



THE RULES OF THE LAW SOCIETY OF ALBERTA

AMENDMENT TABLE – 2007_V2

Rules Modified	Description of Change	Amendment Authorized	Amendment Effective	Amendment Source	Other Impact
148(2.1)	Revised rule 148(2.1) – added Lethbridge Legal Guidance	April 12, 2007	April 12, 2007	Benchers April 2007 Convocation	

Changes listed in this table are ones made to Version "2007_V1" of the Rules. Where an amendment to the substance of a rule or subrule has been made since June 3, 2001, the amendment month and year are marked at the end of the Rule. Amendments made prior to June 3, 2001 are not marked in this document.

THE RULES OF THE LAW SOCIETY OF ALBERTA

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PART 1

ORGANIZATION AND ADMINISTRATION OF THE SOCIETY

Interpretation

- 1 (1) In these Rules,
- (a) "Act" means the *Legal Profession Act*, R.S.A. 2000, c. L-8 as amended, and includes the *Legal Profession Act*, S.A. 1990, c.L-9.1 (as amended, in relevant circumstances);
 - (b) "ALIA" means the Society's subsidiary, the Alberta Lawyers' Insurance Association;
 - (c) "Associate" means:
 - (i) a member, or
 - (ii) the voting shareholder of a professional corporation, employed by a law firm in the capacity of a barrister and solicitor, or engaged pursuant to a contract with a law firm other than a contract of employment, to provide legal services on the law firm's behalf on a full-time or part-time basis.
 - (d) "Assurance Fund levy" means an assessment levied on active members pursuant to Part 6;
 - (e) "Auditor" means the accountant or firm of accountants appointed by the Benchers as the auditor of the Society;
 - (f) "Auditor's representative" means the accountant who is the auditor of the Society, or, if the Society's auditor is a firm of accountants, an accountant who is a member or employee of that firm;
 - (g) "Committee" means a committee established by the Act or these Rules or pursuant to section 6(c) of the Act or a subcommittee of a committee so established, but does not include a Hearing Committee;
 - (h) "Extraprovincial law society" means:
 - (i) in relation to Canada, a law society or comparable governing body of the legal profession or a class of the legal profession of a province or territory of Canada other than Alberta, or
 - (ii) in relation to a country outside Canada or a political subdivision of a country outside Canada, the body or official governing or regulating the legal profession or a class of the legal profession within that country or political subdivision;
 - (i) "Inactive member (retired)" means an inactive member, who has been an active member of the Society, or a Judge described in section 33 of the Act or a Master in Chambers, for a period or periods totalling at least 25 years, who has elected to become an inactive member (retired) pursuant to Rule 69 (3), and who has not revoked that election.
 - (j) "In good standing" means:
 - (i) in relation to a member of the Society, that the membership of the member is neither under suspension nor liable to be suspended by reason of a then current default of payment to the Society of a prescribed annual fee, Assurance Fund levy or professional liability insurance assessment or default of compliance with Rule 120 or 126, or
 - (ii) in relation to a member of an extraprovincial law society, that the member's right to practise law in the jurisdiction of that society is not under suspension and that the member is not in default of payment to that society of any amount or of the filing with that society of a document if the continuation of that default could result in suspension of that member's right to practise law in that jurisdiction;
 - (k) LLP means a limited liability partnership under Part 3 of the *Partnership Act* (Alberta) that carries on the practice of law in Alberta, whether as an Alberta LLP or an extraprovincial LLP;
 - (l) "Notify" means to notify by any means of oral or written communication, including service of a written notice;
 - (m) "Prescribed", with reference to a fee or assessment or other amount payable to the Society, means prescribed by the Benchers pursuant to these Rules;
 - (n) "Professional liability insurance assessment" means an assessment levied pursuant to Part 7;
 - (o) "Old Act" means the *Legal Profession Act*, R.S.A. 1980, c.L-9, as amended;

- (p) "Sole practitioner" means a member who is, in the capacity of a natural person, the sole owner of a law practice carried on by the member;
 - (q) "Suspended member" means a member whose membership is under suspension;
 - (r) A reference to a numbered Form means the relevant Form in the Schedule to these Rules;
 - (s) Expressions defined in the Act take the meaning assigned to them in the Act.
- (2) Where a provision of these Rules requires or authorizes the payment of an amount to the Society or the furnishing of a document to the Society or an officer of the Society then, for the purposes of these Rules, the amount shall be considered paid and the document shall be considered filed or furnished, as the case may be, when it is received at the Society's offices in Calgary.
- (3) If a power or duty of the Executive Director under any provision of these Rules is delegated by the Benchers to an officer or employee of the Society, a reference to the Executive Director in that provision shall be construed as including that officer or employee.

Law Firms

- 2 (1) For the purposes of these Rules and section 126 of the Act, "law firm" or "firm" means
- (a) a sole practitioner,
 - (b) a professional corporation that is not part of a partnership, or
 - (c) a partnership consisting wholly or partly of active members or professional corporations or a combination of both
- that owns and carries on a law practice in Alberta, and includes an LLP.
- (2) For the purposes of these Rules, a member is an owner of a law firm if
- (a) the firm consists of a sole practitioner and the member is the sole practitioner,
 - (b) the law firm is a professional corporation that is not part of a partnership and the member is the sole voting shareholder of the corporation or one of the voting shareholders of the corporation, or
 - (c) the law firm is a partnership and the member is one of the partners or is a voting shareholder of a professional corporation that is one of the partners.
- (3) For the purposes of these Rules, a member "practises with" a law firm if the member is the owner or one of the owners of the law firm or is an associate of the firm.
- (4) Where a provision of these Rules imposes a duty on a law firm,
- (a) the owner of the law firm is responsible for performing the duty, if the firm has only one owner, and
 - (b) the owners of the law firm are jointly and severally responsible for performing the duty, if the firm has 2 or more owners.

Collection, Use and Disclosure of Information

- 2.1 (1) For the purposes of this Rule,
- (a) "addressing the unethical, incompetent or unauthorized practice of law" includes, but is not limited to, prevention, investigation, prosecution and compensation.
 - (b) "information" includes "personal information" as defined in the Personal Information Protection Act of Alberta.
 - (c) "person" includes an individual, corporation, partnership, association, law firm, society, governing body, or other organization.
 - (d) "Society" includes the Alberta Lawyers Insurance Association.
- (2) Any person with information that is relevant to any of the matters identified in subrule (3) may, and is encouraged to, provide that information to the Society without the consent of the individual.
- (3) Subject to Rules 31.1 and 31.2, the Society may use information without the consent of the individual
- (a) to assist in addressing the unethical, incompetent or unauthorized practice of law,
 - (b) to assist in ensuring compliance with the Act, these Rules and the Code of Professional Conduct,

- (c) to serve the interests of justice within regulatory proceedings, or
 - (d) to assist in otherwise furthering the public interest in relation to matters involving the legal profession.
- (4) The Society may disclose information without the consent of the individual where the interests of justice within regulatory proceedings, taking into consideration the protection of privacy, weigh in favour of the disclosure of the information.
- (5) The Society may, without the consent of the individual, use contact information to communicate with that individual for any of the purposes identified in subrule (3).
- (6) The authority provided for in subrules (2), (3), (4) and (5) is in addition to the authority that the Society has under the Act, these Rules, and the Personal Information Protection Act.

Feb2004

Amendment, Waiver or Variation of Rules

- 3 (1) The Benchers may amend or replace the Rules, or suspend the operation of any provision of the Rules indefinitely or for a stated period,
- (a) at a meeting, by the votes of at least 2/3 of the Benchers present at the meeting, or
 - (b) by a vote conducted under section 20(5) of the Act.
- (2) The Benchers may waive or vary any provision of the Rules in its application to a particular person or situation if the resolution favouring the waiver or variation is approved
- (a) at a meeting by the votes of at least 2/3 of the Benchers present at the meeting, or
 - (b) by a vote conducted under section 20(5) of the Act.

Service of Documents

- 4 (1) Where a notice or other document is to be served, given or furnished pursuant to a provision of these Rules by a delivery under section 114(b) of the Act, the notice or other document may be delivered by
- (a) a Bencher or an officer or employee of the Society,
 - (b) any person engaged for the purposes by, or acting at the request of, a committee, a Bencher or an officer or employee of the Society,
 - (c) registered mail,
 - (d) courier,
 - (e) by fax to the fax number provided by the intended recipient to the Law Society where;
 - (i) the Rules require delivery by mail, or
 - (ii) in any other case, where the intended recipient has, explicitly or implicitly, authorized the Law Society to use that form of communication.
- (2) Unless the contrary is proved, any information sent by registered mail or by courier to the address specified in section 114(b) of the Act, or by fax to the most recent fax number provided by the intended recipient to the Law Society, shall be presumed to be delivered
- (a) 7 days from the date of mailing, couriating or faxing if the document is sent to an address or number in Alberta; and
 - (b) 14 days from the date of mailing, couriating or faxing if the document is sent to an address or number in Canada, outside Alberta.

Nov2002

Seal of the Society

- 5 (1) The Society shall have a common seal of the following design:
- A circular field, the lower half a prairie and the upper filled with a setting sun, its rays extending to the margin of the circle; in the foreground, and in the front of the setting sun, the standing figure of Justice holding the scales in the right hand and a sword in the left; inscribed on a scroll below the feet of the figure, the motto "Virtus Justitiae Ancilla", around the upper portion of an exterior circle the words, "The Law Society of Alberta", and in the lower portion the words and figures, "Incorporated 1907".
- (2) If an agreement or other document is required to be executed on behalf of the Society under seal then, unless the Benchers otherwise provide, the affixing of the Society's seal on the agreement or other document shall be attested by a member of the Executive Committee and the Executive Director.

General Functions of the Executive Director

- 6 The Executive Director is
- (a) the chief executive officer of the Society,
 - (b) the custodian of the seal of the Society, and
 - (c) subject to the Deposit Agreement referred to in Rule 44, the custodian of the records of the Society.

**DIVISION 1
THE BENCHERS**

ELECTION OF BENCHERS

Notice of Election

- 7 (1) The Executive Director may, on or after June 1 preceding an election of Benchers, send a notification to each active member that the nomination period will commence with the sending of the notice of election in Form 1-1 in accordance with subrule (2), along with any other information contemplated by rules 7 through 17.
- (2) During the 15-day period commencing on August 15 preceding an election of Benchers, the Executive Director shall send to each active member notice of the election in Form 1-1, along with notification of the dates determined under subrules 10(1)(c), 11(1) and 11(4) and the date of the election as determined under section 12 of the Act.

Apr2005

Districts

- 8 (1) For the purpose of an election of Benchers, there shall be 3 districts as follows:
- (a) the Northern District, being that part of Alberta lying north of the 53rd parallel of latitude but excluding the Edmonton area;
 - (b) the Central District, being that part of Alberta lying between the 51st and 53rd parallels of latitude but excluding the Calgary area and the Edmonton area, and
 - (c) the Southern District, being that part of Alberta lying south of the 51st parallel of latitude but excluding the Calgary area.
- (2) In subrule (1),
- (a) "Calgary area" means the City of Calgary, the area lying within 35 kilometres of the boundaries of the City of Calgary as those boundaries stood on September 1 in the year in which an election is to be held, and any additional area referred to in subrule (3);
 - (b) "Edmonton area" means the City of Edmonton, the area lying within 35 kilometres of the boundaries of the City of Edmonton as those boundaries stood on September 1 in the year in which an election is to be held, and any additional area referred to in subrule (3).
- (3) If a boundary of the area lying within 35 kilometres of the City of Calgary or the City of Edmonton bisects the corporate area of a city, town or village, the whole of that city, town or village is included in the Calgary area or the Edmonton area, as the case may be.

June 2003

Eligibility of Candidates

- 9 (1) Every active member is eligible for nomination and election as Bencher unless that member is ineligible by reason of section 13 of the Act or these Rules.
- (2) An active member is ineligible to be nominated as a candidate for election as a Bencher representing a district unless that member resides in that district and the member's principal office of practice is located in that district.
- (3) A member is ineligible for nomination as a candidate for re-election as a Bencher if
- (a) for any member elected prior to the November 2003 election, that member has been elected as a Bencher in 4 previous elections of Benchers unless the member holds office as President-Elect at the time the nomination is received by the Executive Director; and
 - (b) for any member elected in or after the November 2003 election, that member has been elected as a Bencher in 3 previous elections of the Benchers unless the member holds office as President-Elect at the time the nomination is received by the Executive Director.

Apr 2005

Nomination of Candidates

- 10 (1) Every nomination of a candidate for election as a Bencher
- (a) must be signed by 5 active members;
 - (b) must be endorsed with or accompanied by the written consent of the member nominated, and
 - (c) must be received in the Society's offices in Calgary before 4:30 p.m. on the date designated by the Executive Director and communicated to the membership together with the notice of the election required by Rule 7 of these Rules.
- (2) A nomination of a candidate for election as a Bencher may be accompanied by biographical information respecting the candidate, not exceeding one page in length, which
- (a) may contain a photograph or other likeness of the candidate, and
 - (b) shall not contain any statement that,
 - (i) constitutes a campaign promise or similar comment, or
 - (ii) is libellous, in breach of the Code of Professional Conduct or in bad taste.
- (2.1) The determination of whether,
- (a) a photograph submitted under subrule 2(a) is proper and does not bring the profession into disrepute; or
 - (b) a statement submitted under subrule 2(b) is in compliance with that subrule,
- and therefore should be permitted or not, shall be made by the then current President.
- (3) A nomination of a candidate for election as a Bencher is invalid if
- (a) it does not comply with subrule (1) or (2)(b), or
 - (b) the candidate is ineligible for nomination, election or re-election as a Bencher under the Act or these Rules.
- (4) If only one candidate is nominated for a district in accordance with this Rule, the Executive Director shall declare the candidate elected and shall not include the candidate's name in the ballots for the election.

Apr 2005

Voting Material Sent to Members

- 11 (1) The Executive Director shall, by the date designated by him and communicated to the membership together with the notice of the election required by Rule 7 of these Rules, send to each member entitled to vote, at the member's current mailing address as shown in the practising list of the Society:
- (a) a statement of the Benchers, if any, declared elected under Rule 10(4);
 - (b) a copy of the Instructions to Voters in Form 1-2;

- (c) a ballot in Form 1-3 listing in alphabetical order the name of each candidate for election and, where applicable, the candidate's district;
 - (d) an envelope marked "Ballot";
 - (e) a return envelope addressed to the address designated by the Executive Director ("the designated address"), and
 - (f) a copy of each of the pages of biographical information relating to the respective candidates and submitted in accordance with Rule 10(2).
- (2) The Executive Director has the discretion to combine the voting materials referred to under subrule (1)(a), (b) and (f) into a single publication.
 - (3) The Executive Director has the discretion whether or not to correct printing errors in the written election materials referred to under subrule (1).
 - (4) For the purposes of subrule (1), the members who are entitled to vote for candidates in an election of Benchers are those persons who are active members, according to the records of the Society, on the date designated by the Executive Director and communicated to the membership together with the notice of the election required by Rule 7 of these Rules.
 - (5) For the purposes of subrule (1) and Rules 12 and 13 "Executive Director" includes an organization designated by the Executive Director.

June2003;Apr2005

Ballots

- 12 (1)** An active member voting in an election shall:
- (a) mark and enclose the ballot in the envelope marked "Ballot";
 - (b) seal and enclose it in the return envelope, and
 - (c) mail or deliver the return envelope to the designated address.
- (2)** A ballot shall not be counted if:
- (a) it is received at the designated address after 4:30 p.m. on the day of the election, or
 - (b) it is not marked in accordance with the Instructions to Voters in Form 1-2.
- (3)** A member shall not mail or deliver to the Executive Director or permit to be mailed or delivered to the Executive Director:
- (a) a return envelope in respect of which all or any part of the member's name and address as shown on the return envelope has been removed or obliterated;
 - (b) a "Ballot" envelope that has been marked or otherwise altered, or
 - (c) a ballot that has been altered or marked by another person.

June2003

Counting Votes

- 13 (1)** The Executive Director may open the outer return envelopes that are received at the designated address as they are received, removing the unopened envelopes marked "Ballot" and keeping the ballot envelopes unopened until 9:00 a.m. on the day of the election.
- (2)** As of 9:00 a.m. on the day of the election, the Executive Director may, in the presence of the Auditor's representative:
- (a) cause the envelopes marked "Ballot" to be opened;
 - (b) cause the ballots to be placed in a locked ballot box.
- (3)** As soon as practicable after 4:30 p.m. on the day of the election the Executive Director shall, in the presence of the Auditor's representative:
- (a) with regards to any ballots that have not yet been processed under subrule (2), take the step permitted under subrule (2)(a), and

- (b) with the assistance of the Auditor's representative, cause the ballots (whether processed under subrule (2) or (3)(a)) to be scrutinized, the votes to be counted and the number of votes cast for each of the candidates to be recorded.
- (4) Candidates and agents of candidates are entitled to be present at the opening of the envelopes, the scrutinizing of ballots and the counting and recording of votes.

June2003;Nov2003;Apr2005

Successful Candidates

- 14 (1) After the votes for each candidate have been counted, the candidate in each of the districts who receives a greater number of votes than any other candidate in the candidate's district shall be declared by the Executive Director to be elected as a Benchers.
- (2) After the candidates referred to in subrule (1) have been declared elected, the candidates who received the greatest number of votes, up to the number of Benchers to be elected, shall be declared by the Executive Director to be elected as Benchers.

Resolving Tied Vote

- 15 (1) If an equal number of votes are cast for 2 or more candidates and as a consequence the election of one or more candidates is left undecided, the Executive Director shall forthwith put into a ballot box a paper for each of those candidates with the candidate's name written on it, and fold each paper so that the name is inside and is not distinguishable without the paper being opened.
- (2) The papers shall be mixed together in the ballot box and the Executive Director shall draw a paper by chance from the box in the presence of the Auditor's representative and of any candidate or agent, and the candidate whose name is on the paper so drawn shall be declared by the Executive Director to be elected as a Benchers.
- (3) If it is necessary to elect one or more additional Benchers after the draw under subrule (2), the Executive Director shall repeat the procedure under subrule (2) until the required number of Benchers has been declared elected.

Notice of Election Results

- 16 (1) The Executive Director shall forthwith after the election
 - (a) notify the elected Benchers of their election, and
 - (b) provide a copy of the election results to each candidate.
- (2) The Executive Director shall notify all members and students-at-law of
 - (a) the results of the election, including the names of the Benchers declared elected and the number of votes cast for each candidate, and
 - (b) the names of the Benchers declared elected under Rule 10(4),
 by any mode of publication the Executive Director considers appropriate.

Appointment to Fill a Vacancy

- 17 (1) If the Benchers appoint a member as a Benchers under section 19 of the Act to fill a vacancy in the number of elected Benchers, the Benchers
 - (a) where the former Benchers was elected as a candidate for a district, shall appoint as a Benchers the candidate for the same district in the preceding election and who received a greater number of votes than any of the other unsuccessful candidates for that district, or
 - (b) in any other case, shall appoint as a Benchers the candidate in the preceding election who received a greater number of votes than any of the other unsuccessful candidates in that election.
- (2) Notwithstanding subrule (1),
 - (a) the Benchers may waive the application of subrule (1) in any case where they consider that special circumstances exist, and
 - (b) if a Benchers ceases to hold office as a Benchers on or after May 31 preceding the date for an election of Benchers, the Benchers need not make an appointment pursuant to section 19 of the Act to fill the vacancy unless the former Benchers was elected as a candidate for a district or had been appointed to fill the office of a Benchers elected as a candidate for a district.

MEETINGS OF BENCHERS

Procedure

- 18 (1) Subject to the Act and these Rules, the procedure at meetings of the Benchers shall be governed by the current edition of Robert's Rules of Order Newly Revised.
- (2) Subrule (1) does not preclude the Benchers from adopting their own procedure in a particular case.

Adjournment for Want of Quorum

- 19 In the absence of a quorum after a lapse of 30 minutes beyond the time designated for the commencement of a meeting of the Benchers, the President or President-Elect or, in the absence of both of them, the Bencher present having the longest standing on the Roll may adjourn the meeting to some other time, at the same or a different place.

Agenda

- 20 The agenda of a meeting of the Benchers other than a special meeting shall, where appropriate, include the following matters:
- (a) reading of the minutes of previous meetings;
 - (b) matters arising out of the minutes;
 - (c) communications and enquiries;
 - (d) petitions;
 - (e) matters arising under Part 3 of the Act;
 - (f) applications for reinstatement;
 - (g) reports from officers of the Society;
 - (h) reports from standing committees;
 - (i) reports from special committees;
 - (j) motions of which previous notice has been given;
 - (k) notices of motion;
 - (l) new business;
 - (m) the next meeting.

MISCELLANEOUS

Petitions

- 21 (1) All statements contained in any petition to the Benchers shall be verified by statutory declaration.
- (2) Every petition to the Benchers shall be submitted to the Executive Director in the number of copies specified by the Executive Director.

Expenses and Allowances

- 22 (1) A Bencher, other than a lay Bencher, shall be paid expenses and allowances in accordance with the guidelines under subrule (3) in connection with attending
- (a) a meeting of the Benchers,
 - (b) a meeting of the Society,
 - (c) a meeting of a committee or of a subcommittee of a committee,
 - (d) a meeting of a Hearing Committee,
 - (e) any other meeting, function or convention on the business of the Society, or
 - (f) on any other matter when authorized by the Benchers or by the Executive Committee.

- (2) A person other than a Bencher shall be paid expenses and allowances in accordance with the guidelines under subsection (3) in connection with
 - (a) attending a meeting of a committee, or subcommittee of a committee, of which that person is a member, or
 - (b) acting on a volunteer basis on any other matter related to the business and affairs of the Society when authorized to do so by the Benchers or a committee.
- (3) The Finance Committee shall establish guidelines for the determination and payment of expenses and allowances that may be paid under subrules (1) and (2).
- (4) Notwithstanding subrules (1) to (3), the Benchers or the Executive Committee may authorize the payment by the Society to a Bencher or other person of an expense or allowance not otherwise provided for in the guidelines under subrule (3).

Time limit for Votes Under Section 20(5)

- 23 (1) Where a vote on a resolution is conducted under section 20(5) of the Act,
 - (a) the President may, when the Benchers are notified of the resolution, prescribe a deadline by which the Benchers must notify the Executive Director of their votes on the resolution, and
 - (b) the determination of the vote shall be based only on those Benchers' votes of which the Executive Director is notified before the deadline.
- (2) Notwithstanding subrule (1), where a vote on a resolution is conducted under section 20(5) of the Act,
 - (a) the resolution may be acted on before the deadline when a sufficient number of affirmative votes are received to pass the resolution in accordance with section 20(5)(b) of the Act, or
 - (b) action can be taken before the deadline without reference to the resolution when a sufficient number of negative votes are received before the deadline to prevent the passing of the resolution in accordance with section 20(5) of the Act.

Representation in Proceedings Adjudicated by the Society

- 23.1 (1) For the purposes of this Rule:
 - (a) "committee" includes subcommittee or panel of the committee,
 - (b) "proceedings adjudicated by the Society" include proceedings which will, or may lead to, adjudication by:
 - (i) the Benchers or a panel of the Benchers,
 - (ii) a committee of the Society,
 - (iii) a hearing committee, or,
 - (iv) an employee of the Society,
 but does not include proceedings which are before the courts.
 - (c) "anyone" includes any member of the public, any member of the Society, and the Society itself.
- (2) Benchers and Benchers Elect may not represent anyone in any proceedings adjudicated by the Society.
- (3) Members of Society committees may not represent anyone in any proceedings adjudicated by the committee of which that person is a member, while a member of the committee, or for two years from the date on which the member ceased to be a member of that committee.
- (4) A past Bencher may not represent anyone, in any proceedings adjudicated by the Society for:
 - (a) two years from the date on which the Bencher ceased to be a Bencher,
 - (b) two years from the date on which the Bencher last participated as a member of a hearing committee, or
 - (c) two years from the date on which the Bencher was most recently a member of a Society committee or was the Society's representative in relation to another organization,
 whichever is latest.
- (5) A past President may not represent anyone, in any proceedings adjudicated by the Society for:

- (a) eight years from the date on which the President ceased to be President,
 - (b) two years from the date on which the President last participated as a member of a hearing committee, or
 - (c) two years from the date on which the President was most recently a member of a Society committee or was the Society's representative in relation to another organization,
- whichever is latest.
- (6) Subrules (2) through (5) do not apply to the members of the firms of Benchers, Benchers Elect, committee members, past Benchers, past Presidents and past committee members, thought members of the same firm may not participate in the same matter as counsel and adjudicator.

Feb2003

DIVISION 2 COMMITTEES

Committee Organization

- 24 (1) Subject to the Act and these Rules, the Benchers
- (a) shall appoint the members of all committees and the respective chairs of those committees, and
 - (b) where considered advisable, may appoint one or more vice-chairs for any of those committees.
- (2) The Benchers shall elect the chairs of the committees referred to in Rule 27(2)(a).
- (3) If for any reason the chair of a committee is absent or unable to perform the duties of the chair at a meeting of the committee, the vice-chair, if available, or any other committee member chosen by the committee, may preside at the meeting and while so presiding has the powers and duties of the chair.
- (4) A power or duty conferred or imposed by these Rules or the Act on the chair of a committee may be exercised or performed by the vice-chair of the committee.
- (5) If a vacancy occurs in a committee established by these Rules or pursuant to section 6(c) of the Act, the vacancy may be filled by the President pending the appointment of a successor by the Benchers.

Committee Meetings and Resolutions

- 25 (1) Members of a committee or a panel of a committee may conduct or participate in a meeting of the committee or panel by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other.
- (2) If the chair of a committee or a panel of a committee is of the opinion that it is desirable to take a vote on a resolution and that it is impracticable in the circumstances to hold a meeting of the committee or the panel for that purpose, the following provisions apply:
- (a) the chair may direct that the vote be taken by the polling of the committee or panel members by mail, telegram, telephone, telecopier or other mode of communication or by any combination of those modes;
 - (b) the chair may, when the committee or panel members are notified of the resolution, prescribe a deadline by which they must notify the chair of their votes on the resolution;
 - (c) the determination of the vote shall be based only on the votes of which the chair is notified before the deadline;
 - (d) if the vote is conducted in accordance with clauses (a) and (b), the resolution is agreed to by at least 2/3 of the persons so voting and the persons so voting constitute a majority of the persons then holding office as members of the committee or panel, the resolution is as valid as if the vote were taken at a properly constituted meeting of the committee or panel;
 - (e) notwithstanding clauses (c) and (d),
 - (i) the resolution may be acted on before the deadline when the chair receives a sufficient number of affirmative votes to pass the resolution in accordance with clause (d), and
 - (ii) action may be taken before the deadline without reference to the resolution when the chair receives a sufficient number of negative votes to prevent the resolution being passed in accordance with clause (d).

- (3) A written resolution signed by a majority of the members of a committee established by or under the Act, has the same force and effect as a resolution passed at a meeting of the committee unless one or more members of the committee request that the resolution be considered at a meeting of the committee.

Executive Committee

- 26 (1) The Executive Committee is established.
- (2) The Executive Committee shall consist of
- (a) the President, who shall be its chair,
 - (b) the President-Elect, who shall be its vice-chair,
 - (c) the chairs of the Finance Committee, the Conduct Committee, and the Credentials and Education Committee,
 - (d) one lay Bencher, and
 - (e) one additional Bencher elected by the Benchers from amongst the chairs of the Insurance Committee, the Practice Review Committee and the Professional Responsibility Committee.
- (3) The Executive Committee has the following powers and duties:
- (a) to supervise the general administration of the business and affairs of the Society and to counsel and instruct the Executive Director with respect to those matters;
 - (b) to determine policy on any matter arising between meetings of Benchers which in the opinion of the Committee requires immediate consideration;
 - (c) to determine the remuneration payable to the Executive Director;
 - (d) to determine the remuneration payable to the officers and employees of the Society other than the Executive Director, except to the extent that the power to do so is delegated to the Executive Director.
- (4) The immediate past President of the Society is a member of the Executive Committee while remaining in office as a Bencher.

Jan2002;Nov2002

Election of Executive Committee Members and Chairs of Standing Committees

- 27 (1) Unless the Benchers decide otherwise, the first orders of business at the first organizational meeting of the Benchers in each year are as follows:
- (a) the report of the outgoing President or acting President;
 - (b) the assumption by the previously elected President-Elect to the office of President;
 - (c) if no one holds office as President-Elect at the commencement of the meeting, the election of the new President;
 - (d) the election of the new President-Elect;
 - (e) the appointment of a nominating committee consisting of the President, the new President-Elect elected earlier at that meeting and one other Bencher.
- (2) At the first organizational meeting of the Benchers in each year
- (a) the Benchers shall conduct elections for the chairs of the Conduct Committee, the Credentials and Education Committee, the Finance Committee, the Insurance Committee, the Practice Review Committee, the Professional Responsibility Committee and the additional member of the Executive Committee referred to in Rule 26(2)(e) in accordance with procedures adopted by the Benchers for that purpose; and
 - (b) the lay Benchers shall conduct the election of the lay Bencher member of the Executive Committee.
- (3) The President, the President-Elect, the chairs of the committees referred to in subrule (2)(a) and the lay Bencher member of the Executive Committee hold those respective offices until their successors assume those offices pursuant to subrules (1) and (2) respectively.
- (4) After the election of the persons referred to in subrule (2)(a) and the election of the lay Bencher member of the Executive Committee, the nominating committee shall present to the Benchers a report showing the names of Benchers or members suggested for appointment as members of each of those committees.

Election Procedures

- 28 (1)** The election of the President-Elect shall be conducted by secret ballot where more than one candidate is nominated.
- (2)** If there are 2 or more candidates for election as President-Elect, the following provisions apply:
- (a) the candidate who first receives a majority of the votes cast shall be declared elected as President-Elect;
 - (b) if there are 3 or more candidates and as a result of the first vote no candidate is declared elected under clause (a),
 - (i) subject to subclause (ii), the name of the candidate with the fewest number of votes shall be removed from the list of candidates;
 - (ii) where 2 or more candidates are tied for the least number of votes, a vote shall be held to determine which one of those candidates will be removed from the list of candidates;
 - (iii) after a Bencher is removed from the list of candidates pursuant to subclause (i) or (ii), another vote shall be conducted among the remaining candidates;
 - (c) the procedures in clause (b) shall be repeated, if necessary, until
 - (i) a candidate is declared elected under clause (a), or
 - (ii) there are 2 candidates remaining on the list of candidates, whichever event occurs first;
 - (d) where there are 2 candidates eligible for election and the result of the vote is a tie, a draw shall be held to determine which of the candidates will be declared elected as President-Elect unless the Benchers decide
 - (i) that another vote be held, or
 - (ii) that the successful candidate will be determined by the vote of the chair of the meeting, whether or not the chair cast a ballot in the previous vote;
 - (e) where a draw is required to be held under clause (d),
 - (i) the Executive Director shall put into a box a paper for each of the candidates concerned with the candidate's name on it, and fold each paper so that the name is inside and is not distinguishable without the paper being opened,
 - (ii) the papers shall be mixed together in the box and the Executive Director shall draw a paper by chance from the box in the presence of the meeting, and
 - (iii) the candidate whose name is on the paper so drawn shall be removed from the list of candidates or be declared elected as President, as the case may be.
- (3)** Subrules (1) and (2) also apply, with the necessary modifications, to
- (a) the election of the President, where the office of President becomes vacant and it is necessary to elect a successor, and
 - (b) the election of each of the persons referred to in Rule 27(2)(a), and
 - (c) the election of the lay Bencher member of the Executive.

Professional Responsibility Committee

- 29 (1)** The Professional Responsibility Committee is established.
- (2)** The Professional Responsibility Committee
- (a) may render an opinion on any question concerning the professional responsibility of members of the Society submitted to the Committee by the Executive Director or a member, and
 - (b) where it considers it advisable to do so, may submit to the Benchers any matter concerning the professional responsibility of members.

- (3) (a) The Professional Responsibility Committee may sit in panels of not less than three (3) members including the chair or the vice chair for the purpose of exercising any of its functions under these Rules. Any opinion to be rendered by the committee through a panel so constituted is to be circulated to the members of the committee forty-eight (48) hours before it is released by the chair or vice chair.
- (b) Depending upon the comments received, if any, the chair or vice chair may convene a full meeting or a further panel if they deem it appropriate.

Unauthorized Practice of Law Committee

- 30 (1) The Unauthorized Practice of Law Committee is established.
- (2) The Unauthorized Practice of Law Committee shall;
- (a) consider any complaints of unauthorized practice under Part 6 of the Act and take such action with respect to any complaint as it considers necessary, and
- (b) consider and make recommendations to the Benchers relating to the activities of paralegals and legal assistants.

Communications Committee

- 31 (1) The Communications Committee is established.
- (2) The Communications Committee:
- (a) shall, by any means it considers expedient, endeavour to advance the good public relations of the legal profession;
- (b) is responsible for advancing communication between the Benchers and Society staff and
- (i) members of the Society,
- (ii) members of the public, and
- (iii) governments,
- including the planning and supervision of publications and programs for the benefit of members and the public.

DIVISION 2A OFFICE OF THE PRACTICE ADVISOR

Office of the Practice Advisor

- 31.1 (1) The Office of the Practice Advisor is established.
- (2) The Executive Director may appoint to the Office of the Practice Advisor, a Practice Advisor, a Practice Management Advisor, a Risk Management Advisor or other officers to provide services and resources to members to aid them in maintaining and improving their ability to serve the public interest.
- (3) Communications between members and the Office of the Practice Advisor are confidential unless a communication reveals the misappropriation or the likely misappropriation of funds, or the likelihood of physical harm to any person.
- (4) Office of the Practice Advisor incumbents are relieved from the obligation to report to the Law Society pursuant to Chapter 3, Rule 4 of the *Code of Professional Conduct*, except in the instances set out immediately above in (3).
- (5) Office of the Practice Advisor incumbents will not be called by the Law Society to give evidence in any proceeding under Part 3 against a member. Provided that if a member puts in issue communications with such an incumbent, thereby waiving confidentiality, the Law Society may call such incumbent to give evidence on that issue.

DIVISION 2B OFFICE OF THE EQUITY OMBUDSPERSON

Office of the Equity Ombudsperson

- 31.2 (1)** The Office of the Equity Ombudsperson is established.
- (2)** The Executive Director may appoint an Equity Ombudsperson to facilitate the informal resolution of harassment and discrimination disputes, involving members, articling students and persons working for legal employers.
- (3)** The Equity Ombudsperson shall act independently of the Society but within the scope of the mandate prescribed by the Benchers.
- (4)** Communications made for the purpose of resolving disputes according to the Equity Ombudsperson's mandate are confidential unless a communication reveals the misappropriation or the likely misappropriation of funds. Neither the communications nor the information contained therein may be disclosed in any proceeding under Part 3 without the consent of the parties to the dispute.
- (5)** The Equity Ombudsperson is relieved from the obligation to report to the Law Society pursuant to Chapter 3, Rule 4 of the *Code of Professional Conduct*, except in the instance set out immediately above in (4).

DIVISION 3 MEETINGS OF THE SOCIETY

Notice of Meeting

- 32 (1)** The notice of an annual general meeting mailed pursuant to section 27(4) of the Act shall be accompanied by
- (a) a proposed agenda for the meeting,
 - (b) the statement of the financial position of the Society for the previous fiscal year, and
 - (c) a copy of each motion to be presented at the meeting, if the motion shows its proposed mover and seconder and was received by the Executive Director at least 20 days before the date of the meeting.
- (2)** A notice of a special meeting of the Society mailed pursuant to section 28(2) of the Act shall be accompanied by
- (a) a proposed agenda for the meeting, and
 - (b) a copy of the Bencher's resolution under section 28(1)(a) of the Act or the petition under section 28(1)(b) of the Act, whichever initiated the need for the meeting.

Procedure at Meetings

- 33 (1)** Subject to the Act and these Rules, the procedure at meetings of the Society shall be governed by the current edition of Robert's Rules of Order Newly Revised.
- (2)** At an annual general or special meeting of the Society, the following provisions apply:
- (a) every motion requires a seconder;
 - (b) a motion, other than a procedural motion or a motion that accompanied the notice of the meeting, may not be presented except with the consent of the members present at the meeting;
 - (c) the mover and seconder of a motion may speak to the motion and thereafter other members may speak to the motion in the order determined by the chair;
 - (d) no member may speak more than once on a motion while there are other members present who wish to speak on the motion but have not yet done so;
 - (e) no member may speak more than twice on the same motion except with the permission of the chair;
 - (f) a member may not vote by proxy;
 - (g) voting on a motion will be by a show of hands unless the chair requires a standing vote;
 - (h) the chair may vote only in the case of a tied vote but is not required to vote in that event;
 - (i) a motion shall be declared carried if a majority of those members present and voting vote in favour of it;

- (j) a motion to reconsider or rescind a motion previously carried at the same meeting or carried at a previous meeting may not be presented unless permission to do so is given by a motion carried by a 2/3 majority of the members present and voting on the latter motion.
- (3) Subrules (1) and (2) do not preclude the members present at a meeting of the Society from adopting a procedure in a particular case that differs from a procedure referred to in subrule (1) or (2).

DIVISION 4 FINANCIAL MATTERS

Fiscal Year

- 34 The fiscal year of the Society commences on November 1 and ends on the next succeeding October 31.

Feb2003

AUDIT COMMITTEE

Establishment

- 35 The Audit Committee is established.

Feb2003

Terms of Reference

- 35.1 In addition to these Rules, the Terms of Reference for the Audit Committee, as approved by the Benchers and amended from time to time, apply to the Audit Committee.

