(Rule 5.06(6): Amended Special Term Convocation, December 5, 2005)

Suspension for failure to file

5.08 If a member fails to file a report in form 5.07A or 5.07B within the time required under section 5.07,or fails to provide additional information in compliance with a request under subsection 5.07(5), the executive director shall send a notice in writing to the member and/or firm informing the member and/or firm that if form 5.07A or 5.07B is not filed within fifteen (15) days from the date of delivery of the notice to the member and/or firm, the member's membership or enrollment in the Society shall be suspended until such time as:

i.) the member and/or firm files the report or provides the information;
ii.) the member pays an administration fee approved by Benchers;
iii.) the member complies with all conditions, restrictions and requirements imposed in accordance with the Rules; and

iv.) the member complies with rules 2.21, 6.18 and 10.02.

(Rule 5.07: Amended Special Term Convocation, December 5, 2005)

(Rule 5.08: Amended Winter Term Convocation, February 8, 2021)

Exemptions

5.09 (1) These Rules do not apply to a member who,

a.) does not engage in the private practice of law or,
b.) practices exclusively as an employee of government, an agency of government, a local government authority, corporation or other non-member of the Society, or
c.) by reason of the nature of the member's practice it is not necessary to maintain a trust account.

(2) A member who is registered as a non-practising member is exempt from the filing of a declaration in form 5.07B.

(Rule 5.08: Amended Special Term Convocation, December 5, 2005)

Investigations and audits

5.10 (1) The executive director may initiate an investigation or audit of the books, records, accounts and transactions of a member or former member to determine compliance with these Rules.

(2) The executive director shall select the investigator or auditor to conduct an investigation or audit under subsection 5.10(1) from a list of auditors approved by the Society or designated for the particular investigation or audit.

(3) For the purpose of ensuring that all members comply with these Rules, the executive director may implement and direct a continuing program of unannounced investigations or audits of the books, records, accounts and transactions of members

(4) The executive director may conduct a program referred to in subsection 5.10(3) by randomly selecting members whose accounts are to be investigated or audited or by dividing the members into categories and, within each category, randomly selecting members for investigation or audit.

(5) Where an investigation or audit is to be conducted under this section, the member shall produce to the person conducting the investigation or audit all evidence, books, records, papers, accounts, vouchers, files, clients' files and explanations which may be required for the investigation or audit, and failure of the member to co-operate constitutes professional misconduct.

(6) The executive director shall provide a copy of the report of an investigator or auditor to the member whose accounts have been investigated or audited.

(7) An accountant conducting an investigation or audit under this section shall, before doing so, complete and file with the executive director an undertaking to maintain strict confidentiality with respect to all matters connected with the investigation or audit.

(8) If the investigator or auditor reports that these Rules have not been complied with, the executive director

a.) may order the member in writing to take all necessary steps to comply with these Rules as specified in the order and within the time fixed for doing so, and
b.) may initiate whatever disciplinary action is appropriate, in which case the investigator's or auditor's report may be used as the basis for disciplinary proceedings, including being used as evidence.

(9) Whenever an investigation is carried out under this rule the member whose books and records are being investigated shall pay the Society costs, or part of the costs, of the investigation and the member shall pay the amount in full within the terms and dates fixed or extended by the executive director.

(10) If a member fails to comply with an order under subsection 5.10(8)(a) or fails to pay the amount determined under subsection 5.10(9) within the terms and date fixed or extended, the executive director shall suspend the member until:

i.) the member complies with the order or pays the amount;
ii.) the member pays an administration fee approved by Benchers;
iii.) the member complies with all conditions, restrictions and requirements imposed in accordance with the Rules; and
iv.) the member complies with rules 2.21, 6.18 and 10.02.

(11) This section applies, with necessary modifications, to members acting in a representative capacity in accordance with sections 5.01 and 5.14.

(Rule 5.10(10): Amended Winter Term Convocation, February 8, 2021)

Preservation of rights

5.11 Nothing in these Rules deprives a member of any recourse or right, whether by way of lien, set-off, counter-claim, charge or otherwise, against money standing to the credit of a client in the member's trust account or with respect to trust property.

Borrowing and lending

Borrowing

5.12 (1) A member shall not borrow money from a client during the existence of a solicitor and client relationship unless:

a.) the client is a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, or
b.) the client is a related person as defined by the *Income Tax Act* (Canada) and the member is able to discharge the onus of proving that the client's interests were fully protected by the nature of the matter and by independent legal advice or independent legal representation, or
c.) the executive director, because of other circumstances, authorizes the transaction.

Lending

(2) Before lending money to a client during the existence of a solicitor and client relationship a member must, before agreeing to make the loan:

a.) disclose and explain the nature of the conflicting interest to the client;
b.) require that the client receive independent legal representation;
c.) obtain the client's consent; and
d.) obtain the authorization of the executive director as required by the Law Society.

(3) When seeking the authorization of the executive director under rule 5.12(1)(c) or rule 5.12(2)(d), a member must comply with the following conditions:

a.) all requests for financial assistance must be submitted in writing and include
    i.) an explanation of the circumstances identified in paragraph (b),
    ii.) written confirmation, signed by the member and the client, that the conflicting interest has been disclosed to and explained to the client, and
    iii.) written confirmation signed by the member and the client, that no interest or administration fee will be charged,
b.) the financial assistance may be provided only in the following circumstances:
    i.) if the client is in urgent financial need that impacts the matter for which the member is retained, and
    ii.) the provision of financial assistance is a compassionate gesture to relieve personal or financial distress and not for commercial transactions,
c.) the financial assistance must not exceed $10,000.00 in total value;

d.) the provision of financial assistance will not impair the member's objectivity with regard to the matter for which the member is retained,
e.) where the client is an infant or a person under disability, these rules apply to financial assistance made through the client's guardian or representative who has the appropriate legal authority to obtain the financial assistance,
f.) the member shall not advertise the availability of financial assistance, and
g.) all requests for financial assistance must be approved by the executive director before payment is made to the client.

(4) Prior to providing the financial assistance, the member must require that the client obtain independent legal representation from another member who is fully informed of the circumstances surrounding the proposed financial assistance including the terms of repayment.

(5) If the client waives independent legal representation, the client must obtain independent legal advice and the member providing same must provide to the client a certificate of independent legal advice in a form acceptable to the Society. If a client elects to waive independent legal representation and to rely on independent legal advice only, the retained member has a responsibility that should not be lightly assumed or perfunctorily discharged.

(6) The cost of the independent legal advice may be paid by the member providing the financial assistance, in which event the cost shall be included as a disbursement and the member must confirm that the client has been advised of the disbursement.

(7) Within ten (10) days of the provision of the financial assistance, the member must provide to the executive director evidence to demonstrate compliance with these guidelines, including

1.) a copy of the lending agreement signed by the member and the client, and
2.) a copy of the certificate of independent legal advice, if applicable.

5.12.1 For the purposes of this rule,

a.) guaranteeing or co-signing a loan for a client is considered the same as lending money to a client;
b.) member includes a company controlled primarily by a member;
c.) “independent legal representation” means a retainer in which
    i.) the retained lawyer, who may be a lawyer employed as in-house counsel for the client, has no conflicting interest with respect to the client’s transaction, and
    ii. the retained lawyer will act as the client’s lawyer in relation to the matter;
d.) “independent legal advice” means a retainer in which:
    i.) the retained lawyer, who may be a lawyer employed as in-house counsel for the client, has no conflicting interest with respect to the client’s transaction,
    ii.) the client’s transaction involves doing business with:
        I.) another lawyer, or

II.) a corporation or other entity in which the other lawyer has an interest other than a corporation or other entity, whose securities are publicly traded,

iii.) the retained lawyer has advised the client that the client has the right to independent legal representation,

iv.) the client has expressly waived the right to independent legal representation and has elected to receive no legal representation or legal representation from another lawyer,

v.) the retained lawyer has explained the legal aspects of the transaction to the client, who appeared to understand the advice given, and

vi.) the retained lawyer informed the client of the availability of qualified advisers in other fields who would be in a position to give an opinion to the client as to the desirability or otherwise of a proposed investment from a business point of view;

(Amended Rule 5.11, Special Term Convocation, December 7, 2009; Amended, Benchers' Convocation, 11 February 2013)

Bankruptcy and insolvency

5.13 (1) Every member admitted as such by the Society shall immediately notify the executive director upon

a.) receipt of a petition under the *Bankruptcy and Insolvency Act* (R.S. 1985, C. B-3) in which the court is asked to make a receiving order with respect to the property of the member,
b.) the making by the member of an assignment under the *Bankruptcy and Insolvency Act*,
c.) the making by the member of a proposal under the *Bankruptcy and Insolvency Act.*

(2) From the date of the event set out in rule 5.12(1), until the petition, assignment, proposal or receiving order has been satisfied, withdrawn, discharged or is otherwise of no further force or effect, the member and the trustee of the estate of the member in bankruptcy shall not, without written permission of the executive director, accept from or on behalf of clients any money or other property, except in payment of costs and fees of the member, and then only on such conditions imposed by the executive director.

(Amended Part V, Summer Term Convocation, June, 2004 to come into force October 1, 2004; Amended Rule 5.12, Winter Term Convocation, February 22, 2005)

Acting in a representative capacity

5.14 (1) When a member receives money in a representative capacity, the money must not be paid into the member's trust account but must be paid into a separate trustee account that has been established by the member for that purpose.

(2) Sections 5.02 and 5.05 of this rule apply to all trustee accounts operated by a member.

(3) Members are required to notify the auditor, selected by the executive director, of all trustee accounts over which the member has control and must submit, on demand, the books, records, accounts and documentation thereof in a form sufficient to accommodate an examination, review, audit or investigation ordered by the executive director and co-operate with the auditor selected in the conduct of any examination, review, audit or investigation that may be ordered.

Failure to comply

5.15 Failure to comply with these Rules shall constitute an allegation of conduct deserving of sanction.

(Adopted Rule 5.13, Special Term Convocation, December 5, 2005)

(Amended – Part V – Uniform Trust Account Rules, January 2, 2020)

Part VI – Education and Bar Admission Rules

Definitions

6.01(1) In this Rule,

"**Act**" means the *Law Society Act, 1999*, SNL 1999, c. L-9.1, as amended from time to time.

"**Approved Program**" means a degree program at a law school in Canada that has been approved by Benchers.

"**Articles of Clerkship**" means a written contract between a Student and a principal, who shall be a Member.

"**Articling Term**" has the meaning provided in Rule 6.08(1).

"**Bar Admission Course**" means a course for the instruction of matters relating to the practice of law in Newfoundland and Labrador, which shall be offered at least once every calendar year.

"**Bar Admission Examinations**" means those examinations prepared and administered by the Law Society as a pre-condition to being admitted to the bar.

"**Director**" means the Law Society's Director of Admissions and Education.

"**Member**" means a person enrolled as a member of the Law Society who has not been struck off the roll of the Law Society.

"**Required Form**" means the form required by the Law Society and includes any documents, forms and information that the Law Society may request.

"**Rules**" means the Law Society Rules, as amended from time to time.

"**Student**" means a student-at-law who is entered on the register of students of the Law Society.

Composition and Structure of Education Committee

6.02(1) The Education Committee is hereby established and continued.

(2) The Education Committee shall be comprised of:

(a) the vice president;

(b) the chair of the Bar Admission Committee; and

(c) 5 persons who must be Members or lay Benchers, appointed by Benchers, at least one of whom shall be a Bencher.

(3) The chair of the Education Committee shall be appointed by Benchers and shall be a Bencher who is appointed to the Education Committee pursuant to Rule 6.02(2)(c).

(4) A quorum for meetings of the Education Committee shall be 3.

Duties and Powers of the Education Committee

6.03(1) In addition to those duties set forth in the Act, the duties and responsibilities of the Education Committee shall include the following:

(a) to regulate, develop, and set standards for admission to the Law Society of persons as Students and Members;

(b) to regulate, develop, and set standards for non-practising Members, suspended Members, or former members making an application for the commencement or resumption of practice;

(c) to regulate, develop, and conduct a Bar Admission Course, with the assistance of

the Bar Admission Committee;

(d) to develop, set, and administer Bar Admission Examinations, with the assistance of the Bar Admission Committee;

(e) to advise Benchers regarding matters related to the educational, academic, moral, and other qualifications required of Students and Members;

(f) to set standards for, and to implement programs relating to, Members' continuing professional development; and

(g) such other duties and responsibilities as may be delegated to it by Benchers.

(2) The Education Committee may vary or waive the requirements of Rule 6 in special circumstances, except where prohibited by the Act.

Composition and structure of the Bar Admission Committee

6.04(1) There is hereby established and constituted, as a sub-committee of the Education Committee, a committee known as the Bar Admission Committee.

(2) The chair of the Bar Admission Committee shall be appointed by the Education Committee following the completion of the Bar Admission Examinations and supplementary examinations (if required) each year.

(3) The size and composition of the Bar Admission Committee shall be determined by its chair, in consultation with the Education Committee.

(4) A quorum for meetings of the Bar Admission Committee shall be 4.

Duties of the Bar Admission Committee

6.05 Subject to these Rules and the direction of the Education Committee, the Bar Admission Committee shall facilitate the development, revision, and delivery of the Bar Admission Course, Bar Admission Examinations, and supplementary Bar Admission Examinations.

Enrollment as a Student

6.06(1) An applicant seeking admission to the Law Society as a student shall:

(a) be of good character and reputation;
(b) have either graduated from an Approved Program or received a Certificate of Qualification from the National Committee on Accreditation, not more than 3 years prior to the date the applicant proposes to commence their Articling Term;
(c) submit an application to the Law Society in Required Form, which shall include Articles of Clerkship executed by the applicant and the proposed principal;
(d) pay such admission fee(s) as may be fixed from time-to-time by Benchers; and
(e) satisfy any other requirement(s) that may be set by the Education Committee.

(2) The Director may approve applications for admission to the Law Society as a student.

(3) An application that is not approved by the Director under Rule 6.06(2) shall be referred to the Education Committee for a decision.

(4) The Education Committee may impose such conditions, restrictions, or requirements on the admission of a Student as it considers necessary to protect the public interest.

(5) A complete application for admission to the Law Society as a student shall be submitted to the Law Society no later than:

(a) the second Monday in May, for admission to the Articling Term commencing on June 1st; or
(b) the second Monday in December, for admission to the Articling Term commencing on January 30th.

Notwithstanding the foregoing, an applicant seeking to commence their Articling Term on June 1st may provide their transcript no later than June 30th of that same year.

Principals

6.07(1) A Member may act as principal to no more than 3 Students at one time, provided that:

(a) the Member is a resident of Newfoundland and Labrador;
(b) the Member has been continuously engaged in the full-time practice of law within Newfoundland and Labrador for the previous 5 years;
(c) the Member is not, nor has been, subject to any restrictions or proceedings, including, but not limited to practice conditions and disciplinary actions, that may, in the opinion of the Education Committee, impair their ability or fitness to act as a

principal; and

(d) there is no other reason that, in the opinion of the Education Committee, may impair or bring into question the Member's ability or fitness to act as a principal.

(2) A Member who does not meet the requirements under Rule 6.07(1) may apply to the Education Committee for approval to serve as a principal and the Committee may, in its discretion, grant or refuse such an application.

(3) The Education Committee may inquire into a Member's suitability to act or to continue to act as principal to a Student and may do any of the following:

(a) conduct or authorize any person to conduct an investigation concerning the fitness of the Member to act as a principal;

(b) require the Member to appear before the Education Committee and to respond to questions of the Committee; or

(c) order the Member to produce any documents, records, or files that the Education Committee may reasonably require.

(4) Following an inquiry pursuant to Rule 6.07(3), the Education Committee may do any of the following:

(a) permit the Member to act as a principal;

(b) permit the Member to act as a principal, subject to conditions, restrictions, or requirements; or

(c) refuse permission for the Member to act as principal.

(5) The onus is on the Member to demonstrate that they are suitable to act as a principal to a Student.

(6) Articles of Clerkship may be assigned to another Member by filing an assignment of articles in Required Form with the Law Society, provided that the assignment must be approved by the Director or the Education Committee.

(Amended Rule 6.07 Winter Term Convocation, February 19, 2024)

Term and Service of Articles

6.08(1) A Student shall work in the practice of their principal(s) pursuant to the terms of their Articles of Clerkship for a term of at least 52 weeks, which shall include attendance at the Bar Admission Course (the “Articling Term”).

(2) Unless otherwise provided by this Rule or the Act, the Articling Term must be continuous, except for:

(a) leave of up to 20 working days at the discretion of the principal; and/or
(b) a leave of absence granted by the Education Committee.

(3) Any time taken for matters referred to in Rule 6.08(2)(b) shall not be included in the calculation of the Articling Term.

(4) A person who applies for admission as a Student may request that some or all of their Articling Term be completed on a part-time basis. Such a request must be made

at least 8 weeks before the commencement of the Articling Term and, in addition to the ordinary requirements set out under Rule 6.06, shall include:

(a) written approval of the arrangement by the current or prospective principal;
(b) a detailed description of the working arrangement, including (i) the type of experience to be provided by the principal, (ii) the hours per day to be worked by the Student, and (iii) the length of the proposed Articling Term.

(5) A Student who has not been enrolled as a Member within 3 years from the date they commenced their Articling Term shall be removed from the register of Students. Such persons are eligible to reapply for admission as a Student pursuant to Rule 6.06.

(6) Where a person is enrolled as a Student for a second or subsequent time, the Education Committee may grant credit for some or all time the Student has previously articled.

(7) A Student employed as a law clerk of a judge of any division of the Supreme Court of Newfoundland and Labrador, the Newfoundland and Labrador Court of Appeal, the Federal Court of Canada, the Federal Court of Appeal, or the Supreme Court of Canada may earn credit toward their Articling Term for the time they are so employed to a maximum of twenty-six (26) weeks, except for a Student employed as a law clerk to a judge of the Tax Court of Canada who may earn credit to a maximum of twelve (12) weeks, provided that:

(a) the judge provides a written report to the Education Committee detailing their assessment of the Student's character and competence; and

(b) the Student spends the remainder of their Articling Term in the service of their principal(s) according to a schedule approved by the Education Committee.

(8) For the purposes of calculating the Articling Term:

(a) A week is comprised of five (5) working days and no additional credit is permitted for working more than five (5) working days in a week; and

(b) A working day is comprised of seven (7) hours of scheduled work and no additional credit is permitted for working more than seven (7) hours in a working day.

(9) In the event that an articling relationship is terminated:

(a) both the Student and the Principal must provide written notice to the Director within one week of the termination, which shall include the effective date of the termination and the reason for the termination;

(b) the principal must provide a report satisfactory to the Education Committee detailing the work completed and experience gained by the Student up to the date of termination;

(c) the onus is on the Student to obtain another articling placement in order to complete their Articling Term; and

(d) the Education Committee will make a determination as to what portion, if any, of the period of time spent in the terminated articling position will be credited towards the Student's Articling Term.

(Amended Rule 6.08(7)(9) , August 13, 2024)

Responsibilities of Principals and Students

6.09(1) A Student shall devote their full time and attention to the practice of their principal and other Members within their firm/organization, as assigned by their principal, and shall not engage in another vocation or business endeavour without the consent of their principal and the approval of the Education Committee.

(2) A Student must receive such experience and instruction during their Articling Term as directed by the Education Committee. Students and their principals shall be provided with such direction at the time of the Student's admission.

(3) Where a principal is not able to provide their Student with any of the experience and/or instruction required by the Education Committee pursuant to Rule 6.09(2), the principal shall make the necessary arrangements for the Student to obtain such experience and/or instruction from another Member or Members.

(4) Arrangements made under Rule 6.09(3) shall not require an assignment of the Articles of Clerkship.

(5) A Student shall file a report detailing their progress with respect to the experience and instruction required pursuant to Rule 6.09(2), in Required Form, within the date range specified by the Director.

(6) Where the Education Committee is not satisfied with the progress detailed in the report described in Rule 6.09(5), it may direct the Student and/or principal to take

certain steps to ensure compliance with the requirements set out in this Rule prior to the end of the Articling Term.

(7) Upon fulfilling the requirements set out in this Rule, the Student and their principal shall each file a Certificate of Completion of Articles, in Required Form, with the Director.

(Amended Rule 6.09(1)(9) , August 13, 2024)

Appearances by Students

6.10 (1) Subject to the Rules, the Act, or any other prohibition in law, a Student may appear on the proceedings specified below, provided the Student's principal or another lawyer supervising the Student pursuant to Rule 6.09(3) ensures that the Student is:

(a) competent to make the appearance;
(b) supervised to the extent necessary in the circumstances;
(c) properly prepared before making the appearance.

(2) A Student may appear, with the Student's principal or another lawyer supervising the Student pursuant to Rule 6.09(3) in attendance and directly supervising the Student, as counsel or agent before:

(a) any board, commission, tribunal or other similar body (whether composed of one person or more than one person) established by or under an Act of the Legislature of Newfoundland and Labrador, including, without limiting the generality of the foregoing;

i. the Labour Relations Board;

ii. the Public Utilities Board;

iii. a board of inquiry appointed under the *Human Rights Act, 2010*;

iv. a panel or committee appointed under the *Law Society Act, 1999*;

v. a commissioner or commissioners appointed under the *Public Inquiries Act*,

vi. a board of arbitrators appointed under the *Expropriation Act*; and

vii. WorkplaceNL;

(b) a provincial court judge on a matter under the *Small Claims Act* or any successor legislation dealing with small claims matters in the Provincial Court of Newfoundland and Labrador;

(c) a provincial court judge on any summary conviction criminal or regulatory offence, or provincial offence, subject to certain restrictions regarding judicial interim release hearings as specified in Rule 6.10(2)(d);

(d) a provincial court judge on an application for judicial interim release for offences not listed in section 469 of the *Criminal Code*, for the limited purpose of:

i. setting the date(s) for the hearing of the application for judicial interim release; or

ii. consenting to a release where the conditions of release have been reviewed in advance by the Student's principal or another lawyer supervising the Student pursuant to Rule 6.09(3);

(e) a provincial court judge on any hybrid or indictable offence, provided the Student's principal or another lawyer supervising the Student pursuant to Rule 6.09(3) has given instructions to a Student, with respect to:

i. an application for an adjournment where all parties are consenting to the adjournment and this consent has been communicated in writing to the Student's principal or another lawyer supervising the Student pursuant to Rule 6.09(3) in advance of the appearance;
ii. setting the date(s) for a preliminary inquiry or trial where all parties are consenting to the date(s) and this consent has been communicated in writing to the Student's principal or another lawyer supervising the Student pursuant to Rule 6.09(3) in advance of the appearance;
iii. an application to vacate a release or detention order and to make a different order where all parties are consenting to the new order and this consent has been communicated in writing to the Student's principal or another lawyer supervising the Student pursuant to Rule 6.09(3) in advance of the appearance;
iv. the Crown election to proceed summarily with defence consent;
v. the defence election as to mode of trial; and/or
vi. the entry of a plea of not guilty.