Feb2003

Responsibilities

- 35.2 (1) The Audit Committee will assist the Benchers in fulfilling their financial oversight responsibilities for the Society and for the Alberta Lawyers Insurance Association, including:
- (a) overseeing and reviewing;
 - (i) the financial reporting process,
 - (ii) the system of internal control and management of financial risks,
 - (iii) the audit process, and
 - (iv) the process for monitoring compliance with rules and policies of the Law Society of Alberta and applicable laws and regulations;
 - (b) regularly reporting to the Benchers about Committee activities and making appropriate recommendations;
 - (c) ensuring that the Benchers and the Finance Committee are aware of matters which may significantly impact the financial condition or affairs of the Society.
- (2) In addition to the matters set out under subrule (1), the Audit Committee will review the draft financial statements of the Society and of ALIA for each fiscal year and, on completion of the review:
- (a) will submit the financial statements of the Society to the Benchers for their approval with any changes recommended by the Committee; and
 - (b) will submit the financial statements of ALIA to the Benchers for their recommendation for approval to the Board of Directors of ALIA, with any changes recommended by the Committee.

Feb2003

Authority

- 35.3** Within the scope of its responsibilities, the Audit Committee is authorized to:
- (a) seek any information it requires from:
 - (i) any employee (all employees being obligated to cooperate with any request made by the Audit Committee);
 - (ii) external parties;
 - (b) obtain outside legal or other professional advice; and
 - (c) ensure the attendance of Society officers, management and employees at meetings as appropriate.

Feb2003

Composition

- 35.4** The composition of the Audit Committee must meet the following requirements:
- (a) at least five members;
 - (b) the majority of the members must be neither members of the Finance Committee, nor Benchers;
 - (c) exactly one or two members (no more or less) must be members of the Finance Committee;
 - (d) the Chair of the Finance Committee must not be a member of the Audit Committee;
 - (e) all members of the Committee must be independent of the management of the Society; and
 - (f) the Executive Director of the Society is an ex-officio member of the Committee.

Feb2003

Privacy

- 35.5** The information acquired by the Audit Committee, the proceedings of the Committee, and any reports issued by the Committee are private, except where the Committee determines otherwise.

Feb2003

FINANCE COMMITTEE**Terms of Reference**

- 36** In addition to these Rules, the Terms of Reference for the Finance Committee, as approved by the Benchers and amended from time to time, apply to the Finance Committee.

Feb2003

Responsibilities

- 36.1** In addition to adjudicating Assurance Fund claims, fulfilling other functions noted in these Rules, and performing other functions as requested by the Benchers, the Finance Committee will assist the Benchers in fulfilling their financial oversight responsibilities by:
- (a) overseeing and reviewing;
 - (i) the financial affairs and operations of the Society,
 - (ii) the budget process, and
 - (iii) the administration of the investments of all funds of the Society and of ALIA in accordance with policies determined by the Benchers.
 - (b) recommending to the Benchers,
 - (i) an annual budget,
 - (ii) financial policy respecting the Society, and
 - (iii) financial administration policy respecting the Alberta Lawyers Insurance Association,

- (c) regularly reporting to the Benchers about Committee activities and making appropriate recommendations; and
- (d) ensuring that the Benchers are aware of matters which may significantly impact the financial condition or affairs of the Society.

Feb2003

Authority

36.2 Within the scope of its responsibilities, the Finance Committee is authorized to:

- (a) seek any information it requires from;
 - (i) any employee (all employees being obligated to cooperate with any request made by the Finance Committee),
 - (ii) external parties
- (b) obtain outside legal or other professional, management advice; and
- (c) ensure the attendance of Society officers, management and employees at meetings as appropriate.

Feb2003

Annual Budgets

- 37** (1) Prior to the fiscal year end, the Treasurer shall prepare and present to the Finance Committee a budget for the Society for the next fiscal year.
- (2) Prior to the fiscal year end, the Director of Insurance shall prepare and present to the Insurance Committee a budget for the Alberta Lawyers Insurance Association for the next fiscal year.
- (3) The Finance Committee will review the Society's budget as presented by the Treasurer and make a recommendation or recommendations to the Benchers in Convocation with respect to the adoption of the budget.
- (4) The Insurance Committee will review ALIA's budget as presented by the Director of Insurance and make a recommendation or recommendations to the Benchers in Convocation with respect to the adoption of the budget.
- (5) The Benchers in Convocation shall:
- (a) prior to the commencement of each fiscal year consider the budgets for the Society and ALIA for the next fiscal year as recommended respectively by the Finance Committee and the Insurance Committee;
 - (b) approve the budget of the Society before or as soon as possible after the commencement of the fiscal year; and
 - (c) make a recommendation or recommendations to the Board of Directors of ALIA with respect to the adoption of the budget.

Feb2003

Investment of Society Funds

38 Subsumed in Rule 36.1

Feb2003

DIVISION 5 RECORDS OF THE SOCIETY

Roll of the Society

- 39** (1) The Roll shall contain the following information with respect to each member or former member:
- (a) the person's full name, gender and enrolment number;
 - (b) if the person is currently a practising member, the member's current business name, business address and business communications numbers;
 - (c) the person's current practising status and insurance status;
 - (d) the person's practising status history with the Society;

- (e) any restriction on the practice of law by that person, including any restrictions currently or previously in effect, and the date, if known, on which the restriction will, or did, cease to be in effect;
 - (f) any citations against the member, edited to protect confidential information, where:
 - (i) the citations have been directed to a hearing by the Conduct Committee (or a panel thereof), and
 - (ii) the member has been notified, or reasonable efforts have been made to notify, the member of the citations,
 up until the proceedings have been concluded, at which time the citations will be removed from the Roll.
 - (g) a brief description of:
 - (i) any finding made against that person of conduct deserving of sanction, or conduct unbecoming a barrister and solicitor or of a professional misdemeanour,
 - (ii) any determination of incompetence made in conjunction with a finding of conduct deserving of sanction made against that person, and
 - (iii) the order or orders made against the person as a consequence of a finding referred to in subclause (i), with the dates of and the authority for the orders;
 - (h) any conditions or restrictions made in conjunction with the termination of the person's membership;
 - (i) membership of that person in any extraprovincial law society, if known to the Society;
 - (j) an indication whether that person is currently entitled to temporarily provide legal services as a visiting lawyer in another province;
 - (k) the appointment of that person as Queen's Counsel, if known to the Society;
 - (l) that person's election or appointment as a Bencher or as an officer of the Society, with pertinent dates.
- (2) If any information referred to in subrule (1) is for any reason not included in the Roll, the Executive Director shall, on request, provide that information to a person who is entitled to inspect the Roll for the purpose of obtaining that information by reason of section 30(3) of the Act, and shall thereafter enter the information in the Roll.

Nov2002;June2003

Register of Students-at-Law

- 40 The register of students-at-law shall contain the following information with respect to each student-at-law:
- (a) the student-at-law's full name and gender;
 - (b) the name, business name, and business address of each principal with whom the student-at-law serves under articles;
 - (c) the name and business address of each employer by whom the student-at-law is employed pursuant to Rule 58(6);
 - (d) a brief description of any finding of guilt of conduct deserving of sanction, any determination of incompetence made in conjunction with that finding, and the order or orders made as a consequence of the finding, with the dates of and the authority for the orders;
 - (e) the suspension of the registration of the student-at-law, the effective date of the suspension, the authority for the suspension and the date on which the suspension terminated;
 - (f) the reinstatement of the registration of the student-at-law and the date of the reinstatement;
 - (g) the name of each extraprovincial law society of which the student-at-law is a member;
 - (h) any citations against the student-at-law, edited to protect confidential information, where:
 - (i) the citations have been directed to a hearing by the Conduct Committee (or a panel thereof);
 - (ii) the student-at-law has been notified, or reasonable efforts have been made to notify, the student-at-law, of the citations; and
 - (iii) the hearing has not yet been concluded.

- (i) any restriction on the practice of law by the student-at-law, including any restrictions currently or previously in effect, and the date, if known, on which the restriction will cease to be in effect;
- (j) any other particulars specified by the Benchers.

Nov2002;June2003

Active, Inactive and Suspension Lists

- 41 (1)** The Executive Director shall maintain the following records:
- (a) a list called the "active list", containing the names of all active members and their respective addresses most recently furnished to the Executive Director pursuant to Rule 42(1);
 - (b) a list called the "inactive list" which shall:
 - (i) contain the names of all inactive members and their respective addresses most recently furnished to the Executive Director pursuant to Rule 42(2), and
 - (ii) distinguish inactive members (retired) from other inactive members;
 - (c) a list called the "suspension list", containing the names of all suspended members and their respective addresses, including those furnished to the Executive Director pursuant to Rule 42(3).
- (2)** The non-practising list maintained under the former Rules becomes the inactive list on the coming into force of these Rules.

Furnishing Addresses to the Executive Director

- 42 (1)** Every active member shall furnish to the Executive Director in writing
- (a) the current business name and address of the member's place of practice, if the member is engaged in the practice of law, or
 - (b) the current address of the member's principal place of business or employment, if the member is engaged in business or employment but not in the practice of law.
- (2)** Every inactive member shall furnish to the Executive Director in writing the current address of the member's principal place of business or employment if the member is engaged in business or employment.
- (3)** Every suspended member shall furnish to the Executive Director in writing the current address of the member's principal place of business or employment if the member is then engaged in business or employment.
- (4)** Every registered student-at-law shall furnish to the Executive Director in writing
- (a) the current practice address of the principal, if the student-at-law is serving under articles,
 - (b) the current business address of the employer by whom the student-at-law is employed, if the student-at-law is employed pursuant to Rule 58(6) and if the address is different from the address provided under subrule (4)(a), or
 - (c) the current address of the student-at-law's place of business or employment, if the student-at-law is not serving under articles and is employed otherwise than pursuant to Rule 58(6).
- (4.1)** Every member and every registered student-at-law shall furnish to the Executive Director in writing their:
- (a) business phone number(s),
 - (b) business fax number(s), and
 - (c) business email address
- to the extent that the member or student-at-law has these facilities, and shall advise the Executive Director promptly of any change in this information.
- (5)** Every member and every student-at-law shall, in addition to complying with subrule (4.1) and with subrule (1), (2), (3) or (4), as the case may be, furnish to the Executive Director, in writing, their current residential address and current residential phone number which shall be included by the Executive Director in the member file or student-at-law file as the case may be.

- (6) Subject to subrule (7), a requirement to furnish an address under subrule (1), (2), (3), (4), (4.1) or (5) shall be complied with forthwith after the establishment of the address.
- (7) The filing with the Executive Director under Part 2 of articles or of an assignment of articles is deemed to be compliance with subrule (4)(a) until there is a change in the current address of the principal's place of practice.

Nov2002

Official Address for Service

- 43 (1)** For the purposes of these Rules and section 114(b)(i) of the Act,
- (a) the official address for service of a member is the most recent address for that member furnished under Rule 42(1), (2) or (3), as the case may be;
 - (b) the official address for service of a registered student-at-law is the most recent address for that student-at-law furnished under Rule 42(4).
- (2)** For the purposes of subrule (1),
- (a) the address of an active member, as it appears in the active list on the coming into force of these Rules, is deemed to be the member's official address for service as though it had been furnished pursuant to Rule 42(1) on that date,
 - (b) the address of an inactive member, as it appears in the inactive list on the coming into force of these Rules, is deemed to be the member's official address for service as though it had been furnished pursuant to Rule 42(2) on that date, and
 - (c) the address of a registered student-at-law, as it appears in the register on the coming into force of these Rules, is deemed to be the student-at-law's official address for service as though it had been furnished pursuant to Rule 42(4) on that date,
- until a new address is furnished under Rule 42.
- (3)** Notwithstanding subrules (1) and (2), the most recent residential address furnished by a member or student-at-law pursuant to Rule 42(5) is an alternative official address for the member or student-at-law for the purposes of these Rules and section 114(b)(i) of the Act.

Deposit Agreement with Legal Archives Society

- 44 (1)** In this Rule and Rule 45,
- (a) "Legal Archives" means the Legal Archives Society of Alberta;
 - (b) "Deposit Agreement" means an agreement made between the Society and the Legal Archives pursuant to this Rule.
- (2)** The Society may enter into an agreement with the Legal Archives providing for, among other things,
- (a) the terms and conditions under which employees of the Legal Archives may be provided access to the records of the Society for the purpose of determining the archival value of records of the Society;
 - (b) the classification of the records of the Society for any purpose under the agreement;
 - (c) the terms and conditions under which records of the Society of archival value may be deposited with the Legal Archives;
 - (d) the terms and conditions under which persons may be provided access to records of the Society deposited with the Legal Archives for the purposes of bona fide historical research;
 - (e) the terms and conditions on which and the circumstances under which records of the Society deposited with the Legal Archives must be returned to the Society.
- (3)** A Deposit Agreement shall provide that the title to records of the Society deposited with the Legal Archives remains with the Society.
- (4)** Where records of the Society are deposited with the Legal Archives pursuant to the Deposit Agreement, the Deposit Agreement does not affect
- (a) any right of public access to the records conferred by section 30(3) of the Act or by Rule 45(1), or
 - (b) any access privileges conferred in respect of those records pursuant to Rule 45.

Disclosure of Society Records

- 45 (1)** The following records of the Society may be disclosed to any person or may be made available for inspection by any person during the normal business hours of the Society:
- (a) subject to subrule (2), the Roll;
 - (b) the register of students-at-law;
 - (c) the register of professional corporations;
 - (c.1) the register of LLPs;
 - (d) authorizations issued under section 48 of the Act;
 - (e) these Rules and the predecessors of these Rules;
 - (f) any code of ethical standards authorized or established pursuant to section 6(l) of the Act;
 - (g) copies of certificates issued under Rule 67(3) or (4);
 - (h) annual reports of the Society submitted to the Minister of Justice and Attorney General under the Act;
 - (i) hearing records of proceedings before Hearing Committees or commissioners under Part 3 of the Act, except to the extent that they relate to proceedings held in private or consist of exhibits made unavailable for inspection by a direction of a Hearing Committee made pursuant to Rule 98(3);
 - (j) summaries of hearing reports furnished to complainants pursuant to section 74(3)(b) of the Act;
 - (k) orders made by Hearing Committees pursuant to section 72 or 73 of the Act;
 - (l) the records of proceedings before panels of Benchers under Part 3 of the Act, including the exhibits entered in evidence at their hearings pursuant to section 76(6)(a) of the Act, to the extent that the records relate to proceedings held in public;
 - (m) summaries of orders of the Benchers prepared under section 77(5) of the Act;
 - (n) orders of the Benchers under section 83 or 84 of the Act;
 - (o) the records of proceedings before the Finance Committee under Part 4 of the Act, to the extent that the records relate to proceedings held in public;
 - (p) notices or other publications of the Society that have been distributed by the Society to all members of the Society or to all active members.
- (2)** Any member or student-at-law information which does not form part of the specific categories identified in Rule 45(1) shall be kept by the Society in a member or student-at-law file.
- (3)** The member file and student-at-law file are confidential and not discloseable without the written consent of the member(s) or student(s)-at-law to whom the disclosure request relates.
- (4)** Notwithstanding subrule (3), the information contained within a member or student-at-law file is discloseable to the Benchers, officers, employees and agents and Committee Members of the Law Society in the course of and for the purpose of the proper administration of the Act, Rules, processes, business and affairs of the Society.
- (5)** The file of a member or student-at-law is the property of the Law Society. It exists to assist the Law Society in performing its statutory obligations, therefore, where a member or student-at-law seeks disclosure of his/her file, that request shall be referred to the Executive Director, the employee holding the position of Information Officer, or any other person designated by the Executive Director, who may refuse to provide disclosure, or limit the disclosure provided and specify reasonable terms under which the disclosure will be provided.
- (6)** Notwithstanding subrule (3), hereof, the Executive Director may disclose, on a confidential basis, a member's file or student-at-law's file
- (a) to an official of the Government of Canada, the Government of Alberta or the government of any other province or territory of Canada, if the information is, in the Executive Director's opinion, relevant to the fitness of the member or former member for a judicial or other appointment by that government;
 - (b) to an official acting on behalf of an extraprovincial law society, if the information is, in the Executive Director's opinion, relevant to the fitness of the member or former member for membership in that extraprovincial law society;
 - (c) to any other person, with the consent of the member or former member.

- (7) If the Society has in its possession a recording of proceedings from which a transcript has not been prepared, the Society is not obligated to prepare a transcript from the recording in order to make it available for inspection under subrule (1)(i), (l) or (o).
- (8) Where disclosure of the records itemized in subrule (1) is sought for more than 5 members or student(s)-at-law, the Executive Director, the employee holding the position of Information Officer, or any other person designated by the Executive Director shall consider the request and may refuse to provide disclosure or insist upon reasonable terms respecting use prior to disclosure.
- (9) Records of the Society deposited with the Legal Archives may not be disclosed by the Legal Archives except in accordance with a Deposit Agreement.
- (10) The Executive Director may, on request furnish a reproduced copy of the document referred to in sub-rule (1) on payment to the Society of an amount based on the rate per page prescribed by the Executive Committee.
- (11) Despite anything in subrules (1), (3)&(5) to (8) of this Rule or a Deposit Agreement, records of the Society shall not be disclosed to or made available for inspection by a member of the public if access to those records by the public must be refused pursuant to section 112(2)(b) of the Act.
- (12) Rule 44 and this Rule do not operate to preclude the disclosure of information contained in confidential records of the Society among Benchers, officers, employees and agents of the Society, and members of committees, in the course of the administration of the Act and the Rules and of the business and affairs of the Society.
- (13) Subject to this Rule, the Act and a Deposit Agreement, all information contained in the records of the Society is confidential.

Feb2002;Feb2004

Disclosure of Business Contact Information

- 45.1 (1)** In this Rule, "business contact information" means:
- (a) the firm name, address, phone number and fax number of any member who is providing legal services and any student-at-law who is in an approved working arrangement; and
 - (b) any business name, address, phone number and fax number available for any member not providing legal services and any student-at-law not in an approved working arrangement.
- (2)** The Society may disclose business contact information to:
- (a) individuals for the purpose of contacting members and students-at-law in relation to the practice of law;
 - (b) correctional facilities for the purpose of enabling those facilities to verify the identity and credentials of members and students-at-law; and
 - (c) the Society libraries for the purpose of enabling them to enforce the obligations of members and students-at-law in relation to those libraries.
- (3)** The Society may disclose business contact information to non-profit organizations that:
- (a) provide educational opportunities related to the practice of law,
 - (b) host functions and provide services that foster the collegiality of the profession,
 - (c) engage in legal education, research, publication or reform,
 - (d) preserve the profession's legal heritage,
 - (e) provide legal services free, or at a nominal cost, or
 - (f) publish lawyers' business contact information so that lawyers and students-at-law may be contacted in relation to the practice of law,
- to be used by those organizations for the advancement of those purposes.
- (4)** The provision of information under subrule (3)(f) is subject to the conditions that the organization:
- (a) must, before publishing the information, publish a notice providing the individuals concerned with an adequate opportunity to indicate any objection to their information being published; and
 - (b) must place a notice on the front of the publication indicating that the business contact information provided is to be used to help contact lawyers and students-at-law in relation to the practice of law, and is not to be used for any commercial, marketing or fundraising purposes.

- (5) In disclosing business contact information, the Society may impose conditions to protect that information from any unauthorized use or disclosure.

Feb2004

Certificate of Standing

- 46 On the request of
- (a) the member concerned, or
 - (b) an extraprovincial law society in Canada,

the Executive Director or designate shall issue a Certificate of Standing in Form 1-4 in respect of a member. The Certificate shall be completed to the extent that the information called for by Form 1-4 is contained in the Roll and other records of the Society.

Feb2004

PART 2

MEMBERSHIP AND QUALIFICATIONS TO PROVIDE LEGAL SERVICES

DIVISION 1 – INTERPRETATION AND AUTHORITY

Interpretation

47

In this Part, unless the context indicates otherwise,

- (a) **"committee"** means the Credentials and Education Committee, or a panel thereof.
- (b) **"CPLED"** means the Canadian Centre for Professional Legal Education;
- (c) **"CPLED program"** means the program administered by CPLED on behalf of the Society as the Society's bar admission course and bar admission examination under the Act and these Rules;
- (d) **"entitled to practise law"** means allowed, under all of the legislation and regulation of a home jurisdiction, to engage in the practice of law in the home jurisdiction, without meeting any further requirements;
- (e) **"Executive Director"** includes the employees holding the positions of Credentials and Education Counsel, Counsel, Policy and Programs Counsel, and any other person designated by the Executive Director to perform any of the duties assigned to the Executive Director in these Rules;
- (f) **"governing body"** means the Law Society or Barristers' Society in a Canadian common law jurisdiction, and the Barreau du Quebec;
- (g) **"home governing body"** means any or all of the governing bodies of the legal profession in Canada of which a lawyer is a member, and **"home jurisdiction"** has a corresponding meaning;
- (h) **"IJP"** means the Inter-Jurisdictional Practice Protocol of the Federation of Law Societies of Canada signed February 18, 1994 in Jasper, Alberta, as amended;
- (i) **"IJP governing body"** means a governing body that has
 - (i) signed the IJP, and
 - (ii) adopted regulatory provisions giving effect to the requirements of the IJP;
- (j) **"National Mobility Agreement"** means the 2002 National Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;
- (k) **"NMA governing body"** means a governing body that has
 - (i) signed the National Mobility Agreement, and
 - (ii) adopted regulatory provisions giving effect to the requirements of the National Mobility Agreement.
- (l) **"old bar admission course"** means the bar admission course and examinations in use just prior to the introduction of the CPLED program;
- (m) **"provide legal services"** means to engage in the practice of law
 - (i) physically in Alberta, except with respect to the law of a home jurisdiction, or
 - (ii) with respect to the law of Alberta physically in any jurisdiction,and includes to provide legal services respecting federal jurisdiction in Alberta.
- (n) **"Territorial Mobility Agreement"** means the 2006 Territorial Mobility Agreement of the Federation of Law Societies of Canada as amended from time to time.
- (o) **"TMA governing body"** means a governing body that has:
 - (i) signed the Territorial Mobility Agreement, and
 - (ii) adopted regulatory provisions giving effect to the requirement of the Territorial Mobility Agreement.

June2003;Feb2004;Feb2007

Delegation of Authority by the Benchers to the Credentials and Education Committee

- 47.1** The authority of the Benchers is delegated to the Credentials and Education Committee in relation to the following matters:
- (a) an application pursuant to section 37(4) of the Act; and
 - (b) appeals under section 43(2) of the Act in relation to the following matters:
 - (i) the CPLED program and the old bar admission course;
 - (ii) transfer examinations;
 - (iii) reinstatement examinations; and
 - (iv) decisions made by the Executive Director under this Part.

*Oct2002;June2003;Feb2004;Nov2006***Panels of the Credentials and Education Committee**

- 48 (1)** The Committee may sit in panels consisting of at least 3 members, at least one of whom must be a Bencher, for the purposes of:
- (a) dealing with matters delegated to the committee under section 37(4) and (5) of the Act;
 - (b) dealing with matters delegated to the committee under section 43(2) and (3) of the Act;
 - (c) dealing with matters referred to the committee by the Executive Director under section 43(1) of the Act or Part 2 of the Rules;
 - (d) dealing with appeals under Rule 50.2(4);
 - (e) dealing with referrals made by the Executive Director under Rule 118; and
 - (f) dealing with any matter involving an application by an individual.
- (2)** Panels will be appointed by the Chair or Vice-Chair of the Committee.
- (3)** Three members of a panel of the Committee constitute a quorum at a meeting of the panel.

*Feb2004***Panels of Inquiry**

- 48.1 (1)** The Committee may direct a hearing by a panel of inquiry with respect to any matter referred to it by the Executive Director.
- (2)** When directing a hearing, the Committee may require the prospective applicant to post costs set in the Committee's discretion but the Committee, when giving its direction on the matter to the Executive Director, shall fix the costs of the hearing to be paid by the applicant not to exceed the posted costs.
- (3)** On direction of a hearing, the chair or vice chair of the Committee shall name three of its members to be a panel of inquiry to conduct the hearing and designate one member as chair, and members may be substituted as necessary.
- (4)** Other than the notice referred to in subrule (7)(b), the Executive Director shall effect service of documents in a manner similar to that prescribed by Rule 83 unless an alternate method of service has been approved by the chair of the Committee, and the Executive Director shall comply with Rule 96.
- (5)** The panel of inquiry shall conduct a hearing into the matter before it; shall receive written and verbal evidence, sworn and unsworn, giving weight to each item of evidence that it deems appropriate; and shall comply with Rule 98 as to persons present at the hearing, exhibits, and records of the Society.
- (6)** Hearings conducted under this Rule shall be open to the public unless the panel of inquiry, on its own motion or on the application of the applicant or any person expected to be a witness at the hearing or any other interested party at any time before or during the proceedings, directs that all or part of the hearing is to be held in private.
- (7)** At least 15 days prior to the date of a hearing, the Executive Director shall cause a notice in Form 3-3A in the Schedule to these Rules, or to a like effect:
- (a) to be sent by registered mail to the applicant at the address for service given by the applicant in the application,

- (b) to be sent to such person as the Executive Director wishes to call as witness by registered mail addressed to the last known address, and
 - (c) to be served upon or sent by registered mail to such other persons, if any, as the chair or vice chair of the Committee may direct.
- (8) The chair of a panel of inquiry or the chair or vice chair of the Committee, on notice to the applicant or to the applicant's counsel, whether or not a hearing has commenced, may, without calling a meeting of the panel, adjourn any such hearing to such other time or place as the chair or vice chair decides.
- (9) The panel, after receiving and considering all evidence presented and after hearing arguments from all parties before it, shall make a written report to the Committee containing the panel's finding and recommendations.
- (10) The Committee may give direction to the Executive Director on the basis of the finding and recommendations of the panel of inquiry or may conduct a hearing on notice to the applicant and receive further evidence and argument before giving such direction, in which case subrules (4) to (8), with the necessary modifications, will apply to that hearing.
- (11) The Executive Director, before carrying out the direction of the Committee, shall
- (a) provide the applicant with a copy of the report of the panel of inquiry and inform the applicant of the direction of the Committee,
 - (b) advise the applicant of the applicant's right of appeal under section 43(2) of the Act, and
 - (c) afford to the applicant 30 days within which to file a notice of appeal with the Executive Director.
- (12) The procedure at a hearing shall be governed by the following provisions:
- (a) at the time and place appointed or to which any hearing has been adjourned by the chair of the panel of inquiry the matter of the application shall be heard by the panel of inquiry;
 - (b) the applicant and the Society or any person recognized by the panel of inquiry may be represented by counsel and may lead such evidence as the panel may rule to be admissible;
 - (c) the applicant may appear in person before the panel and may, in addition to giving the applicant's own viva voce evidence, produce for viva voce evidence such of the persons vouching for the applicant's character, citizenship or residence, conduct and habits of life as the applicant may choose, and as the panel of inquiry may allow;
 - (d) in any such application the panel is not bound by the rules of law concerning evidence applicable to judicial proceedings but may proceed to ascertain the facts in such manner as it considers proper;
 - (e) at any time in the course of the hearing, the panel of inquiry may direct any investigation it considers appropriate of the applicant or of any materials submitted by the applicant or others.

Feb2004

Referrals by the Executive Director to the Credentials and Education Committee

- 49 Wherever this Part of the Rules provides the Executive Director with the authority to determine a matter, the Executive Director may, in his/her sole discretion, refer the matter to the Committee for determination.

Feb2004

DIVISION 2 – STUDENTS-AT-LAW

RECRUITMENT

Interpretation

- 49.1 (1) In Rule 49.2,
- (a) "Black out period" means the period between 5:00 p.m. on the final Friday of the recruitment period and 5:00 p.m. on the following Monday;
 - (b) "Employer" means an employer of a student-at-law and includes a firm as defined in Rule 2(1), a corporation and a government, but does not include a court;
 - (c) "Matching program" means a program administered by a third party whereby employers are matched with students in a matching process;

- (d) "Non-participating employer" means an employer not participating in a matching program;
 - (e) "Recruiting year" means any given year in which students are recruited by employers;
 - (f) "Recruitment activity" means any activity the primary objective of which is to place a particular student with an employer, and includes the conduct of interviews; the offer or provision of gifts, meals or entertainment on an exclusive or selective basis; and the making or solicitation of offers of employment but does not include the scheduling of interviews or the participation in scholarship and prize programs, career fairs, seminars hosted by law schools or similar activities where the primary intent is not to recruit a particular student or students;
 - (g) "Recruitment period" means the annual two week period selected by the Committee prior to which recruitment activity may not be conducted;
 - (h) "Student" means a prospective student-at-law.
- (2) A reference to the location of an employer means the location at which a student-at-law would be employed by that employer.
- (3) The Committee shall set the recruitment period by notice published to the members before April 15 of the recruiting year.

Feb2004

Recruitment Activity

- 49.2 (1) This Rule does not apply to:
- (a) an employer located outside Calgary or Edmonton;
 - (b) recruitment activity concerning a second-year law student who has been employed by the offering employer on a regular and continuous basis during that student's attendance at law school or for substantially all of the period between that student's first and second years of law school; and
 - (c) recruitment activity concerning third year law students.
- (2) Recruitment activity with respect to a particular student
- (a) must not be conducted unless the student has completed second year law school;
 - (b) must not commence prior to the recruitment period, or take place during the black out period; and
 - (c) must conform in all respects with this Rule,
- except that in exceptional circumstances, an employer may interview a student before the recruitment period if the student is unable to attend for an interview on or after that date, but an offer of employment made to that student must conform with subrules (3) and (4).
- (3) No offer of employment by a non-participating employer to a student may be made before 8:00 a.m. on the second Tuesday of the recruitment period.
- (4) An offer of employment by a non-participating employer to a student must be made between 8:00 a.m. and 5:00 p.m. from the second Tuesday to the second Thursday of the recruitment period and remain open for acceptance until 12:00 noon on the day following the day the offer is made. An offer of employment may be made at any time after the black out period.

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REQUIREMENTS FOR ADMISSION AS A STUDENT-AT-LAW

General Academic Requirements

- 50 (1) In Divisions 2, 3 and 4 unless otherwise specified, "applicant" means an applicant for admission as a student-at-law or enrolment as a member.
- (2) The academic requirements for admission as a student-at-law, referred to in section 40(1)(b) of the Act, are met where the applicant:
- (a) has successfully completed the requirements of a Canadian common-law degree in accordance with this Rule, or
 - (b) has qualifications equivalent to a Canadian common-law degree, as adjudged in accordance with Rules 50.2 or 50.3

and the requirements of (a) or (b) above are met no more than three years before receipt of the application for admission.

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- (3) An applicant must demonstrate competence in Canadian law, which means the application of Canadian common-law statutes, regulations and policy at the federal and provincial level in Alberta.
- (4) The basic standard for competence in Canadian law is successful completion of the requirements for a bachelor of laws degree or a *juris doctor* degree from a faculty of common law at a Canadian university (a "Canadian common-law degree") or an equivalent qualification.
- (5) An applicant may apply to the Committee to waive the three year time limit under subrule (2) and the Committee may deny the application or grant the application with or without conditions.

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Evaluation of Canadian Common-law degrees

- 50.1 (1) A Canadian common-law degree will be evaluated by reference to an original transcript provided by the Canadian law school issuing the degree.
- (2) Acceptance of a Canadian common-law degree as evidence of competence is subject to satisfaction by the applicant of other requirements (if any) imposed from time to time by the Benchers on all applicants holding Canadian common-law degrees.

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Evaluation of Other Law Degrees

- 50.2 (1) Bachelor of law degrees and *juris doctor* degrees from a faculty of civil law at a Canadian university ("Canadian civil-law degrees"), non-Canadian law degrees and legal practice experience will be evaluated on a case-by-case basis and requirements imposed to produce equivalence to a Canadian common-law degree.
- (2) Unless otherwise determined by a special resolution of the Benchers, evaluation of the degrees and experience referred to in subrule (1) will be conducted by the Federation of Law Societies' National Committee on Accreditation (the "NCA"), subject to subrule (5).
- (3) An evaluation conducted by the NCA, as authorized by the Benchers, will be accepted by the Benchers unless the applicant successfully appeals the evaluation.
- (4) An applicant who is dissatisfied with the evaluation by the NCA of that person's degree or experience, and who has exhausted the internal NCA appeal process, may appeal the NCA evaluation to the Committee, but only in the following circumstances:
 - (a) the applicant has been required by the NCA to take courses at law school, and
 - (b) the application of a policy or procedure of the NCA to the applicant may be unreasonable or unfair due to special or unusual circumstances.

For greater certainty, no appeal will lie to the Committee with respect to the subject matter or number of examinations required by the NCA nor the marking of any NCA examination.
- (5) At the discretion of the Benchers, an applicant holding a Canadian civil-law degree, rather than having that degree evaluated by the NCA, may be permitted to demonstrate competence in Canadian law by successfully completing a special examination prescribed by the Benchers.
- (6) The Benchers may delegate their authority under subrule (5) to the Committee.

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Transitional Matters - Academic Requirements

- 50.3 (1) In this Rule:
 - (a) "amending legislation" means the *Miscellaneous Statutes Amendment Act*, 2000;
 - (b) "former Rules" means these Rules as they existed before November 30, 2000;
 - (c) "former statutory provisions" means sections 35 to 45 of the Act as they existed before November 30, 2000;
 - (d) "transitional applicant" means an applicant

- (i) who, on or before February 20, 1998, was enrolled in a course leading to a degree in law in an educational institution other than a university in Alberta,
 - (ii) who has obtained a degree in law from that institution on or before May 31, 2000 (or a later date approved by the Committee under section 47(5) of the Act), and
 - (iii) who has applied to the UCC on or before July 1, 2000 (or a later date approved by the Committee under section 47(5) of the Act) for a certificate of equivalence with respect to that degree;
- (e) "UCC" means Universities Co-ordinating Council under the *Universities Act*.
- (2) The Society may continue to administer the UCC evaluation process in respect of transitional applicants in such manner as it sees fit, including the use of UCC personnel to assist in such administration, subject to the payment by each transitional applicant of any fee prescribed by the Benchers from time to time; and the terms of any agreement between the Society and the UCC, pursuant to section 47(6) of the Act or otherwise, may be settled on the Society's behalf by the Committee.
- (3) The transitional applicants will continue to be governed by the former statutory provisions and the former Rules, but only with respect to evaluation of their academic qualifications, including the requirements set out under former section 39(1)(b) of the Act regarding college and university education.
- (4) An applicant other than a transitional applicant may not invoke, and is not governed by, the UCC evaluation process, the former statutory provisions, nor the former Rules to the extent that they conflict with the NCA and transitional evaluation process described in Rules 50.2 and 50.3.
- (5) On application by a transitional applicant, the Executive Director may waive the requirements of former section 39(1)(b) of the Act.
- (6) On an application for waiver under subrule (5) the Executive Director shall consider the following matters:
- (a) The purpose of the assessment of academic qualifications is to determine whether the applicant's overall credentials are equivalent to those of an applicant with a Canadian common law degree. The overall assessment of the person's credentials should take into account the applicant's total legal and non-legal educational experience and the fact that applicants with Canadian common law degrees usually have at least two years of pre-law university study and three years of law university study.
 - (b) the applicant's legal and non-legal education and qualifications,
 - (c) the applicant's legal and non-legal academic performance and standing,
 - (d) length of study,
 - (e) length, nature, range and quality of professional legal experience,
 - (f) professional qualifications,
 - (g) whether the applicant was admitted to study law under a special category of admission of the applicant's law degree-granting institution or of the institution to which the applicant was first admitted to study law, and
 - (h) any other relevant admissions practice of the applicant's law degree-granting institution or of the institution to which the applicant was first admitted to study law.
- (7) An applicant for waiver shall provide to the Executive Director in writing all information relevant to the matters identified in subrule (6).
- (8) The Executive Director shall provide the applicant with written notice of his/her decision, with an explanation for the decision.
- (9) The Executive Director may, in his/her sole discretion, refer an application for waiver under this Rule to the Committee for determination.

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Authority to Impose other Requirements

- 50.4** The Executive Director may refer an application for admission to the committee to consider whether additional requirements should be imposed in accordance with section 37 of the Act.

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Deadlines and Documentation Required for Admission as a Student-at-Law

- 51 (1) An applicant for admission as a student-at-law under section 40(1) of the Act shall furnish to the Executive Director the following:
- (a) an application in Form 2-1;
 - (b) 2 certificates of character and reputation in Form 2-4;
 - (c) proof of satisfaction of the academic requirements outlined in Rule 50(2);
 - (d) an education plan in compliance with Rule 57;
 - (e) articles of clerkship in compliance with Rule 57;
 - (f) payment of the prescribed application fee and prescribed admission fee; and
 - (g) a certificate of standing from each governing body of which the applicant is, or has been, a member, including any governing body outside of Canada.
- (2) The documents and fees set out in subrule (1) must be provided to the Executive Director at least 30 days before the date on which the applicant proposes to commence articling.
- (3) The Executive Director may abridge the 30 day requirement set out in subrule (2):
- (a) for proof of satisfaction of the academic requirements for any period that such proof is unavailable; or
 - (b) in any other case where:
 - (i) the applicant makes a written application for abridgement;
 - (ii) there was an inability to comply with the 30 day requirement;
 - (iii) the inability to comply arose from exceptional circumstances; and
 - (iv) the applicant and the proposed principal certify, in writing, the nature of the exceptional circumstances.
- (4) The decision of the Executive Director under subrule (3) is final.

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Character and Reputation, Citizenship, and Permanent Residence Procedure

- 51.1 (1) The Committee shall direct a hearing by a panel of inquiry pursuant to Rule 48.1 before giving direction to the Executive Director adverse to the applicant in the case of a referral pertaining to:
- (a) good character and reputation, or
 - (b) citizenship or lawful admission to permanent residence in Canada.
- (2) In determining whether an applicant is of good character and reputation or is a Canadian citizen or a lawful resident of Canada, the panel of inquiry and the Committee shall not be bound by certificates of character or good standing or citizenship but may make such enquiries as they consider desirable in the circumstances.

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Pre-ruling on Character and Reputation

- 51.2 (1) When requested to do so by a prospective applicant, the Committee may
- (a) hear the prospective applicant on the matter of that person's character and reputation in relation to any future application by that person for admission or enrolment, and
 - (b) make a decision on that matter based on and referable only to the evidence before it at the hearing.
- (2) Except to the extent that the Committee directs otherwise, the prospective applicant
- (a) is liable for the payment of all costs and expenses attributable to the application and the hearing under subrule (1), and
 - (b) must, if the Committee so directs, furnish to the Executive Director security for those costs and expenses in a form satisfactory to the Executive Director as a precondition to the holding of the hearing.
- (3) If the prospective applicant makes an application for admission or enrolment after the Committee makes its decision under subrule (1), the Executive Director, in determining whether the applicant is a person of character

and reputation, shall have regard to the Committee's decision to the extent that it is based on and referable to the evidence before it at its hearing.

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AUTHORITY TO PROVIDE LEGAL SERVICES

Conditions Precedent to Providing Legal Services as a Student-at-Law

- 52 (1)** In this Rule, "approved working arrangement" means one where a student-at-law is
- (a) working in accordance with, and under the authority of, an education plan and articles of clerkship approved by the Society, or
 - (b) working in compliance with subrule (3).
- (2)** The conditions precedent to providing legal services as a student-at-law are that the student-at-law:
- (a) must have written confirmation from the Society of registration as a student-at-law;
 - (b) must have written confirmation from the Society of the approved articling commencement date; and
 - (c) must only provide legal services within an approved working arrangement.
- (3)** Subject to compliance with subrule (4), a registered student-at-law who has completed the prescribed period of articles may, as an employee of
- (a) a law firm,
 - (b) a department of the Government of Alberta or the Government of Canada, or
 - (c) the legal department of a corporation,
- perform any services that the student-at-law was permitted to perform while serving under articles.
- (4)** A student-at-law may perform services under subrule (3) only if
- (a) the services are performed under the direct supervision of an active member who, unless the Executive Director otherwise approves, has been actively engaged in the practice of law in Alberta for at least 4 years, and
 - (b) there is filed with the Executive Director an undertaking in a form satisfactory to the Executive Director and given by an active member associated in practice with the law firm or department referred to in subrule (3)(a), (b) or (c) and stating that all services provided under subrule (3) by the student-at-law with that law firm or department will be performed under the direct supervision of the active member or one or more other active members with the same law firm or department.
- (5)** An undertaking need not be filed under subrule (4)(b) if
- (a) the services are performed by the student-at-law at the same law firm or department in which the student-at-law was serving under articles when the articling term ended and
 - (b) the services are performed during the 90-day period following the end of the articling term.
- (6)** A student-at-law must be identified as such:
- (a) in any law related promotional material that names the student-at-law; and
 - (b) in any matter where the student-at-law is involved in providing legal services and that involvement is apparent to anyone outside of the student's firm.

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Legal Services that May be Provided

- 53 (1)** This Rule is to be read subject to Rule 52.
- (2)** A student-at-law may act as counsel in the Court of Appeal in
- (a) civil proceedings before a judge in chambers;
 - (b) proceedings for speaking to the list in civil or criminal matters;
 - (c) proceedings for the taxation of costs before a Registrar of the Court;

- (d) an application with respect to judicial interim release pending appeal;
 - (e) interlocutory applications in criminal matters.
- (3)** A student-at-law may act as counsel in the Court of Queen's Bench in
- (a) civil proceedings before a judge in chambers, other than a pre-trial conference or a mini-trial;
 - (b) proceedings before a master in chambers;
 - (c) an examination for discovery;
 - (d) an examination of a debtor in aid of execution;
 - (e) any other examination provided for in the Alberta Rules of Court if it is conducted before an officer of the Court or a person authorized by the Court to conduct it;
 - (f) an inquiry before a referee under the Alberta Rules of Court;
 - (g) proceedings for the taxation of costs before an officer of the Court;
 - (h) an appeal respecting a civil claim taken pursuant to section 46 of the *Provincial Court Act*;
 - (i) an application in a criminal proceeding, if the application relates to any of the following:
 - (i) entering an election respecting the mode of trial;
 - (ii) entering a plea of not guilty;
 - (iii) fixing the date for a trial or a hearing;
 - (iv) an adjournment, where the matter has been brought forward to speak to the adjournment;
 - (v) an application with respect to judicial interim release.
- (4)** A student-at-law may act as counsel in the Surrogate Court in
- (a) proceedings before a judge in chambers;
 - (b) proceedings for the taxation of costs before an officer of the Court.
- (5)** A student-at-law may act as counsel in the Provincial Court in the following circumstances, where the Court is not sitting as a youth court:
- (a) in a proceeding pertaining to an offence punishable on summary conviction;
 - (b) in a proceeding pertaining to an offence prosecutable either as an indictable offence or a summary conviction offence, where the Crown elects or is deemed to have elected to proceed by summary conviction procedure;
 - (c) in a proceeding pertaining to an indictable offence in respect of which a Provincial Court judge has absolute jurisdiction;
 - (d) in a proceeding pertaining to any other kind of indictable offence, if it relates to any of the following:
 - (i) entering an election respecting the mode of trial;
 - (ii) entering a plea of not guilty;
 - (iii) fixing the date for a trial, a preliminary inquiry or a hearing;
 - (iv) an application for an adjournment, where the matter has been brought forward to speak to the adjournment;
 - (v) an application with respect to judicial interim release.
- (6)** A student-at-law may act as counsel in the Provincial Court in the following circumstances, where the Court is sitting as a youth court:
- (a) in a proceeding pertaining to an offence punishable on summary conviction;
 - (b) in a proceeding pertaining to an offence prosecutable either as an indictable offence or a summary conviction offence, where the Crown elects or is deemed to have elected to proceed by summary conviction procedure;
 - (c) in a proceeding pertaining to an indictable offence in respect of which a Provincial Court judge would have absolute jurisdiction if the accused were an adult;

- (d) in a proceeding pertaining to any other kind of indictable offence, if it relates to any of the following:
 - (i) entering a plea of not guilty;
 - (ii) fixing the date for a trial or a hearing;
 - (iii) an application for an adjournment, where the matter has been brought forward to speak to the adjournment;
 - (iv) an application with respect to judicial interim release.
- (7) A student-at-law may act as counsel in the Provincial Court in proceedings:
 - (a) pertaining to an application for a maintenance order or for the enforcement of a maintenance order;
 - (b) pertaining to an application for an order for custody of or access to a child or to an application for a review of such an order;
 - (c) under the *Child Welfare Act*;
 - (d) under the *Mental Health Act*;
 - (e) under Part 4 of the *Provincial Court Act* (Civil Claims).
- (8) A student-at-law may, with leave of the Court, act as counsel in any matter, whether contested or not, before the Court of Appeal, the Court of Queen's Bench, the Surrogate Court of Alberta or the Provincial Court if:
 - (a) the student-at-law is present for the purpose of assisting a member who is that student-at-law's principal or who is qualified under Rule 55 to be a principal, and
 - (b) the student-at-law acts in the presence of and under the supervision of the member.
- (9) This Rule does not affect the obligation of the principal of a student-at-law to ensure:
 - (a) that the student-at-law is instructed to act as counsel only on matters where the services of an active member are unnecessary, and
 - (b) that the student-at-law is properly prepared before appearing before a court or an officer thereof.
- (10) This Rule does not operate to entitle a student-at-law to act as counsel before a court if the student-at-law is prohibited from doing so by or pursuant to an enactment of the Parliament of Canada or of the Legislature of Alberta.

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ARTICLING REQUIREMENTS

Articling Commencement Date

- 54 (1) The term of service under articles of clerkship shall commence
- (a) in the case of an applicant for admission under section 40(1) of the Act or Rule 70, on the day on which the Executive Director determines that the applicant has complied with all the requirements of the Act and these Rules respecting admission as a student-at-law, or
 - (b) in the case of a student-at-law who enters into new articles following the termination or expiration of previous articles, on the day on which the Executive Director receives new articles in compliance with Rule 57,
- unless
- (c) the Executive Director approves a later commencement date or, in exceptional circumstances, approves an earlier date within the preceding 30-day period, or
 - (d) the Committee, in exceptional circumstances, approves an earlier date beyond the preceding 30-day period.
- (2) An applicant under section 40(1) of the Act shall be admitted as a student-at-law as of the commencement date determined under subrule (1).
- (3) The Executive Director shall advise the principal and student-at-law of the approved commencement date in writing.

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Qualifying as a Principal

- 55 (1) Subject to this Rule and sections 38(2) and (3) of the Act a principal must be an active member of the Society and must have been actively engaged in the practice of law within Alberta for not less than 4 years immediately preceding the date on which the articles commence.
- (2) An active member of the Society who wants to be a principal and has been actively engaged in the practice of law for at least 4 years may apply to the Executive Director to be exempted from the requirements that the 4 years of practice be within Alberta and that they be immediately preceding the date on which the articles commence.
- (3) An active member may not enter into articles with more than two students-at-law unless authorized to do so by the Executive Director.
- (4) The Committee, on referral from the Executive Director, the Benchers, or a Hearing Committee, may
- (a) determine a member's suitability to act or to continue to act as a principal and may order that the requirement of subrule (1) be varied or waived;
 - (b) order that a member
 - (i) cease to act as a principal under existing articles of clerkship,
 - (ii) not be permitted to serve as a principal in future until the Committee directs otherwise, or
 - (iii) only act or continue to act as a principal subject to conditions the Committee considers appropriate,
 unless the member shows cause why such an order should not be made.
- (5) The Committee may consider any matter for the purposes of subrule (4), including, without limitation,
- (a) the records of the Society pertaining to previous proceedings against the member under Part 3 of the Act or the predecessors of that Part,
 - (b) claims against the Assurance Fund resulting from the conduct of the member,
 - (c) claims paid under Part 5 of the Act or the predecessors of that Part arising out of the performance of services by the member,
 - (d) the failure of the member to comply with obligations imposed on the member by the Rules, articles of clerkship or education plans in the member's capacity as a principal, and
 - (e) previous proceedings before the Committee pertaining to the member.
- (6) Where a matter is referred to the committee under this Rule, in addition to any determination made under subrule (4), the committee will provide directions as to the approved articling commencement date.
- (7) Where:
- (a) an application has been made for approval of articles,
 - (b) approval of the principal is in issue and the proposed principal has been so advised,
 - (c) the proposed principal has been provided with the option of arranging for another member, acceptable to the Society, to be the student's principal, and
 - (d) the Society has not received timely confirmation that another member, acceptable to the Society, will be the student's principal,
- the Society shall advise the proposed student and principal, in writing:
- (e) that approval of the principal is a condition precedent to approval of the articles,
 - (f) that approval of the principal is in issue,
 - (g) of the date (if known) on which the committee is expected to address the situation,
 - (h) that, in the meantime, the proposed student is not authorized to provide legal services that can only be provided by a student-at-law, and
 - (i) that credit towards the required articling term for any time spent working prior to approval will be in the discretion of the committee.

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Required Articling Term

- 56 (1)** A student-at-law who applies under section 40(2) of the Act to be enrolled as a member of the Society must satisfy the Executive Director that he or she has served under articles
- (a) for periods totalling 12 months
 - (i) with a principal who is an active member of the Society and otherwise qualifies under these Rules, or
 - (ii) with a principal who is an active member of the Law Society of the Northwest Territories and otherwise qualifies under these Rules;
 - (b) where part of the articling term is served with a court or judge under section 38(2) of the Act,
 - (i) for periods totalling 15 months,
 - (ii) with at least five months of that term spent articling with a principal who is an active member of the Society and otherwise qualifies under these Rules;
 - (c) where part of the articling term is served with a Canadian court or judge not referred to in section 38(2) of the Act, for a period set by the Committee on conditions set by the committee; or
 - (d) where the applicant has served articles in a Canadian jurisdiction other than Alberta or the Northwest Territories, for
 - (i) the period of time that would otherwise be required under (a), (b) or (c) above,
 - (ii) reduced by an amount of time equal to the time served in articles in the other jurisdiction,
 - (iii) with at least six months of articles being served in Alberta.
- (2)** The entire articling term required to be served under subrule (1) must be served within the two year period immediately preceding receipt of the application for enrolment or, with the approval of the Executive Director or the Committee, within a longer period.
- (3)** Attendance by a student-at-law
- (a) at the old bar admission course,
 - (b) at the in-person portions of the CPLED program
- during the articling term shall be considered as service under articles.

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Articles of Clerkship and Education Plan

- 57 (1)** Articles of clerkship and an education plan must be completed by the proposed student-at-law and principal, submitted to the Society and approved by the Executive Director in order for the articles to be approved and student-at-law to be admitted.
- (2)** Once submitted to the Society, the articles of clerkship and education plan may only be altered or terminated with the written approval of the Executive Director.
- (3)** Articles of clerkship must be
- (a) in Form 2-8, where the principal is an active member,
 - (b) in Form 2-9, where the principal is a judge with whom the student-at-law has been permitted to serve under articles pursuant to section 38(2) of the Act., and
 - (c) in Form 2-9, as modified by the Executive Director, where the principal is a judge with whom the student-at-law has been permitted to serve under articles pursuant to Rule 56(1)(c).
- (4)** An education plan must be
- (a) in Form 2-5, where the principal is an active member,
 - (b) in Form 2-6, where the principal is a judge referred to in section 38(2)(a), (b) or (c) of the Act, or
 - (c) in Form 2-6, as modified by the Executive Director, where the principal is a judge referred to in section 38(2)(d), (e) or (f) of the Act or in Rule 56(1)(c).

Oct2002;Feb2004

Duty to Notify the Society of a Change in Working Arrangements

- 57.1 (1)** The student-at-law and the principal must promptly notify the Society in any circumstances where the student-at-law is no longer working in an approved working arrangement as defined in Rule 52(1).
- (2)** Subrule (1) does not apply where:
- (a) the student-at-law is on a leave of absence with the approval of the principal;
 - (b) both the student-at-law and the principal expect that the student-at-law will resume working with the principal upon the conclusion of the leave of absence;
 - (c) the student-at-law will not be providing legal services of any type during the leave of absence; and
 - (d) the reason for the leave of absence does not in any way reflect on
 - (i) the integrity, or
 - (ii) the competence, as that term is defined in Chapter 2 of the *Code of Professional Conduct*, of the student-at-law.

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Assignment of Articles

- 57.2 (1)** A principal who is an active member may, with the approval of the Executive Director, assign the articles by an assignment in Form 2-10 to another active member who is eligible to be a principal under Rule 55.
- (2)** A judge who is the principal under articles of clerkship may, with the permission of the Committee, assign those articles to another judge by an assignment in Form 2-10, as modified by the Executive Director.
- (3)** An approval of an assignment of articles given under subrule (1) or (2) is not effective unless the Executive Director also approves the education plan for the remainder of the term of the articles.
- (4)** The Executive Director may make an approval under subrule (3) effective as of a date up to 30 days prior to the date on which the approval is actually granted, in order to prevent or minimize any interruption of the student-at-law's service under articles.
- (5)** An assignment of article shall be promptly delivered to the Executive Director and takes effect from
- (a) its date of execution, or
 - (b) the effective date of the approval of the education plan pursuant to subrule (3),
- whichever date occurs last.
- (6)** An assignment of articles is not required merely because of the transfer of the student-at-law from the supervision of one active member to another or from the supervision of one judge to another, if the transfer is in accordance with the student-at-law's education plan.

Oct2002;Feb2004

Termination of Articles

- 57.3 (1)** Articles of clerkship are automatically terminated on the occurrence of any of the following events:
- (a) the death of the principal;
 - (b) the determination by the Executive Director that the principal has ceased to be actively engaged in the practice of law within Alberta during the period of the articles;
 - (c) the principal ceasing to be an active member;
 - (d) the suspension of the principal's membership by or pursuant to a provision of Part 3 of the Act;
 - (e) the principal ceasing to hold office as a judge;
 - (f) the making of an order by the Committee against the principal pursuant to Rule 55(4)(b)(i).
- (2)** Where the principal and the student-at-law jointly apply for the termination of articles of clerkship the Executive Director may grant the application.
- (3)** The Committee may terminate articles of clerkship
- (a) if an order of reprimand has been made against the principal pursuant to section 72(1)(c) of the Act,

- (b) if the principal's membership has been suspended under Rule 129, 148 or 165,
 - (c) if the principal is a judge who has elected to become a supernumerary judge,
 - (d) on the application of the principal and the student-at-law where referred by the Executive Director, or
 - (e) on the application of either the principal or the student-at-law but with notice by the applicant to the other, or after an investigation, or after a hearing, or in such other circumstances as the Committee considers reasonable.
- (4) When articles of clerkship terminate or are terminated under this Rule, the student-at-law may enter into a new education plan and new articles of clerkship in compliance with Rule 57, and in that event
- (a) the whole of the period of service under the previous articles shall be counted toward satisfying the student-at-law's articling requirements unless the Committee, having regard to all the circumstances, decides that only a part of that period is to be so counted, and
 - (b) the period of service under the new articles shall commence on the date on which both the executed articles have been submitted to the Executive Director and the new Education Plan has been approved, or any earlier date approved by the Committee not preceding the date of termination of the previous articles.

Oct2002;Feb2004

Documentation Required on Completion of Articles

- 58 (1) On completion of the whole of the prescribed period of articles, the student-at-law must execute and furnish to the Executive Director a certificate in Form 2-11.
- (2) Except as otherwise provided in this Rule, on completion of the period of service under articles or following an assignment or termination of articles, the member who was the principal under the articles must execute and furnish to the Executive Director a certificate in Form 2-12 or 2-13, as the case may be, relating to the period during which the member served as the principal, unless the member has reasonable cause to refuse to do so.
- (3) A certificate in Form 2-12 or 2-13 is not required:
- (a) if the articles were terminated under Rule 57.3(1)(a) or (d), or
 - (b) if the Executive Director waives the requirement under subrule (1) in any other case where the articles terminate or are terminated under Rule 57.3.
- (4) If a certificate in Form 2-12 or 2-13 is not required by reason of subrule (3) or a waiver under subrule (3) or if the principal refuses or neglects to execute the certificate, the Committee may, on the application of the student-at-law:
- (a) determine whether the student-at-law has or has not fulfilled the requirements described in Form 2-12 or 2-13 in respect of the period of articles, and
 - (b) if it makes a favourable determination under clause (a), waive compliance with subrule (2) and, where appropriate, the requirement to furnish the evaluation certificate provided for in the education plan.

Feb2004

Termination of Registration of Student-at-Law

- 58.1 (1) Registration as a student-at-law is automatically terminated three years from the approved articling commencement date unless the student-at-law has obtained an extension from Executive Director.
- (2) Subject to subrule (3), if the Executive Director has issued a certificate under section 44(1) of the Act after approving the enrolment of a student-at-law as a member of the Society pursuant to section 40(2) or 41(2)(b) of the Act, the registration of the student-at-law terminates on
- (a) the date on which the student-at-law becomes a member of the Society, or
 - (b) the expiration of
 - (i) the 2-year period referred to in section 44(2) of the Act, and
 - (ii) any extension of that 2-year period granted under section 44(3) of the Act before the 2-year period expires,
- whichever event occurs first.

- (3) Subrule (2) does not preclude the Executive Director from granting an extension of time under section 44(3) of the Act after the expiration of the 2-year period referred to in section 44(2) of the Act or abrogate the right of a person to comply with section 44(2) of the Act during the extended period.
- (4) If the Executive Director grants an extension of time to a person under section 44(2) of the Act after the expiration of the 2-year period, the registration of that person as a student-at-law is thereby reinstated with effect from the termination of the registration under subrule (2) and continues until the extension period expires or until that person becomes a member of the Society, whichever event occurs first.

Feb2004

CPLED PROGRAM REQUIREMENTS

Interpretation

- 59** For the purposes of Rules 60 through 63.2,
- (a) "Articling Handbook" means the Articling Handbook approved by the committee, as amended from time to time.
 - (b) "Director" means the Director of the CPLED program in Alberta and includes the Deputy Director.
 - (c) "student" means a person taking the CPLED program, and includes CPLED learners.

Feb2004

Standard Requirements for Successful Completion

- 60** (1) Successful completion of the CPLED program is a condition precedent to enrolment as a member of the Society under section 40(2) of the Act.
- (2) Successful completion of the CPLED program requires:
- (a) attendance, participation and professional behaviour;
 - (b) completion of all assignments, competency evaluations and examinations with professional and academic integrity; and
 - (c) a grade of "competency demonstrated" in all assignments, competency evaluations and examinations.
- (3) All of the requirements for successful completion of the CPLED program must be met:
- (a) within the two year period immediately preceding enrolment as a member of the Society under section 40(2) of the Act, or
 - (b) a longer period approved by the Executive Director or the Committee.

Feb2004

Enforcement of Requirements

- 61** (1) The Director may collect and use the personal information of students for the purpose of preventing, detecting, sanctioning or reporting any breach of the requirements of professional behaviour, professional integrity and academic integrity.
- (2) Where the Director concludes that a student has behaved unprofessionally, without academic integrity or without professional integrity the Director:
- (a) may take appropriate action including, without limitation, expulsion from the CPLED program and/or award a failed standing in all or part of the program; and
 - (b) shall advise the Executive Director of the conduct in question and the action taken as a result.
- (3) The Director may provide, and upon a request from the Executive Director shall provide, the Executive Director with evidence relevant to a breach of the requirements of professional behaviour, professional integrity and academic integrity.

Feb2004;Nov2006

Exceptions to Standard Requirements – Absence, Deferral, Re-marking, Supplementals, Appeals and Repeating the Course

- 62 (1) An application
- (a) to be excused from the requirement of attendance and participation or
 - (b) for deferral of the requirement to complete an assignment, competency evaluation or examination, shall be made and addressed in accordance with the Articling Handbook.
- (2) A student who receives a grade of "competency not yet demonstrated" on an assignment, competency evaluation or examination may apply for a re-marking in accordance with the Articling Handbook.
- (3) A student who has obtained a grade other than "competency demonstrated" on an assignment, competency evaluation or examination may attempt to demonstrate competency in that area by completing a supplemental assignment, competency evaluation or examination, as the case may be, subject to the limitations set in Rule 63(1).
- (4) A student must demonstrate competency in all supplementals in order to meet the requirements for successful completion.
- (5) A student who has not demonstrated competency in all assignments, competency evaluations and examinations may repeat the CPLED program, subject to the limitations set in Rule 63(2).
- (6) A student whose only way of meeting the requirements for successful completion of the CPLED program is to repeat the entire program may appeal to the committee in accordance with Rule 64.1.

Feb2004

Limitations to Exceptions

- 63 (1) Notwithstanding rule 62(3),
- (a) the maximum number of supplemental attempts on assignments is one supplemental per assignment;
 - (b) the maximum number of supplemental attempts for all of the assignments combined is a total of four;
 - (c) the maximum number of supplemental attempts on competency evaluations is one supplemental per competency evaluation;
 - (d) the maximum number of supplemental attempts for all of the competency evaluations combined is a total of three; and
 - (e) the maximum number of supplemental attempts on examinations is one supplemental per examination, subject to any right the student may have to repeat the CPLED program.
- (2) A student who has not successfully completed the CPLED program after attempting to do so a second time:
- (a) is deemed to have demonstrated incompetence;
 - (b) may not repeat the CPLED program; and
 - (c) will have their registration as a student-at-law terminated.

Nov2006

Feb2004

Transitional Matters

- 63.1 (1) In this section, "old bar admission course" means the bar admission course and examinations in use just prior to the introduction of the CPLED program.
- (2) A student who has met all of the requirements for standing in the old bar admission course shall be deemed to have successfully completed the CPLED program for the purposes of applying for enrolment with the Society.
- (3) A student
- (a) who has completed both the three week and the five week session of the old bar admission course, and
 - (b) whose performance or standing in one or more of those sessions is such that the student would be required to repeat the entire session under the rules and policies in place at that time,

has one opportunity to meet the requirements for standing in that session by completing all of the assessments or examinations that the student would have been required to complete in repeating the entire session and obtaining the grades that would have been required to meet the requirements for standing.

- (4) Notwithstanding Rule 63(2), in the case of a student who has attempted, without success, to meet the requirements for standing of the old bar admission course, the total number of attempts permitted is three including both the attempts of the old bar admission course and of the CPLED program.
- (5) With the exception of Rule 64.1(1)(d), Division 3 (Appeals) applies to students who have attempted to complete the old bar admission course, and references to the "CPLED program" are to be read as the "old bar admission course" where appropriate.

Feb2004

Exchanging Information

- 63.2 (1)** Students, their principals and the Society will be advised of students' grades.
- (2)** Information, including personal information about students, may be exchanged between the Society, and CPLED (including those who administer the CPLED program in Alberta) where the exchange of that information is made for the purpose of monitoring student performance, assisting in the operation of the CPLED program or governing the articling process.

Feb2004

DIVISION 3 – APPEALS FROM CPLED PROGRAM, TRANSFER AND REINSTATEMENT EXAMINATIONS

Interpretation

- 64** In this Division,
- (a) "appeal" includes appeals pursuant to section 43(2) of the Act and applications to waive or modify requirements pursuant to section 37(4) of the Act, and
 - (b) "appellant" includes a person applying for relief under either section 43(2) or section 37(4) of the Act.

Feb2004

Status to Appeal - CPLED Program

- 64.1 (1)** A student may appeal only:
- (a) a requirement to repeat the entire CPLED program;
 - (b) a suspension or expulsion from the CPLED program;
 - (c) a denial of admission to the CPLED program; or
 - (d) an inability to repeat the CPLED program due to the number of past attempts, where the student has made no more than two attempts.
- (2)** There is no appeal
- (a) of any decision of the Director, CPLED Alberta, except as provided for in subrule (1);
 - (b) in respect of marking of assignments, evaluations or examinations; or
 - (c) in respect of an assignment, competency evaluation or examination where the student has an opportunity to make a supplemental attempt.

Feb2004

Status to Appeal - Transfer and Reinstatement Examinations

- 64.2 (1)** An applicant required to successfully complete either transfer examinations or reinstatement examinations may appeal only a fail standing in those examinations.
- (2)** There is no appeal
- (a) in respect of marking of examinations; or
 - (b) in respect of an examination where the applicant has an opportunity to make a supplemental attempt.

Feb2004

Scope of Review

- 64.3** Appeals referred to in Rules 64.1 and 64.2 are restricted to matters of current policy or procedure where, because of special or unusual circumstances, the application of a policy or rule has been unfairly or unreasonably applied to the student.

Feb2004

Filing for Appeal

- 64.4 (1)** The appellant must provide to the Executive Director
- (a) a written notice of appeal, including the grounds of appeal and an address for service, in a form acceptable to the Executive Director;
 - (b) an affidavit sworn by the appellant, setting out any facts relied on by the appellant, in a form acceptable to the Executive Director; and
 - (c) a non-refundable fee as set from time to time by the Committee.
- (2)** The appellant must provide copies of the notice of appeal and affidavit to CPLED Alberta.

Feb2004

Time Limits

- 64.5 (1)** Appeals of a requirement to repeat the entire CPLED program, to repeat all transfer examinations, to repeat all reinstatement examinations, or of an inability to repeat the CPLED program due to the number of attempts must be submitted within 14 days of the later of:
- (a) the date the appellant's statement of grades is posted, or if it is not posted, the date it is mailed to the appellant; or
 - (b) the date the appellant's results following a paid re-grading are posted, or if they are not posted, the date they are mailed to the appellant.
- (2)** Appeals from suspension, expulsion or denial of admission to the CPLED program must be submitted within 14 days of the date on which notice of the decision is mailed to the appellant.
- (3)** The appellant, CPLED Alberta, or the Law Society may apply to the chair of the Committee or his (her) alternative to abridge or extend the time for the hearing of the appeal or the filing of material.
- (a) An abridgement will only be granted where there are urgent circumstances.
 - (b) The urgent circumstances must be set out in the material filed in relation to the appeal. (In the case of the appellant it shall be in the affidavit. In the case of LESA or the Law Society this shall be in the material filed in response).
 - (c) Where an extension is sought the request shall be in writing and shall set out the reasons for the request.

Feb2004

Response to the Appeal

- 64.6 (1)** CPLED Alberta and the Law Society both have the right to respond to the notice of appeal and to the material filed in support of the appeal.
- (2)** A response under subrule (1):
- (a) shall be in writing;
 - (b) may include an affidavit;
 - (c) shall be provided within 14 days of receipt of the notice of appeal; and
 - (d) shall include the written decision of the Director, Bar Admission, where the appeal is from a suspension, expulsion or denial of admission to the CPLED program.

Feb2004

Additional Material

- 64.7** Any additional material to be relied on by the appellant, by the Law Society, or by CPLED Alberta shall be provided to the other two entities at least 10 days before the hearing of the appeal.

Feb2004

Hearing

- 64.8 (1)** The appeal will be based on the written material filed by the appellant unless the appellant requests an oral hearing, in which case an oral hearing will be conducted.
- (2)** The appeal shall be a private proceeding, unless the committee or panel hearing the appeal, on application, directs that all or part of the proceedings are to be public.
- (3)** Where an oral hearing is requested, the Executive Director shall serve on the appellant, CPLED Alberta and the Law Society a notice stating the time and place at which the appeal will be heard.
- (4)** The committee or panel hearing the appeal shall determine the process to be followed in accordance with the Act, the Rules, the principles of natural justice and the circumstances of the case.

Feb2004

Right to Counsel

- 64.9** The appellant, CPLED Alberta and the Law Society may be represented by counsel.

Feb2004

Reasons

- 64.10 (1)** Reasons for dismissing or allowing the appeal must be provided and recorded.
- (2)** When an appeal has been decided the Law Society shall notify the appellant and CPLED Alberta of the decision.

Feb2004

DIVISION 4 – MEMBERSHIP**ENROLMENT REQUIREMENTS****Enrolment of Alberta Articling Students (Section 40 of the Act)**

- 65 (1)** A person applying for enrolment under section 40(2) of the Act must meet the requirements of the Act and of these Rules, including
- (a) successful completion of the articling requirements in accordance with Rule 56; and
 - (b) successful completion of the CPLED program in accordance with Rule 60.
- (2)** An applicant for enrolment under section 40(2) of the Act shall furnish to the Executive Director
- (a) an application in Form 2-14, and

- (b) the documents and payments that must accompany the application in accordance with the "Instructions to the Applicant" following Form 2-14.

Dec2001;Nov2002;Feb2004

Enrolment of Transfer Applicants (Sections 41 and 42 of the Act)

- 66 (1)** An applicant for enrolment under section 41 of the Act shall furnish to the Executive Director:
- (a) an application in Form 2-15, and
 - (b) the documents and payments that must accompany the application in accordance with the "Instructions to the Applicant" following Form 2-15.
- (2)** Subject to subrules (3), (4) and (6), an applicant for enrolment under section 41 of the Act shall demonstrate competency to practise law in Alberta by:
- (a) meeting the requirements of section 41 of the Act;
 - (b) meeting the requirements of Rule 50(2), and
 - (c) successfully meeting the requirements for passing the transfer examinations.
- (3)** Notwithstanding subrule (2)(b), an applicant under section 41 of the Act who has been engaged in the practice of law or worked as an articling student in Canada for an aggregate of at least 12 months out of the 48 month period immediately preceding receipt of the application is not required to meet the academic currency requirements under Rule 50(2).
- (4)** Notwithstanding subrule (2)(c), an applicant for enrolment under section 41 of the Act:
- (a) who is entitled to practise law in the jurisdiction of an NMA governing body and/or a TMA governing body of which the applicant is a member,
 - (b) who certifies, to the satisfaction of the Executive Director, that he or she has familiarized himself or herself with Alberta law to the extent required to be able to practice competently in the areas in which the applicant intends to practice, including the materials required in the reading list required by the Executive Director, and
 - (c) who agrees that his or her membership in the Society will be subject to any restrictions or conditions
 - (i) imposed on the applicant by any extraprovincial law society, and
 - (ii) in effect at the time the applicant enrolls in the Society,
- is not required to pass any transfer examinations.
- Feb2007
- (5)** Notwithstanding subrule (4), an applicant for enrolment who otherwise qualifies under subrule (4)(a) but:
- (a) has written transfer examinations before July 1, 2003 and
 - (b) has failed to successfully meet the requirements for passing those examinations,
- must, in addition to meeting the requirements of subrule (4)(b) and (c), satisfy the Executive Director that the applicant will only practise law in areas in which the applicant is competent to do so, as a condition precedent to enrolment.
- (6)** A lawyer called and enrolled on the basis of having qualified under subrule (4) or (5) has no greater rights as a member of the Society than:
- (a) the lawyer had as a member of the governing body of his or her home jurisdiction at the time of enrolment as a member in the Society, or
 - (b) any other member of the Society in similar circumstances.
- (7)** The Executive Director will comply with any directions provided by the Committee or the Benchers in setting the reading list required under subrule (4)(b).
- (8)** An applicant for enrolment under section 42 of the Act shall furnish to the Executive Director:
- (a) an application in Form 2-24, and
 - (b) the documents and payments that must accompany the application in accordance with the "Instructions to the Applicant" following Form 2-24.

- (9) A member who has been enrolled under section 42 of the Act shall apply to the Executive Director:
- (a) before ceasing to be an employee of the corporation,
 - (b) within 30 calendar days after ceasing to be an employee of the corporation, or
 - (c) within such longer period as permitted by the Committee on application by the member
- for the approval of the Committee for the continuation of that person's membership under section 42 of the Act.

Oct2002;June2003;Feb2004;Oct2004

Enrolment of Faculty Members, Society Employees & Counsel to a Court (Section 45 of the Act)

- 66.1 (1) An applicant for enrolment under section 45 (1) of the Act shall furnish to the Executive Director the following:
- (a) an application in Form 2-16, and
 - (b) the documents and payments that must accompany the application in accordance with the "Instructions to the Applicant" following Form 2-16.
- (2) An application for approval of the continuation of membership under section 45(3) of the Act
- (a) shall be in writing,
 - (b) shall be accompanied by payment of any prescribed application fee and continuation fee, and
 - (c) shall provide such updating of the documents and information that accompanied the original application under section 45(1) of the Act, or its predecessor, as may be required by the Executive Director or by the Committee.

Sep2000;Feb2004

Additional Academic Requirements in Certain Cases

- 66.2 Additional requirements such as special examinations to be satisfied by an applicant under section 45(1) or 46(2) of the Act may be established by the Benchers.

Feb2004

Enrolment Where Part 3 Proceedings have been Commenced

- 66.3 No student-at-law shall be enrolled as a member if proceedings have been commenced under Part 3 of the Act in respect of a matter regarding the student-at-law's conduct until such time as the matter has been reviewed by the Committee and that Committee is satisfied that the student-at-law should be enrolled as a member.

Feb2004

Enrolment Procedure

- 67 (1) The Executive Director shall consider each application for admission or enrolment and shall notify each applicant whether or not the application is approved, and if not, shall also notify the applicant of the reasons why it was not approved.
- (2) In any case in which the application for admission or enrolment is not approved, the Executive Director shall also notify the applicant of the right of appeal to the Benchers under section 43(2) of the Act and, subject to any appeal, the Executive Director shall refund the fees paid other than the prescribed application fee.
- (3) A certificate issued by the Executive Director pursuant to section 44(1) of the Act shall be in Form 2-17.
- (4) A certificate issued by a clerk of the Court of Queen's Bench pursuant to section 44(4) of the Act shall be in Form 2-18.
- (5) On entering a member's name in the Roll pursuant to section 44(5) of the Act, the Executive Director shall furnish the member with a Certificate of Enrolment in Form 2-19.
- (6) An applicant for enrolment appearing before a judge for the purposes of section 44(2) of the Act shall be properly gowned and attired and shall be presented to the presiding judge by an active member of the Society.

- (7) When an applicant for enrolment takes and subscribes in open court the oaths referred to in section 44(2)(a) and (b) of the Act, the applicant shall also take and subscribe the following oath:

I will as a Barrister and Solicitor conduct all causes and matters faithfully and to the best of my ability. I will not seek to destroy anyone's property. I will not promote suits upon frivolous pretences. I will not pervert the law to favour or prejudice anyone, but in all things will conduct myself truly and with integrity. I will uphold and maintain the Sovereign's interest and that of my fellow citizens according to the law in force in Alberta.

Feb2004

Authority to Impose Other Requirements

- 67.1 (1) The Executive Director may refer an application for enrolment to the committee to consider whether additional requirements should be imposed in accordance with section 37 of the Act.
- (2) Without limiting the authority of the committee to impose further requirements, the committee may impose restrictions or conditions on the applicant's authority to practise law.

Feb2004

STATUS CHANGES

Election for Inactive Membership

- 68 (1) An election by an active member to become an inactive member
- (a) shall be in Form 2-20, and
- (b) subject to subrule (2) is effective when the Form, completed to the satisfaction of the Executive Director, is received in the Society's office in Calgary.
- (2) The Executive Director may refuse to approve an election submitted under subrule (1) until the member furnishes proof, satisfactory to the Executive Director, as to the location of all of the files relating to the affairs of the clients for whom the member has provided legal services and proof that the current files are in the hands of an active member.
- (3) (a) An inactive member, who has been an active member of the Society, or who has been a judge described in section 33 of the Act or a master in chambers, for a period or periods totalling at least 25 years, may elect not to pay the annual membership fees and assessments otherwise payable by inactive members.
- (b) On making an election under clause (3)(a), the member shall become an inactive member (retired).
- (c) An election under clause (3)(a) shall be filed with the Executive Director in writing signed by the applicant.
- (d) Notwithstanding any other provision in this Rule, an inactive member, unless the member otherwise directs, shall upon reaching age 70 and without election under clause (3)(a) become an inactive member (retired).
- (e) An inactive member (retired) is not entitled to receive from the Society any notices or publications other than those required to be given to inactive members by the Act or these Rules and those specified by the Benchers.
- (4) An election to become an inactive member (retired) filed under subrule (3) ceases to have effect when the member notifies the Executive Director in writing of the revocation of the election.