(f) for the purpose of this Rule, where the Crown has elected to proceed by way of summary conviction on a hybrid offence, the matter will be considered a summary conviction offence.

(3) A Student may make the appearances specified in Rule 6.10(2) without the Student's principal or another lawyer supervising the Student pursuant to Rule 6.09(3) in attendance if that Student has completed at least 12 weeks of their Articling Term.

(4) Prior to appearing in a proceeding on behalf of a client, the Student must first obtain the client's consent, in Required Form, which shall be filed with the:

(a) Director; and
(b) the presiding judge, or the board, commission, tribunal, or similar body established by or under an Act of the Newfoundland and Labrador Legislature, as the case may be.

Bar Admission Course and Bar Admission Examinations

6.11(1) Every Student shall take and participate in the Bar Admission Course and write the Bar Admission Examinations and the Student's principal shall allow the Student time away from their practice to do so.

(2) The Education Committee shall determine the time(s) and location(s) of the Bar Admission Course and the Bar Admission Examinations and provide these details to a Student at the time of their admission.

(3) Notwithstanding Rule 6.11(2), the Education Committee may amend the time and location of the Bar Admission Course where it is deemed necessary or appropriate to do so.

(4) Any Student who is unable to write the Bar Admission Examinations or participate in the Bar Admission Course or write one or more Bar Admission Examinations in its

ordinary format shall notify the Director in the manner set out in the Bar Admissions Course accommodation policy, a copy of which shall be provided to every Student upon admission. All decisions with respect to accommodations in the Bar Admissions Course and Bar Admission Examinations shall be made in accordance with the provisions of accommodation policy and shall not be subject to appeal or review.

(5) Marks for Bar Admission Examinations shall be expressed as a percentage of 100 and shall be rounded to the nearest whole number.

(6) A Student shall be deemed to have passed the Bar Admission Examinations where:

(a) they received a mark of at least 60% in each Bar Admission Examination they were required to write; and
(b) the cumulative average of the marks they received in all Bar Admission Examinations they were required to write is at least 65%.

(7) Each Bar Admission Examination which has received a mark of at least 55% and below 60% shall be automatically reviewed by the grader(s) and, if warranted, a different mark shall be assigned.

(8) A Student who has failed one or more Bar Admission Examinations may, upon payment to the Law Society of a sum equal to 20% of the total fee paid by that Student for participation in the Bar Admission Course for each Bar Admission Examination to be reviewed and remarked (the total in no event to exceed the total Bar Admission Course fee paid by that Student), require the grader(s) to review one or

more of the Bar Admission Examinations, provided that the request is made in writing to the Director no later than 10 days following publication of the marks.

(9) The mark given to a Bar Admission Examination following a review under Rule 6.11(8) shall be final and not subject to further review.

Supplementary Bar Admission Course Examinations

6.12(1) A Student who has failed at least one but not more than two Bar Admission Examinations may write supplementary Bar Admission Examinations at the time(s) and date(s) determined by the Director, provided that a Student shall not be permitted to write a supplementary Bar Admission Examination in a subject in which they scored less than 40% without the approval of the Education Committee.

(2) A Student who has failed to achieve the cumulative average specified in Rule 6.11(6)(b) may write no more than 2 supplementary Bar Admission Examinations in subjects of their choosing.

(3) A Student may write only one supplementary Bar Admission Examination per subject unless otherwise permitted by the Education Committee.

(4) A Student who wishes to write one or more supplementary Bar Admission Examinations must notify the Director, in writing, no later than 20 days after the marks have been published.

(5) A Student who does not receive the minimum marks specified in Rule 6.11(6) and, where they were eligible to write one or more supplementary Bar Admission

Examinations, has failed any such supplementary Bar Admission Examination(s) or does not avail of the opportunity to write a supplementary Bar Admission Examination for any subject that they have failed, shall be thereafter required, as a condition of enrolment as a Member, to rewrite all of the Bar Admission Examinations at the next regularly scheduled dates and times and the Education Committee may, if it deems appropriate:

(a) require the Student to attend a subsequent Bar Admission Course; and/or
(b) extend the Articling Term to be served by the Student.

Cheating

6.13(1) For the purposes of this Rule, cheating means the taking by a Student of unfair advantage with respect to presentation and retention of information required on a Bar Admission Examination that is not available or allowed to other Students and, without limitation, includes:

(a) the action(s) of any Student in knowingly assisting any other Student to cheat;
(b) the use or possession of electronic devices or other material not specifically allowed to be used or possessed by a Student while they are writing a Bar Admission Examination; and
(c) becoming aware, even inadvertently, of the contents of all or a part of a Bar Admission Examination prior to the time scheduled for the writing thereof and not forthwith informing the Director of that fact.

(2) Where the Director becomes aware of an allegation of cheating, they shall cause an investigation to be undertaken and, if satisfied that a prima facie case exists, shall notify the Student accused of cheating, in writing, stating the nature of the accusation. The accused Student shall be given an opportunity to reply to the charge, in writing, and to appear, with or without counsel, before the Education Committee to make full answer and defence.

(3) The Education Committee shall within 14 days of the hearing or, if there is no hearing, the completion of the review, render a decision and make a finding of fact as to whether the Student cheated.

(4) A Student who has cheated shall be:

(a) deemed to have failed all of the Bar Admission Examinations written that year, including any supplementary Bar Admission Examinations written thereafter;
(b) not permitted to write supplementary Bar Admission Examinations for that year; and
(c) referred to the vice president who shall commence discipline proceedings in accordance with Part II of the Act.

Student Enrollment as a Member

6.14(1) A Student's application for enrolment as a Member shall be made in Required Form on or before such date as may be determined by the Director.

(2) A Student must complete their Articling Term at least ten (10) days prior to the scheduled date of the Call to the Bar ceremony in which they are to be enrolled as a Member.

(3) A Student's application for enrolment as a Member shall be approved by the Education Committee, provided it is satisfied that the Student has complied with all of the necessary requirements and there is no reason that it would not be in the public interest to permit the Student to be enrolled as a Member.

(4) The Education Committee may make its approval under Rule 6.14(2) subject to such conditions, restrictions, and/or requirements as it considers necessary to protect the public interest.

(5) Notice of the Education Committee's approval granted under Rule 6.14(2) shall be provided to the Vice President as soon as practicable.

(6) Students who have been approved to be enrolled as Members pursuant to Rule 6.14(2) shall be presented to a judge of the Supreme Court of Newfoundland and Labrador (General Division) to be sworn and enrolled as a solicitor of the Supreme Court of Newfoundland and Labrador at such date and time as may be arranged by the Vice President in consultation with the Chief Justice of the Supreme Court.

(7) Upon being enrolled as a solicitor of the Supreme Court of Newfoundland and Labrador, the solicitor shall appear before Benchers to be enrolled as a barrister on the rolls of the Law Society.

(8) Upon being enrolled as a barrister, the person so enrolled shall be a Member and is entitled to all the rights, benefits, and privileges and subject to all the duties, obligations, and responsibilities of a Member.

(9) The diploma of a barrister-at-law of the Law Society shall be in Required Form and shall be signed by the President of the Law Society.

(10) Where a person has not been enrolled as a solicitor and a barrister within one year of receiving the approval of the Education Committee, the Education Committee may prescribe such requirements which it determines are necessary to demonstrate the person's fitness to engage in the practice of law before the person is enrolled.

(Amended Rule 6.14(2) , August 13, 2024)

Reinstatement of Practicing Status for Non-practising, Suspended, and Former Members

6.15(1) A non-practising Member, suspended Member or former Member shall file an application for the commencement or resumption of practice in Required Form with the Law Society before having their status changed to that of a practising Member and shall, in addition to the conditions outlined in Rules 2.21, 10.02 and the conditions, restrictions and requirements otherwise imposed in accordance with the Rules, be required by the Education Committee to do one or more of the following:

(a) provide such evidence as the Education Committee may require to demonstrate that they are of good character and reputation and have a current working knowledge

of the law;

(b) complete continuing professional development activities;

(c) take the Bar Admission Course and/or write and pass such Bar Admission Examinations as directed by the Education Committee;

(d) comply with such other requirements which the Education Committee reasonably determines are necessary to protect the public interest.

(2) Notwithstanding Rule 6.15(1), the Director may reinstate a non-practising Member or former Member to practising status where the Member has held the status of non-practising Member or been a former Member for a period of less than 24 months and where the Member complies with the conditions outlined in Rules 2.21, 10.02 and all other conditions, restrictions and requirements imposed in accordance with the Rules.

(3) The Education Committee may impose such terms, conditions, limitations, or restrictions on a Member's authorization to practise law as are reasonably determined to be necessary to protect the public interest.

Compulsory Continuing Professional Development

6.16 (1) Benchers or the Education Committee may direct some or all of the practising Members to complete a professional development course or seminar by a particular date and every Member so directed shall, unless exempted, in writing, by the body imposing the requirement, be required to comply with this direction as a condition of retaining their practising status.

(2) In the event that the Member fails to comply with Rule 6.16(1), their membership or enrolment in the Law Society shall be suspended until the Member completes the required professional development course or seminar and:

(a) files an application for the commencement or resumption of practice in form 2.21A, which is subject to approval by the vice-president or education committee;
(b) pays all outstanding fees, deductibles due at the time of suspension;
(c) complies with all conditions, restrictions and requirements imposed in accordance with the Rules; and
(d) pays the administration fee approved by Benchers.

Mandatory Continuing Professional Development

6.17 (1) Except where provided otherwise in this Rule, every practising Member is required to:

(a) participate in a minimum of fifteen (15) hours of eligible continuing professional development (“CPD”) activities annually; and
(b) report their CPD activities in the Law Society’s online portal on an annual basis in Required Form as directed by the Law Society

no later than the 31st of December each year.

(2) Practising Members who do not comply with the requirements specified in Rule 6.17(1) shall be:

(a) subject to a late fee of $500.00, plus applicable taxes, which shall be paid no later than January 31st of the year in which the late fee was incurred; and

(b) referred to the Vice President who may take one or more of the following actions:

i. require the Member to comply with the requirements by a specified date;
ii. impose an administrative suspension until the Member complies with the requirements; and/or
iii. engage the disciplinary process set out in Part II of the Act.

(3) To qualify as an eligible CPD activity, the activity must be:

(a) relevant to the Member's present or perceived future professional needs;
(b) directly related to the Member's current or anticipated practice areas; and/or
(c) relevant to professional ethics and the professional responsibilities of lawyers.

(4) In addition to the requirements set out in Rule 6.17(3), an eligible CPD activity shall include activities/content related to:

(a) the practice of law (e.g. ethics, professional responsibility, practice standards, substantive law, procedural law etc.);
(b) lawyering skills (e.g. advocacy, drafting, research, communications, interviewing, negotiation etc.); and
(c) practice management (e.g. client relations, wellness, time management, practice technology etc.).

(5) A Member's CPD activities must be classified under one of the following categories:

(a) Courses or seminars – participation in courses, seminars, educational components of conferences, podcasts, or webcasts, either live or recorded;
(b) Teaching (maximum of 6 hours per year) – teaching in a legal context, excluding presentations given to clients or required in the ordinary course of the Member's practice or employment (Members may claim a reasonable amount of preparation time up to a maximum of 2x the time spent teaching. Combined preparation and teaching time shall not exceed the annual maximum of 6 hours per year that can be claimed under this category);
(c) Legal writing (maximum of 6 hours per year) – authoring legal texts, legal articles, or other written materials, the primary purpose of which is for use in an educational program or to educate about the law, excluding written material produced in the ordinary course of the Member's practice or employment; or
(d) Self-study/reviewing written materials (maximum of 3 hours per year) – self-study or reviewing written materials such as legal articles, textbooks, case reports, journals, etc.

(6) The Law Society will not assess or accredit CPD providers, content, or subject matter in advance. It is each Member's responsibility to ensure that the CPD activities they report to the Law Society meet the requirements set out in Rule 6.17.

(7) Notwithstanding Rule 6.17(6), the Education Committee has the discretion to determine whether a specific activity is an eligible CPD activity.

(8) The Education Committee may require a Member to provide further information or documentation relating to the details of the Member's participation in a CPD activity and/or the eligibility of a reported CPD activity.

(9) Members who are subject to comparable mandatory CPD requirements in another Canadian jurisdiction may count CPD activities reported in the other Canadian jurisdiction towards the requirements set out in Rule 6.17, provided that the activities were completed in the year for which it is being reported.

(10) A Member who has held non-practising and practising status in the same year is responsible for completing 1.25 hours of eligible CPD activities for every month and partial month in which they held practising status.

(11) Members who maintain practising status but are not engaged in the practice of law due to parental leave or a leave of absence due to medical reasons may seek an exemption from the mandatory CPD requirements to a maximum of 1.25 hours for every full calendar month in which they are on leave from practice in a calendar year by submitting a request to the Director in Required Form. Where the Director does not approve the exemption request, it shall be referred to the Education Committee for a decision.

(12) Requests for an exemption pursuant to Rule 6.17(11) must be filed with the Director no later than December 1st unless prevented from doing so by circumstances outside of the Member's control.

(Amended Rule 6.17(5)(B) Winter Term Convocation, February 19, 2024)

Admissions and Education Hearings

Appointment of Panel

6.18(1) Where the Education Committee determines that a hearing is necessary before making a decision with respect to an application, it shall appoint a panel to make a decision on behalf of the Committee. The Panel shall be comprised of at least 3 members of the Education Committee, one of whom shall be designated as the chair, and shall promptly notify the Applicant and counsel
for the Law Society in writing of the purpose of the hearing and the circumstances to be inquired into at the hearing.

(2) Where the Applicant or the Law Society wishes to challenge for cause the appointment of a member of the panel, the challenge shall be raised with the Education Committee at the earliest opportunity.

(3) The Education Committee shall hear submissions, either in person or in writing, from the Applicant and/or the Law Society with respect to the challenge and shall decide the issue(s) raised.

(4) Where the Education Committee decides that the appointment should be set aside, the appointee shall withdraw from the panel and the Education Committee shall appoint another member to the panel as soon as practicable.

(5) The panel shall immediately provide notice to the parties and the Education Committee if, at any time during the course of a proceeding, any member of the panel identifies a conflict of interest or is otherwise required to withdraw from their appointment and the Education Committee shall endeavour to fill any vacancy on the panel as soon as practicable.

Pre-hearing Conference

(6) The Law Society may elect not to appear or make submissions in a pre-hearing conference hearing.

(7) A pre-hearing conference shall commence within 30 days of the panel being appointed or as otherwise consented to by the parties.

(8) The requirement to conduct a pre-hearing conference may be waived with the agreement of the Applicant and the panel.

(9) The panel, after consulting with the parties on their availability, shall set the time, date, and place of the pre-hearing conference.

(10) A pre-hearing conference shall not be open to the public.

(11) At a pre-hearing conference the panel may consider:

(a) the identification and/or simplification of the issues;
(b) any possibility of admissions or agreed statements of fact;
(c) the identification of witnesses in the proceeding;

(d) the discovery and production of documents;

(e) deadlines for the filing of expert and/or other reports;

(f) the desirability of conducting the hearing or a part of it in camera;

(g) the necessity of an additional pre-hearing conference;

(h) the number of days the parties anticipate requiring for the hearing;

(i) setting a date for the commencement of the hearing; and

(j) any other matters that may aid in the disposition of the matter before the panel.

(12) The panel may make orders relating to issues resolved during a pre-hearing conference and may determine that a hearing is no longer required.

(13) The panel does not need to provide written reasons to support its decision that a hearing is not required.

(14) The panel shall provide a summary of matters resolved during a pre-hearing conference that do not require an order and that summary will form part of the record.

Commencement of the Hearing

(15) The panel shall set a date for the hearing to commence that is no earlier than 30 days after the conclusion of the pre-hearing conference, unless otherwise consented to by the parties.

(16) The date, time and place for the hearing to commence shall be set:

(a) with the consent of the parties and the panel; or

(b) as otherwise determined by the panel.

Notice of the Hearing Date

(17) When a date is set under Rule 6.18(16), the panel shall provide the parties with a notice of the hearing date at least 30 days before the date set for the commencement of the hearing, unless the parties consent to a shorter notice period.

Adjournments

(18) The panel may, on application of one of the parties or on its own motion, adjourn a pre-hearing conference or a hearing on any terms and conditions it considers just.

Mode of Proceedings

(19) Any proceeding before the panel may be conducted in person, in writing, by telephone, or by electronic communication including videoconference, as determined by the panel.

(20) In determining the mode of proceedings, the panel may consider any relevant factors, including:

(a) the nature of the hearing, the subject matter of the hearing, and the issues to be addressed, including whether they are issues of fact, law, or procedure;

(b) the evidence to be presented, including whether facts are in dispute and credibility is an issue;

(c) the cost, efficiency and timeliness of the hearing or the proceeding; and

(d) the fairness of the hearing process to, and the convenience of, each of the parties.

Recordings and Transcripts

(21) Unless otherwise directed by the panel:

(a) a pre-hearing conference shall not be recorded by the Law Society;

(b) a hearing shall be recorded by the Law Society;

(c) no other person is permitted to transmit or record any proceedings before the panel;

(d) recorded proceedings before the panel do not need to be transcribed.

(22) The panel and any of the parties to the proceeding may request a copy of the recording and/or transcript of the hearing and the cost associated with producing the recording and/or transcript shall be incurred by the party requesting it or, shared equally where there are multiple parties requesting a copy of the recording and/or transcript of the hearing.

Compelling Evidence

(23) Before the date set for the commencement of the hearing, or at any time during the hearing at the panel's discretion, the Applicant or the Law Society may request a summons (subpoena) or authorization be issued to:

(a) compel the attendance of a witness and give evidence orally or in writing; and/or

(b) require a person to produce documents or records, including documents or records

maintained in electronic form, and things in their custody or control that may relate to the hearing.

(24) The panel may require submissions from either or both parties with respect to a request for a summons or authorization.

(25) After considering any submissions under Rule 6.18(24), the panel shall:

(a) make the order requested;
(b) refuse to issue the summons or authorization; or
(c) make any order with respect to the request for a summons or authorization deemed appropriate.

(26) A summons issued under Rule 6.18(25) may be executed by any member of the panel.

Disclosure of Evidence

(27) Not less than 2 weeks before the date set for the commencement of the hearing, the Applicant and the Law Society shall provide to each other the following:

(a) the names of each witness 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) a summary of the qualifications of a witness where they are being called to give

expert evidence; and

(d) copies of all documents that the party intends to introduce into evidence at the hearing unless those documents have already been provided.

(28) Where the Applicant or the Law Society has not complied with Rule 6.18(27), the panel may, in its discretion, allow the introduction of evidence that has not been properly disclosed, or exclude evidence that would otherwise be admissible, and may make such directions that it considers necessary to ensure that a party is not prejudiced.

Memorandum of Fact and Law

(29) Unless otherwise directed by the panel, the Applicant may file with the panel and provide to the Law Society, a copy of their memorandum of fact and law at least 14 days prior to the date set for the commencement of the hearing.

(30) Unless otherwise directed by the panel, the Law Society may file with the panel and provide to the Applicant, a copy of its memorandum of fact and law at least 7 days prior to the date set for the commencement of the hearing.

Failure to Appear

(31) If an Applicant fails to appear at a hearing or for the resumption of an adjourned hearing after notice thereof, the panel may proceed with the hearing in the Applicant's absence.

Conduct of the Hearing

(32) Unless otherwise directed by the panel, an in-person hearing shall not be open to the public and will generally be conducted in the following order:

(a) the Applicant may make an opening address, which may be followed by an opening address by the Law Society;
(b) the Applicant shall present their evidence and examine their witnesses, who may be cross-examined by the Law Society;
(c) if the Law Society shall present its evidence and examine its witnesses, who may be cross-examined by the Applicant;
(d) the Applicant will be given the opportunity to present evidence in reply to any evidence presented for the first time by the Law Society;
(e) after cross-examination of a witness, the party who called the witness may further examine the witness with respect to matters raised for the first time in cross-examination;
(f) following examination and cross-examination of a witness, the panel may ask questions of the witness and the parties may ask further questions with respect to matters raised by the panel; and
(g) the Applicant may make closing submissions, followed by the Law Society's closing submissions and the Applicant's reply to issues raised by the Law Society.

(33) if the panel requests or permits, the parties may serve and file, by dates ordered by the panel, additional submissions in writing on the facts and legal argument

(34) The panel may control the scope and manner of questioning of a witness.

(35) The panel may order a witness to be excluded from a hearing until the witness is called to give evidence, unless the presence of the witness is necessary to instruct a party's counsel or agent, in which case the panel may require the witness to be called to give evidence before other witnesses are called.