Feb2004

Election to Resign

- 69 (1) A member who makes application to resign as a member of the Law Society of Alberta, other than an application to resign under Rule 92, (which applies to all members whose conduct has been directed to be dealt with by a Hearing Committee pursuant to section 56(3)(b) of the Act), shall do so in accordance with this Rule.
- (2) The member shall submit the following documents:
- (a) a written application to resign from the Society, in Form 2-21, signed by the member and containing
- (i) a statutory declaration of the member setting out the evidence required in Form 2-21, and

- (ii) such additional information or explanations as may be relevant, or required by the Executive Director.
- (b) if the member has maintained a trust account, a final Form S (5-1) and a final Form T (5-2) for the period from the date of the member's last fiscal year end to the date that the member's trust account is closed.
- (3) The Benchers may require the member to enter into undertakings and agreements with the Society.
- (4) The Benchers shall review all of the material and shall take into consideration the best interests of the members of the public and the members of the Society, and may accept the resignation of the member if they determine that it is appropriate in the circumstances to allow the member to resign.
- (5) The Benchers shall give directions as to the information to be entered on the roll in relation to the member's resignation.

June2003;Feb2004

Returning to Practising Status

69.1 Applications to return to practising status, amongst others, are governed by Part 4 of these Rules.

Feb2004

DIVISION 5 – AUTHORITY TO PROVIDE LEGAL SERVICES WITHOUT MEMBERSHIP

PRACTISE PENDING ENROLMENT

Alberta Students-at-Law

69.2 The provision of legal services by students-at-law pending enrolment as a member, upon conclusion of articles, is governed by Rule 52.

Feb2004

Transfer Applicants – Employment Pending Enrolment

- 70 (1) Applicants for enrolment under section 41 of the Act must not provide legal services except as a student-at-law serving under articles.
- (2) Notwithstanding subrule (1), a lawyer who qualifies under Rule 66(4)(a), or who applies for enrolment under section 42 of the Act, may provide legal services pending enrolment if the Executive Director grants permission under Rule 72.3(5), or if a permit is issued pursuant to Rule 72.5.
- (3) To serve under articles pursuant to this Rule, in addition to the requirements of Rule 66 an applicant must file:
- (a) articles of clerkship executed by the applicant and the applicant's principal, and
 - (b) an approved education plan,
- in compliance with Rule 57.
- (4) Articles of clerkship to be served pursuant to this Rule shall be for a period of the lesser of six months or until the applicant qualifies for enrolment.
- (5) Articles of clerkship under this Rule may be renewed on the approval of the Executive Director.

Feb2004

INTERJURISDICTIONAL PRACTISE

Interpretation

- 71 (1) In addition to the definitions set out in Rule 47, in this subdivision, unless the context indicates otherwise,
- (a) "**day**" means any calendar day or part of a calendar day in which a lawyer provides legal services, unless indicated otherwise by the context;
 - (b) "**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;
 - (v) conduct deserving of sanction;
 - (vi) any other breach of a lawyer's professional responsibilities;
- (c) **"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) a lawyer's resignation or otherwise ceasing to be a member of a governing body as a result of disciplinary proceedings;
 - (iv) restrictions or limits on a lawyer's entitlement to practise, other than those imposed as a result of failure to pay fees to a governing body, insolvency or bankruptcy or other administrative matter;
 - (v) any interim suspension or restriction or limits on a lawyer's entitlement to practise imposed pending the outcome of a disciplinary hearing;
- (d) **"lawyer"** means a member of a governing body;
- (e) **"legal matter"** includes any activity or transaction that constitutes the practice of law and any other activity or transaction ordinarily conducted by members in Alberta in the course of practising law, whether or not persons other than lawyers are legally capable of conducting it;
- (f) **"liability insurance"** means compulsory professional liability errors and omissions insurance required by a governing body;
- (g) **"National Registry"** means the National Registry of Practising Lawyers established under the National Mobility Agreement;
- (h) **"non-reciprocating governing body"** means a governing body that is neither an NMA governing body, nor an IJP governing body, which currently includes the law societies of the Yukon Territories, the Northwest Territories and Nunavut;
- (i) **"permit"** means an interjurisdictional practice permit issued under Rule 72.5;
- (j) **"resident"** has the meaning respecting a province or territory that it has with respect to Canada in the Income Tax Act (Canada);
- (k) **"visiting lawyer"** means a lawyer who is entitled to practise law in a Canadian jurisdiction other than Alberta.
- (2) A permit is an authorization for the purposes of sections 48 and 106(2)(b) of the Act.
- (3) A visiting lawyer who is allowed under this Division to practise law in Alberta without a permit is a person who is deemed to hold an authorization for the purposes of sections 48 and 106(2)(b).

June2003;Feb2004

Conditions Precedent to Any Visiting Lawyer Providing Legal Services

- 72 (1) All visiting lawyers must:
- (a) be entitled to practise law in a home jurisdiction;
 - (b) subject to subrule (2), carry liability insurance that:
 - (i) is reasonably comparable in coverage and limits to that required under Part 7 of the Rules, and
 - (ii) extends to the lawyer's temporary practice in Alberta; and
 - (c) have defalcation compensation coverage from a governing body that extends to the lawyer's practice in Alberta.
- (2) The requirement in subrule (1)(b) does not apply to a visiting lawyer who is exempt from compulsory liability insurance under Part 7 of the Rules with respect to legal services to be provided in Alberta.

- (3) Visiting lawyers who do not meet the requirements of this Rule must not provide legal services in Alberta with or without a permit.

June2003

Obligations of All Visiting Lawyers Providing Legal Services

- 72.1 (1)** The Act, the Rules and the *Professional Conduct Handbook* apply to and bind a visiting lawyer providing legal services, including the duty to self-report under Rule 105.
- (2) A visiting lawyer shall not hold out nor allow himself or herself to be held out as willing or qualified to practise law in Alberta, except as a visiting lawyer.
- (3) It is the responsibility of a visiting lawyer providing legal services to:
- (a) record and verify the number of days in which he or she provides legal services, and
 - (b) prove that he or she has complied with these Rules.
- (4) A visiting lawyer must not open or maintain a trust account in Alberta 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;
 - (i) by a member of the Society entitled to practise law in Alberta in a trust account controlled by that member of the Society, and
 - (ii) in accordance with the Act and these Rules.

June2003

Visiting Without a Permit – Permission and Additional Requirements

- 72.2 (1)** In addition to the requirements of Rule 72, to qualify to provide legal services without a permit, a visiting lawyer:
- (a) must not be subject to conditions or restrictions on the lawyer's practice or membership of the governing body in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency, capacity, admission or reinstatement;
 - (b) must not be the subject of;
 - (i) criminal proceedings or
 - (ii) disciplinary proceedings in which a matter has been directed to a hearing in any jurisdiction;
 - (c) must have no disciplinary record in any jurisdiction;
 - (d) must comply with Rule 72.3; and
 - (e) must be entitled to practise law in the jurisdiction of an IJP governing body or an NMA governing body of which the visiting lawyer is a member.
- (2) Subject to the requirements of Rules 72, 72.1 and 72.2(1), a visiting lawyer may provide legal services without a permit:
- (a) for no more than ten legal matters and not more than 20 days in total during any twelve month period if the visiting lawyer is entitled to practise law in the jurisdiction of an IJP governing body of which the visiting lawyer is a member, or
 - (b) for a maximum of 100 days in any calendar year if the visiting lawyer is entitled to practise law in the jurisdiction of an NMA governing body of which the visiting lawyer is a member.
- (3) A visiting lawyer who qualifies under subrule (2) but, due to a change in circumstances while providing legal services under the authority of subrule (2) or (4), no longer meets the requirements of subrule (1), must stop providing legal services without a permit and may apply for a permit under Rule 72.5.
- (4) On application of a visiting lawyer who otherwise qualifies under subrule (2), the Executive Director may allow the visiting lawyer to provide legal services without a permit beyond the limits set in subrule (2).
- (5) Notwithstanding this Division, a member of the Canadian Forces who is entitled to practise law in a home jurisdiction in which he or she is a member of the governing body:

- (a) may provide legal services for or on behalf of the Office of the Judge Advocate General without a permit, and
 - (b) does not establish an economic nexus with Alberta under Rule 72.3, provided that he or she provides legal services exclusively for or on behalf of the Office of the Judge Advocate General.
- (6)**
- (a) This subrule applies to visiting lawyers practising law as counsel in proceedings in:
 - (i) the Supreme Court of Canada,
 - (ii) the Federal Court of Canada,
 - (iii) the Tax Court of Canada,
 - (iv) a federal administrative tribunal,
 - (v) service tribunals as defined in the *National Defence Act*, and
 - (vi) the Court Martial Appeal Court of Canada,
 in relation to those proceedings.
 - (b) Subject to disqualification for economic nexus under Rule 72.3, a visiting lawyer practising under this subrule may do so without a permit, regardless of the number of days involved.
 - (c) A visiting lawyer practising under this subrule:
 - (i) must comply with the liability insurance and defalcation coverage requirements of the home governing body, and
 - (ii) is subject to all of the Rules that apply to other visiting lawyers practising in Alberta without a permit, with the exception of Rules:
 - (A) 72(1)(b) and (c),
 - (B) 72.1(3)(a),
 - (C) 72.2(1)(a), (b), (c), (e), 72.2(2), and
 - (D) 72.3(2)(a).
- (7)** If a non-practising member or a retired member qualifies to practise law in Alberta as a visiting lawyer without a permit under this Rule, the member is released from the undertaking not to practise law, but only for the purpose of practise allowed under this Rule.

June 2003

Visiting Without a Permit – Economic Nexus Disqualification

- 72.3 (1)** Subject to subrule (5), a visiting lawyer who has established an economic nexus with Alberta is not permitted to provide legal services without a permit.
- (2)** For the purposes of this Rule, an economic nexus is established by actions inconsistent with a temporary basis for providing legal services, including but not limited to doing any of the following in Alberta:
- (a) providing legal services beyond those permitted by Rule 72.2(2) or (4);
 - (b) opening an office from which legal services are offered or provided to the public;
 - (c) becoming a resident;
 - (d) opening or operating a trust account, or accepting trust funds, except as permitted under Rule 72.1(4);
 - (e) holding oneself out or allowing oneself to be held out as willing or qualified to practise law in Alberta, except as a visiting lawyer.
- (3)** A visiting lawyer who provides legal services in or from an office that:
- (a) is the office of one or more resident members of the Society, and
 - (b) is affiliated with the lawyer's law firm in his or her home jurisdiction
- does not, for that reason alone, establish an economic nexus with Alberta.
- (4)** A visiting lawyer who becomes disqualified under this Rule must cease providing legal services forthwith, but may apply under Rule 66 for call and admission or under Rule 72.5 for a permit.

- (5) On application by a visiting lawyer, the Executive Director may allow the visiting lawyer to continue to provide legal services pending consideration of an application under Rule 66 or Rule 72.5.

June2003;Nov2004

Circumstances that Require a Permit

- 72.4 (1)** A visiting lawyer who does not meet the requirements of subrules 72.2(1) and (3), or who is disqualified under Rule 72.3, must obtain a permit in order to provide legal services in Alberta.
- (2) In order to provide legal services in Alberta beyond the limits set out in Rule 72.2(2), a visiting lawyer must obtain the permission of the Executive Director under Rule 72.2(4) or obtain a permit.

June2003

Permit Application

- 72.5 (1)** A visiting lawyer applying for a permit shall deliver to the Executive Director:
- (a) a completed permit application in a form acceptable to the Executive Director, including a written consent for the release of relevant information to the Society;
 - (b) any required permit fee or renewal;
 - (c) certificates of standing issued by each governing body of which the visiting lawyer is a member, dated not more than 30 calendar days before the date of the application and in a form acceptable to the Executive Director;
 - (d) proof of professional liability insurance that:
 - (i) is reasonably comparable in coverage and amount to that required of members of the Society, and
 - (ii) extends to the visiting lawyer's practice in Alberta, and
 - (e) proof that the visiting lawyer has defalcation coverage from a governing body that extends to the visiting lawyer's practice in Alberta.
- (2) On application under this Rule, the Executive Director may issue a permit, subject to any conditions and restrictions that the Executive Director considers appropriate if, in the discretion of the Executive Director, it is consistent with the public interest to do so.
- (3) An appeal lies to the Credentials and Education Committee from:
- (a) a refusal by the Executive Director to issue or renew a permit, or
 - (b) any conditions or restrictions imposed by the Executive Director under subrule (2),
- and the Committee, on considering the appeal, may confirm the Executive Director's decision or direct the Executive Director to issue or renew the permit, or remove or vary the conditions or restrictions, as the case may be.
- (4) If an appeal under subrule (3) is dismissed, the Credentials and Education Committee shall, at the written request of the appellant, give written reasons for the decision.
- (5) A permit issued or renewed under this Rule:
- (a) is effective until one year from the date it was issued, and
 - (b) allows a visiting lawyer to provide legal services for not more than 100 days in that year, subject to any conditions or restrictions imposed under this Rule, and subject to Rule 72.6.
- (6) If a permit is issued under this Rule to a non-practising member or a retired member, the member is released from the undertaking not to practise law, but only for the purpose allowed by the permit.
- (7) Before expiry of a permit under subrule (6), the holder of the permit may apply for its renewal.

June2003

Automatic Revocation of Permission to Practise

- 72.6** A visiting lawyer, with or without a permit, automatically ceases to be able to provide legal services if the visiting lawyer:

- (a) fails to meet the requirements of Rule 72;
- (b) is suspended or disbarred by any extraprovincial law society;
- (c) is no longer in good standing with any home governing body;
- (d) fails to meet or satisfy any other condition, limitation or requirement imposed under this Division on the visiting lawyer, or
- (e) would be automatically suspended under section 83(7) of the Act if the visiting lawyer were a member of the Law Society of Alberta.

June2003

Enforcement - Visiting Lawyers Practising in Alberta

- 73 (1)** The Act, these Rules, and the *Code of Professional Conduct* apply to and bind a visiting lawyer practising law in Alberta and, without limiting the foregoing, a visiting lawyer may be disciplined by the Society if the visiting lawyer:
- (a) wilfully contravenes any of the conditions on which the visiting lawyer has been allowed to practise law in Alberta, or
 - (b) is guilty of any conduct in Alberta that, if committed by a member, would be conduct deserving of sanction under the Act.
- (2)** The provisions of these Rules and the Act dealing with discipline shall apply to the visiting lawyer as though the visiting lawyer were a member and with all other necessary changes in reference.
- (3)** Without limiting the generality of subrule (2),
- (a) an order of suspension will prevent the visiting lawyer from practising law in Alberta during the period of suspension, and
 - (b) an order of disbarment will prevent the visiting lawyer from practising law in Alberta.
- (4)** The Executive Director may require a visiting lawyer to:
- (a) account for and verify the number of days spent providing legal services, and
 - (b) verify compliance with any Rules specified by the Executive Director.
- (5)** If a visiting lawyer fails or refuses to comply with a requirement under subrule (4) within 20 calendar days, or such longer time that the Executive Director may permit in writing:
- (a) the visiting lawyer is prohibited from providing legal services without a permit;
 - (b) any permit issued to the visiting lawyer under Rule 72.5 is rescinded, and
 - (c) the Executive Director must advise the visiting lawyer's home governing body of the visiting lawyer's failure to comply and the consequences.
- (6)** A visiting lawyer who is affected by subrule (5) may apply to the Credentials and Education Committee for restoration of any or all rights lost under that subrule and the Committee may, in its discretion, grant the application, subject to any conditions it considers to be in the public interest.

June2003

Enforcement – Alberta Lawyers Visiting Elsewhere

- 73.1 (1)** A member who practises law in another Canadian jurisdiction shall comply with the applicable legislation, regulations, Rules and the *Code of Professional Conduct* of that jurisdiction.
- (2)** A fine or costs imposed on a member of the Society by an IJP governing body may be enforced by the Society in accordance with paragraph 7(i) of the IJP, which provides for disciplinary proceedings against a member who fails to pay a fine or costs required to be paid to a host governing body arising out of that member's inter-provincial practice, including any penalty which the home governing body (Alberta) considers appropriate.

June2003

Enforcement - General

- 73.2 (1)** If there is an allegation of misconduct against a member of the Society while practising temporarily in the jurisdiction of an NMA governing body, under provisions equivalent to Rule 72.2 or 72.5, the Society will:

- (a) consult with the governing body concerned respecting the manner in which disciplinary proceedings will be conducted, and
 - (b) subject to subrule (2), assume responsibility for the conduct of the disciplinary proceedings.
- (2) Where subrule (1) applies, the Society may agree to allow the other governing body concerned to assume responsibility for the conduct of disciplinary proceedings under subrule (2), including expenses of the proceedings.
- (3) If there is an allegation of misconduct against a visiting lawyer while practising temporarily under Rule 72.2 or 72.5, and the visiting lawyer is not a member of an NMA governing body but is a member of an IJP governing body:
- (a) the Society shall assume responsibility for the conduct of the disciplinary proceedings against the lawyer, including the cost of those proceedings, unless the Society and the home governing body agree to the contrary, and
 - (b) the Society and the home governing body will consult respecting the manner in which the disciplinary proceedings will be taken against the lawyer, each participating governing body agreeing to be bound by an agreement reached.
- (4) In deciding whether to agree under subrule (2) or (3), the primary considerations will be the public interest, convenience and cost.
- (5) Notwithstanding Rule 45, on the request of a governing body that is investigating the conduct of, or has initiated a disciplinary proceeding against, a member or former member of the Society, a student-at-law or former student-at-law of the Society, or a visiting lawyer who has provided legal services, to the extent that is reasonable in the circumstances, the Executive Director must:
- (a) provide all relevant information and documentation respecting the lawyer or the visiting lawyer as is reasonable in the circumstances;
 - (b) cooperate fully in the investigation and any citation and hearing.
- (6) Subrule (5) applies whether or not the Society agrees with a governing body under subrule (2) or (3).
- (7) Notwithstanding Rule 45, the Executive Director must provide to the National Registry the current and accurate information about members, former members and visiting lawyers required under the National Mobility Agreement.
- (8) No one may use or disclose information obtained from the National Registry except for a purpose related to enforcement of the Act and the Rules.
- (9) A duly certified copy of a disciplinary decision of another governing body concerning a lawyer found guilty of misconduct is proof of the lawyer's guilt.

June2003

Dispute Resolution

- 73.3 (1) The provisions of the IJP concerning claims for compensation for misappropriation apply to a claim under section 89 of the Act involving inter-jurisdictional practice.
- (2) If a dispute arises with a governing body concerning any matter under the IJP or the National Mobility Agreement, the Credentials and Education Committee may do one or both of the following:
- (a) agree with a governing body to refer the matter to a single mediator;
 - (b) submit the dispute to arbitration under Appendix 5 of the IJP.

June2003

FOREIGN LEGAL CONSULTANTS

Interpretation

- 74 In this Division,
- (a) "Foreign legal consultant" means a person who provides legal advice to others respecting the laws of a foreign country or a political division of a foreign country and who is not a member of the Society;

- (b) "Licence" means a licence issued pursuant to Rule 76 or a renewed licence issued pursuant to Rule 79(6);
- (c) "Licensed foreign legal consultant" or "licensee" means a person who holds a subsisting licence to carry on the practice of a foreign legal consultant;
- (d) A reference to "a member with foreign legal qualifications" in relation to a foreign country or a political subdivision of a foreign country means a member of the Society who is authorized to practise law in that foreign country or political subdivision by reason of membership in an extraprovincial law society in that country or political subdivision or otherwise;
- (e) "Practise as a foreign legal consultant" means to carry on a practice as a legal advisor with respect to the laws of a foreign country or of a political subdivision of a foreign country, and "the practice of a foreign legal consultant" has a corresponding meaning.

Application for Licence

- 75 (1)** An application for a licence to practise as a foreign legal consultant may only be made by a person who is authorized to practise law in that country or in a political subdivision of that country.
- (2)** An application for a licence shall be furnished to the Executive Director and shall be in a form approved by the Executive Director.
- (3)** An application for a licence shall contain or be accompanied by
- (a) proof that the applicant is a member in good standing of the legal profession in the foreign country where the applicant is authorized to practise law or in one of its political subdivisions;
 - (b) 2 certificates of good character and reputation in Form 2-4, as modified by the Executive Director;
 - (c) proof that the applicant has been actively engaged in the practice of law in the foreign country or political subdivision for at least 3 years, or an undertaking that the applicant will practise as a foreign legal consultant, while licensed, only under the direct supervision of
 - (i) a licensed foreign legal consultant whose licence relates to the same country or political subdivision, or
 - (ii) a member with foreign legal qualifications who is authorized to practise law in the same country or political subdivision,
 and who has been actively engaged in the practice of law in that foreign country or political subdivision for at least 3 years;
 - (d) an undertaking that the applicant, while licensed,
 - (i) will not, in his or her capacity as a foreign legal consultant, accept, hold, transfer or in any other manner deal with funds which would, if accepted, held, transferred or dealt with by a member, constitute trust money as defined in Rule 119 (1)(m);
 - (ii) will submit to the jurisdiction of the Society and will comply with and be bound by the Act, the Rules and any code of conduct;
 - (iii) will comply with any further conditions which may be imposed on the licensee or attached to the licence;
 - (iv) will notify the Executive Director promptly if the applicant fails to complete satisfactorily whatever continuing legal education program is required of members of the legal profession of the applicant's foreign country or political subdivision, and
 - (v) will maintain the insurance, bonds, indemnity or other security described in clauses (e) and (f);
 - (e) proof that the applicant will, while licensed, carry professional liability insurance or a bond, indemnity or other security
 - (i) in a form and amount which is reasonably comparable with that required for active members under the Society's indemnity program under Part 5 of the Act, and
 - (ii) which specifically extends to services rendered by the applicant while licensed and carrying on in Alberta the practice of a foreign legal consultant;
 - (f) proof that the applicant will, while licensed, participate in a program or carry a fidelity bond or other security satisfactory to the Executive Director and in an amount of at least \$1,000,000.00, for the purpose of reimbursing persons who sustain a pecuniary loss as a result of the misappropriation or

- wrongful conversion by the applicant of money or other property entrusted to or received by the applicant in the course of practising as a foreign legal consultant in Alberta; and
- (g) the prescribed application fee and licence fee.

Issuance of Licence

- 76 (1)** The Executive Director may
- (a) issue a licence to an applicant eligible for a licence under Rule 75(1) and whose application otherwise complies with Rule 75, or
 - (b) attach conditions to a licence; or
 - (c) refer the application to the Credentials and Education Committee.
- (2)** On referral of the application by the Executive Director, the Credentials and Education Committee may,
- (a) issue a licence to an applicant eligible for a licence under Rule 75(1);
 - (b) prescribe conditions that may be contained in a licence; or
 - (c) refuse the application.
- (3)** A licence, when issued, shall authorize the licensee to carry on, in Alberta, the practice of a foreign legal consultant.
- (4)** A licence shall expire on March 15 following the date on which it is issued, unless the licence is earlier renewed.

Authorized Services

- 77 (1)** For the purposes of section 106(2)(m) of the Act, a licensed foreign legal consultant is permitted to carry on in Alberta the practice of a foreign legal consultant, but only with respect to the laws of the foreign country or the political subdivision of a foreign country specified in the licensee's licence, and subject to these Rules and the conditions imposed by the licence.
- (2)** Notwithstanding anything in these Rules, a licensed foreign legal consultant shall not, in Alberta, provide legal advice of any kind that the licensee would not be qualified or permitted to provide under the laws of the foreign country or political subdivision in which the licensee is authorized to practise law, if the advice were given by the licensee in the course of practising as a member of the legal profession in that foreign country or political subdivision.

Use of Title and Advertising of Services

- 78 (1)** No person, other than a licensee or a member with foreign legal qualifications, shall
- (a) use the title "foreign legal consultant" or any similar title or designation, and/or
 - (b) use any title, designation, description, abbreviation, letter or symbol, alone or in combination, that represents or implies that the person is qualified to carry on in Alberta the practice of a foreign legal consultant.
- (2)** A licensed foreign legal consultant, when engaging in advertising or any other form of marketing activity in Alberta,
- (a) shall use only the designation "licensed foreign legal consultant",
 - (b) shall state the foreign country or political subdivision in respect of whose laws the consultant is qualified to give legal advice, and the professional title used in that country or political subdivision, and
 - (c) shall not use any designation or make any representation from which a person dealing with the consultant might reasonably conclude that the consultant is a member of the Society.

Annual Licence Fees and Filings

- 79 (1)** The Executive Director shall, on or before February 15 in each year, mail
- (a) to each licensee a notice showing the amount of the annual fee payable by the licensee for that year and stating that the annual fee shall be received by the Society at its offices in Calgary not later than the next following March 15, and

- (b) requiring the licensee to file with the Executive Director, not later than the next following March 15, proof satisfactory to the Executive Director that the licensee continues to comply with the requirements described in Rule 75(3) (a), (d)(i), (d)(iii), (e) and (f).
- (2) The Credentials and Education Committee may by order suspend a licence if
 - (a) the annual licence fee payable by the licensee under subrule (1)(a), or
 - (b) the proof required to be filed under subrule (1)(b) is not received at the offices of the Society in Calgary before the deadline prescribed by subrule (1).
- (3) The Executive Director shall notify the licensee of a suspension order immediately after the order is made.
- (4) The suspension of a licence pursuant to an order under subrule (2) terminates when the Society has received at its offices in Calgary
 - (a) the total amount of the annual fee for the year or the proof referred to in subrule (1)(b), or both, as the case may be, and
 - (b) the prescribed suspension termination fee, which may be waived by the Executive Director in appropriate circumstances.
- (5) A licensee's liability to the Society for a renewed licence fee arises on March 15 of the year for which the fee is imposed, but, if on that date the licence of the licensee is under suspension, the liability for the fee arises on the date on which the suspension ends.
- (6) The Executive Director shall issue a renewed licence to a licensee when the licensee
 - (a) has paid the renewed licence fee and any required suspension termination fee, and
 - (b) has filed the proofs referred to in subrule (1)(b).
- (7) Notwithstanding subrule (4), if a licence is under suspension pursuant to subrule (2) for a period of more than 90 days, the Credentials and Education Committee may, after a hearing of which the licensee is notified and at which the licensee is given an opportunity to be heard, cancel the licence.

Cancellation or Suspension of Licence

- 80 (1)** Subject to subrule (2), the Benchers may order the cancellation or suspension of a licence if the licensee
- (a) is guilty of conduct deserving of sanction,
 - (b) is convicted of an indictable offence, or
 - (c) is the subject of disciplinary proceedings in the foreign country or political subdivision specified in the licence, if the proceedings could result in the suspension or termination of the licensee's right to practise law in that country or political subdivision.
- (2) For the purpose of subrule (1)(a), a contravention of any condition of the licensee's licence or of any undertaking given to the Executive Director under these Rules may be considered as conduct deserving of sanction.
- (3) For the purposes of applying subrule (1)(a) to a licensee, sections 49 to 82 and 85 and 86 of the Act apply with the necessary changes to the licensee as though
- (a) references in those sections to a member were references to the licensee,
 - (b) references in those sections to the membership of a member were references to the licensee's licence, and
 - (c) references in those sections to disbarment were references to the cancellation of the licensee's licence.
- (4) For the purposes of applying subrule (1)(b) to a licensee, sections 50, 52, 83, 85 and 86 of the Act apply, with the necessary changes, to the licensee as though
- (a) references in those sections to a member were references to the licensee,
 - (b) references in those sections to the membership of a member were references to the licensee's licence, and
 - (c) references in those sections to disbarment were references to cancellation of the licensee's licence.
- (5) For the purpose of applying subrule (1)(c) to a licensee, sections 50, 52, 84, 85 and 86 of the Act apply, with the necessary changes, to the licensee as though
- (a) references in those sections to a member were references to the licensee,

- (b) references in those sections to the membership of a member were references to the licensee's licence, and
- (c) references in those sections to disbarment were references to cancellation of the licensee's licence.

UNIVERSITY LAW STUDENTS

University Law Students

- 81 (1)** For the purposes of section 106(2)(e) of the Act,
- (a) a student enrolled in the faculty of law of a university in Alberta is permitted to provide legal services
 - (i) in the student's capacity as a member of a student legal services society, if the services are provided under the auspices of that society and under the supervision of an active member, or
 - (ii) in a course of practical instruction approved by the faculty, if the services are provided under the supervision of an active member;
 - (b) a student enrolled in the faculty of law of a university in Canada is permitted to provide legal services if the services are provided by the student
 - (i) as an employee of a society that provides legal services to indigent persons, and
 - (ii) under the supervision of an active member.
- (2)** Notwithstanding subrule (1), the Benchers may direct in a particular case that any services referred to in subrule (1)(a)(i) or (ii) or (b) may be provided under the supervision of an inactive member instead of an active member, subject to any conditions prescribed by the Benchers.

PART 3 CONDUCT OF MEMBERS

Delegation to Vice-chair

- 82 A power or duty conferred or imposed by this Part of the Rules or Part 3 of the Act on the chair of the Conduct Committee may be exercised or performed by a vice-chair of the Conduct Committee.

Methods of Service

- 83 (1) In this Rule, "service", in relation to any document, includes giving or furnishing the document.
- (2) Where the service of a document is required or permitted under Part 3 of the Act or under this Part of the Rules and
- (a) service of the document cannot be effected by any method of service described in section 114(a) or (b) of the Act, or
 - (b) there is reason to believe that service of the document pursuant to section 114(b) of the Act will be ineffectual because the person sought to be served no longer has any connection with the address referred to in section 114(b)(i) or (ii) of the Act,
- service of the document may be effected by service on the member's counsel or by any other method of service authorized by the chair of the Conduct Committee, subject in each case to the prior approval of the chair and to any instructions given by the chair in respect of the service of the document by that other method.

Waiver or Variation of Rules

- 84 Notwithstanding Rule 3, the Conduct Committee may waive or vary any requirement in this Part if the Committee considers the waiver or variation warranted by reason of special circumstances.

PROCEEDINGS RESPECTING CONDUCT DESERVING OF SANCTION

Review by the Executive Director

- 85 (1) Any matter regarding the conduct of a member that comes to the attention of the Society, whether by way of a complaint or otherwise, shall be delivered to or otherwise brought to the attention of the Executive Director to enable the Executive Director to conduct a review of the matter under section 53 of the Act.
- (2) If a complaint or other information brought to the attention of the Executive Director under subrule (1) is not then in writing, the Executive Director shall
- (a) in the case of a complaint, attempt to obtain the complaint in writing and, if the attempt fails, prepare a memorandum summarizing the complaint as accurately as possible on the basis of the complainant's oral statements and any records submitted by the complainant,
 - (b) in the case of other information, prepare a memorandum summarizing the other information on the basis of the oral statements or records received by the Executive Director, and
 - (c) subject to subrule (3), furnish to the member a copy of the complaint or memorandum.
- (3) The Executive Director may, if the Executive Director considers action is warranted by reason of exceptional circumstances,
- (a) alter the copy of the complaint or memorandum referred to in subrule (2) so that the complainant or the source of the information cannot be identified,
 - (b) decline in a telephone conversation to identify the complainant or the source of the information, or
 - (c) postpone compliance with subrule (2)(c) until such time as the Executive Director considers appropriate.
- (4) When the Executive Director in the course of a review of a matter under section 53 of the Act initially notifies the member that the member is required to answer an inquiry or to furnish records pursuant to section 53(3)(a) of the Act in relation to that matter, the Executive Director shall inform the member that the answer or records are required for the purposes of a review under section 53 of the Act related to the member's conduct.

- (5) If the Executive Director sends a letter to a member requiring the member to answer any inquiries or to furnish any records pursuant to section 53(3)(a) of the Act,
- (a) the letter shall state the deadline by which the member is to provide the answers or furnish the records, and
 - (b) the letter shall state that it is sent in conjunction with a review of the member's conduct under section 53 of the Act.
- (6) Where an inquiry made by the Executive Director of a member pursuant to section 53(3) of the Act seeks a written response to the substance of a complaint regarding the member's conduct, the Executive Director shall, on receiving the response,
- (a) deliver a copy of the response to the complainant, or
 - (b) deliver a summary of the response to the complainant, if the Conduct Committee, on the application of the member or on its own initiative, decides that it is in the public interest that a copy of the response of the member should not be delivered to the complainant.
- (7) If the Executive Director, pursuant to section 53(4)(a) of the Act, directs that the matter reviewed be dismissed, the Executive Director shall
- (a) in the case of a complaint, notify the complainant, by ordinary mail at the last address provided to the Law Society by the complainant, of the dismissal and the reason for the dismissal and provide to the complainant instructions as to how the complainant may appeal the dismissal to the Appeal Committee, and
 - (b) in every case, notify the member of the dismissal.
- (8) If the Executive Director, pursuant to section 53(4)(b) of the Act, refers a matter to the Conduct Committee, the Executive Director shall inform the complainant, if any, and the member concerned of the referral.

Appeal of Dismissal of a Complaint

- 86 (1) If the Executive Director directs a dismissal of a complaint pursuant to section 53(4)(a) of the Act, the complainant may appeal the Executive Director's dismissal by notifying the Executive Director of the complainant's wish to appeal the dismissal.
- (2) The notification to the Executive Director under subrule (1) must be received by the Executive Director within 30 days after the complainant has received the Executive Director's notice of the dismissal given pursuant to Rule 85(7)(a).
- (3) The Executive Director shall
- (a) notify the complainant and the member concerned of the time and place of the appeal hearing, and
 - (b) notify the complainant and the member that either of them may submit written representations to the Appeal Committee panel and that those representations must be received by the Executive Director within the time frame set by the Appeal Committee.
- (4) The Appeal Committee may sit in panels of 3 members each for the purpose of hearing and deciding appeals under section 54 of the Act.
- (5) All 3 members of a panel of the Appeal Committee constitute a quorum at a meeting or hearing of the panel.
- (6) An Appeal Committee panel may decide an appeal in the absence of the complainant or the member at the hearing.
- (7) The proceedings of the Appeal Committee at the appeal hearing shall be recorded by sound recording equipment but it is not necessary that a transcript of the proceedings be prepared.
- (8) When the Appeal Committee panel has decided an appeal, the Executive Director shall notify the complainant and the member of the panel's decision.

Investigations

- 87 (1) Subject to subrule (2), a person conducting an investigation shall, when giving a direction to a member under section 55(2) of the Act or when requesting any other person to do anything the person could be ordered to do under section 55(3)(b) or (c) of the Act,
- (a) notify the member that the direction or request is made as part of an investigation under Part 3 of the Act,

- (b) if requested to do so, produce or furnish a copy of the letter from the Executive Director or the chair of the Conduct Committee, as the case may be, evidencing the appointment of that person as an investigator and that person's authority to conduct the investigation, and
 - (c) give the member or other person a reasonable time within which to comply with the direction or the request, having regard to the nature of the conduct being investigated and the nature of the direction or request.
- (2) If a person conducting an investigation has reasonable grounds to believe that the member's conduct that is the subject of the investigation involves the misappropriation or wrongful conversion of property, the investigator may give a direction under section 55(2) of the Act without prior notice apart from producing or providing a copy of the letter evidencing the appointment of that person as an investigator and that person's authority to conduct the investigation.

Proceedings Respecting Benchers, Law Society Staff and Agents of the Law Society

- 87.1 (1) The powers and duties of the Executive Director under part 3 of the Act and part 3 of these Rules are delegated:
- (a) to the President or the President-Elect where the member who is the subject of a review under section 53 of the Act is a member of the Law Society staff, an agent of the Law Society or a Bencher; and
 - (b) to the President-Elect where the member who is the subject of a review under section 53 of the Act is the President or the immediate Past-President.
- (2) Where an investigation is ordered regarding a matter that is subject to subrule (1), it shall be conducted by an investigator who is not part of the Law Society staff.

Nov2004

Review by the Conduct Committee

- 88 (1) The Conduct Committee may sit in panels of 3 members each for the purposes of
- (a) conducting reviews under section 56 of the Act,
 - (b) making any decisions on any other matters under this Part or Part 3 of the Act,
 - (c) making any decision respecting an application for reinstatement under Rule 118, and/or
 - (d) making any decisions pertaining to audit cost recovery or any order of suspension under Rules 129 and 130.
- (2) All 3 members of a panel of the Conduct Committee constitute a quorum at a meeting of the panel.
- (3) If the Conduct Committee requires the member concerned to answer any inquiries or produce records pursuant to section 56(2)(a) of the Act,
- (a) the requirement shall be stated in a letter to the member from the presiding member of the panel or the Executive Director,
 - (b) the letter shall state the deadline by which the member is to provide the answers or furnish the records, and
 - (c) the letter shall state that it is being sent in conjunction with a review of the member's conduct under section 56 of the Act.
- (4) The Conduct Committee shall make its decision under section 56(3) of the Act on the basis of
- (a) the Executive Director's report to the Committee respecting the review under section 53 of the Act,
 - (b) the answers to its inquiries and the records, if any, received by it pursuant to section 56(2)(a) of the Act,
 - (c) the report of any investigation directed by it, and
 - (d) any submissions by or on behalf of the complainant, if any, or the member concerned, and made to the Committee with the prior consent of the Committee.
- (4.1) The Conduct Committee shall make its decision under section 56(3) on a matter referred by the Appeal Committee pursuant to section 54 on the basis of
- (a) the materials that were before the Appeal Committee,
 - (b) the transcript of the proceedings before the Appeal Committee,
 - (c) the written reasons for the decision of the Appeal Committee, and

- (d) any additional materials provided by or on behalf of the complainant or the member received subsequent to the transcripts and the reasons for decision.
- (5) When the Conduct Committee makes its decision under section 56(3) of the Act,
- (a) the decision must include an explanation in writing for the dismissal of any complaint referred to the Committee, and
 - (b) in every case, the Executive Director shall send letters to the complainant and the member concerned informing them of the Committee's decision.
- (6) (a) Notwithstanding subrules (3) to (5), if it comes to the attention of the Conduct Committee in the course of a review under section 56 of the Act that the practice of the member concerned, or of the law firm with which that member is associated in practice, is being conducted in a manner which may not be in the best interests of the public or the legal profession or both, the Conduct Committee
- (i) may, as part of an investigation or further investigation directed under that section, direct the Executive Director to require the member concerned, with or without any other members practising with that law firm, to appear at a private meeting with one or more Benchers appointed by the Committee for the purpose of carrying out a review of and an informal inquiry into the practice of the member or the law firm, as the case may be, with a view to giving advice and directions respecting the conduct of that practice, and
 - (ii) shall consider the report of the Bencher or Benchers who carried out the review and inquiry under clause (a) before the Committee makes its decision under section 56(3) of the Act with respect to the conduct of the member concerned.
- (b) The Bencher or Benchers so appointed to conduct the mandatory conduct advisory may draw upon the assistance of any other Bencher or member of the Conduct Committee in conducting the mandatory conduct advisory and may request the attendance of that individual at the mandatory conduct advisory without the necessity of obtaining a direction from the Executive Director.
 - (c) In addition, the Bencher appointed to conduct the mandatory conduct advisory may, on a no-names basis, seek advice in conducting the mandatory conduct advisory from a practitioner knowledgeable in the area of law involved in the conduct in question.

Nov2004

Re-examination Following Dismissal – Section 57 of the Act

- 88.1 (1) In this rule, “consultation” means a consultation by the Chair of the Conduct Committee with the Chair of the Professional Responsibility Committee and the President of the Society under section 57 of the Act.
- (2) If a matter is dismissed the Executive Director or complainant may refer the matter to the Chair of Conduct for consideration under section 57 of the Act.
- (3) In considering the referral, the Chair of Conduct may consider:
- (a) the materials before the Conduct Committee or the Appeal Committee, as the case may be;
 - (b) the request for referral of the complainant, if any; and
 - (c) the request for referral of the Executive Director, if any.
- (4) If the Chair of Conduct declines to initiate a consultation, the Executive Director shall advise the complainant of the outcome if the referral was initiated by the complainant.
- (5) If the Chair of Conduct decides to proceed with a consultation, the member and complainant shall be notified in writing.
- (6) The consultation may occur with or without an oral hearing.
- (7) The reviewers shall make their decision on the basis of:
- (a) the materials before the Conduct Committee or the Appeal Committee, as the case may be;
 - (b) the request for referral; and
 - (c) any submissions by or on behalf of the complainant, if any, or the member concerned, with the prior consent of the majority of the Chair of Conduct, the Chair of the Professional Responsibility Committee and the President.

- (8) When a consultation is concluded, the Executive Director shall notify the complainant and the member concerned in writing of the results of the consultation.
- (9) If a matter is referred to the Conduct Committee for review or a 2nd review under section 56 of the Act, the Conduct Committee shall make its decision on the basis of the following:
 - (a) materials that were provided to the reviewers in the course of the consultation;
 - (b) the transcript of the proceedings before the reviewers, if an oral hearing was held;
 - (c) the written reasons for the decisions of the reviewers; and
 - (d) any additional materials provided by or on behalf of the complainant or the member received subsequent to the completion of the consultation.

Nov2004

Practice Review Committee

- 89 (1) The Practice Review Committee may sit in panels of a minimum of 3 members each, at least one of whom must be a Benchler, for the purposes of
 - (a) conducting reviews under section 58 of the Act;
 - (b) dealing with referrals made by the Executive Director under Rule 118; and/or
 - (c) making any decision on any other matters under the Rules or Part 3 of the Act.
- (2) All 3 members of a panel of the Practice Review Committee constitute a quorum at a meeting of the panel.
- (3) Nothing in this Rule affects the ability of the Practice Review Committee to exercise or perform the power or duty delegated to a panel, nor to exercise the power of delegation under section 58(2) of the Act.

General Review and Assessment by the Practice Review Committee

- 89.1 (1) When the Practice Review Committee is directed under section 58 of the Act to carry out a general review and assessment of a member's conduct, the Executive Director shall notify the member concerned of the direction.
- (2) If the Practice Review Committee requires the member concerned to answer any inquiries or produce any records pursuant to section 58(3) of the Act,
 - (a) the requirement shall be stated in a letter to the member from the presiding member of the Committee or the Executive Director,
 - (b) the letter shall state the deadline by which the member is to provide the answers or furnish the records, and
 - (c) the letter shall state that it is being sent in conjunction with a general review and assessment of the member's conduct under section 58 of the Act.

Notices

- 90 (1) Where the Conduct Committee, pursuant to section 59(1)(a) of the Act, directs that the conduct of a member is to be dealt with by a Hearing Committee,
 - (a) the chair of the Conduct Committee shall appoint the Hearing Committee, and
 - (b) the Executive Director shall give to the member notice of
 - (i) the date or dates of the hearing; and
 - (ii) the acts or matters regarding the member's conduct to be dealt with, with reasonable particulars of each act or matter.
- (2) The date of commencement of the hearing, given under subrule (1)(b)(i) shall be at least 30 days after the date on which the notice referred to in subrule (1)(b) is given to the member, unless the member or the member's counsel waives the insufficiency of the notice, or consents to an earlier hearing date.
- (3) The member shall file with the Executive Director a completed Notice of Intention to Act in Person in Form 3-1, or a completed Notice of Intention to be Represented by Counsel in Form 3-2, within 10 days after receiving the notice referred to in subrule (1).
- (3.1) Counsel who has agreed to represent a member and subsequently wishes to withdraw, requires permission to do so from the chair or vice chair of the Conduct Committee or the chair of the Hearing Committee.

- (4) If the member fails to file one of the completed forms required by subrule (3), the Hearing Committee
 - (a) may proceed with the hearing despite the member's failure, or the hearing may be adjourned pursuant to Rule 97(2) or (3), and
 - (b) may, regardless of the result of the hearing, require the member to pay any additional costs caused by the member's failure.

Pre-Hearing Conferences

- 90.1 (1)** Pre-hearing conferences must be held.
- (2) The purpose of the pre-hearing conference is to resolve issues and move matters towards hearings or appeals in accordance with the guidelines in the pre-hearing guide and appeal guide.
 - (3) Letters sent to any members either advising, in accordance with Rule 88(5), that a matter has been directed to a hearing or acknowledging receipt of a notice of appeal to the Benchers under section 75 of the *Legal Profession Act*, shall be served in accordance with Rule 4 and shall advise the member of the date, time and place of an initial pre-hearing conference.
 - (4) The member, in person or by counsel, and counsel for the Law Society must attend pre-hearing conferences. The chair of the Conduct Committee may make orders on any conditions, may impose and may set a plan and schedule for the completion of any steps by the member, the member's counsel or counsel for the Law Society to be completed before the hearing or appeal. With the consent of the member and counsel for the Law Society, pre-hearing conferences may be conducted by telephone or video conference calls.
 - (5) The chair of the Conduct Committee may direct counsel for the Law Society and the member or the member's counsel to attend a future pre-hearing conference and if so, shall give directions generally including the time, date and place at which that conference will be held. These directions govern the process until the commencement of the hearing or appeal unless both counsel for the Law Society and the member or the member's counsel agree to dispense with further pre-hearing conferences.
 - (6) The chair of the Conduct Committee who is involved in a pre-hearing conference may participate in a later hearing or appeal unless either the member or counsel for the Law Society objects to such participation.
 - (7) Whether or not a pre-hearing conference has been held, the hearing committee or the appeal panel of the Benchers may proceed with the hearing or appeal.
 - (8) The Executive Director, in any case where the Executive Director deems it to be appropriate, shall also advise any member with a hearing or appeal outstanding on the date this Rule is made by the Benchers, of the date, time and place of an initial pre-hearing conference in respect of such hearing or appeal.

Admission of Guilt

- 91 (1)** A statement of admission of guilt referred to in section 60 of the Act shall be submitted to
- (a) the Executive Director, if it is submitted before the day on which a Hearing Committee is appointed, or
 - (b) the Hearing Committee, if it is submitted on or after the day on which the Hearing Committee is appointed.
- (2) When a Hearing Committee is required to proceed with a hearing pursuant to section 60(5) of the Act, the member concerned shall be given notice of the time and place at which the hearing will commence and, subject to subrule (3), Rule 90 applies to the notice.
- (3) If the statement of admission of guilt is submitted to the Hearing Committee after the commencement of its hearing, but before the Committee makes its findings regarding the member's conduct, the Committee shall proceed with its hearing under section 60(5) of the Act without further notice to the member, unless it grants an adjournment of the proceedings.

Resignation of Member Facing Conduct Proceedings

- 92 (1)** When a member whose conduct is the subject of proceedings, or who is facing disciplinary proceedings, wishes to resign as a member of the Law Society of Alberta, the member shall submit the following documents:
- (a) An application in writing signed by the member to resign from the Law Society of Alberta,
 - (b) A Statutory Declaration of the member setting out the following:
 - (i) particulars about the member including the date of birth, date of call to the bar, place of residence, office address, number of years in practice and the reason for the application;

- (ii) that all trust funds and client property for which the member was and is responsible have been accounted for and paid over or delivered to the persons entitled thereto, or that responsibility for client matters has been transferred to an active member, or a statement to the effect that the member wishing to resign has not handled trust funds and other client property;
 - (iii) that, if the member has maintained a trust account, the same has been closed with proof of this attached, or that the member no longer has signing authority on the firm trust account;
 - (iv) that the member's trust accounting records are complete and up-to-date for the period from the date of the member's last fiscal year end to the date on which the member's trust account was closed;
 - (v) that all clients' matters have been completed and disposed of or that all client files and papers have been returned to them or turned over to some other person or solicitor, that if files have been turned over to other solicitors, letters from them confirming their receipt of named files should be attached as exhibits to the member's Statutory Declaration, or alternatively that the member has not been engaged in practice of law;
 - (vi) that the member is not aware of any claim against the member in his or her professional capacity or in respect to the member's practice, or alternatively full particulars of any claims of which the member has knowledge;
 - (vii) such additional information or explanations as may be relevant, or required by the Executive Director or the Benchers;
 - (viii) if the member has maintained a trust account, the member shall submit a final Form S (5-1) and a final Form T (5-2) for the period from the date of the member's last fiscal year end to the date that the member's trust account is closed; and
 - (ix) that before making the Application, the member has read section 61 of the Act and has considered the definition of "disbar" in section 1(c) of the Act.
- (2) The Benchers may require the member to enter into undertakings and agreements with the Law Society, the terms and conditions of which may include the following:
- (a) the member shall undertake and agree to cooperate with the Law Society in the future with respect to any claim made against the member or against the assurance fund; and/or
 - (b) the member shall undertake and agree to pay any deductible with respect to any claim paid by the Law Society Insurer and to pay the Law Society any claim paid by the Law Society assurance fund.
- (3) The member shall surrender to the Law Society the Member's Certificate of Enrolment.
- (4) The member shall be required to agree to a statement of facts in a form acceptable to the Benchers setting out the particulars of the facts which give rise to the conduct proceedings or disciplinary proceedings and the fact that the member has resigned. The member shall be required to agree to the publication of the statement of facts and to make the application to resign before the Benchers in public.
- (5) The Executive Director shall comply with Rules 83 and 96 before the application is heard. At the hearing of the Application, the Benchers shall comply with Rule 98.
- (6) The Benchers shall consider whether the competence of the member is a factor that should be taken into consideration with respect to any term or condition upon which the member may make application for reinstatement.
- (7) The Benchers shall review all of the costs incurred by the Law Society which may include the costs of investigation and the costs of a custodian if one has been appointed and shall decide if the member shall be required to pay some or all of the costs prior to acceptance of the resignation or prior to any later application for reinstatement.
- (8) The Benchers shall review all of the material and shall take into consideration the best interests of the members of the public and the members of the Society. If the Benchers determine that it is appropriate in the circumstances to allow the member to resign, they may accept the resignation of the member.
- (9) The Benchers shall then give directions as to the information to be entered on the roll in relation to the member's resignation.
- (10) If the Benchers are of the opinion that there are reasonable and probable grounds to believe that the member has committed a criminal offence, they shall direct the Executive Director to comply with section 78 of the Act.

June 2004

Interim Suspensions

- 93 (1)** If the membership of a member is suspended by the Benchers or a Hearing Committee under section 63(1) or (3) of the Act, the Executive Director shall notify the member and the member's counsel of the suspension as soon as possible if it is not made in the member's presence, but the Executive Director shall, in any event, send a letter to the member, with a copy to the member's counsel, confirming the suspension order and when it was made or the date on which it is specified to be effective, as the case may be.
- (2)** If the membership of a member is suspended pursuant to section 63(1) or (3) of the Act, the member may apply for the termination of the suspension
- (a) to the Hearing Committee in person, if the application is made during its hearing respecting the member's conduct, or
- (b) in any other case, by filing a written application with the Executive Director.
- (3)** If the membership of a member is suspended pursuant to section 63 of the Act, the member may apply to the chair of the Conduct Committee to expedite the hearing of the matter(s) leading to the suspension.
- (a) That application may be arranged by the member by contacting counsel for the Law Society. Depending on the circumstances of the case, and any directions made by the chair, the application may be made in writing, by telephone conference call or by other convenient means.
- (b) When an application to expedite is made, the general principles that should be applied include (but are not limited to) the following:
- (i) In general, all reasonable efforts should be made to ensure that the hearing of a member suspended pursuant to section 63 be dealt with as quickly as possible, subject to the principles referred to below.
- (ii) The Law Society should not be forced to proceed with such haste that a full investigation could not be completed.
- (iii) Any circumstances that are attributable to the member which result in a delay of the matter will weigh against an expedited hearing. Those circumstances may include (but are not limited to) the following: keeping records in a manner which slows the investigation; failing to cooperate fully with the investigation; and being unprepared to proceed with the hearing.
- (c) When a member is suspended pursuant to section 63 of the Act, the Executive Director shall notify the member of the opportunity to apply to have the hearing expedited (as set out in this Rule) at the same time that the member is notified of the suspension.

Amendment of Hearing Notice

- 94 (1)** Where the Hearing Committee, on its own initiative or on application by the Society's counsel, proposes to consider dealing with an additional matter regarding the member's conduct and a consequent amendment of the notice, the Hearing Committee shall not proceed to consider dealing with the additional matter, if the member objects.
- (2)** If the Hearing Committee decides to deal with the additional matter regarding the member's conduct, the Committee shall comply with section 65 of the Act and shall, on request, grant to the member an adjournment of the hearing for the purpose of permitting the member a sufficient opportunity to prepare an answer respecting the amendment or the additional matter regarding the member's conduct.

Notice to Attend as a Witness

- 95 (1)** A notice issued under section 69(5) of the Act requiring a person to attend as a witness before a Hearing Committee shall be in Form 3-3.
- (2)** Where a notice is issued under section 69(5) of the Act requiring a person to attend as a witness before an appeal panel of the Benchers when it receives fresh evidence, the notice shall be in Form 3-3, but varied accordingly.
- (3)** Notwithstanding subrules (1) and (2), where a notice is issued under section 69(5) of the Act to the member whose conduct is to be dealt with at the hearing, the notice shall be in a form prescribed by the Executive Director.

Notice Respecting Private Hearing

- 96 (1)** In this Rule, "private hearing application notice" means a notice respecting
- (a) the right to apply to a Hearing Committee under section 78(2) of the Act for a direction that all or part of a hearing before the Committee is to be held in private, and
 - (b) the right under section 112(2) of the Act to require that all or part of a hearing before a Hearing Committee be held in private.
- (2)** If a matter regarding a member's conduct is to be dealt with at a hearing before a Hearing Committee,
- (a) the Executive Director shall give the following persons a private hearing application notice prior to the commencement of the hearing:
 - (i) a person who is given a notice to attend as a witness;
 - (ii) the complainant, if any;
 - (iii) the member whose conduct is the subject of the hearing;
 - (iv) an interested party who has made known to the Executive Director an intention to apply to have the hearing held in private;
 - (b) the Executive Director may give a private hearing application notice prior to the commencement of the hearing to any other person who in the Executive Director's opinion is or may be an interested party.
- (3)** The person responsible for giving a private hearing application notice is
- (a) the person issuing the notice to attend as a witness, where the private hearing application notice is given pursuant to subrule (2)(a)(i), or
 - (b) the Executive Director, in any other case.
- (4)** A private hearing application notice shall contain a statement in Form 3-4.
- (5)** If a private hearing application notice is given to a person otherwise than as part of a notice to that person to attend as a witness at a hearing before a Hearing Committee or an appeal panel of the Benchers, the notice shall also state the time and place at which the hearing will commence.

Hearings

- 97 (1)** Prior to the date set for a hearing, the chair of the Conduct Committee or the Hearing Committee may adjourn the hearing date to any other time or place on any conditions they may impose.
- (2)** On or after the date of the hearing, the Hearing Committee may adjourn the hearing to any other time or place on any conditions it may impose.

Persons Present at the Hearing

- 98 (1)** When a hearing before a Hearing Committee commences, the chair shall, unless the Committee has decided on its own motion that the hearing will be held wholly in private, invite applications under section 78(2) of the Act to have all or part of the hearing held in private.
- (2)** During any period in which the hearing is held in private, the only persons who may attend the hearing are
- (a) the member concerned, the member's counsel and the Society's counsel, and
 - (b) any other persons authorized by the Hearing Committee to attend the hearing.
- (3)** Exhibits introduced in evidence before the Hearing Committee when the hearing is held in public shall be made available for inspection, and copies shall be provided on request, in accordance with the Committee's directions unless the Hearing Committee directs that they will not be made available or will not be copied. The Finance Committee, or its delegate, may prescribe a rate to be used to determine the cost to be paid for copies made.
- (4)** Records of the Society consisting of
- (a) the hearing record of a hearing before a Hearing Committee held wholly in private, and
 - (b) that part of a hearing record pertaining to part of a hearing before a Hearing Committee held in private, are confidential and shall not be made available by the Society for inspection.

Hearing Committee Order for Costs

- 99 (1)** Unless the Hearing Committee directs that there will be no order for costs, or the member is found to be not guilty of conduct deserving of sanction on all citations, the Executive Director shall, as soon as possible after the conclusion of its hearing, prepare a statement of costs showing the following charges, costs and expenses incurred in connection with the proceedings against the member to that time:
- (a) investigators' and audit professionals' fees and expenses incurred in carrying out any inquiries or investigations;
 - (b) hearing charges at a rate prescribed by the Benchers or by the Finance Committee, per day or half day of hearing, or part thereof;
 - (c) any other expenses incidental to the hearing including, without limitation:
 - (i) fees and expenses of all witnesses, including experts,
 - (ii) fees and expenses incurred in preparing and serving any documents on any person pursuant to Division 1 of Part 3 of the Act,
 - (iii) court reporter fees and charges for transcripts;
 - (d) fees and expenses of the counsel for the Society, other than the Society's Discipline Counsel,
 - (e) reasonable costs for the indemnification of the Society for the cost of services performed by the Society's Discipline Counsel in connection with proceedings, other than those referred to in clause (g),
 - (f) adjournment charges at a rate or rates prescribed by the Benchers or by the Finance Committee; and
 - (g) if the Hearing Committee has directed the Executive Director to include them in the statement, any costs and expenses incurred by the Society in connection with all or any proceedings respecting the member's conduct under section 54, 56, 58, 60, 61 or 63 of the Act, including reasonable compensation for the indemnification of the Society for the cost of services performed by investigators, audit professionals, the Society's Discipline Counsel or other counsel for the Society in connection with those proceedings.
- (2)** A Hearing Committee's order for costs
- (a) may be made on the basis of the statement of costs prepared by the Executive Director or may be otherwise referable to that statement and
 - (b) in a case where the Committee orders payment of the costs of the proceedings,
 - (i) shall be based on the costs and expenses referred to in subrule (1)(a) to (f), and
 - (ii) may, where the Committee so directs, include all or part of the costs and expenses described in subrule (1)(g).
- (3)** The Finance Committee may prescribe an hourly rate to be used to determine the cost to the member of services performed by counsel, investigators or audit professionals, for the purposes of subrule (1).
- (4)** A statement of costs under this Rule shall be signed by the chair or any other member of the Hearing Committee or, in the absence of all the members of the Hearing Committee from their usual places of business, the chair of the Conduct Committee.
- (5)** The Executive Director shall send the signed statement of costs to the member or the member's counsel.
- (6)** If a question arises as to the accuracy of a signed statement of costs, the Hearing Committee shall, on application made within 15 days after the date on which the statement was sent to the member or the member's counsel, review the statement and, on completing the review, may amend or replace the statement and, if necessary, amend or replace the order for costs to reflect the change in the statement.
- (7)** If a member is suspended for non-payment pursuant to section 79 or 93 of the Act, that member shall remain suspended until any costs incurred by the Law Society in any custodianship during that suspension and in preparing and mailing any notices about that suspension are paid in full by that member, unless the Conduct Committee otherwise directs. The Executive Director shall determine the amount of those subsequent costs and send a statement of those costs to the member or the member's counsel. On application by the member, the Conduct Committee may review that statement of subsequent costs and may confirm, amend or replace it.

Conduct Committee Terms and Conditions

- 99.1** Where the Conduct Committee, pursuant to section 79(1) of the Act, grants an extension of the period prescribed by a Hearing Committee order, the Conduct Committee may also impose such terms and conditions, including the payment of interest, respecting repayments as the committee deems fit and appropriate under the circumstances.

Adjournment of Commencement of Appeal Hearing

- 100 (1)** There shall be an Adjournments Committee consisting of the chair and vice-chair of the Conduct Committee.
- (2)** If an appeal is taken to the Benchers under section 75 of the Act but the appeal hearing has not yet commenced, the member, the member's counsel or the Society's counsel may apply to the Adjournments Committee for an adjournment of the commencement of the hearing.
- (3)** One member of the Adjournments Committee constitutes a quorum of the Committee for the purpose of dealing with applications under subrule (2).

Persons Present at Appeal Hearing

- 101 (1)** When an appeal hearing under section 76 of the Act commences, the chair of the appeal panel shall, unless the panel has decided on its own motion that the hearing will be held wholly in private, invite applications under section 78(2) of the Act to have all or part of the hearing held in private.
- (2)** During any period in which the appeal hearing is held in private, the only persons who may attend the hearing are
- (a)** the member, the member's counsel and the Society's counsel, and
 - (b)** any other persons authorized by the appeal panel to attend.
- (3)** If all or part of the appeal hearing is held in public, the parts of the hearing record that are not confidential shall be made available for inspection in accordance with the panel's directions unless the panel directs that they will not be made available.
- (4)** If the appeal panel grants leave to receive fresh evidence and directs
- (a)** that all or part of the fresh evidence will be received by the panel, or
 - (b)** that the Hearing Committee from which the appeal is taken will hold a further hearing to hear the fresh evidence,
- the requirements of Rule 96 respecting private hearing application notices apply, with the necessary modifications, in relation to proceedings before the panel or the Hearing Committee at which the fresh evidence is to be presented.

Benchers Order for Costs on Appeal

- 102 (1)** An order of the Benchers respecting the payment of all or part of the costs of appeal proceedings under sections 75 and 76 of the Act may be based on or otherwise made referable to all or part of the following classes of charges, costs and expenses:
- (a)** expenses incurred in serving any documents;
 - (b)** expenses incurred in connection with the appeal hearing before the appeal panel;
 - (c)** hearing charges at a rate, prescribed by the Benchers or by the Finance Committee, per day or half day of hearing, or part thereof,
 - (d)** expenses incurred in connection with a further hearing of the Hearing Committee to hear fresh evidence pursuant to a direction made under section 76(6)(b) of the Act;
 - (e)** fees and expenses of the counsel for the Society, other than the Society's Discipline Counsel, related to services performed in connection with the appeal proceedings;
 - (f)** reasonable costs for the indemnification of the Society for the cost of services performed in connection with the appeal proceedings by the Society's Discipline Counsel;
 - (g)** where applicable, expenses incurred in connection with the convening and commencement of a meeting of the panel at which the appeal is dismissed pursuant to section 76(11) of the Act; and
 - (h)** adjournment charges at a rate or rates prescribed by the Benchers or by the Finance Committee.

- (2) The Finance Committee may prescribe an hourly rate to be used to determine the cost of services performed by the Society's Discipline Counsel for the purposes of subrule (1)(f).

GENERAL

Order Related to Indictable Offence

- 103 (1) If a suspension order is made against a member under section 83(2) of the Act, the Executive Director shall forthwith notify the member of the order and its effective date and, if the notice is not initially in writing, shall send a letter to the member confirming the order and its effective date.
- (2) If the Benchers propose to hold a meeting to consider the making of an order against a member under section 83(4) of the Act, the Executive Director shall serve the member, at least 10 days before the day on which the meeting is to be held, with a notice
- (a) showing the time and place at which the meeting is to be held;
 - (b) stating the intention of the Benchers to consider at that meeting the making of an order under section 83(4) of the Act and describing in general terms the indictable offence conviction on which the proceedings are based; and
 - (c) stating that the member and the member's counsel may
 - (i) make oral or written representations to the Benchers at the meeting, or
 - (ii) submit written representations to the Benchers before the meeting,
 respecting the matter to be considered at the meeting.
- (3) When a meeting referred to in subrule (2) commences, the panel chair shall, unless the panel has decided on its own motion that the meeting will be held in private, invite applications under section 83(6) of the Act to have the proceedings at the meeting held in private.
- (4) During any period at which the proceedings under section 83(5) of the Act are held in private, the only persons permitted to attend the proceedings are
- (a) the member, the member's counsel and the Society's counsel, and
 - (b) any other persons authorized by the panel to attend.
- (5) If the panel of Benchers is satisfied that subrule (2) has been complied with, but neither the member nor the member's counsel appears at the meeting of the panel, the panel may continue and conclude the proceedings in their absence.
- (6) If following its proceedings the panel makes an order under section 83(4) of the Act, the Executive Director shall within a reasonable time notify the member or the member's counsel of the order and its effective date and, if the notice is not initially in writing, the Executive Director shall send a letter to the member confirming the order and its effective date.
- (7) If the panel of Benchers makes an order under section 83(4) of the Act or decides not to make an order under that section, the panel shall also terminate any suspension order then in effect under section 83(2) of the Act against the same member.

Order Related to Extraprovincial Disciplinary Action

- 104 (1) If a suspension order is made against an Alberta member under section 84(2) of the Act, the Executive Director shall forthwith notify the member of the order and its effective date and, if the notice is not initially given in writing, shall send a letter to the member confirming the order and its effective date.
- (2) If the Benchers propose to hold a meeting to consider the making of an order against an Alberta member under section 84(3) of the Act, the Executive Director shall serve the Alberta member, at least 10 days before the meeting is to be held, with a notice
- (a) stating the time and place at which the meeting is to be held;
 - (b) stating the intention of the Benchers to consider at that meeting the making of an order under section 84(3) of the Act and describing in general terms
 - (i) the order made against the Alberta member by a disciplinary body of the extraprovincial law society, or

- (ii) the fact of the resignation of the Alberta member as a member of an extraprovincial law society in lieu of having disciplinary proceedings by a disciplinary body of that society continue against the member,
as the case may be, and
- (c) stating that the member and the member's counsel may
 - (i) make oral or written representations to the Benchers at the meeting, or
 - (ii) submit written representations to the Benchers before the meeting, respecting the matter to be considered at the meeting.
- (3) When a meeting referred to in subrule (2) commences, the panel chair shall, unless the panel has decided on its own motion that the meeting will be held in private, invite applications under section 84(7) of the Act to have the proceedings at the meeting held in private.
- (4) During any period at which the proceedings under section 84(5) of the Act are held in private, the only persons permitted to attend the proceedings are
 - (a) the member, the member's counsel and the Society's counsel, and
 - (b) any other persons authorized by the panel to attend.
- (5) If the panel is satisfied that subrule (2) has been complied with, but neither the member or the member's counsel appears at the meeting of the panel, the panel may continue and conclude the proceedings in their absence.
- (6) If, following its proceedings the panel makes an order under section 84(3) of the Act, the panel chair or the Executive Director shall within a reasonable time notify the member or the member's counsel of the order and its effective date and, if the notice is not initially in writing, the Executive Director shall send a letter to the member confirming the order and its effective date.
- (7) If the panel of Benchers makes an order under section 84(3) of the Act or decides not to make an order under that section, the panel shall also terminate any suspension order then in effect under section 84(2) of the Act against the same member.

Reporting Offences

- 105 (1)** A member, student-at-law, applicant for admission or re-admission, or a visiting lawyer who is charged with any of the following:
- (a) an indictable offence under any Act of the Parliament of Canada;
 - (b) an offence under any Act of the Parliament of Canada where the offence was prosecutable either as an indictable offence or as a summary conviction offence;
 - (c) a summary conviction offence under the *Income Tax Act*, the *Criminal Code*, the *Narcotic Control Act* or the *Controlled Drugs and Substances Act*, the *Food and Drugs Act* of Canada or the *Income Tax Act* or *Securities Act* of any province of Canada;
 - (d) a summary conviction offence under any other law in force in Canada punishable by a fine, if the maximum fine for the offence was then at least \$25,000; or
 - (e) an offence committed outside Canada and similar to any of the kinds of offences described in clauses (a) to (d);
 - (f) a disciplinary offence in any jurisdiction in which the individual is subject to the regulation of a governing body of the legal profession.
- shall
- (i) within a reasonable time after the charge is laid give a written notice to the Executive Director containing the particulars of the charge, and
 - (ii) forthwith notify the Executive Director of the disposition of the charge and any agreement arising out of the charge.
- (2)** In addition to the reporting requirements set out above, a member, applicant for admission or re-admission, visiting lawyer or student-at-law shall forthwith notify the Executive Director of any order requiring that they serve a term of imprisonment, including a conditional or intermittent sentence of imprisonment.

- (3) In addition to the reporting requirements set out in subsection(1) and (2) above, a member, visiting lawyer, student-at-law or applicant for admission or re-admission shall forthwith notify the Executive Director of any suspension, investigation, supervision, undertaking, conditions or similar processes including but not limited to Conduct, Audit, Practice Review or competence related proceedings to which the individual is subject by direction of a governing body of the legal profession in any jurisdiction.

June2003

Notice Under Section 85(1) Re Suspension or Disbarment

- 106 (1) In this Rule, "member" includes a former member.
- (2) A notice given by the Executive Director under section 85(1) of the Act shall contain the following information pertaining to the disbarment or suspension of membership of a member, unless otherwise directed under subrule (3):
- (a) the place of residence of the member and the place where the member practises or formerly practised, as the case may be;
 - (b) in a case of disbarment, a statement indicating the effective date of the disbarment and, as the case requires, that the disbarment resulted from an order of disbarment or from the member's resignation under section 61 of the Act;
 - (c) in a case of disbarment or of a fixed-period suspension order under Part 3 of the Act,
 - (i) the matter or matters regarding the member's conduct in respect of which a finding of guilt was made, and
 - (ii) a brief summary of the facts in respect of which findings of guilt were made against the member or of the circumstances leading to the member's resignation under section 61 of the Act, as the case may be;
 - (d) in a case of a suspension order under section 73 of the Act, the determination made in respect of the member and matter or matters regarding the member's conduct to which the determination relates; and
 - (e) in a case of a suspension of membership, a statement indicating
 - (i) the provision of the Act or the Rules under which the suspension was made and the nature of the suspension, and
 - (ii) the effective date of the suspension and whether the suspension is indefinite or for a fixed period and, if it is for a fixed period, the duration of the period.
- (3) The Executive Director, in preparing a notice under section 85(1) of the Act, shall omit, add to or vary any information specified in clauses (a) to (e) of subrule (2) on being directed to do so by
- (a) the Hearing Committee that made the disbarment order or suspension order to which the notice relates;
 - (b) the panel of Benchers that made the disbarment order or suspension order under Part 3 of the Act and to which the notice relates;
 - (c) the panel of Benchers that approved the member's resignation under section 61 of the Act, in the case of disbarment by reason of the resignation;
 - (d) the Benchers, in the case of a suspension order made pursuant to section 63(1) of the Act, or
 - (e) a panel of no fewer than 7 Benchers, in the case of
 - (i) a disbarment order or suspension order made by the Court of Appeal, or
 - (ii) a suspension of membership otherwise than pursuant to an order under Part 3 of the Act.
- (4) If, before a notice is sent pursuant to section 85(1) of the Act, the member has appealed the order to the Benchers or the Court of Appeal and has obtained a stay order from the Hearing Committee or the Court of Queen's Bench, as the case may be, the notice shall not be sent unless the order is confirmed on the appeal or is replaced by an order other than a reprimand order or the appeal has been abandoned.

- (5) If a notice sent pursuant to section 85(1) of the Act relates to an order for disbarment or suspension of membership for a fixed period, the Executive Director shall send a further notice to the persons mentioned in section 85(1) of the Act in the accordance with the following:
- (a) where, after the first notice is sent, the member concerned obtains a stay order from the Hearing Committee or the Court of Queen's Bench, as the case may be, in conjunction with an appeal from the order, the Executive Director shall send a further notice containing a statement respecting the appeal and the stay order;
 - (b) where the granting of a stay order is mentioned in a further notice sent under clause (a) and the appeal is thereafter concluded or abandoned, the Executive Director shall send a further notice containing a statement respecting the result of the appeal or the abandonment of the appeal, as the case may be; and/or
 - (c) where the disbarment order or suspension order is quashed as a result of an application for judicial review, the Executive Director shall send a further notice containing a statement respecting the quashing of the order.

Discretionary Publication Under Section 85(3)

- 107 (1) In this Rule,
- (a) "general directions" means general directions respecting publication established by the Benchers under subrule (2);
 - (b) "member" includes a former member;
 - (c) "order" means an order made under section 72, 77, 82, 83 or 84 of the Act;
 - (d) "publication", in relation to any information respecting a member, means
 - (i) the publication of the name of the member and of information pertaining to any findings, determinations and orders made in respect of the member or to his resignation under section 61 of the Act, as the case may be, and
 - (ii) if the member has been disbarred or the membership of the member has been suspended pursuant to an order, the posting of a notice in the office or other place or places of business of the member relating to the disbarment or suspension,
 and "publish" has a corresponding meaning;
 - (e) "specific direction" or "direction" means a direction respecting publication made pursuant to section 85(3) of the Act by a tribunal;
 - (f) "tribunal", in relation to publication in a particular case, means the Hearing Committee or the panel of Benchers, as the case may be, that is empowered by subrule (3) to give specific directions with respect to that publication.
- (2) The Benchers may establish general directions to be followed by the Executive Director in the publication of information respecting a member pursuant to section 85(3) of the Act.
- (3) Subject to this Rule, specific directions regarding publication may be given to the Executive Director under section 85(3) of the Act by
- (a) the Hearing Committee, in the case of publication related to an order made by the Committee under section 72 of the Act;
 - (b) the panel of Benchers that made an order under section 77, 83 or 84 of the Act, in the case of publication related to an order so made;
 - (c) the panel of Benchers that approved the member's resignation under section 61 of the Act, in the case of publication related to the disbarment resulting from the resignation; or
 - (d) a panel of no fewer than 7 Benchers, in the case of publication related to an order of the Court of Appeal under section 82 of the Act.
- (4) The Executive Director shall not publish information under this Rule respecting a member in any of the following circumstances:
- (a) where there are no general directions in effect and the tribunal has not given the Executive Director any specific direction respecting publication;
 - (b) where the general directions either prohibit or do not authorize the publication of the information;

- (c) where there are general directions in effect but the tribunal makes a specific direction that the information is not to be published;
 - (d) where the Hearing Committee makes an order under section 72(1)(c) or 73 of the Act and the period for an appeal to the Court of Appeal from the order has not yet expired or, if an appeal is taken, the appeal has not yet been abandoned or concluded;
 - (e) where an order is made by the Hearing Committee under section 72(1)(a) or (b) of the Act or by the Benchers under section 77 of the Act, an appeal has been taken from the order, the operation of the order has been stayed by the Court of Queen's Bench and the appeal has not yet been abandoned or concluded; and/or
 - (f) where an appeal to the Court of Appeal under section 80 of the Act has been concluded and the period for an appeal to the Supreme Court of Canada has not expired, or, if a further appeal is taken to that Court, the appeal has not yet been abandoned or concluded.
- (5)** Subject to subrules (4) and (6) to (10), a tribunal may give to the Executive Director
- (a) specific directions respecting publication in a particular case, if there are no general directions then in effect, or
 - (b) if there are general directions then in effect, specific directions respecting publication in a particular case that vary, add to or make inapplicable any of the provisions of the general directions.
- (6)** If the general directions either prohibit or do not authorize the publication of information in any case, the tribunal may not make a specific direction pursuant to subrule (5)(b) that has the effect of authorizing the Executive Director to publish that information.
- (7)** Before giving any specific directions respecting publication to the Executive Director, the tribunal
- (a) shall consider the potential consequences of the directions for the member, the member's clients and any of the witnesses who testified in the proceedings against the member, and
 - (b) shall, unless the circumstances make it inappropriate to do so, allow the member or the member's counsel an opportunity to make representations respecting the matter of the directions and any peculiar or unique consequences that any directions may have in relation to the member or his clients or any or all of the witnesses who testified in the proceedings.
- (8)** The tribunal, in deciding on any specific directions respecting publication to be given to the Executive Director, shall have regard to the following:
- (a) any peculiar or unique circumstances of the case that could have, as a direct or indirect result, the unwarranted publication of the names of the member's clients or of persons who suffered as a result of the conduct of the member;
 - (b) the location of the practice of the member;
 - (c) any factors that could directly or indirectly expose the member, the complainant or any of the member's clients to unwarranted embarrassment or to a breach of solicitor and client privilege;
 - (d) the nature of the conduct of the member as a factor in determining whether publication of any details of the conduct is warranted;
 - (e) the record, if any, of the member relating to previous proceedings against the member under Part 3 of the Act or the predecessors of that Part;
 - (f) whether there is any public policy justification for the direction;
 - (g) any other factors or concerns that the tribunal considers relevant.
- (9)** The tribunal, in a specific direction for publication, may direct the Executive Director to do one or more of the following:
- (a) in the case of a disbarment or a suspension of membership for a fixed period, include in the published document, in addition to any information referred to in Rule 106(2), one or more of the following:
 - (i) a brief, factual narration of the conduct deserving of sanction,
 - (ii) a general description of the order made against the member,
 - (iii) a statement of whether the member's conduct was the subject of previous proceedings under Part 3 of the Act or the predecessors of that Part, but without stating any details regarding those proceedings unless otherwise directed by the tribunal;

- (b) in the case of a disbarment or the suspension of membership for a fixed period, post a copy of the notice under section 85(1) of the Act on a bulletin board or other place established for that purpose in the Edmonton and Calgary offices of the Society for a period of 30 days after the date of the order of disbarment or suspension;
- (c) in the case of a disbarment or a suspension of membership for a fixed period, postpone the publication of any notice if an appeal is taken from the order;
- (d) in the case of an order that is not an order for disbarment or a suspension for a fixed period, publish whatever notice is specifically directed by the tribunal by
 - (i) circulating it in accordance with the directions of the tribunal, or
 - (ii) posting the notice in accordance with the directions of the tribunal at the office of the Society at which the hearing before the Hearing Committee was held,

unless the order is sooner appealed.