(36) If the panel orders the exclusion of a witness, evidence given during the witness's absence from the hearing shall not be communicated to the witness until the witness has completed giving evidence, except with leave of the panel.

(37) The panel may permit a party to present the evidence of a witness or proof of a particular fact or document by affidavit, unless another party reasonably requires the attendance of the witness at the hearing for cross-examination.

(38) Where the panel directs that the hearing may proceed in writing, the panel shall specify the timelines for the filing and provision of written submissions.

Decision of the Panel

(39) The decision of a majority of members of the panel shall be the decision of the panel, which shall be supported by written reasons to be provided to the parties within 30 days of the hearing unless this is not possible due to circumstances outside of the panel's control.

Appeal Procedure

6.19(1) Except as otherwise provided in this Rule or the Act, a decision made by the Director pursuant to their authority under Rule 6 may be appealed to the Education Committee.

(2) Except as otherwise provided in this Rule or the Act, a decision of (i) the Vice President, (ii) the Education Committee, or (iii) a panel constituted by the Education Committee pursuant to Rule 6.18, which is made pursuant to their authority under Rule 6, may be appealed to Benchers.

(3) An appeal shall be in writing, set forth all grounds of appeal, and be delivered to the Director within 30 days of the appellant having received written notification of the decision being appealed.

(4) The person or body that rendered the decision being appealed shall provide a report outlining the reasons for their decision to the appellant and body hearing the appeal within 30 days of an appeal being received by the Law Society.

(5) An appeal shall be heard as soon as practicable and no later than 4 months following receipt of the report referred to in Rule 6.19(4).

(6) The appellant and the person or member(s) of the body that rendered the initial decision, or their counsel, may file additional written submissions with respect to the appeal no later than seven (7) days prior to the hearing of the appeal.

(7) The appellant and the person or member(s) of the body that rendered the initial decision, or their counsel, may appear before Benchers to make oral argument with

respect to the appeal, provided that a request to appear is filed, in writing, with the Law Society no later than 7 days prior to the hearing of the appeal.

(8) The decision of a majority of members of the body hearing the appeal shall be the decision of that body, which shall be supported by written reasons to be provided to the parties within 30 days of the hearing unless this is not possible due to circumstances outside of the body's control.

Part VII – Inter-Jurisdictional Practice of Law and Mobility Transfer Protocol

Definitions

7.01(1) In this Rule,

(a) "**Act**" means the *Law Society Act, 1999*, SNL 1999, c. L-9.1;

(b) "**Business Day**" means any calendar day or part thereof in which a Visiting Lawyer Provides Legal Services;

(c) "**Canadian Legal Advisor**" means a person authorized by the Law Society to provide certain legal services pursuant to Rule 7.15;

(d) "**Committee**" means the Law Society's Education Committee;

(e) "**Director**" means the Law Society's Director of Admissions and Education;

(f) "**Discipline**" includes a finding by a Governing Body of any of the following:

i. professional misconduct;

ii. incompetence;

iii. conduct unbecoming a lawyer;

iv. lack of physical or mental capacity to engage in the practice of law; and

v. any other breach of a lawyer's professional responsibilities;

(g) "**Disciplinary Record**" includes any of the following, unless reversed on appeal or review:

i. any action taken by a Governing Body as a result of Discipline;

ii. disbarment;

iii. resignation or otherwise ceasing to be a member of a Governing Body as a result of disciplinary proceedings;

iv. restrictions or limits on being Entitled to Practise, other than those imposed as a result of bankruptcy, insolvency, or a failure to pay fees to a Governing Body; and

v. any interim suspension or restrictions/limits on being Entitled to Practise imposed pending the outcome of a disciplinary hearing;

(h) "**Economic Nexus**" means a relationship between a Visiting Lawyer and Newfoundland and Labrador that is established by actions inconsistent with Providing Legal Services on a temporary basis, which includes, but is not limited to, doing any of the following in Newfoundland and Labrador:

i. providing Legal Services beyond 100 Business Days within a calendar year;

ii. opening an office from which legal services are offered or provided to the public;

iii. becoming a Resident;

iv. opening or operating a trust account, or accepting trust funds, except as permitted under Rule 7.04; and

v. holding oneself out or allowing oneself to be held out as willing or qualified to practise law in Newfoundland and Labrador, except as a Visiting Lawyer;

(i) "**Entitled to Practise**" means allowed to engage in the practice of law in the Home Jurisdiction pursuant to all relevant legislation and regulations;

(j) "**Foreign Legal Consultant**" means a person who practises the law of a foreign jurisdiction in Newfoundland and Labrador;

(k) "**Foreign Jurisdiction**" means a jurisdiction outside of Canada;

(l) "**Governing Body**" means any law society or barristers' society in a Canadian common law jurisdiction and the Barreau du Québec, but does not include the Law Society;

(m) "**Home Governing Body**" means any or all of the Governing Bodies of which a lawyer is a member, and "**Home Jurisdiction**" has a corresponding meaning;

(n) "**Law Society**" means the Law Society of Newfoundland and Labrador;

(o) "**Liability Insurance**" means compulsory errors and omissions liability insurance that a Governing Body requires its members to purchase;

(p) “**Member**” means a person enrolled as a member of the Law Society who has not been struck off the roll of the Law Society;

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

(r)“**National Registry**” means the National Registry of Pracisting Lawyers established under the National Mobility Agreement;

(s) “**Provide Legal Services**” means to engage in the practice of law:

i. physically in Newfoundland and Labrador except with respect to the law of a Home Jurisdiction; or
ii. physically in any other jurisdiction with respect to the law of Newfoundland and Labrador; and includes providing legal services respecting federal jurisdiction in Newfoundland and Labrador;

(t) “**Required Form**” means the form required by the Law Society and includes any documents, forms, and information that the Law Society may request;

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

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

(w) “**Visiting Lawyer**” means a lawyer who is Entitled to Practise in a Canadian jurisdiction other than Newfoundland and Labrador, but does not include a member of the Barreau du Québec whose legal training was obtained outside Canada and who has not had their credentials reviewed and accepted by the Barreau du Québec.

Proof of Compliance

7.02(1) A person who purports to practise law in Newfoundland and Labrador pursuant to this Rule shall, upon the request of the Law Society and before the deadline specified by the Law Society, provide proof that is satisfactory to the Law Society that they are in compliance with relevant provisions of this Rule.

Deemed Failure to Comply

(2) A person who fails to comply with Rule 7.02(1) by the specified deadline shall be deemed to be not in compliance with this Rule.

Temporary Mobility without a Permit

7.03(1) A Visiting Lawyer who meets the requirements set out in Rule 7.03(3) may Provide Legal Services without a permit for a maximum of 100 Business Days in any calendar year.

Director May Extend Time

(2) On the application of a Visiting Lawyer who otherwise qualifies under Rule 7.03(3), the Director may allow the Visiting Lawyer to Provide Legal Services without a permit beyond the limit specified in Rule 7.03(1).

Qualifications for Temporary Practice

(3) Subject to Rule 7.03(4), to qualify to Provide Legal Services on a temporary basis pursuant to Rule 7.03(1) or (2), a Visiting Lawyer must at all times:

(a) be Entitled to Practice in their Home Jurisdiction;
(b) carry Liability Insurance that

i. is reasonably comparable in coverage and limits to that maintained by the Law Society, and
ii. extends to their temporary practice in Newfoundland and Labrador;

(c) have defalcation compensation coverage from their Home Jurisdiction that extends to their temporary practice in Newfoundland and Labrador;
(d) not be subject to conditions or restrictions on their practice or membership in any Governing Body;
(e) not be the subject of criminal or disciplinary proceedings in any jurisdiction;
(f) have no Disciplinary Record; and
(g) not establish an Economic Nexus with Newfoundland and Labrador.

Insurance Exemption

(4) A Visiting Lawyer may apply to the Executive Director for an exemption from the requirement in Rule 7.03(3)(b) where the Visiting Lawyer, if they were a Member, would be eligible for such an exemption pursuant to Rule 2.22.

Compliance with the Act and Rules

(5) A Visiting Lawyer is bound by the Act, the Law Society's Rules, and the Code of Professional Conduct while Providing Legal Services.

Responsibilities of Visiting Lawyer

(6) It is the responsibility of a Visiting Lawyer who is Providing Legal Services to:

(a) record and verify the number of Business Days in which they Provide Legal Services; and
(b) prove that they have complied with these Rules, the Act, and the Code of Professional Conduct.

Failure to Comply

(7) If a Visiting Lawyer fails or refuses to comply with a requirement under Rule 7.02(1) or Rule 7.03(6)(b):

(a) the Visiting Lawyer is prohibited from Providing Legal Services without a permit;
(b) any permit issued to the Visiting Lawyer under this Rule is rescinded; and
(c) the Law Society shall advise the Visiting Lawyer's Home Governing Body of the Visiting Lawyer's failure to comply and the consequences of such failure.

(8) A Visiting Lawyer affected by Rule 7.03(7) may apply to the Committee for restoration of any or all rights lost pursuant to that Rule and the Committee may, in its discretion, grant the application, subject to any conditions or restrictions it considers to be in the public interest to impose.

Trust Funds

7.04(1) A Visiting Lawyer must not maintain a trust account in Newfoundland and Labrador and must:

(a) promptly remit funds received in trust to the Visiting Lawyer's trust account in the Home Jurisdiction; or

(b) ensure that trust funds received are handled by a practising Member and deposited into a trust account controlled by that Member in accordance with the Act and the Law Society Rules.

Providing Legal Services for the Office of the Judge Advocate General

7.05(1) Notwithstanding Rule 7.03, a Visiting Lawyer who is a member of the Canadian Forces may deliver legal services for or on behalf of the Office of the Judge Advocate General without a permit and without Liability Insurance and does not establish an Economic Nexus with Newfoundland and Labrador, provided that they are providing legal services exclusively for or on behalf of the Office of the Judge Advocate General.

Providing Legal Services for the Government of Canada

7.06(1) Notwithstanding Rule 7.03, a Visiting Lawyer who is employed by the Government of Canada may deliver legal services for or on behalf of the Government of Canada without a permit and without Liability Insurance and does not establish an Economic Nexus with Newfoundland and Labrador, provided that they are providing legal services exclusively for or on behalf of the Government of Canada.

Appearing Before Federal Courts and Administrative Tribunals

7.07(1) Notwithstanding Rule 7.03, a Visiting Lawyer who has not established an Economic Nexus with Newfoundland and Labrador may appear before any of the following tribunals, prepare for such an appearance, and otherwise further the matter giving rise to the appearance, without a permit and regardless of the number of days involved:

(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;* and

(f) the Court Martial Appeal Court of Canada.

Application for Inter-Jurisdictional Practice Permit

7.08(1) A Visiting Lawyer who does not meet the requirements of Rule 7.03(3) may apply for an inter-jurisdictional practice permit by filing with the Director:

(a) a complete application in Required Form, including a written consent for the release of relevant information to the Law Society;

(b) the required permit or renewal fee;

(c) a certificate of standing acceptable to the Law Society issued by each Governing Body of which the Visiting Lawyer is or has been a member and dated not more than 30 days before the date of the application;

(d) proof of Liability Insurance; and

(e) proof of defalcation coverage.

(2) The Director may:

(a) issue the permit subject to any conditions or restrictions that they consider appropriate if, in the discretion of the Director, it is consistent with the public interest to do so; or

(b) refer the matter to the Committee for a determination.

(3) A permit issued or renewed under this Rule:

(a) is effective for one year from the date it was issued;

(b) allows a Visiting Lawyer to Provide Legal Services for not more than 100 Business Days in that year; and

(c) ceases to be valid if the Visiting Lawyer:

i. ceases to be Entitled to Practise in their Home Jurisdiction,

ii. fails to maintain Liability Insurance, or

iii. is suspended from the practise of law or disbarred in any jurisdiction.

Economic Nexus

7.09(1) A Visiting Lawyer who establishes an Economic Nexus with Newfoundland and Labrador must cease Providing Legal Services immediately, but may apply under Rule 7.10 to be admitted to the Law Society as a Member or under Rule 7.08 to be issued an inter-jurisdictional practice permit and may apply to the Director for permission to continue Providing Legal Services pending consideration of such an application.

(2) A Visiting Lawyer who Provides Legal Services in or from an office affiliated with the Visiting Lawyer's law firm in their Home Jurisdiction does not, for that reason alone, establish an Economic Nexus with Newfoundland and Labrador.

Transfer Under the National Mobility Agreement of Territorial Mobility Agreement

7.10(1) A lawyer who is a member of a Governing Body that is a signatory to the National Mobility Agreement or Territorial Mobility Agreement may apply to transfer to Newfoundland and Labrador.

(2) An applicant seeking to transfer to Newfoundland and Labrador under this Rule must:

(a) be Entitled to Practise in their Home Jurisdiction;

(b) be of good character and reputation;

(c) complete and submit the necessary application in Required Form;

(d) provide all documentation and information required by the Law Society; and

(e) satisfy any other requirements imposed by the Law Society.

(3) A lawyer applying to transfer under this Rule must certify, in Required Form, that they have reviewed and understand all materials provided by the Law Society.

(4) A lawyer applying to transfer under this Rule may apply to the Director for permission to practise in Newfoundland and Labrador for the period between the approval of their application and their enrollment as a Member.

(5) The Director may:

(a) approve an application made under Rule 7.10(5), subject to any conditions or restrictions that they consider appropriate if, in the discretion of the Director, it is consistent with the public interest to do so; or

(b) refer the matter to the Committee for a determination.

(6) A lawyer enrolled as a Member pursuant to this Rule has no greater rights as a Member than:

(a) the lawyer has in their Home Jurisdiction as a member of the Home Governing Body, or

(b) any other Member in similar circumstances.

(7) Members of the Barreau du Québec whose legal training was obtained outside Canada and who have not had their credentials reviewed and accepted by the Barreau du Québec are not qualifying members of the Barreau du Québec for the purpose of transferring to Newfoundland and Labrador.

National Registry of Practising Lawyers

7.11(1) The Executive Director must provide to the National Registry the current and accurate information about practising lawyers required under the National Mobility Agreement.

(2) No one may use or disclose information obtained from the National Registry except for a purpose related to enforcement of the Act and these Rules.

Disciplinary Proceedings

7.12(1) The provisions of the Law Society Rules and the Act dealing with the investigation of complaints and discipline proceedings apply to a Visiting Lawyer Providing Legal Services as though they were a Member.

Member Compliance

7.13(1) A Member who practises in another Canadian jurisdiction must comply with the applicable legislation, regulations, rules, and code of professional conduct applicable to that jurisdiction.

Responsibility for the Conduct of Disciplinary Proceedings

7.14(1) If there is an allegation of misconduct against a Member while they are practising temporarily in another Canadian jurisdiction under the authority of the provisions related to temporary practice pursuant to the National Mobility Agreement or the Territorial Mobility Agreement, the Law Society will:

(a) consult with that jurisdiction's Governing Body about the manner in which disciplinary proceedings will be conducted; and
(b) subject to Rule 7.14(2), assume responsibility for the conduct of the disciplinary proceedings.

(2) The Law Society may allow the other Governing Body to assume responsibility for the conduct of disciplinary proceedings under Rule 7.14(1), including the expenses of the proceeding.

(3) Where another Governing Body assumes responsibility for the conduct of disciplinary proceedings under Rule 7.14(2), the Law Society, to the extent that it is reasonable in the circumstances, will:

(a) provide all relevant information and documentation respecting the Member subject to the disciplinary proceedings; and
(b) cooperate fully in the investigation and hearing of the matter.

(4) If the Law Society receives an allegation of misconduct against a Visiting Lawyer which arises from their temporary practice in Newfoundland and Labrador pursuant to the National Mobility Agreement or the Territorial Mobility Agreement, the Law Society:

(a) will consult with Home Governing Body about the manner in which disciplinary proceedings will be conducted; and
(b) may, with the consent of the Home Governing Body, assume responsibility for the conduct of the disciplinary proceedings.

(5) Where the Law Society assumes responsibility for the conduct of disciplinary proceedings under Rule 7.14(4), the Law Society, to the extent that it is reasonable in the circumstances, will provide all relevant information and documentation respecting the lawyer subject to the disciplinary proceedings to their Home Governing Body.

(6) In deciding which Governing Body will assume responsibility for the conduct of disciplinary proceedings under Rule 7.14, the primary considerations will be the public interest, convenience, and cost.

Canadian Legal Advisor

7.15(1) A member of the Chambre des Notaires du Québec, who is authorized to practise the notarial profession in Québec and who is of good character may, with the prior permission of the Law Society, do any of the following:

(a) give legal advice and consultations on legal matters involving the law of Québec or involving matters under federal jurisdiction;
(b) prepare and draw up a notice, motion, proceeding or similar document intended for use in a case before a judicial or quasi-judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations;
(c) give legal advice and consultations on legal matters involving public international

law; and

(d) plead or act before a judicial or quasi-judicial body in a matter under federal jurisdiction where expressly permitted by federal statute or regulations.

(2) An applicant seeking to act as a Canadian Legal Advisor must:

(a) submit a complete application in the Required Form;

(b) pay the application fee;

(c) be Entitled to Practise the notarial profession in Québec;

(d) be of good character and fitness;

(e) provide certificates of standing from all Governing Bodies of which the notary is or has been a member;

(f) consent to access by the Law Society to the notary's regulatory files of all Governing Bodies of which the notary is a member; and

(g) provide such other documentation and information as may be required by the Law Society in order to protect the public interest.

(3) Members of the Chambre whose legal training was obtained outside Canada and who have not had their credentials reviewed and accepted by the Chambre are not qualifying members of the Chambre for the purpose of Rule 7.15.

Foreign Legal Consultants

7.16(1) A person may apply for a permit to act as a Foreign Legal Consultant by delivering a completed application in Required Form, together with the permit fee, to the Law Society.

(2) The Director may issue a permit to act as a Foreign Legal Consultant, subject to any conditions or restrictions they consider to be in the public interest to impose, where satisfied that the applicant:

(a) is a member in good standing of the legal profession in the Foreign Jurisdiction in which the applicant is authorized to practise law;
(b) is of good character and reputation and meets the standards of fitness to practise prescribed by the Law Society;
(c) has practised the law of the Foreign Jurisdiction for at least three complete years, or has undertaken in writing to work, while acting as a Foreign Legal Consultant, only under the direct supervision of a Foreign Legal Consultant authorized to practise in that jurisdiction who has satisfied the three-year practice requirement;
(d) has provided a written undertaking that they will:

i. not accept, hold, transfer or in any other manner deal with trust funds;
ii. submit to the jurisdiction of the Law Society and comply with the Act, the Law Society Rules and the Code of Professional Conduct, as amended from time to time, and
iii. promptly notify the Director if they cease to be authorized to practise law in the Foreign Jurisdiction or if they fail to satisfy any applicable legal education requirement of the Foreign Jurisdiction;

(e) carries professional liability insurance or a bond, indemnity or other security that:

i. is in a form and amount which is reasonably comparable with that required to be maintained by Members;
ii. specifically extends to services rendered by the Foreign Legal Consultant while acting as such in Newfoundland and Labrador; and
iii. is expressly enforceable in the jurisdiction of Canada, or a province or territory thereof; and

(f) participates in a program or carries a fidelity bond or other security satisfactory to the Law Society and in an amount which is reasonably comparable with that required to be maintained by Members for the purpose of reimbursing persons who sustain a pecuniary loss as a result of the misappropriation or wrongful conversion by the Foreign Legal Consultant of money or other property entrusted to or received by them in their capacity as a Foreign Legal Consultant in Newfoundland and Labrador.

Term of Permit

(3) Subject to Rule 7.16(4), a permit issued under Rule 7.16 is valid from the issue date shown on it until the last day of the same calendar month in the next year.

Permit Ceases to be Valid

(4) A permit issued under Rule 7.16, including any renewal thereof, ceases to be valid if the Foreign Legal Consultant:

(a) is suspended as a result of proceedings under the Act or the Law Society Rules; or
(b) ceases to comply with any of the requirements of Rule 7.16(2).

Requirement for Permit

(5) Subject to Rule 7.16(6), a person may act as a Foreign Legal Consultant in Newfoundland and Labrador only if they hold a valid permit under this Rule.

Dual Qualification

(6) Subject to section 39 of the Act, a Member who is also qualified to practise law in a Foreign Jurisdiction need not obtain a permit to act as a Foreign Legal Consultant if they carry professional liability insurance or a bond, indemnity or other security that is reasonably comparable in coverage and amount to that required to be maintained by Members and extends to services rendered by them as a Foreign Legal Consultant.

Marketing of Legal Services

(7) A Foreign Legal Consultant, who is not a Member and eligible to practise without restriction in Newfoundland and Labrador, when engaging in advertising or any other form of marketing activity in Newfoundland and Labrador:

(a) shall use the term “Foreign Legal Consultant”;
(b) shall state the Foreign Jurisdiction in respect of which they are qualified to practise law, and the professional title used in that Foreign Jurisdiction; and
(c) shall not use any designation or make any representation from which a recipient might reasonably conclude that they are a Member and entitled to Provide Legal Services.

Renewal of Permit

(8) A Foreign Legal Consultant who intends to continue to act as such beyond the expiry of their permit must, before the permit expires, apply to the Director for a renewal of the permit. The renewal application must include evidence that the applicant continues to comply with the requirements set out in Rule 7.16(2) and the renewal fee.

(9) Where the Director approves a renewal application submitted in accordance with Rule 7.16(8), the renewal permit shall be valid for a period of one year.

Appeal of Decision Made Under Rule 7

7.17(1) Except as otherwise provided in this Rule or the Act:

(a) a decision made by the Director pursuant to their authority under Rule 7 may be appealed to the Committee; and
(b) a decision made by the Executive Director or the Committee pursuant to their authority under Rule 7 may be appealed to Benchers.