- (10) No information shall be published under this Rule if the result of doing so would be to disclose information relating to evidence given in a hearing under Part 3 of the Act at a time when the hearing was held in private.
- (11) Nothing in Rule 106 or this Rule precludes the Executive Director from preparing and distributing a document containing information respecting disbarments or orders made against members under Part 3 of the Act or the predecessors of that Part if
 - (a) the document is distributed primarily for educational purposes or shows the information in statistical form, and
 - (b) the names of individuals, professional corporations, law firms or other persons or bodies are not identified or made identifiable.

Disclosure of Restricted Areas of Practice

- 107.1** A member, whose areas of practice are restricted by the operation of the Act, the operation of the Rules, the decision of a Society adjudication, or an undertaking provided to the Society, shall clearly indicate such restrictions on the member's business cards, letterhead and written advertisements.

June2003

PART 4 REINSTATEMENT

DIVISION 1 REINSTATEMENT OF DISBARRED PERSONS AND PERSONS WHO RESIGNED WHILE FACING DISCIPLINARY PROCEEDINGS

Interpretation

107.2 In this Part, "Executive Director" includes the employee holding the positions of Credentials and Education Counsel and any other person designated by the Executive Director to perform any of the duties assigned to the Executive Director in this Part.

Feb2004

Application

- 108 (1)** Subject to section 86 of the Act and these Rules, a disbarred person or a person who resigned pursuant to section 32 of the Act after the person's conduct had been directed to be dealt with by a Hearing Committee pursuant to section 56(3)(b), may apply to the Benchers for reinstatement as a member of the Society.
- (2)** An application under this Rule shall be filed with the Executive Director, show an address for service for the applicant and be accompanied by payment to the Society of:
- (a) the prescribed application fee, and
 - (b) a prescribed deposit as security for costs of the proceedings relating to the application.
- (3)** An application under this Rule shall be accompanied by a statutory declaration of the applicant containing particulars respecting the following matters and exhibiting documents relevant to those matters:
- (a) the character and conduct of the applicant and particulars of the applicant's employment and business activities since the applicant's disbarment or resignation;
 - (b) the names and addresses of medical practitioners, psychologists, counsellors or other health service practitioners
 - (i) who have treated or have been consulted by the applicant since the applicant's disbarment or resignation, and
 - (ii) whose evidence might be relevant to the character and conduct of the applicant;
 - (c) the applicant's record of offences committed inside or outside Canada since the applicant's disbarment or resignation and in respect of which the applicant has pleaded guilty or has been found guilty, other than
 - (i) offences under municipal by-laws, Metis settlement council by-laws or Indian band council by-laws, or
 - (ii) offences in respect of which the law permits the offender to voluntarily pay a fine without the need to appear before a court or justice to enter a plea and in respect of which the applicant voluntarily paid the fine;
 - (d) if the applicant was granted a conditional discharge in respect of an offence referred to in clause (c), particulars of the conditions and the current status of the applicant's compliance with the conditions in the probation period;
 - (e) if the applicant was convicted of a criminal offence and has been granted parole since being disbarred or allowed to resign, the applicant's parole record since disbarment or resignation and the names of the applicant's parole supervisors;
 - (f) if the applicant has been the subject of any proceedings under the *Bankruptcy and Insolvency Act* (Canada) or the bankruptcy laws of another country, particulars of the proceedings and their current status;
 - (g) if the applicant has any outstanding judgment debts, particulars of those debts;
 - (h) the restitution of any property misappropriated or wrongfully converted by the applicant or the reason why full restitution has not been made;

- (i) the amounts that are, to the applicant's knowledge, owing by the applicant to the Society and the reason for non-payment;
 - (j) if the applicant has been a bankrupt, particulars of the applicant's debts to the Society that the applicant claims were extinguished as a result of the bankruptcy proceedings;
 - (k) an explanation of and answer to any outstanding complaints to the Society respecting the applicant's conduct; and
 - (l) any other matters which to the applicant's knowledge might be the subject matter of objections to the applicant's reinstatement.
- (4) An application under this Rule shall be accompanied by an authorization to the Society to make enquiries of any government, official or body for information respecting any of the matters enumerated in subrule (3) or information furnished pursuant to subrule (5).
- (5) Before making a report under Rule 110, the Executive Director may conduct an investigation respecting the application or any information provided by the applicant to the Executive Director in connection with the application, and in the course of the investigation the Executive Director may:
- (a) require the applicant to furnish to the Executive Director any other information or record related to the applicant and to provide verification of that information or record by statutory declaration; and/or
 - (b) require the applicant to provide to the Society any express authorization or release to the Society to enable the Executive Director to make enquiries of any government, official or body for information respecting any of the matters enumerated in subrule (3).
- (6) Notwithstanding anything in this Rule, the Executive Director shall not take any action with respect to an application under this Rule if the Executive Director is satisfied that:
- (a) the applicant is indebted to the Society for any amount; or
 - (b) the applicant, at the time of becoming a bankrupt, was indebted to the Society for any amount and the debt was extinguished by the bankruptcy;

unless the Benchers permit the application to proceed, with or without conditions.

Feb2004

Costs of Proceedings

- 109 (1) An applicant for reinstatement under this Division shall pay to the Society the amount of all costs incurred by the Society and attributable to an investigation by the Executive Director under Rule 108(5) and to subsequent proceedings under this Division relating to the application, except to the extent that the Benchers relieve the applicant of that obligation.
- (2) If any question arises as to whether any costs are attributable to an investigation or proceedings under this Division, the question shall be decided by the Benchers.
- (3) The applicant may be required to deposit amounts as additional security for costs attributable to an investigation or proceedings under this Division by:
- (a) the Executive Director, where the costs are related to an investigation by the Executive Director;
 - (b) the Committee of Inquiry, where the costs are related to its hearing or to the completion of its report;
 - (c) the Benchers, where the costs are related to proceedings resulting from a decision made by them under Rule 112(4);
 - (d) the chair of the Conduct Committee, where the costs relate to any stage of the proceedings respecting the application.
- (4) If the applicant does not provide additional security for costs in accordance with a requirement under subrule (3), no further proceedings shall be taken with respect to the application until the additional deposit is received by the Society.

Committee of Inquiry

- 110 (1)** On receiving an application in compliance with Rule 108 and on completing an investigation under Rule 108(5), the Executive Director shall report the matter to the chair or a vice-chair of the Conduct Committee who shall
- (a) appoint a Committee of Inquiry of at least 3 Benchers, one of whom shall be named as its chair, to hold a hearing in respect of the application; and
 - (b) fix a date and place for the hearing.
- (2)** At least 15 days prior to the date fixed for the hearing, the Executive Director shall cause a notice in Form 4-1:
- (a) to be sent to all active members of the Society;
 - (b) to be sent to the judges and clerks of the Court of Appeal, the Court of Queen's Bench and the Provincial Court, to the Masters in Chambers and to the secretaries of all extraprovincial law societies in Canada;
 - (c) to be sent by registered mail to the applicant at the address for service given by the applicant in the application;
 - (d) to be served on all persons
 - (i) whose complaints became the subject of the proceedings under the Act resulting in the applicant's disbarment or whose complaints were directed to be the subject of a hearing before the applicant's resignation,
 - (ii) who made the complaints to the Society referred to in Rule 108(3)(k), and
 - (iii) who have previously submitted to the Society written objections to the applicant's reinstatement or who are named in the application by reason of the requirements in Rule 108(3)(l),
 or sent to those persons by registered mail addressed to the last known address of those persons according to the records of the Society;
 - (e) to be served on or sent by registered mail to any other persons that the chair or a vice-chair of the Conduct Committee may direct; and
 - (f) if the chair or a vice-chair of the Conduct Committee so directs, to be published in accordance with the directions of the chair or vice-chair in
 - (i) at least one newspaper circulating in the municipality in which the applicant resided at the time of disbarment or resignation, and
 - (ii) at least one newspaper circulating in the municipality in which the applicant resides or intends to reside in the event of the applicant's reinstatement, if the municipality is different from the one referred to in subclause (i).
- (3)** The Committee of Inquiry may commence and continue its proceedings despite any failure of compliance or irregularity in compliance with subrule (2).
- (4)** The chair of the Committee of Inquiry may adjourn the hearing to any other time at the same or a different place and shall give notice of the adjournment to the applicant or to the applicant's counsel and to any other persons who have advised the Executive Director of their intention to appear at the hearing, whether or not it has commenced.

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Hearing before Committee of Inquiry

- 111 (1)** Before commencing its hearing of an application for reinstatement, the Committee of Inquiry shall be provided with copies of the following:
- (a) where the applicant was disbarred under the old Act, the record of the proceedings before the investigating committee and the Benchers leading to the disbarment;
 - (b) where the applicant was disbarred under the Act or its predecessor, the hearing record before the Hearing Committee and, if there was an appeal to the Benchers, the transcript of any appeal proceedings before the Benchers;
 - (c) the discipline and competence record of the applicant under Part 3 of the Act and Part 3 of the old Act apart from the record relating to the applicant's disbarment;

- (d) if the chair of the Committee of Inquiry so directs, the transcript of any appeal by the applicant to the Court of Appeal under Part 3 of the Act or Part 3 of the old Act;
 - (e) the record of claims made against the Assurance Fund and compensation paid from the Assurance Fund by reason of the conduct of the applicant; and
 - (f) any transcripts or documents relating to the resignation application pursuant to section 32.
- (2) The hearing before the Committee of Inquiry of an application for reinstatement shall be governed by the following provisions:
- (a) the application shall be heard by the Committee in public unless the Committee of Inquiry otherwise directs on its own motion or by reason of section 112(2) of the Act;
 - (b) the applicant and the Society may be represented by counsel and any person wishing to show cause why the application should not be granted may be represented by counsel. Any person may provide written submissions to the Committee of Inquiry and may apply to the Committee of Inquiry for leave to make oral submissions and to call relevant evidence;
 - (b.1) the Executive Director may decide on a date by which all written submissions should be filed and the date by which those persons wishing to participate in the hearing should inform the Executive Director;
 - (c) the applicant shall appear in person to give testimony before the Committee and to produce before the Committee any other evidence that the applicant chooses to produce or that the Committee requires;
 - (d) the Committee may hear, receive and examine evidence in any manner it considers proper and is not bound by the rules of law concerning evidence in judicial proceedings; and
 - (e) at any time in the course of the hearing the Committee may direct any investigation it considers appropriate with respect to the application or of any materials submitted by the applicant or others.
- (3) Following its hearing, the Committee of Inquiry shall submit a written report to the Executive Director stating whether in its opinion the application should be granted with or without conditions or rejected.
- (4) The Executive Director shall furnish copies of the report of the Committee of Inquiry to the applicant and to each of the Benchers.

Feb2004

Benchers' Consideration of Committee Report

- 112 (1) After the submission of the report of the Committee of Inquiry, the application for reinstatement shall be considered by the Benchers.
- (2) Before commencing its consideration of the application for reinstatement, the Benchers shall be provided with copies of the following:
- (a) the report of the Committee of Inquiry;
 - (b) all documents mentioned in Rule 111(1) that were before the Committee of Inquiry;
 - (c) a transcript of the proceedings before the Committee of Inquiry; and
 - (d) any other documents considered by the President to be relevant to the application.
- (3) The applicant shall be given the opportunity of being heard, in person or by counsel, by the Benchers before they decide the application. The Society may be represented by counsel.
- (4) Before deciding the application, the Benchers may do one or more of the following:
- (a) refer the application and the report of the Committee of Inquiry back to that Committee with directions as to the actions to be taken by the Committee in further consideration of the application;
 - (b) direct any further investigation the Benchers consider appropriate; or
 - (c) receive fresh evidence respecting the application.
- (5) The Benchers, on concluding their consideration of the application, may grant their approval of the application with or without conditions, or reject the application.
- (6) On the rejection of an application for reinstatement by the Benchers, no further application for reinstatement by the same person shall be accepted by the Executive Director under this Division until the expiration of 2 years following the rejection or such longer or shorter period as may be prescribed by the Benchers.

Referral to Credentials and Education Committee

- 113 (1)** On granting an application for reinstatement pursuant to Rule 112(5), the Benchers may refer the application to the Credentials and Education Committee.
- (2)** Where an application is referred to the Credentials and Education Committee under this Rule, the Committee shall review the documents and evidence before the Benchers under Rule 112(2),(3) and (4) and may do one or more of the following:
- (a) require as preconditions to the applicant's reinstatement that the applicant take any examinations required by the Committee or complete to its satisfaction a course or courses of study specified by the Committee, or both;
 - (b) make an order imposing conditions on the applicant's practice as a barrister and solicitor if the applicant is reinstated as a member;
 - (c) require the applicant to furnish an undertaking in writing, in a form satisfactory to the Committee, that the applicant's practice as a barrister and solicitor will be carried on subject to the conditions in the undertaking if the applicant is reinstated as a member; or
 - (d) impose any other conditions that the Committee considers appropriate in the circumstances and that are to be met before the applicant is reinstated or that will apply to the applicant after the applicant's reinstatement.
- (3)** The conditions that may be imposed in an order under subrule (2)(b) or in an undertaking given under subrule (2)(c) may, without limitation, consist of or include any of the following:
- (a) a condition that the applicant's practice be restricted to any specified field or fields of law;
 - (b) a condition that the applicant be prohibited from practising in any specified field or fields of law; and
 - (c) a condition that the applicant's practice be carried on under the direct supervision of one or more of the active members named in the order or undertaking.
- (4)** The applicant may appeal a decision of the Credentials and Education Committee under subrule (2) to the Benchers, if notice of the appeal is given to the Executive Director within 30 days after the applicant is notified of the decision. On considering the appeal, the Benchers may confirm, reverse or vary the Committee's decision.

Procedures Following Benchers' Decision

- 114 (1)** An order of the Benchers under this Division for the reinstatement of the applicant as a member is not effective until a memorandum of the applicant's reinstatement is entered in the Roll.
- (2)** A memorandum of reinstatement shall not be entered in the Roll pursuant to subrule (1), until the Executive Director is provided with the following:
- (a) the prescribed annual fee for the current year;
 - (b) proof that the applicant is a Canadian citizen or a person lawfully admitted into Canada for permanent residence;
 - (c) the Assurance Fund levy for the current year or proof that the applicant will be exempt from the payment of that levy on being reinstated as a member;
 - (d) the professional liability insurance assessment for the current year or proof that the applicant will be exempt from the payment of that assessment on being reinstated as a member;
 - (e) all costs owing by the applicant to the Society by reason of Rule 109(1) and not covered by the security deposit or deposits furnished to the Society under this Division;
 - (f) payment of any other amounts owing by the applicant to the Society;
 - (g) if the applicant has been a bankrupt, payment of an amount equal to any debt owed by the applicant to the Society before the bankruptcy and extinguished as a result of the bankruptcy proceedings;
 - (h) if the application has been referred to the Credentials and Education Committee under Rule 113, proof that the applicant has complied with requirements imposed pursuant to Rule 113(2)(a) or (b) or both; and
 - (i) proof of the fulfilment of any preconditions to reinstatement contained in the Benchers' decision to grant reinstatement, or imposed under Rule 113.

- (3) The Benchers may suspend the requirements of subrule (2)(f) or (g), if the applicant has made arrangements satisfactory to the Benchers for the eventual payment to the Society of the whole of the amount otherwise required to be paid.
- (4) When an applicant is reinstated as a member under this Rule:
- (a) the Executive Director shall send a notice of the reinstatement to all persons within the classes described in section 85(1) of the Act and in Rule 110(2)(d); and
 - (b) where the notice of the applicant's disbarment or resignation had been given publicity by the Society in any other way, the Executive Director may give the notice of reinstatement additional publicity in any manner the Executive Director considers appropriate.

Feb2004

DIVISION 2 REINSTATEMENT IN OTHER CASES

Application for Reinstatement in cases not involving Disbarment

- 115 (1) Any
- (a) inactive member who seeks reinstatement to active status,
 - (b) active but not practising member who seeks reinstatement to practising status,
 - (c) suspended member who seeks to be reinstated to any other status,
 - (d) student-at-law who
 - (i) has not worked as an articling student for the past twelve months and
 - (ii) seeks to be enrolled as a member or to resume articling
- must apply to the Executive Director by submitting a completed Application Form in Form 4-1.1. Suspended members may initiate their applications prior to the conclusion of the suspension so that any conditions imposed may be met prior to the conclusion of the suspension.
- (1.1) Before the Society will begin to process an application under this Rule, Form 4-1.1 must be completed and submitted and the prescribed reinstatement application fee must be paid.
- (1.2) Notwithstanding subrule (1.1), an applicant who seeks reinstatement to active status and provides an undertaking acceptable to the Executive Director to provide legal services exclusively through a pro bono provider approved by the Executive Director is exempt from the payment of the prescribed reinstatement application fee.
- (2) An applicant under this Rule must provide the following prior to the conclusion of the reinstatement application in order to be reinstated.
- (a) Repealed November 2002
 - (b) Repealed November 2002
 - (c) the prescribed annual fee for the current year;
 - (d) where the member has been inactive, the prescribed annual fee for inactive members for each of the previous years in which the applicant elected not to pay the annual fee for inactive members, unless the applicant, at the time of non-payment, was an inactive member (retired) or a Master in Chambers;
 - (e) subject to subrule (2.1), the Assurance Fund levy for the current year;
 - (f) the professional liability insurance assessment for the current year, or proof that the applicant will be exempt from the payment of that assessment on being reinstated as an active member;
 - (g) payment of any other amount owing by the applicant to the Society; and
 - (h) if the applicant had been a bankrupt, payment of the amount of any debt owed by the applicant to the Society before the bankruptcy and which was extinguished as a result of the bankruptcy proceedings.
- (2.1) An applicant who seeks reinstatement to active status and provides an undertaking acceptable to the Executive Director to provide legal services exclusively through a pro bono provider approved by the Executive Director is exempt from the payment of the Assurance Fund levy for the current year.

- (3) Subject to subrule (4), the Executive Director shall grant an application for reinstatement under this Rule if the Executive Director is satisfied that:
- (a) all the requirements of subrule (2) have been complied with; and
 - (b) the applicant has complied with all preconditions to the applicant's reinstatement imposed by the Credentials and Education Committee, the Conduct Committee or the Practice Review Committee pursuant to Rule 118.
- (4) The Executive Director shall not grant an application for reinstatement under this Rule where the application was referred to the Credentials and Education Committee, the Conduct Committee or the Practice Review Committee under Rule 118(1), and any one of those Committees informs the Executive Director that it objects to the granting of the application, unless the Benchers, on appeal from the Committee, approve the granting of the application.
- (5) If an application under this Rule is refused, all amounts paid in connection with the application, except the application fee, shall be refunded.
- (6) Where the applicant is a former Master in Chambers, the provisions of Rule 117 apply to any reinstatement or application for reinstatement under this Rule.

Feb2002; Nov2002;Feb2004;Dec2005

Reinstatement of Retired Judges and Former Members

- 116 (1) Notwithstanding any other provision in these Rules, upon retirement from holding office as a judge of any of the courts described in section 33 of the Act, a person who was, immediately prior to that person's appointment, a member of the Society shall, without application or payment of any kind, including an annual levy:
- (a) be reinstated as an inactive member of the Society; and
 - (b) be entitled to receive from the Society all notices or publications to which an inactive member whose election has been approved under Rule 69(2) is entitled.
- (2) A person referred to in subrule (1) may apply to become an active member in accordance with subrules (3) to (9) and Rules 117 and 118.
- (3) A former member who is not a disbarred person may apply to the Executive Director for reinstatement as a member of the Society.
- (4) An application under this Rule shall be in:
- (a) Form 4-2, where the applicant is a person referred to in subrule (1);
 - (b) Form 4-3, in any other case.
- (5) An application under this Rule must be accompanied by:
- (a) payment of any amounts owing by the applicant to the Society, other than the amounts that must accompany the application by reason of the instructions for the completion of Form 4-2 or 4-3, as the case may be; and
 - (b) if the applicant had been a bankrupt, payment of the amount of any debt owed by the applicant to the Society before the bankruptcy and which was extinguished as a result of the bankruptcy proceedings.
- (6) An application for reinstatement under this Rule may be accompanied by an election to become an inactive member, or an inactive member (retired) where appropriate, on being reinstated.
- (7) Subject to subrule (6), the Executive Director shall grant an application for reinstatement under this Rule if the Executive Director is satisfied that
- (a) the applicant has complied with the requirements in the instructions for the completion of Form 4-2 or 4-3, as the case may be, and
 - (b) the applicant has complied with all preconditions to the applicant's reinstatement imposed by the Credentials and Education Committee, the Conduct Committee or the Practice Review Committee pursuant to Rule 118.
- (8) The Executive Director shall not grant an application for reinstatement under this Rule where the application was referred to the Credentials and Education Committee, the Conduct Committee or the Practice Review Committee under Rule 118(1) and the Committee informs the Executive Director that it objects to the granting of the application, unless the Benchers, on appeal from the Committee, approve the granting of the application.

- (9) If an application under this Rule is refused, all amounts paid in connection with the application, except the application fee, shall be refunded.

Special Provisions for former Judges and Masters in Chambers

- 117 Where an application is made by a former judge referred to in Rule 116(2), or by a former master in chambers under Rule 115 or 116(4)(b), the following provisions apply:
- (a) the Executive Director shall not refer the application to the Credentials and Education Committee pursuant to Rule 118(1)(a) unless more than 3 years has elapsed between the date on which the applicant ceased to be a judge or master in chambers and the date on which the application is received by the Executive Director; and
 - (b) if the applicant is reinstated as a member, it is a condition of the reinstatement that the member must not appear in chambers or in any court in Alberta as a barrister and solicitor without first obtaining the approval of the Benchers which may be given with or without conditions.

Referral of Application to Committees

- 118 (1) (a) The Executive Director:
- (i) may refer an application for reinstatement made under Rule 115 or 116 to the Committee where, in the opinion of the Executive Director, the circumstances of the application warrant review of the applicant's current knowledge of Alberta law and practice; and
 - (ii) must refer an application for reinstatement under Rule 115 or 116 to the Credentials and Education Committee where
 - (A) the applicant is applying to be reinstated to a status that will permit the applicant to practise law; and
 - (B) the applicant has practised law or worked as an articling student in Canada for periods aggregating less than 12 months out of the 48 months immediately preceding the date on which the application is received;
- (b) the Executive Director may refer an application for reinstatement made under Rule 115 or 116 to the Conduct Committee, where the Executive Director has reason to believe that:
- (i) in the case of an application under Rule 115, proceedings have been commenced against the applicant under Part 3 of the Act;
 - (ii) the applicant has been found guilty of conduct deserving of sanction under Part 3 of the Act or its predecessors or guilty of conduct unbecoming a barrister and solicitor or a professional misdemeanour under Part 3 of the old Act;
 - (iii) disciplinary proceedings have been commenced against the applicant by an extraprovincial law society or disciplinary punishment has been imposed on the applicant by an extraprovincial law society; or
 - (iv) the applicant has pleaded guilty to or been found guilty of an offence committed inside or outside Canada other than
 - (A) an offence under a municipal by-law, a Metis settlement council by-law or an Indian band council by-law, or
 - (B) an offence in respect of which the law permits the offender to voluntarily pay a fine without the need to appear before a court or justice to enter a plea and in respect of which the applicant voluntarily paid the fine;
- (c) the Executive Director may refer an application for reinstatement made under Rule 115 or 116 to the Practice Review Committee
- (i) where the Executive Director has reason to believe that the applicant's conduct has at any time been adversely affected by substance abuse or that, if the applicant were reinstated as a member, the applicant's competence to practise as a barrister and solicitor might be adversely affected by mental or physical disability or by substance abuse; or
 - (ii) where the Executive Director is satisfied for any other reason that the application should be referred to that Committee.

- (2) Where an application for reinstatement is referred to the Credentials and Education Committee, the Conduct Committee or the Practice Review Committee under this Rule, the Committee
- (a) shall review the application and the matters referred to it and for that purpose may conduct any investigation it considers appropriate; and
 - (b) on concluding its review, shall decide whether to
 - (i) approve the applicant's reinstatement,
 - (ii) object to the applicant's reinstatement, or
 - (iii) approve the applicant's reinstatement subject to any conditions or requirements imposed by the Committee under subrules (3), (4) or (5),
 and shall give reasons for its decision.

- (2.1) Where the Executive Director refers an application for reinstatement to one or more committees under subrule (1) the committee(s) referred to:
- (a) have the discretion to order the applicant to pay the costs of the reinstatement proceedings, in whole or in part, regardless of the outcome of the application (including where the application is withdrawn);
 - (b) shall specify the date or event by which any costs ordered must be paid; and
 - (c) may refer to Rule 99 as a guide regarding the items and amounts which may be included in the calculation of costs.

Oct2002;Oct2004

- (3) For the purposes of subrule (2)(b)(iii), a Committee may do one or more of the following:
- (a) make an order imposing conditions on the applicant's practice as a barrister and solicitor if the applicant is reinstated as a member;
 - (b) require the applicant to furnish an undertaking, in a form satisfactory to the Committee, that the applicant's practice as a barrister and solicitor will be carried on subject to the conditions in the undertaking if the applicant is reinstated as a member; or
 - (c) make an order imposing any other conditions that the Committee considers appropriate in the circumstances and that are to be met before the applicant is reinstated or that will apply to the applicant after the applicant's reinstatement.
- (4) The conditions that may be imposed in an order under subrule (3)(a) or in an undertaking given under subrule (3)(b) may, without limitation, consist of or include any of the following:
- (a) a condition that the applicant's practice be restricted to any specified field or fields of law;
 - (b) a condition that the applicant be prohibited from practising in any specified field or fields of law; and
 - (c) a condition that the applicant's practice be carried on under the direct supervision of one or more of the active members named in the order or undertaking.
- (5) Where an application is referred to the Credentials and Education Committee, the conditions that may be imposed may require the applicant to:
- (a) complete to its satisfaction a course or courses of study specified by the Committee; or
 - (b) pass any examinations prescribed by the Committee.
- (6) If conditions are imposed under this Rule with respect to the applicant's reinstatement, the Executive Director shall comply with Rule 39(1)(e) when the memorandum of the applicant's reinstatement is entered in the Roll.
- (7) Where the Executive Director refers a matter to a committee under this Rule, where a panel of the committee is appointed to deal with the matter, and where the panel proceedings have commenced,
- (a) a panel member who ceases to be a member of the committee may continue to act as a member of the panel in those proceedings, and
 - (b) where a panel member is no longer able to continue with the proceedings, for any reason, the remaining members of the panel will constitute a quorum of the panel, notwithstanding Rules 68.1(3), 88(2) and 89(2), provided that there continue to be at least two panel members and the applicant and the Law Society agree to continue with the remaining panel members.

- (8) A decision of a Committee under subrule (2)(b) or (2.1) may be appealed to the Benchers, if a notice of the appeal is given to the Executive Director within 30 days after the applicant is notified of the decision.
- (a) Appeals under this subrule may be determined by a panel consisting of at least seven Benchers, to be appointed by the President or the President-Elect.
 - (b) On considering the appeal, the Benchers may confirm, reverse or vary the Committee's decision.
 - (c) The Benchers
 - (i) have the discretion to order the appellant to pay the costs of the appeal proceedings, in whole or in part, regardless of the outcome of the appeal (including where the appeal is withdrawn);
 - (ii) shall specify the date or event by which any costs ordered must be paid; and
 - (iii) may refer to Rules 99 and 102 as guides regarding the items and amounts which may be included in the calculation of costs.

Feb2002;Oct2002;June2003;Nov2003;Feb2004

PART 5

FINANCIAL RECORDS, ACCOUNTS AND TRUST MONEY

Interpretation

- 119 (1) In this Part,
- (a) "Accountant" means
 - (i) a member of the Institute of Chartered Accountants of Alberta or a professional corporation as defined in the *Chartered Accountants Act*,
 - (ii) a member of the Certified General Accountants' Association of Alberta or a professional corporation as defined in the *Certified General Accountants Act*, or
 - (iii) a member of the Society of Management Accountants of Alberta or a professional corporation as defined in the *Certified Management Accountants Act*;
 - (b) "Accounting firm" means an accountant or a firm of accountants that
 - (i) carries on the practice of public accounting in Alberta,
 - (ii) is registered as a practising office by the Institute of Chartered Accountants of Alberta, the Certified General Accountants' Association of Alberta or the Society of Management Accountants of Alberta, as the case may be, and
 - (iii) engages in exclusive accounting practice (as defined in the *Chartered Accountants Act*);
 - (c) "Approved depository" means, subject to subrule (2), a branch in Alberta of a bank, loan or trust corporation, credit union or a treasury branch;
 - (d) "Client", in relation to a law firm, includes a person or group of persons from whom or on whose behalf money is held by the law firm, if the money was received by the law firm in the course of its law practice;
 - (e) "Disbursement" means an amount paid by a law firm on behalf of a client of the law firm;
 - (f) "General account" means an account, other than a trust account, maintained by a law firm in connection with the firm's law practice;
 - (f.1) "Law firm" includes two or more law firms practicing from the same premises, sharing letterhead, and sharing an operating trust account or a general account, and the owners of the law firm are the owners of the law firms that share the account.
 - (g) "Member's law firm", in relation to a particular member, means the law firm with which the member practises, whether as an owner or an associate of the firm;
 - (h) "Money" includes any negotiable instrument;
 - (i) "Operating trust account" means an interest-bearing trust account required to be maintained with an approved depository pursuant to section 126(1) of the Act;
 - (j) "Prescribed financial records" or "financial records in compliance with the Rules" means records required to be maintained in accordance with Rule 122;
 - (k) "Separate interest-bearing account" means
 - (i) trust money deposited with an approved depository in an interest-bearing form either for a fixed period or in a separate account, or
 - (ii) a Treasury Bill purchased with trust money through an approved depository,where the trust money or Treasury Bill is deposited or purchased on behalf of a specified client pursuant to an arrangement referred to in section 126(3) of the Act;
 - (l) "Trust account" means an operating trust account or a separate interest-bearing account;
 - (m) Except in Rule 135, "trust money" means
 - (i) money received by a law firm in connection with the law firm's practice in Alberta and that belongs in whole or in part to a client of the law firm or is received on a client's behalf or to the direction or order of a client, or

- (ii) money received by a law firm as a general retainer, subject to subclause (iv), or on account of fees for services not yet rendered or on account of disbursements not yet made,
but does not include
 - (iii) money received on account of the law firm's fees or disbursements respecting services already performed and for which a written billing has been rendered and delivered or for which a written billing is rendered and forwarded forthwith after receipt of the money, or
 - (iv) money received as a general retainer where the client has signed a written acknowledgment, to be retained by the law firm in accordance with Rule 122(5)(c), that
 - (A) the money is non-refundable and belongs to the law firm immediately upon receipt,
 - (B) the law firm is not obliged either to account for the money or render services with respect to the money, and
 - (C) services may never be rendered in respect of the money.
- (2) A law firm practising law from an office in the City of Lloydminster may maintain a trust account in
- (a) a branch of a bank located in the portion of the City of Lloydminster within Saskatchewan, or
 - (b) a branch of a corporation located in the portion of the City of Lloydminster within Saskatchewan, if that corporation is registered as a loan corporation or trust corporation under the *Loan and Trust Corporations Act* (Alberta),
- and for the purposes of this Part, a branch referred to in clause (a) or (b) is deemed to be an approved depository in relation to that law firm.

Practising with Prescribed Financial Records; Form U (5-3)

- 120 (1) Except as otherwise provided in this Part, a member shall not engage in practice as a barrister and solicitor in Alberta unless the member practises with a law firm that maintains financial records in compliance with these Rules.
- (2) A law firm shall maintain all its prescribed financial records at its offices in Alberta except that any of those records may be removed from those offices for the purposes of permitting an accounting firm to prepare an Accountant's Report in Form T (5-2) or Form U (5-3) relating to those records.
- (3) A law firm shall, before commencing the carrying on of its law practice in Alberta, file with the Executive Director an Initial Accountant's Report in Form U (5-3), duly completed by an accounting firm.

Operating Trust Accounts and General Accounts

- 121 (1) Every law firm shall maintain:
- (a) at least one operating trust account, and
 - (b) at least one general account.
- (2) Every trust account must be maintained with an approved depository in the name of the law firm and designated as a trust account.
- (3) Every law firm shall instruct each approved depository with which it maintains an operating trust account to remit the interest earned on the account to the Alberta Law Foundation at least semi-annually in each year.

Prescribed Financial Records and Clients' Files

- 122 (1) Every law firm shall maintain in accordance with this Rule financial records that:
- (a) record, on a double entry basis, all money received and paid out in connection with the law firm's practice of law within Alberta; and
 - (b) show and distinguish
 - (i) all receipts and payments of money by the law firm, and
 - (ii) the balances of money held by the law firm.
- (2) The financial records required to be maintained under this Rule shall consist of at least the following:

- (a) a book of original entry showing the date of receipt, method by which money is received, source of all trust money received and identifying the client to whom the money belongs or on whose behalf the money is received;
 - (b) a book of original entry showing all withdrawals of trust money and showing the cheque number, the date of the withdrawal, the name of the payee and identification of the client with respect to whose affairs the withdrawal is made;
 - (c) a trust ledger consisting of trust ledger accounts, one for each client from whom the law firm has received trust money or on whose behalf or at whose direction or order the law firm has received trust money, with each trust ledger account showing
 - (i) the name of the client,
 - (ii) all receipts and withdrawals, in chronological order with the dates of receipt and withdrawal and indicating the source of the money or the person to whom the payment was made, as the case may be, and
 - (iii) the balance remaining in the account;
 - (d) a journal showing all transfers of money between trust ledger accounts or a chronological file of copies of all documents by which transfers of money between trust ledger accounts were effected;
 - (e) a book of original entry showing the date of receipt, method by which money is received and source of all money received other than trust money;
 - (f) a book of original entry showing all payments of money other than trust money and showing, with respect to each of those payments, the cheque number (if applicable), the date of the payment and the name of the payee;
 - (g) either a chronological file of copies of statements of account rendered to clients, or a journal showing all fees and charges to clients, the dates of the statements of account for those fees and charges and the names of the clients;
 - (h) a fees and disbursements receivable ledger or other suitable system to record the law firm-client position on all transactions, other than trust transactions, with respect to which a billing for fees or disbursements has been rendered;
 - (i) bank statements or passbooks, negotiated cheques, transfers between accounts and detailed duplicate deposit slips for all trust accounts and general accounts;
 - (j) a comparison, dated and signed by the member, shall be prepared within 30 days of the month end, showing any differences between the total of the trust accounts of the law firm and the total of all unexpended trust balances as per the trust ledger accounts, together with the reasons for such differences, supported by:
 - (i) a detailed bank reconciliation made monthly of each trust account, and
 - (ii) a detailed listing made monthly by trust account showing the unexpended balance of money in each trust ledger account;
 - (k) a book of duplicate receipts maintained by every member who receives cash for a client, in addition to existing financial recordkeeping requirements, 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 of the member or person authorized by the member to receive cash and the signature of the person from whom cash is received; and
 - (l) a record of cash payment maintained by every member who returns cash pursuant to subrule 125.1(5)(d), in addition to existing financial recordkeeping requirements, with each record identifying the date on which cash is paid, the amount of cash paid, the client name in respect of which cash is paid, any file number in respect of which cash is paid and containing the name and signature of the person to whom cash is paid.
- (3) The information required to be recorded in compliance with subrule (1)(a)
- (a) must be entered and posted currently at all times, and
 - (b) if recorded on paper, must be entered and posted in ink or a duplication thereof, or, if recorded in a computer system, must be printed out at least monthly.

- (4) A law firm whose accounting system is maintained on a computer system is not required to produce a printed copy for any month of the firm's trust ledger in order to comply with subrule (3)(b) if the firm:
- (a) produces for that month a printed copy of a detailed transaction report on each trust ledger account that has had a transaction in that month, or
 - (b) provides access to the Society's authorized employees to the firm's computer system to enable them to examine all the firm's trust ledger accounts.
- (5) A law firm shall retain:
- (a) trust ledger accounts referred to in subrule (2)(c), for at least the 9-year period following the fiscal year of the law firm in which the trust ledger account was closed;
 - (b) all other financial records referred to in subrule (2), for at least the 9-year period following the fiscal year of the law firm in which the records came into existence; and
 - (c) such parts of the files of the law firm, relating to the affairs of clients or former clients of the law firm, as are necessary to support the prescribed financial records for at least the 9-year period following the fiscal year of the law firm in which the file was closed.
- (6) A law firm shall not give up possession of any files of the law firm relating to the affairs of clients or former clients of the law firm to a person other than a member, unless the firm retains or makes a copy of such parts of the file as are necessary to support the prescribed financial records, which copy shall be deemed to be an original for the purposes of the Act and the Rules.
- (7) A member does not breach subrule 122(2)(k) if a receipt does not contain the signature of the person from whom cash is received provided that the member has made reasonable efforts to obtain the signature of the person from whom cash is received.

Apr2005

Receiving Trust Money

- 123 (1) Every law firm that receives trust money shall expeditiously deposit the money into an operating trust account of the law firm before any of the money is paid out or transferred to any other of the firm's accounts.
- (2) Repealed.
- (3) When trust money deposited by a law firm in an operating trust account pursuant to subrule (1) consists of a credit card slip, the law firm shall pay or transfer from its general account to the operating trust account an amount equal to any discount deducted from the total amount of the credit card slip concurrently with the deposit.
- (4) Where interest is earned on a separate interest-bearing account held for a client, the amount of the interest shall be credited to the client's trust ledger account when the law firm is informed of the amount of the interest earned, but, in any event, not later than the next monthly bank reconciliation of the separate interest-bearing account required to be made pursuant to Rule 122(2)(j)(i).
- (5) A trust account of a law firm must be used only for the deposit and retention of trust money received by the law firm and not as a general account by or for the law firm, except as follows:
- (a) money belonging to the law firm may be paid into a trust account of the firm with respect to an isolated transaction if the money is paid out expeditiously;
 - (b) money paid to the law firm which belongs in part to the law firm and in part to another shall be paid into a trust account where it is impractical to split the payment;
 - (c) money withdrawn from a trust account by mistake or accident or in contravention of these Rules must be replaced forthwith;
 - (d) the law firm may maintain not more than \$100 of the firm's own money in each of the firm's operating trust accounts.

Withdrawing and Transferring Trust Money

- 124 (1) Money shall not be withdrawn from a trust account except where:
- (a) the money is properly required for
 - (i) a payment to the client for whom the money is held, or
 - (ii) a payment to any other person but only if the law firm does so pursuant to the authorization of the client for whom the money is held;

- (b) the money is properly required for payment of a billing for fees or disbursements, but only if the withdrawal is made in compliance with subrule (2);
 - (c) the money is being transferred directly into another trust account of the law firm;
 - (d) the money has by inadvertence been paid into a trust account in contravention of these Rules;
 - (e) money paid to the law firm has been deposited in a trust account because the payment to the law firm belonged in part to the law firm and in part to another; or
 - (f) the money is paid pursuant to a court order.
- (2)** Money may be withdrawn from a trust account of a law firm pursuant to subrule (1)(b), if not held for a designated purpose, only in accordance with the following conditions:
- (a) money may be paid from the trust account to the law firm to reimburse the firm for a disbursement made by it if the law firm has prepared a billing respecting the disbursement and either delivers the billing to the client before the withdrawal or forwards the billing to the client concurrently with the withdrawal; and
 - (b) money may be paid from the trust account to the law firm to pay for the law firm's fees for services if the law firm has prepared a billing for the services, the billing relates to services actually provided and is not based on an estimate of the services, and the firm either delivers the billing to the client before the withdrawal or forwards the billing to the client concurrently with the withdrawal.
- (3)** When money in a law firm's trust account becomes payable to the firm then, subject to subrules (1) and (2), the money must be withdrawn by the firm from the trust account expeditiously.
- (4)** Except as provided in subrules (5), (5.1) and (6), money may be withdrawn from a trust account only by a cheque which must:
- (a) clearly indicate that it is a cheque drawn on a trust account;
 - (b) not be made payable to cash or bearer;
 - (c) be dated, but not post-dated;
 - (d) be signed in compliance with subrule (7); and
 - (e) be completed as to the payee and amount.
- (5)** Money may be transferred by a law firm:
- (a) from an operating trust account of the law firm to a separate interest-bearing account maintained by the firm in the same branch of the approved depository, or
 - (b) from a separate interest-bearing account maintained by the law firm to an operating trust account maintained by the firm in the same branch of the approved depository,
- by a document signed in compliance with subrule (7) and showing the amount and date of the transfer, the operating trust account or separate interest-bearing account involved and sufficient information to identify the client.
- (5.1)** Money may be electronically transferred by a law firm where the withdrawal from trust is greater than twenty-five million dollars, where the law firm has met any conditions set by the Director of Audit of the Society, or designate, or the firm has obtained the prior written approval of the Director of Audit, or designate. The conditions set may include, but are not limited to, the following:
- (a) that the transfer system be able to produce within one banking day of the transfer a confirmation from the financial institution showing the details of the transfer;
 - (b) that the confirmation from the financial institution be in hardcopy form and contain the following details: date of transfer, source trust account information, (account name, financial institution and account number) destination account information, (account name, financial institution and account number) authorizing lawyer reference and amount of the transfer;
 - (c) that the law firm complete a \$25 Million Non-Cheque Transfer Requisition Form, with the requesting lawyer and authorizing lawyer sections of the Form signed and dated by an active member, the contents of the Form to be determined by the Director of Audit, or designate;
 - (d) that the law firm obtain the confirmation from the financial institution within one banking day of the transfer, and that within two banking days of the transfer an active member:
 - (i) write the name of the client and file number on the confirmation,

- (ii) sign and date the confirmation,
 - (iii) agree the particulars from the confirmation to the \$25 Million Non-Cheque Transfer Requisition Form,
 - (iv) satisfy themselves that the money was properly transferred in accordance with the requisition and,
 - (v) sign and date the verifying lawyer section of the Form.
- (6) Money may be transferred by a law firm from a trust account maintained by the law firm by means of a wire transfer from an approved depository to the payee upon presentation of a cheque which complies with subrule (4) and a written request signed in compliance with subrule (7), showing the amount of money to be wired, the date of the request to the approved depository, the trust account, the client involved and the intended recipient of the wired money.
- (7) A cheque referred to in subrule (4), a transfer made pursuant to subrule (5), or a request to wire money referred to in subrule (6), must bear the signature or counter-signature of an active member authorized by that law firm to sign it, except that, in special circumstances, the Executive Director, on application and with or without conditions, may authorize:
- (a) the withdrawal of money from a trust account by cheques signed by one or more persons who are not active members of the Society and which are not signed by an active member, or
 - (b) transfers of money pursuant to subrule (5) or requests to wire money referred to in subrule (6) by documents signed by one or more persons who are not active members of the Society and which are not signed by an active member.

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Additional Obligations Related to Trust Money

- 125 (1) A law firm must at all times maintain money on deposit in the law firm's trust account or accounts in an aggregate amount sufficient to meet all obligations with respect to money held in trust for the firm's clients.
- (2) A law firm must never withdraw from a trust account for or on behalf of any client a sum greater than the amount to that client's credit in the trust account.
- (3) If a member becomes aware of a deficiency in a trust account of the member's law firm and the law firm does not immediately make good the deficiency, the member must immediately notify the Executive Director of the deficiency and of any relevant information regarding the reason therefore.
- (4) Subject to subrule (5), a trust account may not be closed until the law firm's obligations in relation to the money in the account are discharged by doing one or more of the following:
- (a) distributing the money to the persons entitled to it;
 - (b) making written arrangements for the transfer of the money to a trust account of another law firm and the assumption by that other law firm of the trust obligations applicable to that money;
 - (c) transferring the money to another trust account of the same law firm;
 - (d) paying the money to the Society in accordance with section 117 of the Act; or
 - (e) paying the money into court pursuant to a court order.
- (5) A trust account of a law firm may be closed before the law firm's obligations in relation to the money in the account are discharged if the trust account is transferred to a member who is appointed under the Act as the custodian of the law firm's practice.
- (6) A member must, on being requested to do so by a client, provide to the client any information sought by the client with respect to:
- (a) the balance of trust money held for the client at the time of the request or at any previous time and how the balance is or was calculated, or
 - (b) any transactions relating to trust money held for the client.

Additional Obligations Related to Cash Transactions

- 125.1 (1) For the purposes of this Rule:

- (a) "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;
 - (b) "funds" means cash, currency, securities and negotiable instruments or other financial instruments that indicate the person's title or interest in them;
 - (c) "public body" means:
 - (i) a department or agent of Her Majesty in right of Canada or of a province,
 - (ii) an incorporated city, town, village, metropolitan authority, township, district, county, rural municipality or other incorporated municipal body or an agent of any of them, or
 - (iii) an organization that operates a public hospital and that is designated by the Minister of National Revenue as a hospital under the *Excise Tax Act* or an agent of the organization.
- (2) A member shall not receive or accept from a person, cash in an aggregate amount of \$7,500 or more Canadian dollars in respect of any one client matter or transaction.
- (3) 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.
- (4) Subrule 125.1(2) 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;
 - (c) transferring funds by any means.
- (5) Despite subrule 125.1(4), subrule 125.1(2) does not apply when the member receives cash:
- (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) pursuant to a court order, or to pay a fine or penalty;
 - (d) in an amount of \$7,500 or more for professional fees, disbursements, expenses or bail, provided that any refund greater than \$1,000 out of such receipts is also made in cash and a receipt signed by the person receiving the cash is obtained by the member.

Apr2005

Filing Forms S (5-1) and T (5-2)

- 126 (1) A law firm must annually:
- (a) within 45 days after the designated filing date of the law firm, furnish to the Executive Director a completed Annual Certificate in Form S (5-1) and furnish a copy of it to the law firm's accounting firm, and
 - (b) retain as part of the law firm's prescribed financial records a copy of every certificate furnished under clause (a).
- (2) A law firm must annually, within 90 days after the designated filing date of the law firm:
- (a) have the law firm's prescribed financial records reviewed by an accounting firm, and
 - (b) cause an Accountant's Report in Form T (5-2) to be duly completed by an accounting firm and filed with the Executive Director by the accountant responsible for the review.
- (3) The duty of a law firm to comply with subrules (1) and (2) in relation to its prescribed financial records ceases only when:

- (a) the law firm's trust accounts and prescribed financial records are closed, and
 - (b) the final certificate in Form S (5-1) and the final Accountant's Report in Form T (5-2) are furnished in accordance with subrule (4) in relation to those prescribed financial records.
- (4) When all the prescribed financial records of a law firm are closed, the law firm:
- (a) shall comply with subrules (1) and (2) after the designated filing date in which all its trust accounts and prescribed financial records were closed and within the respective periods prescribed by subrules (1) and (2) as though the accounts and records had continued to be maintained; but
 - (b) may comply with subrules (1) and (2) before the designated filing date by furnishing the final Annual Certificate in Form S (5-1) and the final Accountant's Report in Form T (5-2) relating to the portion of the fiscal year ending on the date on which all the firm's trust accounts and prescribed financial records were closed.
- (5) A law firm that terminates its practice must file with the Executive Director written notice of the fact before or forthwith after the date on which the firm's prescribed financial records are closed.
- (6) The date indicated in the most recent previously filed Forms S (5-1) and T (5-2) as the fiscal year of the law firm shall be considered as "designated filing date" unless changed by written notice to the Society.

Other Filings

- 127 (1) A law firm must file with the Executive Director written notice of any change in the name or the designated filing date, before or immediately after the change is made.
- (2) If a member:
- (a) ceases to be an owner or associate of a law firm, or
 - (b) becomes an owner or associate of a law firm,
- the law firm must file with the Executive Director written notice of that fact before or immediately after the event occurs.
- (3) Notwithstanding any provision of this Rule and Rule 126, commencing with the first filing period after January 1, 1996, no member may establish or change a designated filing date so as to extend a reporting period beyond twelve months.

Exemptions

- 128 (1) A member is exempt from the requirements of section 126(1) of the Act and Rules 120 to 127 in respect of any period in which the member:
- (a) is a counsel referred to in Rule 135, who complies with the provisions of that Rule, if such member files with the Executive Director
 - (i) a statutory declaration stating that the member is employed by or contracts with an employer referred to in Rule 135, and that the member practises law solely within the scope of that employment or contract, and
 - (ii) an undertaking that the member
 - (A) will not practise law or provide any legal services outside the scope of the member's employment, and
 - (B) will not receive or hold trust money either within or outside the scope of the member's employment unless in compliance with Rule 135;
 - (b) is an inactive member of the Society; or
 - (c) is enrolled under section 45 of the old Act and is not carrying on a general practice as a barrister and solicitor within Alberta.
- (2) A member who has not received or held trust money and has not operated a clients' trust account, is exempt from the requirements of section 126(1) of the Act and those portions of Rules 120 to 126 relating to trust money or trust accounts, if the member files with the Executive Director
- (a) a statutory declaration that the member has not received or held trust money and has not operated a clients' trust account; and
 - (b) an undertaking that the member will not receive or hold trust money or operate a clients' trust account;

- (3) An exemption under subrules (1)(a) or (2):
- (a) terminates when the undertaking is breached, when the member ceases to be a counsel referred to in Rule 135, or when the member requests the Executive Director in writing to terminate the exemption; and
 - (b) expires in any event on the 15th day of March next following the filing of the statutory declaration and undertaking with the Executive Director, unless, on or before that date, the member files with the Executive Director another statutory declaration and undertaking in accordance with subrules (1)(a) or (2).
- (4) Nothing in this Rule affects the powers of the Society, under Rule 130, to direct and conduct any examination, review, audit or investigation of an exempt member.

Suspensions for Late Filing

- 129 (1) In the event that a law firm has failed to file one or more of Forms S, T or U, within the times limited by these Rules, the Executive Director or the Director of Audit shall at the Law Society's expense:
- (a) direct the Law Society's audit department to attend upon the law firm and review, examine, investigate and if necessary, complete such of the law firm's financial records as are necessary to allow completion of the unfiled form or forms; and/or
 - (b) retain an accounting firm to attend upon the law firm and review, examine, investigate and if necessary, complete such of the law firm's financial records as are necessary to complete the unfiled form or forms.
- (2) In the event such a direction is made by the Executive Director or the Director of Audit, the Conduct Committee may, by order, direct that the law firm pay a penalty to the Law Society in the sum of \$500.00 per unfiled form plus the cost of such attendance by either the audit department or the accounting firm.
- (3) In the event that a law firm has failed to file one or more of Forms S, T or U within the times limited by these Rules, and the law firm failed or refuses to co-operate with the attendance directed pursuant to subrule (1), the Conduct Committee may by order suspend the membership of every member who is an owner of the law firm.
- (4) Failing payment of the costs and penalties owing under subrule(2) on the terms directed by the Conduct Committee and within the period prescribed in its direction, the Conduct Committee may suspend the membership of the member or all of the members who are owners or associates of the law firm, as the case may be, until full payment of these costs and penalties is received by the Society.

Examination, Review, Audit or Investigation of Financial Records

- 130 (1) The Benchers may at any time direct that an examination, review, audit, investigation or completion of the financial records as are necessary be made by a particular person designated by the Benchers, either by a general or a particular designation, of the financial records and other records of any member or law firm that in any way relate to the member's or the firm's practice of law for the purpose of ascertaining and advising as to whether the provisions of the Act and the Rules have been and are being complied with by the member or law firm.
- (2) The powers conferred by subrule (1) on the Benchers may also be exercised by:
- (a) the President of the Society,
 - (b) the President-Elect of the Society,
 - (c) the chair of the Conduct Committee,
 - (d) the chair of the Finance Committee,
 - (e) the Executive Director, or
 - (f) the Director of Audit of the Society.
- (3) Where a person conducts an examination, review, audit or investigation under this Rule:
- (a) a member shall produce all records and supporting documentation that that person may require for the examination, review, audit or investigation; and
 - (b) the examination, review, audit or investigation shall, where practicable, be held in the office of the member or law firm whose financial records and other records are the subject of the examination, review, audit or investigation.

- (4) The person conducting an examination, review, audit or investigation under this Rule shall provide a report addressed to the Executive Director with a copy to the member or the law firm, advising whether the provisions of the Act and the Rules have been and are being complied with, giving full particulars of any breach of those provisions and of any attempt to remedy any breach.
- (5) The Conduct Committee may direct the member or law firm concerned to pay all or part of the costs of the examination, review, audit or completion of the financial records within 30 days of the receipt of the Law Society's invoice for the same if:
 - (a) the person conducting an examination, review, audit or investigation under this Rule reports that any requirement imposed by the Act and the Rules has not been complied with; and/or
 - (b) it was found necessary to bring the law firm's financial records to a current status in order to allow completion of an examination, review, audit or investigation.
- (6) Failing payment of the costs owing under subrule (5) on the terms directed by the Conduct Committee and within the period prescribed in its direction, the Conduct Committee may suspend the membership of the member or of all members who are owners or associates of the law firm, as the case may be, until full payment of those costs is received by the Society.
- (7) The costs referred to in subrule (5) include reasonable costs for the indemnification of the Society for the cost of services in connection with the examination, review, audit or investigation. For that purpose the Finance Committee may prescribe an hourly rate to be used to determine the cost of those services, if performed by the Society's Audit Department.

Notice of Bankruptcy Proceedings or Writ of Execution

- 131 (1) Every member must immediately notify the Director of Audit in writing of:
- (a) service on the member of a petition under the *Bankruptcy and Insolvency Act* for a receiving order in respect of the property of the member;
 - (b) the making by the member of an assignment pursuant to the *Bankruptcy and Insolvency Act*;
 - (c) the filing by the member under section 50.4 of the *Bankruptcy and Insolvency Act* of a notice of intention to make a proposal under that Act;
 - (d) the lodging of a proposal in respect of the member pursuant to the *Bankruptcy and Insolvency Act*; or
 - (e) the issuance of a writ of enforcement against the member.
- (2) A notice under subrule (1) must provide a full explanation of the circumstances of the matter and must be accompanied by copies of all materials relating to proceedings taken in that matter.
 - (3) On receiving a notice referred to in subrule (1) or on learning of any of the matters referred to in subrule (1), the Director of Audit shall immediately notify the chair of the Conduct Committee of the matter and concurrently give notice of the referral to the member concerned.
 - (4) The Director of Audit may request the member to submit additional information or a more complete explanation outlining the circumstances relating to any of the matters referred to in subrule (1) and the member must respond fully to the Director of Audit's request within 10 days of being notified of the request.
 - (5) Where a matter is referred to the chair of the Conduct Committee under subrule (3), the chair shall direct whatever investigation of the matter the chair considers necessary, either before or after receiving the member's explanation.
 - (6) If the member gives the Director of Audit a notice pursuant to subrule (1) or receives from the Director of Audit notice pursuant to subrule (3) respecting the matters set out in subrule (1) then, until the petition, assignment or proposal under the *Bankruptcy and Insolvency Act* or the writ of enforcement has been satisfied, withdrawn, discharged or is otherwise of no further effect, the chair of the Conduct Committee may impose conditions upon the receipt and disbursement of any trust money or other client property handled by the member.
 - (7) Any decision made by the chair of the Conduct Committee under this Rule may be appealed to the Benchers.

Members Acting in a Representative Capacity

- 132 (1) For the purposes of this Rule:
- (a) a member is acting in a representative capacity if the member is:
 - (i) the executor or administrator, or one of the executors or administrators, of the estate of a deceased person;

- (ii) a trustee, or one of the trustees, in the member's own right, of a trust under an appointment made by or pursuant to the trust instrument creating the trust;
 - (iii) a trustee, or one of the trustees, of the property of another person under an appointment by a court, or
 - (iv) an attorney, or one of the attorneys, of a person under a power of attorney, whether general or special, enduring or otherwise;
- (b) "estate" means the estate or property in respect of which a member acts in a representative capacity.
- (2)** Rule 123(1) does not apply to trust money received by a member acting in a representative capacity and money so received need not be paid into a trust account of the member's law firm or recorded in the prescribed financial records of the member's law firm:
- (a) if the total trust money held at one time in a representative capacity or the total receipts and disbursements made in a representative capacity in any one reporting year does not exceed twenty thousand dollars; or if the member
 - (b) notifies the Executive Director, in writing, that the member is acting in a representative capacity, within thirty days of the member commencing to so act; and
 - (c) files with the Executive Director an undertaking to submit, on demand
 - (i) particulars relating to the member's appointment or assumption of a representative capacity and a list of the beneficiaries of the estate or trust together with their last known address; and
 - (ii) to the extent that a member is lawfully able, the books, records, accounts and documentation of the estate or trust in a form sufficient to accommodate an examination, review, audit or investigation ordered by the Executive Director and to co-operate with the Society's auditor or investigator in the conduct of any examination, review, audit or investigation so ordered.

Undisbursable Trust Money

- 133 (1)** An application to the Executive Director under section 117(1)(a) of the Act shall be in Form 5-4.
- (2)** An application to the Executive Director under section 117(1)(a) of the Act shall:
- (a) show the name of the member making the application and the name, address and phone number of the law firm holding the trust money that is the subject of the application;
 - (b) show the aggregate amount of the trust money that is the subject of the application; and
 - (c) contain a certification by the applicant that the statements made in the application are true and correct.
- (3)** If the application relates to trust money to which one or more persons are entitled, the application shall state, in respect of each person so entitled:
- (a) the amount of the trust money to which the person is entitled, according to the trust account records of the law firm;
 - (b) the name of the person so entitled and that person's last known address according to the law firm's records;
 - (c) if the person so entitled was a corporation in existence at the commencement of the 2-year period preceding the date of filing of the application, whether the corporation still exists according to the official records of the government of the jurisdiction in which it was incorporated or continued;
 - (d) the name of the person who paid the money to the law firm, the last known address of that person according to the law firm's records and the date on which the money was paid to the law firm;
 - (e) the details of the transaction under which the trust money was received by the law firm and the name and last known address of the client concerned;
 - (f) a description of the efforts made during the 2-year period preceding the date of filing of the application to locate the person entitled to the trust money, including the date of the last uncashed cheque or the date of the last attempt to contact that person;
 - (g) in the case of a natural person, whether any request was made to pay the trust money to the Public Trustee;
 - (h) the name of the member in the law firm currently responsible for the file, if the applicant is not a sole practitioner; and

- (i) that there are no trust conditions to which the trust money is subject.
- (4) If the application relates to trust money that cannot be attributed to any client or other person, the application shall state:
 - (a) the amount of the unattributed trust money;
 - (b) the period of time during which the trust money has been held in the trust account;
 - (c) the reason, if known, why the money was credited to the trust account and why the money cannot be attributed to any particular client or other person.
- (5) A claim made under section 117(5) of the Act shall be in Form 5-5.
- (6) A claim made under section 117(5) of the Act shall be adjudicated by:
 - (a) a committee consisting of the Executive Director and the Treasurer, if the claim does not exceed \$500, or
 - (b) the Finance Committee, in any other case.
- (7) The Finance Committee or the committee referred to in subrule (6)(a) may, for the purpose of coming to its decision respecting a claim:
 - (a) request of the claimant any further information and documents related to the claim that the Committee reasonably requires;
 - (b) make or authorize any enquiries or investigations as it considers necessary; and
 - (c) rely wholly or partly on the information and documents received by it.
- (8) The Finance Committee or the committee referred to in subrule (6)(a) shall, on considering a claim:
 - (a) approve the claim, with or without conditions, or
 - (b) reject the claim.
- (9) The Committee referred to in subrule (6)(a) shall report its decisions to the Finance Committee in accordance with the directions of the Finance Committee.

Obligations Related to Clients' Property

- 134** If a law firm receives property of a client, other than trust money, the law firm shall:
- (a) promptly notify the client of the receipt by the law firm of the property, unless the member is satisfied that the client is aware of the receipt of the property by the law firm;
 - (b) if the property does not on its face contain any identification of the client, immediately label or otherwise identify the property as property of the client;
 - (c) maintain adequate records of the property;
 - (d) keep the property safe and secure and in such a manner that it cannot be examined by persons not entitled to do so; and
 - (e) on being requested to do so by a client, provide to the client any information sought by the client with respect to the property.

Obligations of Government, Municipal or Corporate Counsel re Trust Money

- 135 (1)** In this Rule:
- (a) "counsel" means an active member who is employed by or contracts with a person other than a law firm, and who practises law solely within the scope of that employment or contract;
 - (b) "employer" means the party by whom the counsel is employed or with whom the counsel contracts, and includes subsidiaries and affiliates of the employer;
 - (c) "trust money" means money received by a counsel for or on behalf of the counsel's employer or to its direction or order, that belongs in whole or in part to the employer.
- (2)** A counsel may hold trust money where the counsel:
- (a) notifies the Executive Director in writing on an annual basis of:
 - (i) the name of the employer that employs the counsel,

- (ii) the scope of the counsel's employment with the employer, and
 - (iii) the nature of trust transactions involving the employer;
 - (b) maintains a journal, or chronological file of copies, in a form satisfactory to the Executive Director, in which must be recorded details of all trust money received by the counsel and showing in every case:
 - (i) the payor,
 - (ii) the date, amount, the number of the cheque, draft or other negotiable instrument and the name of the financial institution on which it is drawn, and
 - (iii) the date on which the trust money is turned over to the employer or returned to the person who sent it to the counsel; and
 - (c) submits, on demand, the journal or chronological file maintained pursuant to subrule (2)(b) and any other documentation relating to trust money in a form sufficient to accommodate any examination, review, audit or investigation ordered by the Executive Director.
- (3) On receipt of trust money, the counsel shall:
- (a) ensure that any cheque, draft or other negotiable instrument is restrictively endorsed, so that it can be deposited only in an account maintained in the name of the employer, and
 - (b) ensure that the trust money is not deposited until any or all trust conditions are fulfilled and in the meantime ensure that the trust money is kept in a secure place accessible only to the counsel.
- (4) A counsel shall retain the journal or chronological file maintained pursuant to subrule (2)(b) and any other documentation relating to trust money, for at least the 9-year period following the fiscal year of the counsel's employer in which the details of trust money were recorded.

Custodianships

- 136** Where a member's property or legal business comes under the administration of a custodian, the Rules in this Part or any provisions of them, may be suspended by the chair or vice-chair of the Conduct Committee, so that the administration by the custodian is governed by the provisions of the Act, any guidelines adopted by the Benchers with respect to custodianships, and any Court Order.

PART 6 ASSURANCE FUND

DIVISION 1 ADMINISTRATION OF THE FUND

Assurance Fund Assessments

- 137 (1) For the purpose of maintaining and augmenting the Assurance Fund:
- (a) subject to subrule (2), an annual assessment shall be levied on all active members of an amount fixed by the Benchers in each case by resolution; and
 - (b) the Benchers may direct the levying on all active members of a special assessment of an amount fixed by the Benchers by resolution and payable by the time prescribed by the Benchers by resolution.
- (2) No annual assessment shall be levied on active members who have provided an undertaking acceptable to the Executive Director to provide legal services exclusively through a pro bono provider approved by the Executive Director.

Nov2001;Dec2005

Fund Revenues and Expenditures

- 138 (1) The following shall be paid into the Assurance Fund:
- (a) annual and special assessments levied on active members pursuant to Rule 137;
 - (b) money paid to the Society under a contract referred to in section 89(5) of the Act; and
 - (c) money paid to or recovered by the Society pursuant to actions or other court proceedings under Part 4 of the Act.
- (2) The income of the Assurance Fund accrues to the Fund.
- (3) The following classes of expenditures by the Society are chargeable to the Assurance Fund:
- (a) expenditures in connection with;
 - (i) audits and investigations relating to claims against the Fund,
 - (ii) hearings of claims by the Finance Committee, and
 - (iii) hearings of claims and appeals by the Benchers under Rules 142(1) and 143 respectively;
 - (b) investigations and reviews conducted under Rule 130;
 - (c) payments under a contract referred to in section 89(5) of the Act;
 - (d) costs incurred in actions or other court proceedings under Part 4 of the Act to which the Society is a party;
 - (e) remuneration paid to a custodian appointed under Part 4 of the Act and payments to a custodian as reimbursement for costs and expenses incurred by the custodian in connection with proceedings under Part 4 of the Act;
 - (f) the portion of the general administration expenditures of the Society determined by the Executive Committee as being attributable to the administration of Part 4 of the Act; and
 - (g) payment of any national compensation fund levy.

DIVISION 2 CLAIMS AGAINST THE ASSURANCE FUND

Interpretation

- 139 (1) In this Division:
- (a) "Assurance counsel" means counsel engaged by the Society to represent the Society in its capacity as the holder of the Assurance Fund;

- (b) "Member concerned", in relation to a claim, means the member or former member who is alleged in the claim to have committed the acts giving rise to the claim;
 - (c) "Claims panel" means a panel of the Finance Committee established pursuant to Rule 142(1).
 - (d) "Executive Director" includes the employee holding the position of Director of Insurance and any other person designated by the Executive Director to perform any of the duties assigned to the Executive Director in this Division.
- (2) If a claim for compensation from the Assurance Fund has been submitted to the Society before November 1, 1998, the Finance Committee may direct that the claim be dealt with either in accordance with this Part or in accordance with the former Rules as they stood immediately before November 1, 1998 as though those Rules had not been repealed.

Nov2004

Methods of Service

- 140 (1) Where service of a notice pursuant to a provision of this Division is to be effected by a delivery under section 114(b) of the Act, the document may be delivered by means of a courier service or by ordinary mail.
- (2) Where service of a notice is required or authorized under this Division and
- (a) service of the document cannot be effected by any method of service described in section 114(a) or (b) of the Act; or
 - (b) there is reason to believe that service of the document pursuant to section 114(b) of the Act will be ineffectual because the person sought to be served no longer has any connection with the address referred to in section 114(b)(i) or (ii) of the Act,
- service of the notice may be effected in accordance with subrule (3).
- (3) (a) Service of a notice pursuant to subrule (2) may be effected by publication in which case the notice
- (i) must be addressed to the person to be served,
 - (ii) shall contain such information as directed by the Chair of the Finance committee, and
 - (iii) shall be published at such time as the Chair of the Finance Committee may direct.
- (b) Service of a notice pursuant to subrule (2) may be effected by any other method of service authorized by the Chair of the Finance Committee, subject in such case to the prior approval of the Chair and to any instructions given by the Chair in respect of the service of the document by that other method.
- (4) Notwithstanding subrules (1) and (3), where the Executive Director is notified that:
- (a) the claimant,
 - (b) the member concerned, or
 - (c) any other person recognized by the Finance Committee or claims panel as an interested party at the hearing,

has engaged legal counsel, all subsequent notices and communications to that person respecting the claim may instead be served on or given to that person's legal counsel.

Submission and Investigation of Claims

- 141 (1) Notice of a claim against the Assurance Fund shall be submitted to the Executive Director in writing and accompanied by an Application for Compensation in Form 6-1.
- (2) The Executive Director shall review the notice of claim to ensure that it is accompanied by a properly completed Application for Compensation.
- (3) If the notice of claim is not accompanied by a properly completed Application for Compensation, the Executive Director shall request of the claimant, in writing, that the claimant provide the required properly completed Application for Compensation.
- (4) (a) If the claimant does not provide the information requested pursuant to subrule (3) within 60 days of the mailing date of the request, by way of a properly completed Application, the Executive Director may strike the claim from the records of the Law Society and shall advise the claimant accordingly.

- (b) Striking a claim from the records of the Society pursuant to this subrule will not preclude a claimant from making a properly supported claim in the future based on the same facts as the struck claim, such future claims being subject to the same procedures and rules.
- (5) The Executive Director shall conduct an investigation of the claim and in the course of the investigation may request the claimant or the claimant's agent to attend at an examination under oath on the Application for Compensation by the Society's Assurance counsel.
- (6) The Executive Director or the Society's Assurance counsel shall, prior to the commencement of an examination under subrule (5), notify the person to be examined that the transcript of the examination may be presented in evidence at the hearing of the claim.
- (7) Repealed.
- (8) The Executive Director, the Finance Committee or a claims panel may determine a claim even if:
 - (a) an Application for Compensation is not submitted with the claim in accordance with this Rule, or
 - (b) the claimant or the claimant's agent does not comply with a request by the Executive Director under subrule (5),
 and make an adjudication pursuant to s. 89(3) of the *Legal Profession Act*, based on the evidence before it.

Determination of Claims by the Executive Director

- 141.1 (1)** The Executive Director shall review each claim to determine whether it could reasonably be considered to meet the requirements for a successful claim as set out in the *Legal Profession Act*, assuming that the alleged facts are true and the source does not completely lack credibility.
- (2) The Executive Director may dismiss the claim (and may refer the claimant to any other process that appears to be better suited to the claim) where there appears to be no prospect that the claim will meet the statutory requirements for a successful claim.
 - (3) The Executive Director may allow the claim where all of the statutory requirements appear to be met and where the member concerned has not opposed the claim.
 - (4)
 - (a) The Executive Director's review and determination shall be based entirely on documentary information and evidence. Where the Executive Director determines that viva voce evidence or oral submissions are required in order to properly assess the claim, the claim shall be referred to a claims panel.
 - (b) Where neither the requirements of subrule (2) nor the requirements of subrule (3) are met, the Executive Director shall refer the claim to a claims panel for determination.
 - (c) In any case, the Executive Director has the discretion to refer the claim to a claims panel for determination.
 - (5) Where the Executive Director dismisses or allows a claim the Executive Director shall advise the claimant and the member in writing of the decision made, of the reasons for that decision, and of the right to appeal the determination to a claims panel.
 - (6) Where the Executive Director dismisses any portion of a claim, the claimant may appeal that determination to a claims panel.
 - (7) Appeals to claims panels will be dealt with as if the Executive Director had never determined the claim.
 - (8) Notice of intention to appeal must be provided in writing to the Executive Director no more than 30 days after notice of the Executive Director's decision is provided to the claimant.
 - (9) Notwithstanding rule 139(1)(d), in this rule "Executive Director" means:
 - (a) the Executive Director, or
 - (b) the employee holding the position of the Director of Insurance where the claim does not exceed \$150,000.00.

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Further Evidence

- 141.2 (1)** Where the Executive Director determines that further information or evidence is required in order to properly determine a claim, the Executive Director may direct the claimant and/or the member to provide that information prior to determining the claim.

- (2) Where either the claimant or the member has been directed to provide additional information or evidence in accordance with subrule (1) and has failed to do so, and where the Executive Director reasonably believes that the information or evidence is in the possession or control of that party, the Executive Director may take that failure into account in making a determination of the claim.

Application to Claims Panel for Oral Hearing

- 141.3 (1)** Unless otherwise directed by a claims panel, claims and appeals from determinations made by the Executive Director will be determined without an oral hearing.
- (2) Where a claims panel decides to direct an oral hearing, the panel may direct whether the hearing will be conducted by tele-conference call, by video conferencing or by a full in-person hearing.
- (3) An application for an oral hearing may be made by the claimant, the member, the Executive Director, or at the initiation of the claims panel itself.
- (4) An application for an oral hearing shall be made in writing, shall set out the reasons why the oral hearing is being requested, and shall indicate whether and why the applicant believes that a tele-conference, a video conference or a full in-person hearing is required.
- (5) In determining whether to direct an oral hearing, the claims panel shall be guided by the principles of natural justice and may consider the following:
- (a) whether the claimant, the member, or the Executive Director has requested an oral hearing;
 - (b) whether there are any issues of fact which cannot be fairly resolved through the submission of documentary material;
 - (c) the amount of money in dispute;
 - (d) reasons given in support of an oral hearing, and whether any concerns raised can be adequately addressed by other means, including through the process of a tele-conference call or a video conference; and
 - (e) other circumstances that the panel considers to be relevant.

Claims Panel Process – other than Full In-Person Hearings

- 141.4 (1)** Where a claims panel directs a full in-person hearing, the proceedings will be governed by Rule 142.
- (2) Where a claims panel does not direct a full in-person hearing, the panel will determine the process to be followed as guided by the principles of natural justice and the circumstances of the case. Amongst other things, this will generally require:
- (a) that the claimant, the member and counsel for the Assurance Fund be permitted to submit relevant evidence and argument to the panel;
 - (b) that the claimant, the member and counsel for the Assurance Fund be advised of all material that will be provided to the panel;
 - (c) that the claimant, the member and counsel for the Assurance Fund be provided with a meaningful opportunity to object to material being provided to the panel; and
 - (d) that the panel provide reasons for its decision.

Full In-Person Hearings

- 142 (1)** Subject to subsection (2) of this Rule, the Finance Committee may sit in panels of a minimum of three members comprised of a majority of Benchers, one of whom will be a lay Bencher, for the purpose of:
- (a) adjudicating claims for compensation from the Assurance Fund under section 89 of the Act, and/or
 - (b) making any decisions on any other matters referred to the Finance Committee for determination.
- (2) If the conduct of the member concerned that gave rise to the claim for compensation is also the subject of criminal proceedings or proceedings under Part 3 of the Act, the hearing of the compensation claim shall be postponed until the other proceedings are concluded, unless the Chair of the Finance Committee and the Chair of the Conduct Committee otherwise direct.
- (3) (a) To commence claims hearing proceedings, the Executive Director shall serve on
- (i) the claimant,

- (ii) the member concerned, and
- (iii) any other person who the Executive Director believes may have an interest in relation to the claim,

a Letter of Appointment of claims panel and Notice of Hearing stating the date, time and place at which the Finance Committee or a claims panel will commence its hearing of the claim together with any documents related to the claim provided to the Finance Committee or a claims panel thereof in advance of the hearing.