(2) The procedure to be followed for an appeal of a decision made under this Rule shall be the same as that specified in Rule 6.19(3)-(8), with the necessary modifications.

(Amended June 9, 2023)

Part VIII – Professional Practice Rules

Definitions

8.01 (1) In this rule, unless the context otherwise requires:

"**Consumer**" means a person who is or may be in a position to acquire or need legal services;

"**Information in relation to legal services**" includes the provision of resumes of case law and any commentary on the law;

"**Member**" means a member of the Society as defined in the Act and includes a group, association, law firm or any partnership of members, any professional law corporation and any other arrangement between two or more members and includes a student;

"**Providing information**" includes:

i. an advertisement;
ii. any publication or communication in any medium with any client, prospective client or the public generally in the nature of an advertisement, promotional activity or material, a listing in a legal directory, a public appearance or any other means by which professional legal services are promoted;
iii. contract with a prospective client initiated by a member.

"**Firm**" means any partnership, professional law corporation, interjurisdictional firm, group, law firm or association of two or more persons carrying on the practice of law in Newfoundland and Labrador;

"**Inter-jurisdictional firm**" means any partnership, professional law corporation, group, law firm, or association of two or more persons carrying on the practice of law in Newfoundland and Labrador and in one or more other provinces or territories of

Canada and of which at least one partner, or in the case of a professional law corporation at least one voting shareholder or director, is a member of the Society and at least one other partner, or in the case of a professional law corporation at least one voting shareholder or director, is a member of the bar of another province or territory of Canada;

(Amended: Rule 8.01(c,e & f), Summer Term Convocation, June 8, 2018)
(Repealed: Rule 8.01(g), Summer Term Convocation, June 8, 2018)

Traditions and ethics

8.02 (1) Every member shall be bound by the traditions and general ethics of the profession.

(2) Every member shall be bound by and shall adhere to such Code of Professional Conduct as may be adopted by the Benchers.

(3) In the event of a conflict between any Code of Professional Conduct adopted by the Benchers and the Law Society Rules, the Law Society Rules prevail.

(Amended: Rule 8.02(2) and 8.02(3) Summer Term Convocation, June 8, 2018)

Declaration of principle

8.03 Rules 8.04 to 8.15 shall be interpreted in a manner which recognizes that a member may, in any medium of communication, undertake or authorize any provision of information respecting his or her professional legal services which is factual,

accurate, verifiable, in good taste, not misleading and is compatible with the respected profile of the Society and the legal profession.

(Amended: Rule 8.03, Summer Term Convocation, June 8, 2018)

Provision of information

8.04 A member may provide information in relation to legal services to any person so long as the provision of information is in accordance with these rules.

Restrictions on provision of information

8.05 (1) A member shall not provide information in relation to legal services that:

a.) compares either directly or indirectly the member's services or abilities with the services or abilities of another member;
b.) creates an unreasonable expectation about the results possible;
c.) is misleading or deceptive or is likely to mislead or deceive;
d.) contains any testimonials or endorsements concerning a member;
e.) discloses the names of clients unless the clients have consented in writing to the disclosure and to the manner of disclosure;
f.) is not in good taste;
g.) is not of a dignified nature or otherwise is such as to bring the member or the profession into disrepute;
h.) is incompatible with the respected profile of the society and the legal profession.

(2) A member shall not provide information in relation to legal services directly to a consumer either in person or in writing where the provision of the information is persistent or harassing.

(3) A member shall not initiate or authorize any person to initiate direct contact either in person or in writing with a consumer who is not a client for the purpose of providing to that consumer information in relation to legal services where the member knows or reasonably should know that the emotional or mental state of the consumer is such that the consumer could not make a reasoned decision in relation to the provision of legal services.

Misleading firm names

8.06 A firm name or letterhead shall not mislead or be capable of misleading the public.

Firm names and letterhead

8.07 (1) A member who carries on the practice of law shall do so under:

a.) the member's name;
b.) the name of existing or former partners or associates;
c.) the name of the original or founding partner or partners and associates;
d.) in the case of a professional law corporation, the name of existing or former voting shareholders or directors;
e.) in the case of an interjurisdictional law firm, one or more given names or surnames of:

i. practicing members of the Society or of the Bar of any other province or territory of Canada;

ii. former members of the Society or of the Bar of any other province or territory of Canada and that otherwise complies with rule 8.08 (1)(b) and (c);

f.) any combination of the foregoing; or

g.) a descriptive or trade name provided:

i. the name or a similar descriptive or trade name is not in use elsewhere in the province; and

ii. that by the use of the name, the member or firm could not lead members of the public into believing erroneously that the member or firm is associated or affiliated elsewhere in Canada with other firms or the members thereof.

(Adopted: Rule 8.07(1(d))Summer Term Convocation, June 10, 2005)

(2) Notwithstanding subsection (1), a firm may not include:

a.) a phrase such as “and associates”, “and associate”, “and partners”, “and company” if there is only one barrister and solicitor in the firm; or

b.) any other language which misrepresents the number of barristers and solicitors in a firm.

(3) In addition to satisfying the requirements of sub-rule 8.07(1) and 8.07(2), the name of a professional law corporation shall comply with the requirements of Part III.1 of the Act.

(Adopted: Rule 8.07(3) Summer Term Convocation, June 10, 2005)
(Amended: Rule 8.07 (1)(e,f,g) and 8.07 (3), Summer Term Convocation, June 8, 2018)

Identification of deceased or former members or students

8.08 (1) A member, a firm or an interjurisdictional firm shall not in any listings of lawyers on a letterhead, business card, directory or in any information used or distributed in the province include the name of a person who is a judge;

(2) Except in the firm name or inter-jurisdictional firm name, a member or an interjurisdictional firm in any listing of lawyers in a firm or appearing on a letterhead, business card, in a directory or in any information used or distributed in the province shall not include the name of a person who is not a member of the Society except a person who is a former member who is a resigned, retired or deceased member and designated as such or who is a student and designated as such.

(Amended: Rule 8.08(1) and 8.08(2), Summer Term Convocation June 8, 2018)

Prohibited activities

8.09 (1) A member shall not request or induce attention from or an interview by the media in relation to any judicial, quasi-judicial or other proceeding, hearing or meeting

where the member is appearing in a legal capacity unless a client of the member has directed the member to make the request or inducement.

(2) A member shall not give or authorize or permit any person to give anything of value to a person for recommending a member's services.

(3) A member shall not write a letter seeking financial assistance on behalf of a charitable organization using the letterhead of his or her firm.

Preferred areas of practice

8.10 A member or firm may advertise a preferred area or areas of practice provided the advertisement does not contain any claim (wither directly or indirectly) that the advertising member is a specialist, expert, leader or an established or experienced practitioner in any field of practice or generally.

Fee advertising

8.11 A member or firm may advertise fees charged for their services subject to the following conditions:

a.) advertisements of fees for consultation or for specific services shall contain an accurate statement of the services provided for the fee and the circumstances in which higher fees may be charged;
b.) if fees are advertised the fact that disbursements are an additional cost must be made clear in the advertisement;

c.) advertisements shall not use words or expressions such as “from…”, “minimum” or “…and up” or the like in referring to the fees to be charged nor shall advertisements indicate that the price is a discount, reduction or a special rate;
d.) services covered by advertised fees shall be provided at the advertised rate to all clients who retain the advertising lawyer or firm during the thirty (30) day period following upon the last publication of the fee unless there are special circumstances which could not have been foreseen, with the burden of proving such special circumstances resting upon the lawyer;
e.) the advertisement of a fee by a lawyer shall bind the lawyer and the advertisement of a fee by a firm shall bind that firm.

Sharing of fees

8.12 (1) A member shall not provide to or receive from any real estate broker, agent or intermediary, any financial or other reward, direct or indirect, for directing or receiving clients to or from the real estate broker, agent or intermediary.

(2) A member shall not provide to or receive from any title insurer, agent or intermediary, any financial or other reward, direct or indirect for directing or receiving clients to or from the title insurer, agent or intermediary.

(3) A member shall not agree to share with any person who is not a member of the Society or the member of the bar of another province or territory of Canada with whom the member is associated in practice in an inter-jurisdictional firm licensed by

Benchers, the member's revenues or profits in respect of any business either contentious or non-contentious.

(Amended: Rule 8.12(3), Summer Term Convocation, June 8, 2018)

Records

8.13 A member shall retain for one year after the date of publication or broadcast of any advertisement or brochure, and shall provide to the Society upon request:

a.

a.) a copy of any such publication;
b.) a recording of any such broadcast made by the use of any electronic media, including radio, television and cable vision; and
c.) a written record of when and where the publication or broadcast was made.

(Amended: Rule 8.13(b), Summer Term Convocation, June 8, 2018)

Verification of statements

8.14 It is the duty of any member, when called upon by the vice president, the Complaints Authorization Committee, an Adjudication Panel or Benchers to verify the statements made in his or her provision of information.

(Amended: Rule 8.14, Summer Term Convocation, June 4, 1999; Amended: Rule 8.14, Summer Term Convocation, June 6, 2003)

(Repealed: Rule 8.15, Interjurisdictional firms, Summer Term Convocation, June 8, 2018)

Breach of rule

8.16 Any breach of rules 8.02 to 8.14 may be considered professional misconduct.

(Amended: Rule 8.15, Summer Term Convocation, June 8, 2018)
(Adopted: Part VIII at the Adjourned Summer Term Convocation, July 2, 1991 to come into force in October 7, 1991)

Part IX – Discipline Rules

Definitions

9.01 In this part and with the exception of the definition of "**law firm**" outlined in Rule 9.01.1(4) and "remedial agreement" outlined in Rule 9.02.2(1), the meaning of all terms shall be as defined and/or described in the *Law Society Act, 1999*.

(Amended: Rule 9.01, Benchers' Meeting, June 10, 2022)

ALLEGATIONS

Designated person

9.01.1(1) A law firm shall provide the society with the name(s) and address(es) of a person(s) of the law firm designated to receive information from the society with

respect to allegations, complaints, and disciplinary matters involving a member of the law firm ('the respondent"). Unless authorized by the director of professional responsibility, the person(s) designated shall be a member(s) of the society.

(2) When there is a change in the designated person(s) information previously filed with the society, the member and law firm shall provide the name(s) and address(es) of the newly designated person(s).

(Amended: Rule 9.01.1(b), Spring Term Convocation, April 3, 2006)

(3) The designated person(s) will receive notification at the time a response is required from the respondent, upon a referral to the fitness to practice committee, the filing of a complaint or the implementation of disciplinary action. Copies of relevant documentation may be provided to the designated person(s) provided that any such disclosure would not have the effect of disclosing privileged information.

(Amended: Rule 9.01.1, Benchers' Meeting, June 10, 2022)

(4) For purposes of this rule, "law firm" includes a professional law corporation, partnership of professional law corporations or any combination thereof, the Newfoundland and Labrador Department of Justice and Public Safety, the Newfoundland and Labrador Legal Aid Commission, the Department of Justice (Canada) and one or more members of the society practising in any other unit of a public body, Crown Corporation, or as in-house counsel in a private enterprise.

(Adopted: Rule 9.01.1, Special Term Convocation, December 6, 2004; Rule 9.01.1(a, b & d): Amended Summer Term Convocation, June 10, 2005;)

Filing An Allegation

9.01.2 An allegation shall be filed in Form 9.01.2A and shall not exceed 25 pages, inclusive of supporting documentation, unless additional documentation is requested by the Vice-President.

(Amended: Rule 9.01.2, 7 October 2026)

Consideration by the vice-president

9.02 (1) On receipt of written documentation raising concerns about a member, the vice president shall review it to determine whether or not any concerns raised constitute an allegation and

a.) if the vice president determines the written documentation does not constitute an allegation the vice president shall provide notice to the writer; or
b.) if the vice president determines the written documentation does constitute an allegation the vice president shall deal with the allegation pursuant to the Act and the rules.

Respondent to receive copy of allegation

(2) The vice president shall send a copy of the allegation to the respondent.

(Amended: Rule 9.02(1 & 2), Summer Term Convocation, June 6, 2003)

FITNESS TO PRACTICE COMMITTEE

Referral to the Fitness to Practice Committee

9.02.1 (1) Notwithstanding any other provision of these Rules, if

a.) an allegation raises concerns about a member's capacity,

b.) a person, in the absence of an allegation, raises concerns about a member's capacity to the Society, or

c.) a member self-reports concerns about their capacity to the Society, the vice-president may, where the vice-president determines that it is in the public interest to do so and the member consents, refer the matter to the fitness to practice committee.

(2) If a matter before the complaints authorization committee raises concerns about a member's capacity, the complaints authorization committee may, where the complaints authorization committee determines that it is in the public interest to do so and the member consents, refer the matter to the fitness to practice committee.

Remedial Agreements

(Amended: Rule 9.02.1, Benchers' Meeting, June 10, 2022)

9.02.2 (1) For purposes of this rule, "remedial agreement" means an agreement approved by the fitness to practice committee setting out the terms and conditions to be met by a member to address issues of capacity.

(2) Where, following a review of a medical assessment and other relevant information, the fitness to practice committee has reasonable concerns about a member's capacity,

the fitness to practice committee may enter into a remedial agreement with a member where:

a.) it is in the public interest to do so; and
b.) the member consents.

(Amended: Rule 9.02.2, Benchers' Meeting, June 10, 2022)

(3) If the review set out in subrule 9.02.2(2) does not raise reasonable concerns about a member's capacity, the fitness to practice committee must

a.) refer the matter to the vice-president where the matter had been referred by the vice-president, or
b.) refer the matter to the complaints authorization committee where the matter had been referred by the complaints authorization committee.

9.02.3 (1) A remedial agreement may include some or all of the following provisions:

a.) the member submit to such further medical assessments as the fitness to practice committee deems appropriate;
b.) the member undertake to complete or complete any applicable course of treatment designed to address any issues concerning the member's capacity at the member's own expense unless the fitness to practice committee determines otherwise;
c.) the member authorize the fitness to practice committee to receive reports from the medical assessments or treatment referred to in clauses (a) and (b);
d.) the member agree to accept practice restrictions or conditions on the member's

practicing certificate or a withdrawal from practice pending completion of the terms and conditions in the remedial agreement;

e.) the member be permitted to permanently withdraw from practice;

f.) such other provisions as the member and the fitness to practice committee may agree.

(2) The fitness to practice committee may amend a remedial agreement, with the member's consent.

(3) If the member does not consent to the amendment of a remedial agreement, the fitness to practice committee must

a.) refer the matter to the vice-president where the matter had been referred by the vice-president, or

b.) refer the matter to the complaints authorization committee where the matter had been referred by the complaints authorization committee.

(4) If, at any time during the course of the remedial agreement, or where the remedial agreement has been amended pursuant to subrule 9.02.3(2), the fitness to practice committee determines that the member has not met the terms and conditions of the remedial or other agreement, the fitness to practice committee may

(a) refer the matter to the vice-president where the matter had been referred by the vice-president, or

(b) refer the matter to the complaints authorization committee where the matter had been referred by the complaints authorization committee.

(5) The fitness to practice committee in existence at any time retains jurisdiction over a member who is subject to ongoing terms and conditions of a remedial agreement or an interim agreement to monitor the member's compliance.

(6) When a remedial agreement has been completed, the fitness to practice committee must notify the vice-president, and the vice-president must give notice to the complainant, where applicable.

(7) If a matter is referred back to the vice-president or the complaints authorization committee, all material in the possession of the fitness to practice committee must be provided to the vice-president or complaints authorization committee, as applicable.

(8) If the fitness to practice committee refers a matter back to the vice-president or complaints authorization committee, the fitness to practice committee must prepare written reasons which must be provided to the member, the vice-president and, if applicable, the complaints authorization committee.

(Amended: Rule 9.02.3, Benchers' Meeting, June 10, 2022)

Alternate dispute resolution

Consent

9.03(1) The vice president may attempt to resolve the allegation through alternate dispute resolution at any time prior to a complaint being referred to discipline with the written consent of the complainant and the respondent.

Written response not required

(2) The vice president may dispense with the requirement for the respondent to file a written response under rule 9.04(3) where the vice president is of the opinion that the allegation may be satisfactorily resolved through alternate dispute resolution.

Parties

(3) Alternate dispute resolution shall be conducted by the vice president or a person appointed by the vice president. The parties to alternate dispute resolution are the complainant, the respondent and, if the vice president considers it necessary, the society.

Confirmation of resolution

(4) Where the allegation is satisfactorily resolved through alternate dispute resolution the person conducting the alternate dispute resolution shall, within 7 days, provide written notice of the confirmation of the resolution of the allegation to the complainant, the respondent and the director of professional responsibility.

Where alternate dispute resolution unsuccessful

(5) Where alternate dispute resolution does not satisfactorily resolve the allegation, the vice president shall proceed to investigate the allegation under rule 9.04.

(Adopted: Rules 9.01-9.03, Winter Term Convocation, January 24, 2000 and Executive Committee, February 2, 2000; Amended: Rule 9.03(1-5), Summer Term Convocation, June 6, 2003)

Investigation

Vice president investigation

9.04 (1) Subject to rules 9.02 and 9.03, the vice president may investigate the allegation and may require a written response from the respondent.

(Adopted : Rule 9.04(1), Summer Term Convocation, June 9, 2000)

(2) The vice president may appoint such person or persons as the vice president considers appropriate to assist in the investigation of the allegation.

(Adopted: Rules 9.04(2), Winter Term Convocation, January 24, 2000 and Executive Committee, February 2, 2000)

Written response within 14 days

(3) Subject to rule 9.03(2) the respondent shall:

a.) respond in writing to the allegation and to any written request for a response from the vice-president or the complaints authorization committee and the

response shall be signed by the respondent personally or by counsel for the respondent;

b.) respond within 14 days after the allegation or the written request for a response is received or by such other date as may be set by the vice-president or the complaints authorization committee; and

c.) provide such information or explanation as may be requested by the vice-president or the complaints authorization committee.

(Amended: Rule 9.04(3), Summer Term Convocation, June 9, 2000)

Proof of delivery

(4) A request for a response may be made either personally, by delivering a copy to the respondent's home, address of record, or their solicitor's address of record, or by other appropriate means including via email to the email address of record.

Failure to respond

(5) A respondent's failure to respond in writing to the allegation or to inquiries by the vice-president or the complaints authorization committee within 14 days or by the date set by the vice president or the complaints authorization committee, without reasonable excuse, may constitute conduct deserving of sanction.

(5.1) Where a respondent fails to respond in writing to the allegation or to inquiries by the vice-president or the complaints authorization committee within 14 days or by the date set by the vice-president or the complaints authorization committee, the

Executive Director shall send a notice in writing to the respondent informing the respondent that if the response to the allegation or to the inquiries by the vice-president or the complaints authorization committee is not filed within fifteen (15) days from the date of delivery of the notice to the respondent, the respondent's membership or enrolment in the society shall be suspended until such time as:

i) the respondent files the response;

ii) the respondent pays an administration fee approved by Benchers

iii) the respondent complies with all conditions, restrictions and requirements imposed in accordance with the Rules; and

iv) the member complies with Rules 2.21, 6.18 and 10.02.

(Adopted: Rule 9.04 (5.1), Benchers' Meeting, April 15, 2024)

(Amended: Rules 9.04(4) and (5), Winter Term Convocation, January 24, 2000 and Executive Committee, February 2, 2000)

Information to complainant

(6) After receiving a response from a respondent, the vice president may send to the complainant a copy of the response or any part of it or a summary of it or any information or documentation acquired in the course of the investigation provided that any such disclosure would not have the effect of disclosing privileged information.

(Amended : Rule 9.04(6), Summer Term Convocation, June 9, 2000; Amended: Rule 9.04(1-6), Summer Term Convocation, June 6, 2003)

(7) Where the Vice-President provides the complainant with an opportunity to respond to a response from a respondent, the response shall not exceed 10 pages inclusive of supportive documentation, unless additional documentation is requested by the Vice-President.

(Amended: Rule 9.04(7), 7 October 2026)

Vice president report

9.05 After investigating the allegation the vice president shall submit a report of the investigation to the complaints authorization committee

(Adopted: Rules 9.05, Winter Term Convocation, January 24, 2000 and Executive Committee, February 2, 2000; Amended: Rule 9.05, Summer Term Convocation, June 6, 2003)

Complaints Authorization Committee

Consideration

9.06 (1) The complaints authorization committee shall, pursuant to s. 45 of the Act, consider the allegation and the report submitted by the vice president.

Investigation

(2) The complaints authorization committee may appoint such person or persons as the complaints authorization committee considers appropriate to assist in its investigation of the allegation.

Failure to appear

(3) A respondent's failure to appear before the complaints authorization committee on the date and at the time set, without reasonable excuse, may constitute conduct deserving of sanction.

(Adopted: Rules 9.06(1), (2) and (3), Winter Term Convocation, January 24, 2000 and Executive Committee, February 2, 2000)

(3.1) Where a respondent fails to appear before the complaints authorization committee on the date and at the time set, the Executive Director shall send a notice in writing to the respondent informing the respondent that, if correspondence to the complaints authorization committee confirming the respondent's agreement to appear before the complaints authorization committee is not received within fifteen (15) days from the date of delivery of the notice to the respondent, the respondent's membership or enrolment in the society shall be suspended until such time as:

i) the respondent sends correspondence to the complaints authorization committee confirming the respondent's agreement to appear before the complaints authorization committee;

ii) the respondent pays an administration fee approved by Benchers;

iii) the respondent complies with all conditions, restrictions and requirements imposed in accordance with the Rules; and

iv) the member complies with Rules 2.21, 6.18 and 10.02.

(Adopted: Rule 9.06 (3.1), Benchers' Meeting, April 15, 2024)

Action on allegations

(4) After considering the allegation, the complaints authorization committee may exercise one or more of the powers set out in s. 45 of the Act.

Counsel and caution

(5) If the complaints authorization committee counsels or cautions a respondent, the society shall advise its members of the circumstances giving rise to counselling or cautioning but omitting information that may disclose the identity of the respondent.

Notice

(6) The vice president shall notify the complainant and the respondent in writing of the disposition of the allegation and of the fact that a respondent has been cautioned or counselled, if applicable.

(Adopted: Rules 9.06(4-6), Summer Term Convocation, June 9, 2000; Amended: Rule 9.06(1,5 &6), Summer Term Convocation, June 6, 2003)

Respondent

Obligation of respondent

9.07 (1) A respondent shall co-operate fully in an investigation and shall provide access to all files and other records in the custody or under the control of the respondent which are relevant to the subject of the investigation.

(2) In the course of an investigation, solicitor-client privilege shall not apply as against the society to enable the respondent or the complainant to refuse to produce any information or documentation in their possession or under their control.

(Adopted: Rules 9.07(1) and (2), Winter Term Convocation, January 24, 2000 and Executive Committee, February 2, 2000)

Disclosure of Information

(3) All information and documentation obtained, which, but for this rule, would be subject to solicitor-client privilege, shall be held in confidence and shall not be disclosed except to a person carrying out duties under the Act or the rules, the complainant in circumstances contemplated by rule 9.04(6) or otherwise as required by law.

(Adopted: Rule 9.07(3), Spring Term Convocation, April 3, 2000)

(4) Notwithstanding rule 9.07(3), the society may, either upon request or at its own initiative, disclose information about the respondent to any society provided that the disclosure of information does not contravene solicitor-client privilege.

(Rule 9.07(4): Adopted Benchers Convocation, April 10, 2017)

(5) All information received by and all proceedings of the fitness to practice committee shall be kept confidential by the Society, with the following exceptions:

a.) where a matter referred to the fitness to practice committee was initiated by an allegation, the complainant shall be notified of the referral to the fitness to practice committee;
b.) the fitness to practice committee may authorize the Society to disclose specific information to a specific person or persons if it is determined by the fitness to practice committee that it is in the public interest to do so, provided that the disclosure of information does not contravene solicitor-client privilege;
c.) the fitness to practice committee may authorize the Society to disclose information about the respondent to any law society provided that the disclosure of information is relevant and concerns the fitness of a member of the Society for membership in that jurisdiction;
d.) subject to any order of an adjudication tribunal, where a matter referred to the fitness to practice committee is referred to an adjudication tribunal, information disclosed to the fitness to practice committee may be disclosed to the public if such information is disclosed in the course of a hearing.

(Adopted: Rule 9.07(5), Benchers' Meeting, June 10, 2022)

Application to vary interim suspension and practice restrictions

9.07A(1) Prior to the appointment of an adjudication tribunal in accordance with s. 46 of the *Law Society Act, 1999*, a respondent may make an application to the complaints authorization committee to vary a decision of that committee to suspend or restrict the respondent's license.

(2) An application to vary an interim suspension and/or practice restriction(s) shall be filed with the director of professional responsibility and a copy shall be provided to counsel for the society.

(3) On an application to vary:

a.) both the respondent and the society shall be given a reasonable opportunity to make submissions in writing;
b.) the complaints authorization committee may allow oral submissions if, in their discretion, it is appropriate to do so; and
c.) if, for any reason, a member of the quorum of the complaints authorization committee that made the decision is unable to participate in the application to vary, the chairperson of the complaints authorization committee may assign an alternate member of the complaints authorization committee to consider the application.

(4) The complaints authorization committee may:

a.) vary the interim suspension and/or practice restriction(s) as requested;

b.) vary the interim suspension and/or practice restriction(s) as, in its sole discretion, it deems appropriate; or
c.) dismiss the application.

Complaint and notice requirements

Contents of the complaint

9.08(1) The complaint shall include the:

a.) respondent's name;
b.) provisions of the Act, Rules and Code of Professional Conduct relied upon; and
c.) particulars of the conduct giving rise to the complaint.

(2) The names of clients and any other third-party non-lawyers shall be referenced by initials in the complaint and any identifying information relating to clients and any other third-party non-lawyers shall be redacted.

(3) Where multiple allegations relating to a respondent are referred to the disciplinary panel, the society may consolidate them into one complaint.

Joinder and severance

9.09(1) All charges that form a complaint and all complaints relating to a respondent that have been referred to an adjudication tribunal before the date set for the

commencement of the hearing shall be joined and shall be heard by the same adjudication tribunal.

(2) Prior to the commencement of the hearing, the respondent or the society may apply in writing to the adjudication tribunal for an order that:

a.) one or more charges in a complaint be determined in a separate hearing from other allegations in the same complaint; or
b.) one or more complaints be heard separately.

(3) An application under rule 9.09(2) shall:

a.) state the grounds for the order sought; and
b.) be copied to the other party.

(4) The adjudication tribunal may:

a.) allow the application with or without conditions;
b.) dismiss the application; or
c.) make any order it deems appropriate.

Notice of the complaint

9.10(1) Within 90 days after the complaints authorization committee instructs the vice-president to file the complaint against the respondent and refers the matter to the disciplinary panel, the society shall provide a copy of the complaint to the:

a.) complainant;

b.) respondent; and

c.) chairperson of the disciplinary panel.

(2) A copy of the complaint shall be provided to the adjudication tribunal appointed to hear it.

(3) Further distribution of the complaint is within the discretion of the adjudication tribunal.

Notice of referral to a hearing

9.11(1) The respondent shall be provided with a copy of the notice of referral to a hearing at the same time as the complaint.

(2) Subject to rule 9.12, the society shall publish the notice of referral to a hearing no earlier than 15 days after the respondent has been provided with a copy of the notice of referral to a hearing.

(3) The notice of referral to a hearing shall be published on the society's website and shall include the:

a.) respondent's name; and

b.) general nature of the charges.

Notice of application to vary the content of the notice of referral to a hearing

9.12(1) The respondent may give to the society written notice of an intention to make application to the adjudication tribunal to vary the content of the notice of referral to a hearing.

(2) The respondent shall provide the society with such written notice within 14 days of service of the notice of referral to a hearing.

(3) The respondent shall file an application to vary with the adjudication tribunal within 14 days of the appointment of the adjudication tribunal being finalized and the application shall be considered at a pre-hearing conference.

(4) If the respondent gives the society notice in accordance with rule 9.12(1), the society shall not publish the notice of referral to a hearing or notice of the hearing date until the adjudication tribunal makes a determination on the respondent's application to vary the notice.

(5) The adjudication tribunal may give directions regarding the content of the notice and shall provide reasons where a variance is allowed.

(6) The society shall comply with the directions given by the adjudication tribunal.

Amending notice periods

9.13(1) The notice requirement outlined in rule 9.12(2) may be waived or shortened with the consent of both the respondent and the society.

Discipline hearing

Appointment of the adjudication tribunal and withdrawals

9.14(1) The chairperson of the disciplinary panel shall appoint an adjudication tribunal as soon as practicable following receipt of the complaint, and shall provide notice to the respondent and the society when the adjudication tribunal is appointed.

(2) Where the respondent or the society wishes to challenge for cause the appointment of a member of the adjudication tribunal, the challenge shall be raised with the adjudication tribunal at the earliest opportunity.

(3) The adjudication tribunal shall hear submissions, either in person or in writing, from the respondent and the society with respect to the challenge and shall decide the issue(s) raised.

(4) Where the adjudication tribunal decides that the appointment should be set aside, the appointee shall withdraw from the adjudication tribunal and shall immediately notify the chairperson of the disciplinary panel.

(5) The chairperson of the disciplinary panel shall appoint another member to the adjudication tribunal as soon as practicable following the withdrawal of any member of the adjudication tribunal.

(6) Where all members of the adjudication tribunal withdraw from their appointment, the chairperson of the disciplinary panel shall appoint a new adjudication tribunal as soon as practicable following the withdrawal of the adjudication tribunal.

(7) The adjudication tribunal appointment is final when each member accepts their appointment and any challenge to the appointment of a member of the adjudication tribunal has been resolved.

(8) The adjudication tribunal shall immediately provide notice to the parties and the chairperson of the disciplinary panel if, at any time during the course of a proceeding, any member of the adjudication tribunal identifies a conflict of interest or is otherwise required to withdraw from their appointment.

Pre-hearing conference

9.15(1) A pre-hearing conference shall commence within 30 days of the adjudication tribunal being appointed or as otherwise consented to by the respondent and the society.

(2) The requirement to conduct a pre-hearing conference may be waived with the agreement of the parties.

(3) The adjudication tribunal or the chairperson of the adjudication tribunal, after consulting with the parties on their availability, shall provide written notice to the parties of the time, date and place of the pre-hearing conference.

(4) The notice in rule 9.15(3) shall confirm that the adjudication tribunal may proceed in the absence of the respondent if the respondent or the respondent's counsel does not attend the pre-hearing conference.

(5) A pre-hearing conference shall be held in private.

(6) At a pre-hearing conference the adjudication tribunal may consider:

a.) setting a date for the entering of the plea;
b.) an application for the notice to vary the contents of the notice of referral to a hearing, if by consent, or setting a date for the hearing of an application to vary the contents of the notice of referral to a hearing;
c.) the identification and/or simplification of the issues;
d.) any possibility of admissions or agreed statements of fact;
e.) the identification of witnesses in the proceeding;
f.) the discovery and production of documents;
g.) deadlines for the filing of expert and/or other reports;
h.) the desirability of conducting the hearing or a part of it in camera;
i.) the necessity of an additional pre-hearing conference;
j.) the number of days the parties anticipate requiring for the hearing;
k.) setting a date for the commencement of the hearing; and
l.) any other matters that may aid in the disposition of the complaint.

(7) The adjudication tribunal may make orders relating to issues resolved by agreement during a pre-hearing conference.

(8) The adjudication tribunal shall provide minutes of matters resolved during a pre-hearing conference that do not require an order and the minutes will form part of the record.

(9) Unless a member or members of the adjudication tribunal are required to withdraw from their appointments, the adjudication tribunal conducting the pre-hearing conference shall be the adjudication tribunal hearing the complaint.

Commencement of the hearing

9.16(1) The chairperson of the adjudication tribunal shall set a date for the hearing to commence that is no earlier than 30 days after the conclusion of the pre-hearing conference, unless otherwise consented to by the respondent and the society.

(2) The date, time and place for the hearing to commence shall be set:

a.) with the consent of the parties; or
b.) as otherwise determined by the chairperson.

Notice of the hearing date

9.17(1) When a date is set under rule 9.16(1), the chairperson of the adjudication tribunal shall provide the parties with a notice of the hearing date at least 30 days

before the date set for the commencement of the hearing, unless the respondent and the society consent to a shorter notice period.

(2) Where additional dates are set beyond the commencement of the hearing, the chairperson of the adjudication tribunal shall provide the parties with a notice of the hearing date.

(3) An order arising from an application to vary the content of the notice of referral to a hearing shall apply to a notice of the hearing date.

(4) Subject to an order arising from an application to vary the content of the notice of a referral to a hearing, the society shall publish a notice of the hearing date as soon as practicable after the hearing date is scheduled.

(5) A notice of the hearing date shall be published on the society's website and shall include the:

a.) respondent's name;

b.) date(s), time and place for the hearing; and

c.) general nature of the charges for a hearing on the complaint; or

d.) general nature of the charges for which the respondent was found guilty for a hearing on sanction.

Rule 9.17(2)(3)(4) and (5): Amended Fall Term Convocation, 27 September 2021)

Adjournments

9.18(1) The adjudication tribunal may, on its own motion, adjourn a pre-hearing conference, a hearing of an application, the complaint and/or sanction on any terms and conditions it considers just.

(2) The respondent or the society may request an adjournment of a pre-hearing conference, hearing on an application, the complaint and/or sanction by immediately notifying the other party and the adjudication tribunal.

(3) If the other party consents to the request for an adjournment, the requesting party may serve and file a written request for the adjournment stating that it is made by consent and the adjudication tribunal may:

a.) refuse the request;
b.) reschedule the hearing without a hearing on the request; or
c.) require a hearing on the request.

(4) If the other party does not consent to a request for an adjournment, the requesting party shall file an application as soon as possible and the application shall contain:

a.) the reasons for the request for an adjournment; and
b.) the length of time requested for the adjournment.

(5) The adjudication tribunal may grant or deny a request or an application for an adjournment on any terms and conditions it considers just.

Mode of proceedings

9.19(1) Any proceeding before the adjudication tribunal may be conducted in person, in writing, by telephone or by electronic communication including videoconference, as determined by the adjudication tribunal.

(2) In determining the mode of proceedings, the adjudication tribunal may consider any relevant factors, including:

a.) the nature of the hearing, the subject matter of the hearing, and the issues to be addressed, including whether they are issues of fact, law or procedure;
b.) the evidence to be presented, including whether facts are in dispute and credibility is an issue;
    i.) the cost, efficiency and timeliness of the hearing or the proceeding;
    ii.) the fairness of the hearing process to, and the convenience of, each of the parties; and
    iii.) compliance with s. 47(3) of the *Law Society Act, 1999* which requires that a hearing shall be conducted in public.

(3) Unless otherwise directed by the adjudication tribunal, hearings shall be held in person.

(4) The adjudication tribunal may permit a hearing to proceed in writing where the respondent and the society have agreed to:

a.) file an agreed statement of facts;
b.) file a joint submission on sanction; and
c.) publish and make available to the public the agreed statement of facts and joint submission on sanction.

(5) A party may request an alternative to an in-person hearing by filing an application with the adjudication tribunal and concurrently providing the other party with notice of the application.

(6) A party may object to the requested mode of proceeding by filing with the adjudication tribunal and providing to the other party, a notice of objection, outlining the reasons for the objection, within 3 days after the application is served on the party.

(7) The media may, at the discretion of the adjudication tribunal, make submissions with respect to any request for an alternative to an in-person hearing that may affect public access to all or part of the hearing.

(8) On an application for an alternative to an in-person hearing, the adjudication tribunal may:

a.) grant the application;
b.) dismiss the application; or
c.) make any order with respect to the mode of proceedings it deems appropriate.

Recordings and transcripts

9.20(1) Unless otherwise directed by the adjudication tribunal, all proceedings before the adjudication tribunal, with the exception of pre-hearing conferences, shall be recorded by the society.

(2) No other person is permitted to transmit or record the proceedings.

(3) Unless otherwise directed by the adjudication tribunal, the society is not required to transcribe the recorded proceedings.

(4) The adjudication tribunal and the parties to the proceeding may request a copy of the audio recording and/or transcript of the hearing.

(5) Where the adjudication tribunal seeks a copy of the recording and/or transcript, the society shall incur the initial cost.

(6) In its decision on sanction, the adjudication tribunal may make any order it deems appropriate with respect to the cost of the transcript.

(7) A party seeking a copy of the recording and/or transcript is responsible for the cost of such recording and/or transcript.

(8) The audio recording and/or the hearing transcript of the adjudication tribunal proceeding shall not be disclosed to non-parties.

(9) Notwithstanding 9.20(8), the adjudication tribunal and the parties may disclose a copy of the audio recording and/or hearing transcript as required by law.

Application for particulars

9.21(1) A respondent may, at any time before the respondent has entered a plea, apply to the adjudication tribunal, in writing, for the particulars of the alleged misconduct.

(2) If satisfied that the complaint does not contain sufficient detail of the circumstances of the alleged conduct deserving of sanction, the adjudication tribunal may direct that the society provide further details of the particulars of the alleged misconduct.

(3) Details of the particulars disclosed pursuant to rule 9.21(2) shall be:

a.) in writing; and
b.) delivered to the respondent or the respondent's counsel.

Amending the complaint

9.22(1) The society may amend any charge in a complaint:

a.) before the hearing commences, by giving written notice to the respondent; and
b.) after the respondent has entered a plea, with the consent of the respondent.

(2) The adjudication tribunal may amend a complaint after the respondent has entered a plea on an application filed by the respondent or the society to:

a.) correct an alleged defect in substance or form; or

b.) make the charge conform to the evidence where:

    i.) there appears to be a variance between the evidence and the charge; or

    ii.) the evidence discloses professional misconduct or conduct unbecoming, professional incompetence or incapacity that is not alleged in the charge.

(3) The adjudication tribunal shall not amend the complaint until the respondent and the society have been given the opportunity to make submissions respecting the proposed amendment.

Compelling evidence

9.23(1) Before the date set for the commencement of the hearing, or at any time during the hearing at the adjudication tribunal's discretion, the respondent or the society may request a summons (subpoena) or authorization be issued to:

a.) compel the attendance of a witness and give evidence orally or in writing;
b.) require a person to produce documents or records, including documents or records maintained in electronic form, and things in their custody or control that may relate to the hearing; or
c.) inspect premises.

(2) The adjudication tribunal may require submissions from either or both parties with respect to a request for a summons or authorization.

(3) After considering any submissions, the adjudication tribunal shall:

a.) make the order requested;
b.) refuse to issue the summons or authorization; or
c.) make any order with respect to the request for a summons or authorization deemed appropriate.

(4) The chairperson of the adjudication tribunal may execute a summons on behalf of the adjudication tribunal.

Disclosure of evidence

9.24(1) As soon as practicable after a complaint is provided to the respondent, the society shall disclose to the respondent a copy of all relevant documents in the possession of the society or under its control or power.

(2) Not less than two weeks before the date set for the commencement of the hearing, the respondent and the society shall provide to each other the following:

a.) the names of each witness 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.) a summary of the qualifications of that witness (in addition to (b)), if that witness will be called to give expert evidence; and

d.) copies of all documents that the party intends to introduce into evidence at the hearing unless those documents have already been provided.

(3) Where the respondent or the society has not complied with rule 9.24(2), the adjudication tribunal may, in its discretion, allow the introduction of evidence that has not been properly disclosed, or exclude evidence that would otherwise be admissible, and may make such directions that it considers necessary to ensure that a party is not prejudiced.

(4) The adjudication tribunal's permission pursuant to rule 9.24(3) may be given on such terms or conditions as the adjudication tribunal may determine, including the following:

a.) the adjudication tribunal may adjourn the hearing for such time as the adjudication tribunal considers reasonable to permit the other party the opportunity to respond to such evidence;
b.) the adjudication tribunal may require the party who requests the introduction of such evidence to agree to pay an amount of costs, as estimated by the adjudication tribunal, which may be incurred by the respondent or the society as a result of the failure to disclose such evidence in accordance with 9.24(2).

Applications for other relief

9.25(1) The respondent or the society may:

a.) no later than 14 days before the date set for the commencement of the hearing; or
b.) during a hearing with the consent of the adjudication tribunal;

file an application for relief not otherwise addressed in these rules.

(2) An application under this rule shall be:

a.) filed with the adjudication tribunal and provided to the other party at least 14 days prior to the date set for the commencement of the hearing; or
b.) filed in accordance with directions provided by the adjudication tribunal.

(3) The application shall specify:

a.) the relief sought;
b.) a summary of the grounds for the relief sought, including reference to the applicable law;
c.) a list of evidence and/or other documents that will be relied on; and
d.) the proposed mode of proceedings for the application.

(4) In response to an application for other relief, the adjudication tribunal may:

a.) set a date for the hearing of the application and/or filing deadlines and provide notice of the hearing date and/or filing deadlines to the respondent and the society;
b.) dismiss the application without a hearing; or

c.) make any order deemed appropriate with respect to the application.

Memorandum of fact and law

9.26(1) Unless otherwise directed by the adjudication tribunal, the society shall file with the adjudication tribunal and provide to the respondent, a copy of its memorandum of fact and law at least 14 days prior to the date set for the commencement of the hearing.

(2) Unless otherwise directed by the adjudication tribunal, the respondent shall file with the adjudication tribunal and provide to the society, a copy of their memorandum of fact and law at least 7 days prior to the date set for the commencement of the hearing.

Witnesses

9.27(1) A witness appearing before an adjudication tribunal may raise procedural issues affecting their testimony, either through their counsel or through counsel for one of the parties.

(2) A witness who is summoned to attend a hearing before an adjudication tribunal is entitled to the same conduct money and payment for costs and/or expenses as a witness at a trial in the Supreme Court.

Failure to appear

9.28(1) If a respondent fails to appear at a hearing or for the resumption of an adjourned hearing after notice thereof, the adjudication tribunal may proceed with the hearing in the respondent's absence.

Hearings on the complaint and sanction

9.29(1) Unless otherwise directed by the adjudication tribunal, submissions and/or evidence on the complaint and sanction shall be heard separately.

Conduct of the hearing

9.30(1) Unless otherwise directed by the adjudication tribunal, an in-person hearing will generally be conducted in the following order:

a.) the society may make an opening address, which may be followed by an opening address by the respondent;
b.) the society shall present its evidence and examine its witnesses, who may be cross-examined by the respondent;
c.) if the respondent has not already done so, the respondent may make an opening address and shall present their evidence and examine their witnesses, who may be cross-examined by the society;

d.) the society may present evidence in reply to any evidence presented for the first time by the respondent and examine witnesses;

e.) after cross-examination of a witness, the party who called the witness may further examine the witness with respect to matters raised for the first time in cross-examination;

f.) following examination and cross-examination of a witness, the adjudication tribunal may ask questions of the witness and the parties may ask further questions with respect to matters raised by the adjudication tribunal;

g.) if the adjudication tribunal requests or permits, the parties may serve and file, by dates ordered by the adjudication tribunal, additional submissions in writing on the facts and legal argument; and

h.) the society may make closing submissions, followed by the respondent's closing submissions and the society's reply to issues raised by the respondent.

(2) The adjudication tribunal may control the scope and manner of questioning of a witness.

(3) The adjudication tribunal may order a witness to be excluded from a hearing until the witness is called to give evidence, unless the presence of the witness is necessary to instruct a party's counsel or agent, in which case the adjudication tribunal may require the witness to be called to give evidence before other witnesses are called.

(4) If the adjudication tribunal orders the exclusion of a witness, evidence given during the witness's absence from the hearing shall not be communicated to the witness until

the witness has completed giving evidence, except with leave of the adjudication tribunal.

(5) The adjudication tribunal may permit a party to present the evidence of a witness or proof of a particular fact or document by affidavit, unless another party reasonably requires the attendance of the witness at the hearing for cross-examination.

(6) Where the adjudication tribunal directs that the hearing may proceed in writing, the adjudication tribunal shall:

a.) specify the timelines for the filing and provision of written submissions; and
b.) specify which documents filed shall be published in accordance with s. 47(3) of the *Law Society Act, 1999* to give effect to the requirement that a hearing shall be conducted in public.

Majority decision of the adjudication tribunal

9.31(1) The decision of at least two (2) members of the adjudication tribunal on any charge in a complaint and on sanction shall be the decision of the adjudication tribunal on that complaint and sanction.

Decision on the complaint

9.32(1) The chairperson of the adjudication tribunal shall make reasonable efforts to file with the executive director and provide to the parties, the complainant and the minister, the adjudication tribunal's written decision on the complaint and its reasons for that decision within 60 days of completion of the hearing.

Hearing on sanction

9.33(1) If the respondent is found guilty on the complaint(s) the adjudication tribunal shall make reasonable efforts to resume the hearing in order to determine the appropriate sanction within 60 days of the release of its decision on the complaint. The conduct of the hearing on sanction shall occur in accordance with rule 9.30.

Decision on sanction

9.34(1) Where the adjudication tribunal decides that a respondent is guilty, it shall make an order with respect to sanction as set out in ss. 49 or 50 of the Act.

(3) The chairperson of the adjudication tribunal shall make reasonable efforts to file with the executive director and provide to the parties, the complainant and the minister:

a.) a written decision on sanction, including the reasons therefor; and
b.) an order,

within 30 days of completion of the hearing on sanction.

Provision of a decision or order of the adjudication tribunal

9.35(1) A copy of any decision or order made in accordance with these rules shall be provided to the executive director, the parties and the complainant and the minister either personally, by delivering a copy to their address of record, home, their solicitor's address of record, or by other appropriate means including via email.

Effect of the decision

9.36(1) A decision or order of the adjudication tribunal shall take effect upon service unless otherwise ordered by the adjudication tribunal.

Suspensions

9.37(1) Following the expiration of any period of suspension imposed during discipline proceedings, a respondent will be reinstated to non-practicing status and non-practicing fees shall apply.

(2) A respondent shall file an application for the commencement or resumption of practice in form 2.21A with the society before having their status changed to that of a practising member.

(3) On an application to have their status changed to that of a practising member, the vice-president may reinstate a respondent or refer the application to the education committee in accordance with rules 2.21, 6.18 and 10.02.

(4) Where an application made under rule 9.37(2) is approved, the respondent's status will not change until all outstanding fees and a reinstatement fee set by Benchers have been paid and the respondent is compliant with any other restrictions, conditions or requirements imposed in accordance with the rules.

(5) A respondent may apply in writing to the executive director to resign.

(6) On an application to resign, the executive director:

a.) shall consider the application in accordance with rule 2.23; and
b.) may impose such conditions and/or restrictions on resignation which it considers appropriate.

(Amended: Rule 9.37(2), (3), (4), (5) & (6): Winter Term Convocation, February 8, 2021)

Applications under s. 53 and s. 54 of the Act

9.38(1) An application under s. 53 of the Act shall be in writing and shall be delivered to the chairperson of the disciplinary panel.

(2) An application under s. 54 of the Act shall be in writing and shall be delivered to the society's office to the attention of the director of professional responsibility.

(3) An application under ss. 53 or 54 of the Act shall be served on the parties in the same manner as prescribed in rule 9.40.

(4) Where an application under ss. 53 or 54 of the Act has been referred to an adjudication tribunal, the chairperson of the disciplinary panel shall appoint an adjudication tribunal in accordance with s. 46 of the Act.

(5) Where possible, the chairperson shall reappoint the adjudication tribunal that heard the complaint at first instance.

Procedure

9.39(1) Prior to making an order under ss. 53 or 54 of the Act, the adjudication tribunal may make inquiries and hear representations from the parties that the adjudication tribunal considers appropriate.

(2) The adjudication tribunal shall hear an application under ss. 53 or 54 of the Act within 30 days of being appointed or as otherwise consented to by the respondent and the society.

(3) Within 60 days of completion of the hearing of the evidence and receipt of submissions on the application, the chairperson of the adjudication tribunal shall make reasonable efforts to file with the executive director and provide to the parties, the adjudication tribunal's written decision on the application and the reasons for its decision.

(4) The order of the adjudication tribunal shall be served in the same manner as prescribed in rule 9.40 and shall take effect upon service on the respondent, unless otherwise ordered by the adjudication tribunal.

Notice requirements

9.40(1) All notice requirements outlined in this rule may be made either personally, by delivering a copy to the respondent's home, address of record, or their solicitor's address of record or by other appropriate means including via email to the email address of record.

Publication

9.41(1) Subject to s. 51 of the Act the society shall give notice of the finding to the members of the society, to the complainant and to any other governing body of the legal profession in Canada of which the respondent is a member, which notice shall include:

a.) the name of the respondent;
b.) the nature of the charge of which the respondent was found guilty, including brief particulars; and
c.) the disciplinary action.

(2) Where a respondent is disbarred or struck off the rolls or suspended from practice or ordered to refrain from practising in respect of certain areas of law, a notice to that effect shall be provided to the Courts, including the Judges and the Clerks, to any other governing body of the legal profession in Canada, to the members of the society and to the public.

(Adopted: Rule 9.28, Summer Term Convocation, June 8, 2001; Amended: Rule 9.28, Summer Term Convocation, June 6, 2003; Amended: Rule 9.28 Fall Term Convocation, October 6, 2008)

Bankruptcy and insolvency

9.42(1) Every member or student-at-law admitted as such by the society shall immediately notify the executive director upon:

a.) receipt of a petition under the *Bankruptcy and Insolvency Act* (R.S. 1985, C. B-3) in which the court is asked to make a receiving order with respect to the property of the member or student-at-law;
b.) the making by the member or student-at-law of an assignment under the *Bankruptcy and Insolvency Act*; or
c.) the making by the member or student-at-law of a proposal under the *Bankruptcy and Insolvency Act*.

(2) The executive director may require the member or student-at-law to submit additional information for more complete examination outlining the circumstances relating to any of the matters referred to in subsection 9.42(1) and the member or student-at-law shall be obliged to respond fully to the executive director's request within 7 days after receiving the request for further information.

(3) Upon occurrence of one or more of the events as set out in rule 9.42(1)(b) or (c), or in the event that a receiving order is made against a member or student-at-law under the *Bankruptcy and Insolvency Act* then that member's entitlement to engage in the practice of law or that student-at-law's articles of clerkship is suspended pending a review by the executive committee.

(4) A member or student-at-law affected by rule 9.42(3) may make an immediate written submission to the executive director and upon receipt of same the executive committee may, after ascertaining that the protection of the public will not be jeopardized, reinstate the member's entitlement to engage in the practice of law or the student-at-law's articles of clerkship, and attach such conditions to their practice of law or articles of clerkship as it deems reasonable for such protection.

(5) A member or student-at-law suspended pursuant to rule 9.42(3) and who makes a written submission in accordance with rule 9.42(4) shall be entitled to a hearing before the executive committee as soon as practicable and in no case longer than 7 days from the date of their written submission, unless the member or student-at law requests a longer period of time be extended for the hearing.

(6) Where the member is not reinstated in accordance with rule 9.42(4) and where the member wishes to have their status changed to that of a practising member, the member must:

i.) file an application for the commencement or resumption of practice in form 2.21A, which is subject to approval by the Education Committee;
ii.) pay all outstanding fees and deductibles due at the time of suspension;
iii.) comply with all conditions, restrictions and requirements imposed in accordance with the Rules; and
iv.) pay the administration fee approved by Benchers.

(Amended: Rule 9.42(6): Winter Term Convocation, February 8, 2021)

Judgment and orders

9.43 A member or student-at-law shall notify the executive director immediately upon:

a.) a judgment becoming outstanding against them and remaining unsatisfied for a period of 30 days, whether or not an appeal from the judgment has been taken;
b.) a contempt order having been made against them; or
c.) the making of an order for costs against them personally under rule 55.14 of the Rules of Court.

Duty to report guilty plea or finding of guilt

9.44(1) A member shall advise the executive director in writing immediately upon being charged with respect to any offence pursuant to:

a.) the *Criminal Code of Canada*;
b.) the *Controlled Drugs and Substances Act*;
c.) the *Income Tax Act*; or
d.) any other Federal or Provincial legislation where the offence relates to a breach of trust, dishonesty or fraud, or the conviction for such offence may result in a period of incarceration.

(Rule 9.31(1): Adopted Benchers Convocation, April 10, 2017)

(2) A member shall advise the executive director in writing immediately upon pleading guilty or being found guilty with respect to any offence pursuant to:

a.) the *Criminal Code of Canada*;
b.) the *Controlled Drugs and Substances Act*;
c.) the *Income Tax Act*;
d.) any other Federal or Provincial legislation where the offence relates to a breach of trust, dishonesty or fraud, or the conviction for such offence may result in a period of incarceration.

(Rule 9.31(2): Adopted Benchers' Convocation, April 10, 2017)

Professional misconduct

9.45 The occurrence of an event set out in rules 9.42, 9.43, or 9.44 may be treated as an allegation of conduct deserving of sanction.

(*Rule 9.29-9.32: Adopted Winter Term Convocation, February 22, 2005)*

(Rule 9: Amended throughout, Benchers' Convocation, October 2, 2020)

Part X – Fees and Related Matters

Suggested scale of fees

10.01 Any suggested scale of fees adopted by Benchers from time to time shall be and be deemed to be a reasonable level of remuneration which a member who performs services for a client in compliance with any statement of duties and obligations of a solicitor promulgated by Benchers from time to time, could justifiably charge for his or her services.

(Amended: Rule 10.01 Special Meeting, December 20, 1990)

Payment of fees and deductibles

10.02(1) Every member and student and every professional law corporation shall, on or before the 31st day of January in each year, pay in total or commence payments by installment upon terms and in the amounts fixed by the Benchers, fees respecting membership, errors and omissions insurance, and the assurance fund, to the society, for the purposes of the society as a condition of the member's or student's continued membership or enrollment in the society or of the professional law corporation's continued licence.

(Amended: Rule 10.02(1) Special Term Convocation, December 5, 2005)

(2) Every member and student and every professional law corporation shall, by the date or dates required by the Benchers or by an adjudication panel, as applicable, pay in total or commence payments by installment upon terms and in the amounts fixed by the Benchers or by an adjudication panel as applicable, bar admission fees, student admission fees and costs, expenses, fines and other amounts imposed or ordered by an adjudication panel or the Benchers together with interest thereon as a condition of the member's or student's continued membership or enrollment in the society or of the professional law corporation's continued licence.

(3) Each member and student and each professional law corporation is liable for payment of their or its fees and deductibles.

(4) Honourary members and life members are exempt from payment of any fees to the society as a condition of their continued membership.

Suspension for failure to pay

5) Where a member, student or professional law corporation fails to pay their or its fees to the society by the date or dates required pursuant to the rules, or fails to pay deductibles, by a date and upon terms fixed by the benchers, the vice-president shall, subject to rule 10.05, send a notice in writing to the member, student or professional law corporation informing the member, student or professional law corporation that if the fees or deductibles are not paid within fifteen (15) days from the date of delivery of

the notice, the member's or student's membership or enrollment in the society shall be suspended or the professional law corporation's licence revoked. In the event that the member, student or professional law corporation fails to pay the fees or deductibles within the fifteen (15) day period their membership or enrollment in the society shall be suspended or the professional law corporation's licence revoked until the member:

i.) files an application for the commencement or resumption of practice in form 2.21A, which is subject to approval by the vice-president or education committee;
ii.) pays all outstanding fees, deductibles due at the time of suspension;
iii.) complies with all conditions, restrictions and requirements imposed in accordance with the Rules; and
iv.) pays the administration fee approved by Benchers.

(Amended: Rule 10.02(5) Special Term Convocation, December 5, 2005)

(Amended: Rule 10.02(3) & (5) Winter Term Convocation, February 8, 2021)

Reinstatement

6) Where a member, student, or professional law corporation fails to pay their or its fees or deductibles to the society by the date or dates required pursuant to the rules, but the said fees or deductibles are subsequently paid without the vice president issuing a notice as contemplated by rule 10.02(5), or are paid in response to a notice issued pursuant to rule 10.02(5) within the time limit stipulated by the notice, and the fees or deductibles are in either case accepted by the vice president, the member's or

student's membership or enrollment in the society shall be deemed to have been reinstated or the professional law corporation's licence reissued and to have continued from the earliest date when the fees or deductibles should have been paid.

(Amended: Rule 10.02(6) Special Term Convocation, December 5, 2005)
(Amended: Rule 10.02(3) & (5), Winter Term Convocation, February 8, 2021)

(7) Where the membership or enrollment of a member or student is suspended or the licence of a professional law corporation is revoked pursuant to rule 10.02(5), the Benchers may, as a condition of reinstatement or re-issuance, impose such conditions upon the suspended member, student or professional law corporation as the Benchers deem appropriate.

(Amended: Rule 10.02, Winter Term Convocation, December 5, 2005)

Determination of fees and interest

10.03 (1) There shall be paid to the Society by members, students, and professional law corporations and applicants to become members, students, or professional law corporations and by other applicants making applications to the society pursuant to the Act or these rules, as the case may be, such fees and upon such terms as are to be determined from time to time by the Benchers.

(Amended: Rule 10.03(1), Summer Term Convocation, June 10, 2005)

(2) The Benchers may from time to time fix rates of interest to be applied to outstanding fees and deductibles.

Transaction levy

10.04 Members shall make payment of the transaction levy as follows:

Definition of real estate transaction

(1) For the purposes of this rule, “real estate transaction” means a transaction which results in the transfer, charging and/or insuring of an interest in real property in Newfoundland and Labrador.

Levy payable

(2)

a.) Subject to 10.04 (2) (b), (c), (d) and (e), and any exclusions contained within this rule, each member shall pay to the Society $30 (the levy) in respect of each real estate transaction in which the member acted for one or more of the following parties, namely, the transferor, transferee, chargor, chargee or title insurer.
b.) Where more than one member from the same law firm acted on behalf of the same party on the same real estate transaction, only one member is required to pay the levy.
c.)Where more than one transfer, charge or title insurance policy is given by or received by the same party in respect of the same real estate transaction, the levy shall be limited to $30.
d.) Where a real estate transaction involved more than one party represented by members in more than one law firm, each member shall pay the levy.

e.) Where the rules permit a member to act on both sides of a real estate transaction, the levy shall be $30 for each side.

(Rule 10.04(2)(a), (c)& (e): Amended Special Term Convocation, December 9, 2013)

(Rule 10.04(2)(a), (c)& (e): Amended Fall Term Convocation, October 6, 2015)

Exclusions

(3) No levy is payable by a member under this rule in respect of a real estate transaction if:

a.) a person transfers real property, or an interest in real property, to that person's spouse by virtue of the provisions of a separation agreement or court order;
b.) a personal representative or its, his or her successor acting as an executor, administrator or trustee, transfers real property to a beneficiary or to a successor personal representative.
c.) a transaction involves the re-financing to an existing registered encumbrance by the same owner.

Rule 10.04(3)(c): Adopted Summer Term Convocation, June 20, 2008)

Definition of civil proceeding transaction

(4) For the purposes of this rule, "civil proceeding transaction" means:

a.) the commencement of a proceeding in Newfoundland and Labrador in any level of court; or

b.) the first response in any level of court by a member on behalf of one or more parties.

(Rule 10.04(4)(b): Amended Fall Term Convocation, September 26, 2005)

(Rule 10.04(4): Amended Summer Term Convocation, June 9, 2006)

Levy payable

(5)

a.) Subject to 10.04 (5) (b), (c), and (d) and any exclusions contained within this rule, each member shall pay to the Society $70 (the levy) in respect of each civil proceeding transaction in which the member acted for a party in a proceeding as defined in 10.04 (4) (a) or (b).
b.) Where more than one member from the same law firm acts on behalf of the same party on the same civil proceeding transaction, only one member is required to pay the levy.
c.) Where more than one proceeding is commenced or responded to by an existing party to a civil proceeding transaction, including a counterclaim or third party notice, the levy for that party shall be limited to $70.
d.) Where a civil proceeding transaction involves more than one claimant, defendant, or other party, and two or more of them are represented by members in separate law firms, each member shall pay the levy.
e.) Where an origination application is made for the variation of an existing order for custody, access or support, no levy shall be payable.

(Rule 10.04(5): Amended Summer Term Convocation, June 9, 2006)

(Rule 10.04(5)(a)&(c): Amended Special Term Convocation, December 9, 2013)

(Rule 10.04(5)(a)&(c): Amended Fall Term Convocation, October 6, 2015)

(Rule 10.04(5)(a)&(c): Amended Fall Term Convocation, October 2, 2020)

Exclusions

(6) No levy is payable by a member pursuant to this rule in respect of a civil proceeding transaction if:

a.) proceeding is commenced in Small Claims Court; or
b.) proceeding is funded by Newfoundland and Labrador Legal Aid Commission or is taken by the Registrar of the Supreme Court.

Definition of personal property transaction

(7) For the purposes of this rule, “personal property transaction” means a transaction which results in the transfer or charging of title to personal property in Newfoundland and Labrador, including but not limited to the placement of any security interest on personal property under the *Personal Property Security Act* (PPSA).

Levy payable

(8)

a.) Subject to 10.04 (8)(b), (c), (d) and (e), and any exclusions contained within this rule, each member shall pay to the Society $30 (the levy) in respect of each

personal property transaction in which the member acted for one or more parties.

b.) Where more than one member from the same law firm acted on behalf of the same party on the same personal property transaction, only one member is required to pay the levy.
c.) Where more than one transfer or charge is given by or received by the same party in respect of the same personal property transaction, the levy shall be limited to $30.
d.) Where a personal property transaction involves more than one transferor, transferee, chargor, chargee, and two or more of any of them are represented by members in separate law firms, each member shall pay the levy.
e.) Where the rules permit a member to act on both sides of a personal property transaction, the levy shall be $30 for each side.

(Rule 10.04(8)(a), (c)& (e): Amended Special Term Convocation, December 9, 2013)
(Rule 10.04(8)(a), (c)& (e): Amended Fall Term Convocation, October 2, 2020)

Exclusions

(9) No levy is payable by a member under this rule in respect of a personal property transaction if:

a.) a person transfers personal property or an interest in personal property to that person's spouse by virtue of the provisions of a separation agreement or court order;

b.) a personal representative or its, his or her successor acting as an executor, administrator or trustee, transfers personal property to a beneficiary or to a successor personal representative; or
c.) personal property is transferred in a real estate transaction and a levy has been paid on that transaction.

Exempt Members

(10) No levy is payable and no levy summary form is due by a member under this rule if the member is employed as

a.) a crown attorney,
b.) a legal aid lawyer, or
c.) a solicitor acting on behalf of the Government of Canada or the Government of Newfoundland and Labrador, including a crown corporation or an agency of the crown or a municipality.

(Rule 10.04(10): Amended Summer Term Convocation, June 9, 2006)

Duty of members

(11)

a.) Every member shall report and remit the accumulated transaction levy to the society.

b.) Each law firm shall file the Transaction Levy Summary form 10.04A within thirty (30) days of the quarterly period ending on the last day of March, June, September and December.

c.) The member signing on behalf of the law firm is responsible for the accuracy of information contained in form 10.04A and for the remittance of levies accumulated and due.

d.) A member who fails to report and remit the total amount owing may be subject to suspension pursuant to rule 10.02(5).

e.) Failure by a member to comply with rule 10.04 may constitute an allegation of conduct deserving of sanction.

f.) The levies imposed by this rule apply to a member in respect of all transactions on or after October 1, 2005.

(Amended: Rule 10.04(11)(e) Special Term Convocation, December 5, 2005)

(Adopted Rule 10.04 Special Meeting, March 16, 2005, Amended: Rule 10.04, Summer Term Convocation, June 10, 2005)

Waiver or proration of fees and extension

10.05 Benchers may, in special circumstances, waive or prorate in a particular case, or extend the time for payment of, any fees or deductibles chargeable pursuant to the rules.

Compulsory liability insurance

10.06 (1) Every lawyer, not exempted by legislation of this or another jurisdiction in Canada or by provisions of these Rules, shall maintain an insurance policy through the Law Society of Newfoundland and Labrador on such terms and conditions determined each year by Benchers.

(2) Every applicant applying for permanent transfer under the National Mobility Agreement or the Territorial Mobility Agreement must, unless exempted by the Education Committee, maintain compulsory liability insurance until such time as indicated by the Education Committee, and must notify the Law Society of Newfoundland and Labrador of any change in insurance status.

(Adopted Rule 10.06, Summer Term Convocation, June 9, 2007)

Part XI – Professional Law Corporations

Register of professional law corporations

11.01 (l) The executive director shall maintain a register of professional law corporations containing the following information with respect to each professional law corporation:

a.) the name and registered office of the professional law corporation and the number on the register attributed to the professional law corporation;
b.) the date of issuance of the licence to the professional law corporation;
c.) the date and particulars of changes in status of a licence held by the professional law corporation; and

d.) any other particulars specified by the Benchers.

(2) The executive director shall prepare any other records with respect to professional law corporations specified by the Benchers from time to time.

Approval of incorporation

11.02 (1) Where one or more members propose to incorporate or register a corporation pursuant to the *Corporations Act* with the intention of obtaining a licence for the corporation pursuant to Part III.1 of the Act:

(Rule 11.02(1): Amended Summer Term Convocation, June 8, 2012)

a.) the member or members shall forward to the executive director the proposed articles of incorporation of the corporation and any other information required by the executive director for the purposes of this rule; and
b.) the executive director shall endorse the articles and other information required by the executive director with the executive director's approval on behalf of the Society if the executive director is satisfied that the proposed articles and other information are in accordance with the Act and these rules.

(Rule 11.02(b): Amended Summer Term Convocation, June 8, 2012)

(2) Rule 11.02(1) and rule 11.03 apply, with the necessary modifications, to cases where one or more members propose to file:

a.) articles of continuance to continue a body corporate as a corporation under the *Corporations Act* with “Professional Law Corporation” or “PLC” at the end of its name;
b.) articles of amendment under the *Corporations Act* to change the name of a corporation to one with “Professional Law Corporation” or “PLC” at the end of its name; or
c.) articles of amalgamation under the *Corporations Act* under which the amalgamated corporation will have “Professional Law Corporation” or “PLC” at the end of its name;

with the intention of obtaining a licence for the corporation pursuant to Part III.1 of the Act.

Application for licence

11.03 (1) A corporation may apply to the executive director for a licence for the corporation pursuant to Part III.1 of the Act by submitting:

a.) an application for a licence in form 11.03A;
b.) copies of the corporation’s certificate of incorporation or registration and its articles of incorporation and such other information required by the executive director pursuant to rule 11.02(1) as approved by the executive director pursuant to rule 11.02(1) and certified as filed pursuant to the *Corporations Act*; and
c.) the application fee prescribed by the Benchers.

(Rule 11.03(1)(b) Amended Summer Term Convocation June 8, 2012)

(2) The executive director may issue a licence for the corporation pursuant to Part III.1 of the Act effective as of the date that the executive director is satisfied that the articles and other information required by the executive director pursuant to rule 11.02(1) are in accordance with the Act and these rules or such later date that the executive director may consider appropriate.

(Rule 11.03(2) Adopted Summer Term Convocation June 8, 2012)

(3) A professional law corporation shall inform the executive director of any change in the particulars set forth in the application furnished pursuant to rule 11.03(1), by providing to the executive director a certified statement of disclosure in form 11.03B within 15 days of the change any other information required by the executive director for the purposes of this rule.

(Rule 11.03(3) Adopted Summer Term Convocation June 8, 2012)

Form of licence

11.04 A licence issued pursuant to section 63.4(1)of the Act shall be in form 11.04A and shall be signed by the executive director.

Annual Filing

11.05 A professional law corporation shall deliver to the executive director on or before January 15, in each year:

a.) a certified statement of disclosure in form 11.03B; and,

b.) the annual fee prescribed by the Benchers

Application of professional practice rules

11.06 Rules 8.07, 8.08 and 8.15 apply, with necessary modifications, to professional corporations, provided that “Professional Law Corporation” or “PLC” are included at the end of its name.

Application for cancellation of licence

11.07 (1) A corporation may apply to the executive director for cancellation of a licence for the corporation granted pursuant to Part III.1 of the Act by submitting:

a.) a notice in form 11.07;

b.) either:

   i.) a copy of the corporation’s certificate of dissolution certified as filed pursuant to the *Corporations Act*, or

   ii.) certified copies of the corporation’s certificate of amendment, its articles of amendment and such other information required by the executive director as approved by the executive director and certified as filed pursuant to the *Corporations Act*; and

c.) the application fee prescribed by the Benchers.

(2) The executive director may cancel a licence for the corporation effective as of the date that the executive director is satisfied that the certificate, articles and any other information required by the executive director are in accordance with the Act and these rules or such later date that the executive director may consider appropriate.

(Rule 11.07 Adopted Summer Term Convocation June 8, 2012)

Part XII – Supervision of Legal Assistants

Definition

12.01 For the purposes of this rule, the term "**legal assistant**" shall include any person who is not a member or student who performs work associated with the provision of legal services under the general supervision of a member, whether as an employee of the member or of a firm, professional law corporation or enterprise in which the member is associated or employed, or as an independent contractor, or as a trainee, or otherwise.

(Amended: Rule 12.01, Summer Term Convocation June 10, 2005)

Matters requiring professional skill and judgement

12.02 A member shall ensure that all matters requiring a lawyer's professional skill and judgement are dealt with by a member and that legal advice is not given by unauthorized persons, whether in the member's name or otherwise.

Legal assistants

12.03 Subject to the general and specific restrictions set out below, a legal assistant may perform any task delegated and supervised by a member so long as the member maintains a direct relationship with the client and assumes full professional responsibility for the work. Legal assistants shall not perform any of the duties that lawyers only may perform, or do things that lawyers themselves may not do. Generally speaking, the question of what a member may delegate to a legal assistant turns on the distinction between the special knowledge of the legal assistant and the professional legal judgement of the member, which must be exercised whenever it is required.

12.04 Except where the following may be specifically permitted by statute, a member may not permit the legal assistant to:

a.) give legal advice;
b.) give or receive undertakings;
c.) examine or cross-examine any party in an action, by way of discovery or otherwise;
d.) act without reference to the member in matters involving professional legal judgement;
e.) appear in a court or before a tribunal or participate in judicial or quasi-judicial proceedings on behalf of a client except in a support role to the member appearing in such proceedings;

f.) be held out as a member, or be identified other than as a legal assistant when communicating, whether orally or in writing with clients, lawyers, public officials or with the public generally; or

g.) be named in any manner other than as a legal assistant on the letterhead of a member's stationery or in any sign, announcement or listing in any directory or advertisement used or published by the member, or in association with the member in any pleadings, written argument or other like document submitted to a court or tribunal.

12.05 A member shall ensure that a legal assistant, when dealing directly with clients, lawyers, public officials or with the public generally, shall disclose that he or she is not a member.

12.06 Except as may be specifically permitted by statute, a legal assistant is permitted to act only under the direction and supervision of a member. Adequacy of direction and supervision will depend on the type of legal matter, including the degree of standardization and repetitiveness of the matter, and the experience of the legal assistant both generally and with regard to the particular matter. The burden rests on the member to instruct the legal assistant with respect to the duties to which the legal assistant may be assigned, and then to supervise the manner in which the legal assistant carries out such duties. The member shall monitor and inject judgement in the process of the legal assistant's work as it is performed at sufficiently frequent intervals to ensure that it is proceeding correctly and in a timely fashion for delivery to the client.

12.07 For the purpose of specific areas of practise, it is easier to define the function of legal assistants affirmatively:

Real estate

The member may permit the legal assistant to attend to matters of routine administration in a transaction relating to the sale, option, lease or mortgaging of land, and to conduct routine correspondence and draft documents and other correspondence including closing documents and statements of accounts, provided that the member attends on the client to advise and take instructions on all substantive matters, reviews title search reports, conducts all negotiations with third parties or their lawyers, reviews documents before signing, attends on the client to review documents, and reviews and signs title opinions.

Corporate and commercial

The member may permit the legal assistant to attend to matters of routine administration and to draft documentation and correspondence relating to corporate proceedings and corporate records, security instruments and contracts, including closing documents and statements of account, provided that the member attends on the client to advise and take instructions on all substantive matters, conducts all negotiations with third parties or their lawyers and reviews and signs all written material prepared by the legal assistant before it leaves the member’s office other than documents and correspondence relating to routine administration.

Wills, trusts and estates

The member may permit the legal assistant to collect information, draft documents including wills and trust instruments, prepare any applicable income tax, succession duty and estate tax returns, calculate such taxes and duties, draft executors' accounts and statements of account, and attend to filings and conduct routine correspondence, provided that the member attends on the client to advise and take instructions on all substantive matters, conducts all negotiations with third parties or their lawyers, attends at any hearing before the court or registrar and reviews and signs all material prepared by the legal assistant before it leaves the member's office, other than documents and correspondence relating to routine administration.

Litigation

The member may permit the legal assistant to collect information, interview witnesses, prepare draft pleadings, correspondence and other documentation, research legal questions, prepare memoranda, organize documents, prepare briefs, draft statements of account and attend to filings and other matters of an administrative nature, provided that the member attends on the client to advise and take instructions on all substantive issues, conducts all negotiations with third parties or their lawyers (except where the client consents, negotiations of routine debt collection claims other than in tort may be conducted by the legal assistant and communicated directly by the legal assistant to the client if prior to settlement such are reviewed by the member), and reviews and signs all written material prepared by the legal assistant before it leaves the member's office, other than documents and correspondence relating to routine administration.

The legal assistant shall not attend at any examination for discovery of the client or attend in court or before a registrar or before any administrative tribunal, except in support of a member also in attendance.

12.08 Benchers may treat a member's failure to comply with this part as professional misconduct.

(Adopted: Part XII, Fall Term Convocation, October 6, 1997)

Part XIII – Assurance Fund Rules

Definitions

13.01 For the purpose of this rule, "**member**" means a member of the society, a former member of the society, a professional law corporation and a former professional law corporation.

(Amended: September 17, 2026. Adopted: Rule 13.01, Summer Term Convocation, June 10, 2005)

Funds Continued

13.02 The assurance fund (the "fund") established by Benchers by resolution dated the 4th day of April, A.D., 1983 is continued and is subject, with respect to any claim made against it after the date of coming into force of this rule, to the provisions of this rule.

(Amended: September 17, 2026)

Amount of the Fund

13.03 The amount of the fund shall be fixed from time to time by resolution of Benchers, and such annual assessment shall be made by Benchers on the members of the society as shall be required to maintain the fund at the amount so fixed. The amount of the fund shall be reviewed by Benchers not less than once every two years.

Application for Grant

13.04 (1) A person who claims a pecuniary loss because of the misappropriation or conversion by a member practicing in the province of Newfoundland and Labrador of money or other property entrusted to or received by the member in the course of the practice of law may apply for compensation from the fund by delivering a written application in an approved form to the Executive Director. If money or other property is received by a member with whom there is no solicitor and client relationship or otherwise not in the course of the practice of law, any misappropriation or conversion of money or other property shall not entitle a person to claim from the fund. Money or property entrusted to or received by a member as a trustee shall be deemed not to be entrusted to or received in the course of the practice of law.

(2) Repealed

(3) Repealed

(4) Repealed

(5) To be eligible to make a claim against the fund the applicant must establish that they:

a.) have suffered a pecuniary loss described in rule 13.04(1);
b.) are not a party to and did not in any way aid, abet or condone the misappropriation or conversion of money or property involved;
c.) are not a business or professional partner of the misfeasant member unless the loss arose in a solicitor and client relationship;
d.) have not been reimbursed from any source for the amount claimed from the fund;
e.) are not an insurer or any person claiming under a right of subrogation either in their own name or the name of the person directly suffering the loss and are not a trustee in bankruptcy or the purported assignee or transferee in respect of the claim of the person directly suffering the loss; and
f.) shall assign to the society any judgment, order, including a criminal code compensation order, or other right obtained or existing against the member to the extent of the amount payable to them from the fund.

(*Amended: Rule 13.04(1) and Rule 13.04(5), September 17, 2026. Amended: Rule 13.04(5d), Fall Term Convocation, October 3, 2014*)

(6) An application for reimbursement from the fund shall include the following information:

a.) the name and address of the member of the society whose misappropriation or conversion is alleged to have led to the loss;
b.) the amount of the loss;
c.) details of the circumstances of the loss;
d.) the date upon which the loss first came to the knowledge of the applicant;
e.) confirmation that the loss arose out of a solicitor client relationship between the applicant and the member alleged to have caused the loss; and
f.) any supporting material or documentation to substantiate the loss.

(*Amended: Rule 13.04(7) September 17, 2026*; *Amended: Rule 14.04(d) Fall Term Convocation, October 3, 2014; Repealed: Rule 13.04(2), (3), (4) December Term Convocation,* December 11, 2023)

Limitation Period

13.04.1 (1) Following the expiration of 2 years after the date on which knowledge of the loss arose, a person shall not make an application for compensation from the Assurance Fund.

(2) The limitation period fixed by this Rule does not begin to run against a person until they know, or considering all circumstances of the matter, ought to know, that:

a. they have suffered a pecuniary loss because of an act of misappropriation or conversion by a member practising in the Province of Newfoundland and Labrador; and
b. they may file an Assurance Fund Application.

(3) Notwithstanding subsection (1) where, at the time the right to file an application arises, a person is under a disability, the running of time with respect to the limitation period under this Rule is postponed so long as that person is under a disability.

(4) Notwithstanding subsection (1), the running of time with respect to the limitation period under this Rule is postponed, by confirmation, where a member:

a. acknowledges in writing to the person making the claim, that they misappropriated or converted the person's money or other property; or
b. returns some of the misappropriated or converted money or other property or makes a payment in respect of the money or other property misappropriated or converted to the person making the claim.

(5) Where a member in relation to whom an application is filed confirms the misappropriation or conversion, the time before the date of that confirmation shall not count when determining the limitation period for a person having the benefit of the confirmation against the person bound by that confirmation.

(6) Subsection (5) applies only where the confirmation is given before the expiration of the limitation period for making an application for compensation from the Assurance Fund.

(7) Notwithstanding a postponement or suspension of the running of time under subsections (2), (3), (4), (5) and (6), no application to which this Rule applies shall be

brought after the expiration of 10 years from the date on which the event which gave rise to the application last occurred.

(Amended: Rule 13.04.1(2) and Rule 13.04.1(4), 17 September 2026. Adopted: Rule 13.04.1 December Term Convocation, December 11, 2023)

Inquiry by the Executive Director

13.05 (1) The Executive Director, or a person appointed by them, shall notify the member in relation to whom an application is filed in writing. The Executive Director shall, thereafter, review the application and may conduct such investigation as they deem necessary, or advisable including the holding of a hearing, and shall consider any available information, documents or other evidence for the purpose of:

a.) determining the facts upon which the application relies
b.) determining whether the applicant is in need of assistance; and
c.) recommending whether a grant out of the fund should or should not be made.

(2) The Executive Director may postpone their investigation of a claim pending:

a.) final disposition of any disciplinary action, including judicial review or an appeal taken against or by the member in respect of whom the claim is made; or
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.

(3) At the conclusion of their inquiry, the Executive Director shall report their findings and recommendations, with reasons, to the Benchers with respect to each application.

(*Amended: Rule 13.05(1), Rule 13.05(2), and Rule 13.05(3), 17 September 2026*)

Payment From Fund

13.06 (1) Following receipt of the Executive Director recommendations under rule 13.05(3), Benchers may, in their sole and absolute discretion, and on terms they think fit:

a.) pay money out of the fund to compensate the person entitled for all or part of the loss; or
b.) determine that no payment shall be made.

(*Amended: Rule 13.06, September 17, 2026*)

(2) In deciding the amount of compensation, if any, payable from the fund under rule 13.06(1), Benchers shall have regard to all relevant factors, including the following:

a.) the hardship to the applicant;
b.) the extent to which the applicant contributed to, acquiesced in or delayed in reporting the misappropriation;
c.) the extent to which the applicant cooperated in the investigation or adjudication of the application; and
d.) whether there are alternate civil or criminal remedies available to the applicant.

(3) In considering an application under this part, Benchers may in their sole discretion hear the applicant or any other person, including the concerned member, respecting

any facts or issues with which the application is concerned and shall decide the procedure to be used.

(4) As a pre-condition to payment, Benchers may require the applicant to obtain and/or assign to the society part or all of a civil judgment or criminal code compensation order made against the member, or any other person reasonably perceived to be liable for the loss, respecting money or other property claimed by the applicant.

(Amended: Rule 13.06(3), September 17, 2026)

Maximum Grant

13.07 (1) Subject to 13.07(3) payment of grants from the fund shall be limited to:

a.) the sum of $300,000 in respect of any individual claim.
b.) the sum of $300,000 arising from a single transaction, regardless of the number of persons presenting a claim in relation to this transaction.
c.) for all claims in a given claims year, total grants paid by the fund shall not exceed $1m. However, this limit per claims year may be exceeded in a year when the Law Society has obtained insurance coverage applicable to the claims made, the annual grant limit then being no greater than the limit of such insurance.

In this rule, the term claims year refers to the period from July 1st to the following June 30th.

Once an occurrence has been reported to the fund, all claims arising from that occurrence are assigned to the claims years in which the occurrence was first reported.

Occurrence means the misappropriation or wrongful conversion by a member of money, securities or property entrusted to or received by a member in the member's capacity as a lawyer.

(2) Benchers may authorize payment out of the fund for expenses incurred

a.) to administer the fund.
b.) to investigate applications to the fund; and
c.) for any matter relating to the protection and maintenance of the fund.

(3) Benchers may in their sole and absolute discretion authorize grants from the fund in excess of the limits set out herein.

(Amended: Rule 13.07(2b), September 17, 2026. Amended: Rule 13.07 (1 (a), (b), (c), and Rule 13.07(3) Fall Term Convocation, October 3, 2014)

Recovery of Payment Made

13.08 Where Benchers pay money out to the fund, Benchers 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 fix the date by which the repayment shall be completed.

Inter Provincial Practice of Law

13.09 Any claim from a client arising from the misappropriation or conversion of money or property by a member engaged in the practice of law outside the province shall be processed in accordance with the interjurisdictional practice protocol of the federation of law societies of Canada.

(*Adopted Rule 13, Fall Term Convocation, October 1, 2001; Amended Rule 13, Summer Term Convocation June 10, 2005*)

Part XIV – Practice Investigation

Definitions

14.01 For the purpose of this rule, "**respondent**" shall have the meaning ascribed thereto in section 41(f)of the Act.

(Adopted: Rule 14.01, Summer Term Convocation, June 10, 2005)

Practice review

14.02 (1) Where the complaints authorization committee has exercised its power to conduct a practice review under subsection 45(1) of the Act, the complaints authorization committee may designate a person or persons (the "investigator") to review some or all of the respondent's practice.

(2) A review may take place at one or more of the respondent's offices and may include on or more of the following:

a.) a review of any or all of the respondent's records, files, documentation and information; and
b.) interviews with the respondent and the respondent's staff.

(Amended: Rule 14.02, Winter Term Convocation, February 10, 2020)

Notice

14.03 One clear day's notice of the review shall be provided by personal delivery, electronic communication or other appropriate means to the respondent's partners, associates, voting shareholders, directors and employees who are members other than the respondent at the address of record. The notice shall indicate that the review has been directed under subsection 45(1) (c) of the Act and shall provide the name of the investigator.

(Amended: Rule 14.03, Summer Term Convocation, June 5, 2009)

Place of review

14.04 The review may be conducted in the office of the respondent or the respondent may be requested to submit files to the society.

(Amended: Rule 14.04, Summer Term Convocation, June 5, 2009)

Co-operation with investigator

14.05 The respondent and the respondent's partners, associates, voting shareholders, directors and employees who are members other than the respondent, support personnel and legal assistants as defined in rule 12.01, shall respond to any inquiries and produce for the investigator all records, files, documentation and information which the investigator requires for the purpose of the review. The investigator may view, copy, remove and return same within a reasonable time.

(Amended: Rule 14.06, Summer Term Convocation, June 5, 2009)

Report of investigator

14.06 The investigator shall, as soon as reasonably practicable, report in writing the results of the review to the complaints authorization committee. If deemed necessary by the complaints authorization committee a preliminary written report shall be provided.

(Amended: Rule 14.06, Summer Term Convocation, June 5, 2009)

Failure to comply

14.07 If any person required to cooperate with the review fails to comply with the investigator's requirements for records, files, documentation and information, or has otherwise impeded the review, the investigator shall report the circumstances to the complaints authorization committee, and such failure to comply may constitute conduct deserving of sanction.

(Amended: Rule 14.07, Summer Term Convocation, June 5, 2009)

Review incomplete

14.08 If the investigator has been unable, for whatever reason, to conduct or complete the review, he or she shall report, stating the reasons therefor, in writing to the complaints authorization committee.

(Amended: Rule 14.08, Summer Term Convocation, June 5, 2009)

Use of investigator's report

14.09 The investigator's report may be made the basis of a complaint against a respondent.

(Amended: Rule 14.09, Summer Term Convocation, June 5, 2009)

Recovery of expenses of practice review

14.10 The expenses of a practice review may be recovered as costs in the same manner as provided for in rule 5.09(9).

(Amended: Rule 14.10, Summer Term Convocation, June 5, 2009)

Discipline rules apply

14.11 For the purpose hereof, the Law Society Rules, Part IX shall apply with any necessary changes.

(Adopted: Part XIV, Special Term Convocation, December 3, 2001; Amended: Part XIV, Winter Term Convocation, June 10, 2005)

Part XIVA – Practice Management Reviews

14.01A (1) Where the executive director is satisfied that there are reasonable grounds to believe that a member may be failing or may have failed to comply with the Act, the Rules or the Code of Professional Conduct, the executive director may direct a review of the management of the member's practice.

(2) In determining whether there are reasonable grounds to believe that a member may be failing or has failed to comply with the Act, the Rules or the Code of Professional Conduct, the following factors may be considered:

a.) whether there are 4 or fewer members practising with the member in the same firm;
b.) any allegations made to the society relating to the member;
c.) any findings of the complaints authorization committee that there were reasonable grounds to believe that the member has engaged in conduct deserving of sanction;
d.) any findings or orders of an adjudication tribunal made under the Act;
e.) any findings or orders of any court of competent jurisdiction relating to the conduct of the member;
f.) any issues identified through an investigation or audit under Part V;
g.) any failure of the member to meet mandatory professional development or continuing legal education requirements under Part VI;
h.) whether there are any outstanding judgments, orders for costs or matters in bankruptcy, including assignments and petitions into bankruptcy as well as

consumer proposals, relating to the member or the member has failed to comply with Canada Revenue Agency obligations; and

i.) any other information relating to the member or the member's practice that comes to the attention of the executive director.

(3) Where the executive director has exercised his or her power under section (1) to direct a practice management review, the executive director shall designate a person or persons (the "reviewer") to conduct the practice management review.

Notice

14.02A At least one clear day's notice of the practice management review shall be provided by personal delivery, electronic communication or other appropriate means to the member.

Process

14.03A (1) A practice management review may take place at one or more of the member's offices and may include one or more of the following:

a.) a review of any or all of the member's records, files, documentation and information; and
b.) interviews with the member and the member's staff.

(2) A practice management review under this rule shall be completed within 2 years from the date the file is opened.

(3) The time for completing a review may be extended at the discretion of the executive director.

(Rule 14.03A: Amended, Special Meeting of Benchers, 29 September 2021)

Co-operation with reviewer

14.04A The member and the member's partners, associates, voting shareholders, directors and employees who are also members, support personnel and legal assistants shall respond to any inquiries and produce for the reviewer all records, files, documentation and information which the reviewer requires for the purpose of the practice management review. The reviewer may view, copy, remove and return same within a reasonable time.

Discontinuing a review

14.05A (1) Not withstanding rule 14.10A, where the reviewer determines during the course of a review that there is a requirement to report the member to the society under the Act, the Rules or the Code of Professional Conduct, the reviewer shall discontinue the review and report to the executive director.

(2) The executive director may direct that a practice management review file be closed before the review is completed where

a.) the member subsequently files a completed form 2.19A or 2.20A; or

b.) that member's practice arrangement or practising status changes and the executive director determines that a practice management review is no longer necessary.

(Rule 14.05A: Amended, Fall Term Convocation of Benchers, 27 September 2021)

Report

14.06A (1) The reviewer shall, as soon as reasonably practicable, report in writing the recommendations arising from the practice management review to the executive director and the member.

(2) If the reviewer has been unable, for whatever reason, to conduct or complete the practice management review, he or she shall report, stating the reasons therefor, in writing to the executive director.

Process following report

14.07A (1) On receipt of a report, the executive director shall do one or more of the following:

a.) direct that the practice management review file be closed;
b.) request confirmation that some or all of the deficiencies and recommendations noted in the report have been or will be addressed;
c.) request written evidence that some or all of the deficiencies and recommendations noted in the report have been addressed;

d.) require an undertaking to address deficiencies or take a recommended action within a specified time frame;
e.) direct that a further practice management review take place;
f.) file an allegation if the deficiencies or recommendations reveal possible professional misconduct, incapacity or a failure to meet the standards of professional competence; or
g.) any other action that the executive director determines is reasonable.

(2) The executive director shall provide written notice of the next step under section (1) within 60 days of receiving the report.

(3) Where the executive director requires confirmation, evidence or an undertaking, the member shall provide the confirmation, evidence or undertaking within 30 days of receipt of the notice provided under section (2).

(4) A member's failure to provide confirmation, evidence or an undertaking required under this rule may constitute conduct deserving of sanction.

(5) A member's failure to fulfill an undertaking given under this rule, without reasonable explanation, may constitute conduct deserving of sanction.

(Rule 14.07A: Amended, Fall Term Convocation of Benchers, 27 September 2021)

Failure to comply

14.08A If any person required to cooperate with the practice management review fails to comply with the reviewer's requirements for records, files, documentation and

information, or has otherwise impeded the practice management review, the reviewer shall report the circumstances to the executive director, and such failure to comply may constitute conduct deserving of sanction.

New sole practitioners and new members of small firms

14.09 A practice management review shall be conducted under this rule where

a.) a member files a change of association of practice under rule 2.20 or applies to commence or resume practising status under rule 2.21; and
b.) that member changes to, commences or resumes practising as a sole practitioner or in a firm with 4 or fewer other members.

(Rule 14.09A: Amended, Fall Term Convocation of Benchers, 27 September 2021)

Confidentiality

14.10A The fact that the member is subject to a practice management review shall not be made public except as required by law or in connection with a discipline proceeding under the Act.

Solicitor-client privilege

14.11A In the course of a practice management review, solicitor-client privilege shall not apply as against the society or the reviewer to enable the member, the member's partners, associates, voting shareholders, directors and employees who are also members, support personnel and legal assistants to refuse to produce any records, files, documentation or information in their control or possession.

Application

14.12A This rule applies, with necessary modifications, to professional law corporations.

Coming into force

14.13A These rules come into force on February 24, 2020.

(Adopted: Part XIVA, Winter Term Convocation, February 10, 2020)

Part XV – Cash Transactions and Record Keeping Requirements

Definitions

15.01 In this rule, unless the context otherwise requires:

"**Cash**" means coins referred to in section 7 of the *Currency Act*, 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.

"**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 member's firm which will be reimbursed by the client.

"**Expenses**" means costs incurred by a member or law 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/postage, and paralegal costs.

"**Financial institution**" means

a.) a bank that is regulated by 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.) a 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 by the *Trust and Loan Companies Act (Canada)*,
h.) a trust company or loan company that regulated by a provincial or territorial Act,
i.) a department 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 interest in them;

“**Legal services**” means the practice of law as defined in s. 2(2) of the *Law Society Act, 1999*.

“**Money**” includes cash, cheques, drafts, credit card sales slips, post office orders and express and bank money orders.

“**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 member’s firm.

“**Public body**” means,

a.) a department 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.) 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 (Canada)* or agent of the organization;
d.) an organization that operates a public hospital authority and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act (Canada)* or an agent of the organization;
e.) a body incorporated by or under the law of an Act of a province or territory of Canada for a public purpose; or
f.) subsidiary of a public body whose financial statements are consolidated with those of the public body.

Cash transactions

15.02 (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 from a person cash in a foreign currency the member shall 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) Rule 15.02(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 properties or business assets or entities; and
c.) transferring funds by any means.

(4) Notwithstanding rule 15.02(3), rule 15.02(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 his or her 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.

Record keeping requirements

15.03 (1) Every member, in addition to existing financial records requirements to record all money and other property received and disbursed in connection with the member's practice, shall maintain

a.) a book 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.

(2) Every member who receives cash for a client shall maintain, in addition to existing financial records 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 cash and of the person from whom cash is received.

(3) The financial records described in rule 15.03(1) and (2) 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.

(4) The financial records described in rule 15.03(1) and (2) shall be entered and posted so as to be current at all times.

(5) A member shall keep the financial records described in rule 15.03(1) and (2) for at least the six-year period immediately preceding the member's most recent fiscal year end.

(6) Every member shall report in the Member's Annual Report, form 5.07A, on whether the member received cash in an aggregate amount greater than $7,500 in respect of any one client matter during the course of the reporting period, and indicate the exception under rule 15.02(4) permitting the member to accept such cash.

(7) Any deliberate or careless breach of this rule will be treated as conduct deserving of sanction.

(Adopted: Part XV, Fall Term Convocation, September 26, 2005)
(Amended – Part XV – Cash Transactions and Record Keeping Requirements, 2 January 2020)

Administrative Penalty

15.04 (1) Where the Executive Director determines that, on a balance of probabilities, a member has not complied with the record keeping requirements outlined in this Rule, the Executive Director may:

a) refer the member to the disciplinary process set out in Part II of the Act; and/or
b) assess an administrative penalty as follows:

i. if no previous administrative penalty has been assessed against the member, up to $2,500 plus applicable taxes; or

ii. if one or more administrative penalties have previously been assessed against the member, up to $5,000 plus applicable taxes.

(2) A member has 30 days to pay the administrative penalty or arrange for the payment of the administrative penalty.

(3) If a member fails to pay the administrative penalty, the Executive Director may:

(a) impose an administrative suspension until the member pays the administrative penalty; and/or
(b) engage the disciplinary process set out in Part II of the Act.

(4) If an administrative penalty is assessed, the society shall advise its members of the failure to comply with the record keeping requirements giving rise to the penalty but omitting information that may disclose the identity of the member(s) assessed the penalty.

(Rule 15.04: Adopted June 30, 2024. Amended 3 March 2026)

Part XVI – Client Identification and Verification Requirements

Definitions

16.01 In this rule,

"**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.

"**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 member's firm which will be reimbursed by the client.

"**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 member's law 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/postage, and paralegal costs.

"**Financial institution**" means

a.) a bank that is regulated by 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.) a 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 by 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 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.

"**Legal services**" means the practice of law as defined in s. 2(2) of the *Law Society Act, 1999*.

“member” means, in the Province of Quebec, an advocate or a notary and, in any other province, a barrister or solicitor.

“organization” means a body corporate, partnership, fund, trust, co-operative or an unincorporated association.

“**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 member’s firm.

“**Public body**” means

a.) a department 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 in Canada or an agent in Canada of any of them,
c.) a local board of a municipality incorporated by or under an Act of a province or territory of Canada including any local board as defined in the *Municipal Act (Ontario)* [or equivalent legislation] or similar body incorporated under the law of another province or territory,
d.) an organization that operates a public hospital authority and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act (Canada)* or an agent of the organization,
e.) a body incorporated by or under the law of an Act of a province or territory of Canada for a public purpose, or

f.) 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 that is 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 includes a subsidiary of that organization or corporation whose financial statements are consolidated with those of the organization or corporation.

"**Securities dealer**" means persons and 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.

Requirement to identify client

16.02 (1) Subject to section 16.02(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 their 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 member, associate or employee of the member's firm, wherever located.

(3) Sections 16.03 through 16.10 do not apply to

a.) a member when he or she provides legal services or engages in or gives instructions in respect of any of the activities described in section 16.04 on behalf of his or her employer,
b.) a member
    i.) who is engaged as an agent by the lawyer 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 lawyer for the client when the client's lawyer has complied with sections 16.03 through 16.10, 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.

16.03 A member who is retained by a client as described in section 16.02(1) must obtain and record, with the applicable date, the following information:

(1) for individuals

a.) the client's full name,
b.) the client's home address and home telephone number,

c.) the client's occupation or occupations, and
d.) the address and telephone number of the client's place of work or employment, where applicable;

(2) for organizations

a.) the client's full name, business address and business telephone number,
b.) 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,
c.) other than a financial institution, public body or a reporting issuer, the general nature of the type of business or businesses or activity or activities engaged in by the client, where applicable, and
d.) 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,

(3) If the client is acting for or representing a third party, information about the third party as set out in sections 16.03(1) and 16.03(2) as applicable.

When verification of client identity required

16.04 Subject to section 16.05, section 16.06 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 re: certain funds

16.05 Section 16.06 does not apply:

(1) where the client is a financial institution, public body or reporting issuer,

(2) in respect of funds,

a.) paid by or to a financial institution, public body or a reporting issuer;
b.) received by a member from the trust account of another member;
c.) received from a peace officer, law enforcement agency or other public official acting in their official capacity;
d.) paid or received to pay a fine, penalty or bail; or
e.) paid or received for professional fees, disbursements or expenses;

or

(3) to an electronic funds transfer.

Requirement to verify client identity

16.06 (1) When a member is engaged in or gives instructions in respect of any of the activities described in section 16.04, the member must:

a.) obtain from the client and record, with the applicable date, information about the source of funds described in section 16.04, and

b.) verify the identity of the client, including the individual(s) described in paragraph 16.03(2)(d), and, where appropriate, the third party using the documents or information described in section 16.06(6).

Use of Agent

(2) A member may rely on an agent to obtain the information described in section 16.06(6) to verify the identity of an individual client, third party or individual described in section 16.03(2)(d) provided the member and the agent have an agreement or arrangement in writing for this purpose as described in 16.06(4).

(3) Revoked June 9, 2023

Agreement for Use of Agent

(4) A member who enters into an agreement or arrangement referred to in section 16.06(2) 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 section 16.06(6).

(Amended 9 June 2023)

(5) A member may rely on the agent's previous verification of an individual client, third party or an individual described in section 16.03(2)(d) if the agent was, at the time they verified the identity,

a.) acting in their own capacity, whether or not they were required to verify identity under this Rule, or
b.) acting as an agent under an agreement or arrangement in writing, entered into with another member who is required to verify identity under this Rule, for the purpose of verifying identity under section 16.06(6).

Documents and Information for Verification

(6) For the purposes of section 16.06(1)(b), the client's identity must be verified by referring to the following documents, which must be valid, authentic and current, or the following information, which must be valid and current:

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 issued 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 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 addresses 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 they have 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 sections 16.06(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 their parents or their guardian.

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 member may refer to information under section 16.06(a)(iii)(A) that contains the name and address of one of the individual's parents or their guardian and verifying 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 and officers, 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,

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 constating documents, such as a trust or partnership agreement, articles of association, or any other similar record that confirms its existence as an organization.

(Amended 9 June 2023)

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 section 16.04 for a client or third party that is an organization referred to in section 16.06(6)(e) or (f), the member must

a.) obtain and if obtained, 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 of 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 section 16.06(7).

(9) A member must keep a record, with the applicable date(s), that sets out the information obtained and:

a.) the efforts made under section 16.06(7)(b), and

b.) the measures taken to confirm the accuracy of the information obtained under section 16.06(7).

(10) If a member is not able to obtain the information referred to in section 16.06(7) or to confirm the accuracy of that information in accordance with section 16.06(8), the member must

a.) take reasonable measures to ascertain the identity, of the most senior managing officer of the organization; and
b.) determine whether
    i.) the client's information in respect of their activities,
    ii.) the client's information in respect of the source of the funds described in section 16.04, and
    iii.) the client's instructions in respect of the transaction are consistent with the purpose of the retainer and the information obtained about the client as require by this Rule.
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 sections 16.06(10)(b) and 16.06(10)(c).

Timing of Verification for Individuals

(11) A member must verify the identity of

a.) a client who is an individual, and
b.) the individual(s) authorized to provide and give instructions on behalf of an organization with respect to the matter for which the member is retained

upon engaging in or giving instructions in respect of any of the activities described in section 16.04.

(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 section 16.04 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 section 16.06(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.

Record keeping and retention

16.07 (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 section 16.06(1).

(2) The documents referred to in section 16.06(1) may be kept in a machine-readable or electronic form, if a 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 sections 16.03 and 16.06(7) 16.06(10(2) and copies of all documents received for the purposes of section 16.06(1) for the longer of

a.) the duration of the member 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

16.08 Sections 16.02 through 16.07 of this rule 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 he or she 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

16.09 (1) If in the course of obtaining the information and taking the steps required in sections 16.03, 16.06(1), 16.06(7) or (10), a member who knows or ought to know that he or she 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

16.10 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 section 16.04, the member

must:

(1) monitor on a periodic basis the professional business relationship with the client for the purposes of:

a.) determining whether
    i.) the client's information in respect of their activities,
    ii.) the client's information in respect of the source of the funds described in section 16.04, and
    iii.) the client's instructions in respect of transactions

    are consistent with the purpose of the retainer and the information obtained about the client as required by this Rule, and
b.) assessing whether there is a risk that the member may be assisting in or encouraging fraud or other illegal conduct; and

(2) keep a record, with the applicable date, of the measures taken and the information obtained with respect to the requirements of section 16.10(1)(a).

Duty to withdraw

16.11 (1) If while retained by a client, including when taking the steps required in section 16.10, a member who knows or ought to know that he or she is or would be assisting the client in fraud, or other illegal conduct, the member must withdraw from representation of the client.

Application

(2) This section applies to all matters for which a member was retained before this rule comes into force and to all matters for which he or she is retained after that time.

(Amended – Part XVI – Client Identification and Verification Requirements, 2 January 2020)

Administrative Penalty

16.12 (1) Where the Executive Director determines that, on a balance of probabilities, a member has not complied with the record keeping and retention requirements outlined in this Rule, the Executive Director may:

a) refer the member to the disciplinary process set out in Part II of the Act; and/or
b) assess an administrative penalty as follows:

i. if no previous administrative penalty has been assessed against the member, up to $2,500 plus applicable taxes; or
ii. if one or more administrative penalties have previously been assessed against the member, up to $5,000 plus applicable taxes.

(2) A member has 30 days to pay the administrative penalty or arrange for the payment of the administrative penalty.

(3) If a member fails to pay the administrative penalty, the Executive Director may:

a) impose an administrative suspension until the member pays the administrative penalty; and/or

b) engage the disciplinary process set out in Part II of the Act.

(4) If an administrative penalty is assessed, the society shall advise its members of the failure to comply with the record keeping requirements giving rise to the penalty but omitting information that may disclose the identity of the member(s) assessed the penalty.

(Rule 16.12: Adopted June 30, 2024. Amended 3 March 2026)

Part XVII – Miscellaneous

Amendment

17.01 These Rules shall not be altered, amended, added to or superceded (except where a waiver of the application of same is expressly provided for in these Rules) unless notice of such proposal, alteration, amendment, addition or suspension shall have been given at a previous meeting of the Benchers.

Repeal and transition

17.02 (1) All former Rules, Regulations and By-Laws of the Society are hereby repealed.

(2) Notwithstanding rule 11.02 (1), when on the coming into force of these Rules any proceedings, including discipline proceedings, have been commenced and are

pending, or any acts have been taken, the rules of the Society as they exist immediately prior to the coming into force of these Rules shall continue to apply thereto.

(3) All existing committees of the Society as presently constituted shall be and be deemed to be validly constituted under these Rules until such a time as new appointments are made, or required to be made thereto, at which time these rules shall apply thereto.

Part XVIII – Witnessing, Commissioning and Notarizing Documents via Audio-Visual Communication

Definitions

18.01 The following definitions are applicable to this Rule and its related Forms:

"**member**" means a lawyer as defined in the *Commissioners for Oaths Act*, *Notaries Public Act*, *Registration of Deeds Act, 2009* and the *Wills Act*.

Requirements

18.02 A member must not witness, commission or notarize a document via audio-visual technology under the *Commissioners for Oaths Act*, *Notaries Public Act*, *Registration of Deeds Act, 2009* and the *Wills Act* unless the member:

a) complies with the applicable legislation and this rule; and

b) has professional liability insurance that covers witnessing, commissioning or

notarizing that document or is eligible to be indemnified by the member's employer for witnessing, commissioning or notarizing that document.

18.03 When witnessing, commissioning or notarizing a document via audio-visual technology, members must comply with the requirements in Rule 16 as well as confirm the signatory's identity by:

a. requiring that the signatory display government-issued photo identification;
b. ensuring that the government-issued identification is valid, authentic and current;
c. comparing the image on the government-issued photo identification with the signatory to be reasonably satisfied that it is the same person;
d. obtaining a screen capture or a photo of their screen showing the face of the signatory alongside the signatory's government-issued photo identification;
e. treating the interaction as a high-risk interaction and monitoring the situation accordingly; and
f. recording the date and the details of how the signatory's identity was confirmed.

18.04 Notwithstanding Rule 18.03, where:

a. a signatory does not have government-issued photo identification that is valid and current but the signatory is known to the member; and
b. the matter does not involve any of the following:

i. the receiving, paying or transferring of funds as outlined in Rule 16.04;
ii. the witnessing of a will; or

iii. the witnessing, notarizing or commissioning of a document under the *Registration of Deeds Act, 2009*,

a member may confirm the signatory's identity for the purpose of witnessing, commissioning or notarizing a document via audio-visual technology by:

c. complying with Rule 16.06(6)(a)(ii) or Rule 16.06(6)(a)(iii); and
d. executing an affidavit outlining:

i. the member's belief that the signatory does not have government-issued photo identification that is valid and current and the reasons for that belief;
ii. the particulars of how the signatory is known to the member;
iii. the reasons for the member's belief that the signatory is who they claim to be; and
iv. the particulars of the matter.

Mitigating the Risks

18.05 Before witnessing, commissioning or notarizing a document via audio-visual technology, members must take the following steps:

a. consider whether there are red flags of fraud associated with the matter;
b. assess whether there is a risk that the signatory may be subject to undue influence or duress, including observing who else is physically in the room with the signatory during execution of documents;
c. confirm the signatory's understanding of the documents they are executing and provide adequate opportunity for them to ask questions before they execute the

document; and

d. take any other measures to mitigate the risks associated with fraud, identify theft, undue influence, duress and potential lack of capacity that are reasonable in the circumstances.

18.06 Members must decline to act where they are unable to take the steps to mitigate the risks found in Rule 18.05.

Recording Requirements

18.07 Members must concurrently prepare a written record detailing how the risks outlined in Rule 18.05 were mitigated by completing Law Society Form 18: Witnessing, Commissioning and Notarizing Documents via Audio-Visual Technology. A copy of the screen capture or photo of the screen required under Rule 18.03(d) or the affidavit outlined in Rule 18.04(d) must be appended to the Form.

18.08 Members must:

a. maintain the original Form in the client's file where the signatory is a client and in a central location where the signatory is not a client; and

b. provide the signatory with a copy of the Form.

Additional Requirements for Witnessing a Will

18.09 In addition to the other requirements outlined in this Rule, members witnessing a will via audio-visual technology must:

a. upon receipt of an original signed but unwitnessed, or partially witnessed, will from a testator, and before signing as a witness, complete a line-by-line comparison of the will against the document that the member created and sent to the client to ensure that it has not been altered in transit;
b. where the member did not draft the will and is acting as a witness only, the member shall, before signing as a witness, read the entirety of the will to the testator during the meeting via audio-visual technology to confirm the intentions of the testator;
c. record the name of the second witness to the will and their relationship to the testator; and
d. concurrently prepare a Proof of Will in accordance with the *Rules of the Supreme Court, 1986* and amend the jurat on the Proof of Will to include the words “via audio-visual technology”.

Registration of Deeds Act, 2009

18.10 For greater certainty, “executed in the province” for the purposes of section 15 of the *Registration of Deeds Act, 2009*, means an instrument executed by a signatory physically present in the province and witnessed by a member who, at the time of witnessing the instrument, is physically in or outside the province.

Date of Document

18.11 The date of the document is the date the document is signed by the signatory, not the date the document is signed by the member.

Coming into Effect

18.12 This Rule shall take effect on the day the *Alternate Witnessing of Documents Amendment Act* comes into force.