- (b) Prior to any claim hearing, the Executive Director shall notify the claimant and the member concerned that the Executive Director intends to provide to the Finance Committee or the claims panel in advance of the hearing of the claim:
 - (i) a copy of the Application for Compensation,
 - (ii) a copy of the response of the member concerned,
 - (iii) the audit or investigation report, and
 - (iv) such other documents that are consented to be placed in the hands of the Finance Committee or claims panel in advance of the hearing by the claimant and the member concerned,

and that the claimant or member concerned may object to the Finance Committee or claims panel receiving (ii), (iii) and (iv) in advance. If no objection is received within fifteen (15) days of the date of the notice, all indicated documentation will be provided to the Finance Committee or claims panel in advance of the hearing together with the notice of date, time and place of hearing.

- (4) A notice issued under section 69(5) of the Act requiring a person to attend as a witness before the Finance Committee or claims panel shall be in Form 6-3.
- (5) Three members of a claims panel constitute a quorum at a meeting of the claims panel, comprised of a majority of Benchers, at least one of who shall be a lay Bencher.
- (6) Information acquired, proceedings held and decisions made by the Law Society in relation to a claim, including (but not limited to):
 - (a) proceedings before and decisions made by the Executive Director, and
 - (b) proceedings before and decisions made by a claims panel or the Finance Committee under Rules 141.3, 141.4 or 142,

shall be private unless the Executive Director, the claims panel or the Finance Committee (whichever the proceedings are before), on application, but subject to section 112(2) of the Act, directs that all or part of the information acquired, the proceedings held or the decision made is to be public.

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- (7) During any period in which the hearing is held in private, the only persons who may attend the hearing before the Finance Committee or claims panel are:
 - (a) the claimant, the claimant's counsel, the member concerned, the counsel for the member concerned, the Assurance counsel, the Executive Director and any person authorized by the Finance Committee or claims panel to record the proceedings; and
 - (b) any other persons authorized by the Executive Director or the Chair of the Finance Committee to attend.
- (8) Subject to the Act and these Rules, the Finance Committee may determine its own procedures respecting the conduct of panel hearings to adjudicate claims against the Assurance Fund and the adjudication of those claims.
- (9) When the Finance Committee or a claims panel has made an adjudication of a claim, the Executive Director shall notify:
 - (a) the claimant;
 - (b) the member concerned; and
 - (c) any other person recognized by the Finance Committee or claims panel at the hearing as an interested party,

of the adjudication, provided such parties were in attendance at the hearing. The Chair of the Finance Committee may direct the Executive Director to notify persons entitled to be present at that hearing, but not in attendance, of the adjudication, in a manner to be determined by the Chair of the Finance Committee.

Appeal to the Benchers

- 143 (1)** The adjudication of the Finance Committee or a claims panel respecting a claim may be appealed to the Benchers in accordance with this Rule.
- (2)** Where the adjudication of the Executive Director, a claims panel, or the Finance Committee respecting a claim is based on an Agreed Statement of Facts and Exhibits agreed to by all parties entitled to appear before the Executive Director, the Finance Committee or claims panel, the right of appeal may be waived, in writing, by all parties. In such an instance, the Executive Director may pay the claim prior to the conclusion of the appeal period, provided all conditions for payment ordered by the Executive Director or the Committee (as the case may be) have been met.
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- (3)** An appeal under this Rule may be commenced:
- (a) by the claimant, the member concerned or any person recognized by the Finance Committee or claims panel at the hearing as an interested party, by filing a notice of appeal containing an address for service with the Executive Director within the 30-day period following;
- (i) the date on which the Finance Committee or claims panel announced its adjudication, if the appellant or the appellant's counsel was present before the Committee when the announcement was made, or
- (ii) in any other case, the date on which the appellant was notified under Rule 142(9) of the adjudication of the Finance Committee or the claims panel, or
- (b) by the Executive Director, by filing a notice of appeal with the President or President-Elect within the 30-day period following the date on which the Executive Director was first notified of the Finance Committee's adjudication.
- (4)** An appeal to the Benchers under this Rule:
- (a) shall be heard by an appeal panel consisting of no fewer than 7 Benchers at least one of whom shall be a lay Bencher unless the Benchers direct that the claim will be heard by the Benchers in convocation;
- (b) shall be based on the record of the hearing before the Finance Committee or claims panel and on its adjudication rendered to the parties; and
- (c) shall be held in private, unless the Benchers, on application, but subject to section 112(2) of the Act, direct that all or part of the appeal is to be held in public.
- (5)** Where an appeal is commenced by a person other than the Executive Director, the appeal shall not be heard by the appeal panel unless the appellant has paid for, or has made arrangements satisfactory to the Executive Director to pay for, the cost to the Society of preparing and distributing to the appeal panel the record of the hearing before the Finance Committee or claims panel.
- (6)** If the payment of costs or an arrangement satisfactory to the Executive Director to pay costs as required by subrule (5) has not been made within 30 days of notice of the requirement to the appellant, the appeal shall be deemed to be abandoned. The Executive Director shall note the abandonment in the Society's records and notify the appellant, the member and any other person recognized at the hearing by the Finance Committee or claims panel.
- (7)** Notwithstanding subrule (5), the Chair of the Finance Committee or the appeal panel may:
- (a) order that the payment of all or part of the cost of preparing and distributing the record of the hearing before the Finance Committee or claims panel be waived or refunded; or
- (b) in the event that the appellant's appeal is wholly or partly successful, direct that all or part of that cost be repaid to the appellant.
- (8)** The Executive Director shall serve on:
- (a) the claimant;
- (b) the member concerned; and
- (c) each person recognized as an interested party at the hearing of the Finance Committee or the claims panel,
- a notice stating the date, time and place at which the appeal panel will commence its hearing of the appeal.

- (9) Subject to the Act and these Rules, the appeal panel shall issue a notice stating the date, time and place at which the appeal panel will commence its hearing of the appeal.
- (10) When the appeal panel has decided an appeal under this Rule, the Executive Director shall notify each of the persons referred to in subrule (8) of the decision of the appeal panel.

Preconditions to Payment of Claims

- 144 (1) Subject to subrule (2) and any limitation imposed by the Benchers on payments from the Fund, the Society shall make a payment of compensation to a claimant from the Assurance Fund in respect of all or part of a claim under section 89 of the Act if:
- (a) the Executive Director, the Finance Committee or a claims panel has approved the payment in its adjudication and the Executive Director is satisfied that either:
 - (i) the appeal periods provided for in Rules 141.1(8) or 143 (as the case may be) have expired without an appeal having been taken,
 - (ii) any appeal commenced in accordance with Rules 141.1(8) or 143 (as the case may be) has been abandoned or deemed to be abandoned,
 - (iii) all persons entitled to appeal under Rules 141.1(6) or 143(3)(a) (as the case may be) have notified the Executive Director that they have waived their right to appeal and the Executive Director has waived the right of appeal, or
 - (iv) the appeal panel has confirmed the adjudication by the Finance Committee or the claims panel of the claim and the amount of compensation to be paid; or
 - (b) the appeal panel has approved the payment in its adjudication but in an amount different from that approved by the Finance Committee or the claims panel.
- (2) A payment from the Assurance Fund approved by the Executive Director, a claims panel, the Finance Committee or the appeal panel may not be made unless:
- (a) the Executive Director is provided with a release and assignment executed by the claimant and in a form satisfactory to the Executive Director and with a release and assignment executed by any other person specified by the Executive Director, the Finance Committee, a claims panel, or the appeal panel, as the case may be, and in a form satisfactory to the Executive Director, and
 - (b) the Executive Director is satisfied that all conditions imposed by the Executive Director, the Finance Committee, claims panel or the appeal panel, as the case may be, have been fulfilled.

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PART 7 PROFESSIONAL LIABILITY CLAIMS

Insurance Committee

- 145 (1) The Insurance Committee is established.
- (2) The Insurance Committee:
- (a) shall supervise all aspects of professional liability insurance in which the Society or ALIA is involved; and
 - (b) may investigate and make recommendations to the Benchers upon any form of professional liability insurance which may appear desirable.

DIVISION 1 PROFESSIONAL LIABILITY INSURANCE ASSESSMENTS

Levy of Insurance Assessments

- 146 (1) For the purposes of the indemnity program, insurance assessments:
- (a) shall be levied prior to the commencement of a policy period and shall be applicable to that period, or for such other periods determined by the Benchers; and
 - (b) shall be levied on those members who are not exempt nor suspended members on the first day of the policy period to which the assessment applies.
- (2) The Benchers may levy insurance assessments at a uniform rate or at differing rates for different classes of members.
- (3) The Insurance Committee may levy special assessments based on a member's claims history within the policy established by the Benchers.
- (4) Where during a policy period a person becomes an active member or is reinstated as an active member or a member ceases to be an exempt member, the insurance assessment payable by the member shall be an amount determined by the Insurance Committee within the policy established by the Benchers.

Liability for Insurance Assessments

- 147 ALIA shall, prior to the commencement of each policy period, send to each member liable for the payment of an insurance assessment for that policy period a notice showing:
- (a) the amount of the insurance assessment payable by the member for the policy period and the date by which and the manner in which the assessment must be paid, or
 - (b) where the assessment is payable in instalments, the amount of the insurance assessment payable by the member for the policy period, the respective amounts of the instalments and the respective dates by which and the manner in which the instalments must be paid.

Exempt Members

- 148 (1) A member is exempt from the requirement to pay an insurance assessment and is not covered under the indemnity program for services rendered during any period in which:
- (a) the member's principal practice of law is carried on outside Alberta;
 - (b) subject to subrules (2) and (2.1), the member is a counsel as defined in Rule 135(1)(a);
 - (c) the member has been excluded from coverage under the indemnity program by the insurer under the group policy for the program, with the concurrence of the Benchers;
 - (d) the member is not engaged in the practice of law in Alberta, where the member has filed with the Society a written undertaking that the member will not engage in the practice of law; or
 - (e) the member is an inactive member.
- (2) The exemption provided by subrule (1)(b) does not extend to any period in which the member is employed by:
- (a) The Law Society of Alberta;

- (b) The Environmental Law Centre (Alberta) Society;
- (c) The Legal Aid Society of Alberta, unless the member is employed by that Society in the capacity of the Executive Director, the Northern Director or the Southern Director;
- (d) Calgary Legal Guidance;
- (e) Student Legal Services Society;
- (f) Student Legal Assistance Society of the University of Calgary,
- (g) The Edmonton Centre for Equal Justice.

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- (2.1)** Notwithstanding subrule (1)(b) and (d), the members who are otherwise so exempted are, nevertheless, covered by the indemnity program for pro bono legal services rendered through the Volunteer Lawyers Services program, Calgary Legal Guidance, the Edmonton Centre for Equal Justice, the Central Alberta Community Legal Clinic or Lethbridge Legal Guidance.

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- (3)**
- (a) An exemption provided by subrule (1) terminates when the facts on which the exemption is based cease to exist.
 - (b) The member concerned shall immediately notify the Society of the termination and of the date on which the exemption terminated.
- (4)** ALIA may, by a notice to a member shown on its records as exempt, require the member to file with ALIA, within the time prescribed by the notice, a statement certifying the facts entitling the member to qualify as exempt. If the member does not comply with the notice within the prescribed time, the Executive Director may:
- (a) direct that the exemption be terminated as prescribed by the notice, unless the exemption terminated sooner pursuant to subrule (3); or
 - (b) suspend the membership of the member until the member
 - (i) provides the statement required by the notice, or
 - (ii) acknowledges the termination of the exemption and pays the insurance assessment for the portion of the policy period following the date of the termination of the exemption.
- (5)** If a person who is a member, or an applicant for enrolment as a member, seeks to be an exempt member by reason of subrule (1) (a), that person shall furnish proof, in a form satisfactory to the Executive Director, of the following:
- (a) if the person's principal practice of law is located in a jurisdiction within Canada but outside Alberta, that the person has coverage for indemnification against professional liability claims to the full extent of the mandatory coverage required in that jurisdiction, and that such coverage extends to the practice of law in Alberta, or
 - (b) if the person's principal practice of law is located in a jurisdiction outside Canada, that the person has coverage from an insurer acceptable to the Insurance Committee for indemnification against professional liability claims that is comparable to the coverage provided by the indemnity program, and that such coverage extends to the practice of law in Alberta.
- (6)** A member who is exempt by reason of subrule (1) (a) shall, on or before March 15 in each year, furnish, in a form satisfactory to the Executive Director, proof of the kind described in subrule (5) (a) or (b), as a precondition to the continuation of the exemption.
- (7)** If a member does not comply with subrule (6) in any year, the Executive Director may suspend the membership of the member until:
- (a) the proof required by subrule (6) is furnished to ALIA, or
 - (b) the member acknowledges the termination of the exemption pursuant to subrule (3) and pays the insurance assessment for the portion of policy period following the date of the termination of the exemption.

Coverage for Exempt Member

- 149** Notwithstanding Rule 148, the Insurance Committee may, on the request of a member who was insured as an active member at the time of making the request, make subject to assessment and grant entitlement to indemnification for a period not exceeding one year to a member who has been insured as an active member

and who has become an exempt member, with respect to those matters commenced by the member and not completed prior to becoming an exempt member.

DIVISION 2 THE INDEMNITY PROGRAM

Indemnity Program Fund

- 150 (1)** In this Division, "the indemnity program fund" means the fund or funds of the Alberta Lawyers Insurance Association and shall include the fund or funds of the Society referred to in section 100 of the Act, which are hereby transferred from the Society to the Alberta Lawyers Insurance Association pursuant to section 101(1) of the Act.
- (2)** The income of the indemnity program fund accrues to the fund.
- (3)** Expenditures may be made from the indemnity program fund for the following purposes:
- (a) the payment, in appropriate circumstance, of
 - (i) all or part of the indemnification payable under the group policy in respect of a claim;
 - (ii) all or part of a member's deductible;
 - (b) the payment of expenses in connection with the maintenance and administration of the indemnity program, including, without limitation, expenses relating to claims and risk management, the services of consultants, brokers and adjusters, the defence of claims, loss prevention and education programs and accounting, office and administrative services;
 - (c) the payment of the costs of insuring any portion of the indemnity program determined by the Benchers;
 - (d) the investment of money in the fund and the payment of expenses relating to those investments;
 - (e) the payment of amounts payable by the Society or ALIA under a contract or arrangement entered into pursuant to section 99(2)(a) of the Act.

Recovery of Deductible Amount

- 151 (1)** Where the deductible portion of a claim otherwise payable by a member or former member has been paid from the indemnity program fund, ALIA has the right to recover the amount on its own behalf or on behalf of the Society and may enter into an agreement with the member or former member for the repayment to ALIA of the amount by instalments or otherwise.
- (2)** Any member who fails:
- (a) to pay all or any part of the deductible portion of a claim for which that member is liable, or
 - (b) to enter into or is in default of any agreement made pursuant to subrule (1)
- may be considered to be in breach of the professional and ethical duty to meet financial obligations.
- (3)** If a member is in arrears:
- (a) under an obligation under subrule (2)(a); or
 - (b) under an agreement entered into pursuant to subrule (1)
- the total amount of the arrears, with interest, may be added to and deemed to be part of insurance assessment levies pursuant to Rule 146(2).

Co-operation of Member

- 152 (1)** A member shall:
- (a) as soon as practicable after learning of a claim involving services performed by the member, or of a circumstance which may give rise to such a claim, notify ALIA of the claim or circumstance;
 - (b) promptly furnish to ALIA any information relating to the claim or circumstance reasonably required by the insurer under the group policy; and
 - (c) forward to ALIA immediately every demand, notice, summons or other process received by the member and relating to the claim.

- (2) A member shall comply with the terms of each professional liability insurance policy.

Retroactive Assessments

- 153 (1) In this Rule, "retroactive assessment" means an assessment levied retroactively on the "Insured" named in a Certificate of Insurance, or the equivalent thereof, issued in respect of a specific policy term of voluntary excess coverage offered through the Society or ALIA.
- (2) Each Insured shall pay, on or before the date specified, the full amount of any retroactive assessment and, where the Insured is a single member, such member shall upon default of such payment be subject to suspension by the Benchers upon such terms and conditions as they may impose.
- (3) Where the Insured in respect of such voluntary excess coverage consists of 2 or more active members practising together in any kind of association whatsoever, such Insured shall pay, on or before the date specified, the full amount of any retroactive assessment and, upon default of such payment, each active member of the Insured shall be subject to suspension by the Benchers upon such terms and conditions as they shall impose.
- (4) Notwithstanding subrule (3), a member who by virtue of the member's arrangement of practice with an Insured, during the period covered by the retroactive assessment, is not legally responsible for the payment of retroactive assessments, shall not be subject to suspension by the Benchers upon default of payment of a retroactive assessment.

PART 8 PROFESSIONAL CORPORATIONS

Interpretation

- 153.1 In this Part, "Executive Director" includes the employees holding the positions of Credentials and Education Counsel, Membership Manager, Membership Officer, Counsel and Policy and Programs Counsel.

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Register of Professional Corporations

- 154 (1) The Executive Director shall maintain a register of professional corporations containing the following information with respect to each professional corporation:
- (a) The name and registered office of the professional corporation and the number on the register attributed to the professional corporation;
 - (b) The date of issuance of the initial permit to the professional corporation;
 - (c) The respective dates of the renewal of the permit of the corporation and the number on the register attributed to the professional corporation; and
 - (d) Any other particulars specified by the Benchers.
- (2) The Executive Director shall prepare any other records with respect to professional corporations specified by the Benchers.

Approval re. Incorporation

- 155 (1) Where a person proposes to incorporate a corporation under the *Business Corporations Act* with the intention of obtaining a permit for the corporation under Part 8 of the Act:
- (a) the person 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 subrule; and
 - (b) the Executive Director shall endorse the articles with the Executive Director's approval on behalf of the Society pursuant to section 7(2) of the *Business Corporations Act* if the Executive Director is satisfied that:
 - (i) the name of the proposed corporation complies with the Rules,
 - (ii) the person or persons who will be voting shareholders of the proposed corporation are active members of the Society,
 - (iii) the persons, if any, who will be non-voting shareholders of the corporation are within the classes described in section 131(3)(f) of the Act, and
 - (iv) the articles are otherwise in accordance with the Act.
- (2) Subrule (1) of this Rule and Rule 156(1) apply, with the necessary modifications, to cases where a person proposes to file:
- (a) articles of continuance to continue a body corporate as a corporation under the *Business Corporations Act* with "Professional Corporation" as the last words of its name;
 - (b) articles of amendment under the *Business Corporations Act* to change the name of a corporation to one with "Professional Corporation" as the last words of its name; or
 - (c) articles of amalgamation under the *Business Corporations Act* under which the amalgamated corporation will have "Professional Corporation" as the last words in its name,
- with the intention of obtaining a permit for the corporation under Part 8 of the *Legal Profession Act*.
- (3) For the purposes of applying subrule (2):
- (a) references in subrule (1) of this Rule and Rule 156(1) to a certificate of incorporation shall, where appropriate, be read as a reference to a certificate of amalgamation; and
 - (b) references in those subrules to articles of incorporation shall be read as references to articles of continuance, articles of amendment or articles of amalgamation, as the case may be.

Application for Permit

- 156 (1)** A corporation may apply to the Executive Director for a permit for the corporation under Part 8 of the Act by submitting:
- (a) an application for a permit in Form 8-1;
 - (b) a reproduced copy of the corporation's certificate of incorporation under the *Business Corporations Act* and a reproduced copy of its articles of incorporation as approved by the Executive Director under Rule 155 and filed under that Act; and
 - (c) the prescribed application fee.
- (2)** A professional corporation shall inform the Executive Director of any change in the particulars set forth in the application furnished pursuant to subrule (1), by providing to the Executive Director a Statement of Particulars in Form 8-2 within 15 days of the change.

Form of Permit

- 157** A permit issued pursuant to section 131(3) of the Act shall be in Form 8-3.

Renewal of Permit

- 158 (1)** The Executive Director shall in each year mail to each professional corporation then holding a subsisting permit, a written notice in Form 8-4 respecting the renewal of its permit.
- (2)** A professional corporation wishing to have its permit renewed for the following calendar year shall furnish to the Executive Director on or before December 31 in each year:
- (a) a statement of particulars in Form 8-2; and
 - (b) payment of the prescribed renewal fee.
- (3)** The Executive Director shall issue an annual renewal certificate to a professional corporation in Form 8-5 when the corporation complies with subrule (2) and the Executive Director is satisfied as to the matters enumerated in section 131(3) of the Act.
- (4)** Where a professional corporation fails to comply with the requirements of this Rule, the Executive Director shall notify the professional corporation that its permit has expired, shall enter the expiration of the permit into the register of professional corporations, and shall notify the Registrar of Corporations accordingly.
- (5)** Where the permit of a professional corporation expires under this Rule and the professional corporation wants to renew its permit with the Law Society, the information required, the fee required, and all other aspects of the application will be the same as if the professional corporation had never obtained a permit from the Law Society.
- (6)** Where the permit of a professional corporation expires under this Rule and the professional corporation wants to renew its permit with the Law Society retrospectively:
- (a) The professional corporation:
 - (i) shall provide all of the information required for application for a permit;
 - (ii) shall pay the fee required for application for a permit, plus the fee for all past years for which the professional corporation is applying for retrospective renewal; and
 - (iii) shall advise why the permit was not kept current, whether any trust funds have been held in the name of the professional corporation during the period for retrospective renewal, and whether the requisite trust records were kept up to date; and
 - (b) The Executive Director shall determine whether to grant the application for retrospective renewal, taking into account whether the requirements set out in the Act and the Rules are met for each year involved and whether a retrospective renewal could reasonably be prejudicial to the public, the Law Society or the profession.

Corporate Name

- 159 (1) Apart from the words "Professional Corporation" and the year of incorporation, the name of a professional corporation having one voting shareholder shall consist of one or more of the given names or initials of the voting shareholder and the surname of the voting shareholder.
- (2) Apart from the words "Professional Corporation" and the year of incorporation, the name of a professional corporation having two or more voting shareholders shall consist of:
- (a) the surname of at least one active practising member of the Society who is a voting shareholder of the corporation, with or without given names or initials of that member, or
 - (b) the surname of at least one member or former member whose name appeared in the name of any law firm whose practice was acquired by the professional corporation.
- (3) Notwithstanding subrule (2), the name of a professional corporation shall not, apart from the words "Professional Corporation", consist solely of the name of an inactive member or a deceased member.
- (4) Notwithstanding subrule (1), the name of a professional corporation having one voting shareholder may include the honorific "Q.C." properly attributable to the one voting shareholder of the corporation.
- (5) Notwithstanding subrule (2), the name of a professional corporation having two or more voting shareholders may include the words "and company"; "and partners"; or "and associates".
- (6) Notwithstanding subrules (1) and (2) the name of a professional corporation may include any words necessary in order to facilitate extra-provincial registration of a professional corporation.

PART 8.1 LIMITED LIABILITY PARTNERSHIPS

Interpretation

159.01 In this Part, "Executive Director" includes the employees holding the positions of Credentials and Education Counsel, Membership Manager, Membership Officer, Counsel and Policy and Programs Counsel.

Feb2004

Register of LLPs

- 159.1 (1)** The Executive Director shall maintain a register of LLPs containing the following information with respect to each LLP:
- (a) the name and registered office of the LLP and the number on the register attributed to the LLP;
 - (b) the names and roll numbers of the members of the Society who are partners in the LLP, or who hold shares in a professional corporation that is a partner in the LLP;
 - (c) the date of initial approval by the Society of the application of the LLP for registration under Part 3 of the *Partnership Act*, and
 - (d) any other particulars specified by the Benchers.
- (2)** The Executive Director shall maintain any other records with respect to LLPs specified by the Benchers.
- (3)** A registered LLP shall notify the Executive Director in writing of any change in the particulars specified in subrule (1) before or immediately after the change is made and shall submit with such notification the prescribed fee for registration of the change.

Registration of Alberta LLP

- 159.2** Where a law firm proposes to register as an Alberta LLP under Part 3 of the *Partnership Act*:
- (a) the firm shall forward to the Executive Director the proposed application, the prescribed fee, and any other information required by the Executive Director for the purposes of this Rule; and
 - (b) the Executive Director shall endorse on the application or shall issue a statement of the Society's approval and certification pursuant to section 82(4)(b) of the *Partnership Act* that
 - (i) the partners of the firm are covered by liability insurance in the form and amount required for that purpose by these Rules, and
 - (ii) the partnership and the partners meet all other eligibility requirements for practice as an LLP that are imposed by the Benchers from time to time pursuant to the Act,provided that the Executive Director is satisfied as to those matters.

Registration of Extra-Provincial LLP

- 159.3** Where a partnership that:
- (a) has the status of a limited liability partnership under the laws of a jurisdiction outside Alberta; and
 - (b) consists of one or more partners, whether individuals or professional corporations, that carry on the practice of law,
- proposes to register as an extra-provincial LLP under Part 3 of the *Partnership Act*
- (c) the partnership shall forward to the Executive Director the proposed application, the prescribed fee, and any other information required by the Executive Director for the purposes of this Rule; and the Executive Director shall endorse on the application or issue a statement of the Society's approval and certification pursuant to section 94(3)(b)(ii) of the *Partnership Act* that
 - (i) the Alberta partners in the partnership are covered by liability insurance in the form and amount required for that purpose by these Rules, and
 - (ii) the partnership and the Alberta partners meet all other applicable eligibility requirements for practice as an extra-provincial LLP that are imposed by the Benchers from time to time pursuant to the Act,

provided that the Executive Director is satisfied as to those matters.

Insurance Requirements

- 159.4** A member of the Society who is a partner in an LLP, or who holds shares in a professional corporation that is a partner in an LLP, must have and maintain professional liability insurance providing coverage of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

Other Eligibility Requirements

- 159.5** The Executive Director shall not issue the Society's approval of an application under Rule 159.2 or 159.3 if the applicant partnership has one or more partners, whether individuals or professional corporations, that are not entitled to carry on the practice of law.

Notification of Non-Compliance

- 159.6** The Executive Director, or any other person so authorized by the Benchers from time to time, shall provide notification to the Registrar of Corporations in accordance with the *Partnership Act* if the Society becomes aware of the failure of an LLP or one or more of its partners to maintain compliance with the requirements imposed on an LLP and its partners pursuant to these Rules and the Act.

Renewal of Permit

- 159.7 (1)** The Executive Director shall in each year send to each LLP and to each Extra-Provincial LLP then registered with the Society a written notice respecting the renewal of its registration. The notice will advise what information and fee must be provided, and will specify the deadline to be met.
- (2)** An LLP or Extra-Provincial LLP wishing to renew its registration shall furnish to the Executive Director the information and fee required by this Rule on or before December 31 in each year, failing which the registration shall expire and the Law Society will notify the Registrar of Corporations and the LLP or Extra-Provincial LLP accordingly.
- (3)** The information required for annual renewal of registration shall include:
- (a)** full particulars of any change since the most recent annual filing in (a) the name and registered office of the LLP, (b) the number on the register attributed to the LLP, and (c) the names and roll numbers of the members of the Society who are partners in the LLP, or who hold shares in a professional corporation that is a partner in the LLP;
 - (b)** a list of all of the members of the Law Society of Alberta, professional corporations in Alberta, and others authorized by the Law Society of Alberta to practice law and who are partners in the LLP;
 - (c)** the name and address (business and residential) of the partner who is designated as the representative of the partnership in respect of matters relating to the partnership;
 - (d)** confirmation that each of the persons who will carry on the practice of a barrister and solicitor on behalf of the partnership is an active and insured member of the Law Society of Alberta; and
 - (e)** confirmation that the LLP continues to be registered with the Province of Alberta as an Alberta LLP or as an Extra-Provincial LLP (as the case may be) pursuant to Part 3 of the *Partnership Act*.
- (4)** The Annual renewal fee will be set each year by the Finance Committee.
- (5)** Where the registration for an LLP or Extra-Provincial LLP expires under this Rule and the LLP or Extra-Provincial LLP wants to renew its registration with the Law Society the information required, the fee required and all other aspects of the application will be the same as if the LLP or Extra-Provincial LLP had never been registered with the Law Society.

PART 9 SOCIETY FEES AND ASSESSMENTS

DIVISION 1 FEES, ASSESSMENTS AND OTHER CHARGES

Interpretation

- 160** In this Part,
- (a) "assessment" includes an Assurance Fund levy, a professional liability insurance assessment, or a library assessment under Rule 171; and
 - (b) "Executive Director" includes the employees holding the positions of Credentials and Education Counsel, Counsel, and Policy and Programs Counsel.

Feb2004

Prescribing Fees and Assessments

- 161** The fees for the matters set out in Form 9-1 are as specified in Form 9-1.

Feb2001

Remission of Fees

- 162** (1) Subject to subrule (2), the Finance Committee may order the remission of all or any part of any fee or assessment payable to the Society by a member, a student-at-law or a professional corporation, if, in the Committee's opinion, it is appropriate to do so because of:
- (a) an appointment to a judicial office;
 - (b) the death of the member or student-at-law; or
 - (c) circumstances that would impose undue hardship on the member or student-at-law.
- (2) The Benchers may order the remission of any fee or assessment imposed on a member in any year, where the membership of the member was under suspension during all or part of that year, and, in the opinion of the Benchers, it is appropriate to order the remission.

Annual Fee and Assurance Fund Levy

- 163** (1) The Executive Director shall, on or before February 15 in each year, mail:
- (a) to all members other than inactive and suspended members a notice showing the amount of the annual fee and the Assurance Fund levy payable by active members for that year; and
 - (b) to all inactive members except inactive members (retired) a notice showing the amount of the annual fee payable by inactive members, except inactive members (retired), for that year.
- (2) If a member is in arrears respecting a payment to the Society or ALIA under an agreement made pursuant to Rule 151(1), the Executive Director may include in the notice given to the member under subrule (1) the amount of the arrears and, on doing so, the arrears are deemed to be part of the annual fee for the purposes of this Rule and Rules 164, 165 and 166.

Liability for Annual Fee and Assessments

- 164** (1) Subject to subrules (2) and (3), a member's liability to the Society for an annual fee or an assessment arises on March 15 of the year for which the fee or assessment is imposed, but if on that date the membership of the member is under suspension:
- (a) the liability for the fee and assessment arises on the date on which the membership of the member is no longer under suspension; and
 - (b) Rule 164 does not apply to the member in relation to that fee or assessment.
- (2) A member's liability to the Society or ALIA for a professional liability insurance assessment arises on the date or dates for payment specified in the notice sent by ALIA under Rule 147.

- (3) An inactive member (retired) is not liable for fees and assessments which fall due after the member makes an election under Rule 69 (3).
- (4) Where, prior to March 15 in any year, a member:
- (a) submits a written election under Rule 69 (1) to become an inactive member, which election is approved by the Executive Director; and
 - (b) pays the annual fee payable by inactive members,
- the Executive Director may waive the member's liability for the annual fee, assurance fund levy and library assessment payable by active members for that year, notwithstanding the Executive Director's approval is given after March 15 in that year.
- (5) Where, prior to March 15 in any year, a member applies to resign under Rule 70, which application is approved by the Benchers, the Benchers may waive the member's liability for the annual fee, Assurance Fund levy and library assessment notwithstanding the Benchers' approval is given after March 15 in that year.

Member Information Update Form

- 164.1 (1) The Executive Director shall, on or before February 15 in each year, email, fax or mail to each member a copy of the Member Information Update form, the content of which will be determined by the Executive Committee, together with a copy of this Rule.
- (2) Each member must complete, sign and return the Member Information Update form to the Law Society no later than March 15 of that year, subject to any extension of time authorized by the Executive Director's delegate.
- (3) Failure to comply with (2) above will result in:
- (a) an administrative penalty of \$100.00; and
 - (b) the issuance of the member's annual certificate being held in abeyance pending compliance with (2).

Nov2002

Sanctions for Late Payment

- 165 (1) If a member is liable in any year for the payment of the annual fee, assurance fund levy or library assessment, and the payment in full is not received by the Society at its offices in Calgary, Alberta, on or before March 15 in that year, the member shall stand automatically suspended as at March 31 in that year unless payment in full is received by that date.
- (2) If a member is liable in any year for the payment of the annual non-practising fee and the payment in full is not received by the Society at its offices in Calgary, Alberta on or before March 15 in that year, the member shall stand automatically suspended as at March 31 in that year unless payment in full is received by that date.
- (3) Each active member shall, on or before the date or dates specified in the notice sent by Alberta Lawyers Insurance Association under Rule 147 for payment of the professional liability insurance assessment, pay the full amount or amounts shown on the notice. In default of payment, the member shall stand automatically suspended as of July 15 in that year unless payment in full is received by that date.
- In the event the member elects to pay the professional liability insurance assessment in two instalments, in default of payment either instalment, the member shall stand automatically suspended as of July 15 in that year or January 15 in the following year, as the case may be.
- (4) A member who stands suspended pursuant to subrule (1) or (3) shall have seven days to either:
- (a) make, to the satisfaction of the Executive Director, the necessary arrangements for an active practising member to take possession of his or her files and records and take responsibility for the provision of legal services to his or her clients; or
 - (b) seek reinstatement pursuant to Rule 115 and pay all necessary fees and levies, including the reinstatement fee, pursuant thereto,
- failing which the Society will apply to have a custodian of the suspended member's practice appointed pursuant to section 95 of the *Legal Profession Act*, and to seek reimbursement of the costs of that custodianship from the suspended member, pursuant to section 97 of the *Legal Profession Act*.
- (5) A member, suspended under this Rule, may apply to the Executive Director pursuant to Rule 115 to be reinstated as a member.

Feb2005

Annual Certificate

- 166** The Executive Director shall issue an annual certificate to an active member, if the member has completed, signed and returned the Member Information Update form required under Rule 164.1, and has paid the annual fee, the Assurance Fund levy, any penalty arising under Rule 164.1(3) and the library assessment.

Nov2002;Feb2003

DIVISION 2
RECOVERY FOLLOWING TERMINATION OF DISCIPLINARY SUSPENSION

Interpretation

- 167 (1)** In this Division:
- (a) "disciplinary suspension" in relation to a member means:
 - (i) the suspension of the membership of the member imposed by or ordered pursuant to Part 3 of the Act, or
 - (ii) a disbarment order deemed by subrule (2) to operate as a suspension of the membership of the member for the purposes of this Division;
 - (b) "rules suspension" means a suspension of the membership of a member imposed by the operation of Rules 129, 148 or 165 or their predecessors in the former Rules; and
 - (c) "termination", in relation to a disciplinary suspension, includes:
 - (i) expiration of the suspension,
 - (ii) a stay of the operation of the disciplinary suspension ordered under section 75(7) or 80(8) of the Act, or
 - (iii) the quashing of the order for the disciplinary suspension pursuant to section 77 or 82 of the Act or as a result of judicial review proceedings under the Alberta Rules of Court.
- (2)** If a disbarment order made against a member is stayed pursuant to section 75(7) or 80(8) of the Act or is quashed pursuant to section 77 or 82 of the Act or as a result of judicial review proceedings under the Alberta Rules of Court then, for the purposes of this Division, the disbarment order is deemed to operate as a suspension of the membership of the member for the period in which the disbarment order remained in effect.
- (3)** The operation of a disciplinary suspension or rules suspension is not affected by the termination of any other suspension of the membership of the same member.

Suspension for non-payment Following Disciplinary Suspension

- 168 (1)** On the termination of a member's disciplinary suspension, the membership of that member is automatically suspended under this Rule if one or more of the following circumstances exist with respect to the member at the time of the termination of the member's disciplinary suspension:
- (a) the prescribed annual fee is then owed by the member for the current year and has not been paid in full;
 - (b) any arrears of annual fees owing by the member for any previous years have not been paid in full;
 - (c) the Assurance Fund levy owing by the member for the current year has not been paid in full;
 - (d) all arrears of the Assurance Fund levies owing by the member for previous years have not been paid in full;
 - (e) all arrears of penalties owing by the member under Rule 165 of these Rules or Rule 152 of the former Rules have not been paid in full;
 - (f) the professional liability insurance assessment owing by the member for the current year under Rule 147 has not been paid in full unless the member is then exempted from the payment of the professional liability insurance assessment for that year; or
 - (g) all arrears of professional liability insurance assessments owing by the member for previous years have not been paid in full.
- (2)** A member, suspended under this Rule, may apply to the Executive Director pursuant to Rule 115.1 to be reinstated as a member.

Consequences of Continuation of Rules Suspension

- 169 On the application of the Executive Director and on notice to the member, the Benchers may order that the name of a member be struck off the Roll at any time following the expiration of a period of 4 consecutive years during which a rules suspension, or a suspension under Rule 168 of the membership of the member has been in effect.

DIVISION 3 LIBRARY ASSESSMENTS, FEES AND FINES

Fees, Disbursements and Fines

- 170 (1) In this Rule:
- (a) "chief librarian" means the librarian in charge of the operation of the law library system;
 - (b) "Joint Library Committee" means the committee established pursuant to agreement dated 4 June 1949 between the Province of Alberta and the Society;
 - (c) "law library" means a law library maintained wholly or partly by funds of the Society;
 - (d) "library fine" means a pecuniary penalty prescribed by the Benchers pursuant to subrule (2);
 - (e) "member" includes a student-at-law.
- (2) For the purposes of this Rule, after considering the recommendations of the Joint Library Committee, the Benchers, or the Finance Committee may prescribe:
- (a) the services and disbursements for which law libraries may charge a fee in addition to the assessments already paid by the members under Rule 171;
 - (b) the amounts that may be charged for those services and disbursements;
 - (c) a schedule of fines to be imposed on members for contravening subrule (3); and
 - (d) the time within which a fine referred to in clause (c) must be paid to the Joint Library Committee by a member after the member is notified of its imposition by the chief librarian.
- (3) On or before the recorded return or payment date:
- (a) a member who borrows any library material from a law library must return that material to the same law library in the same condition that it was in at the time of borrowing; and
 - (b) a member who requests and obtains a service for which a fee or disbursement is set under subrule (2) must pay the amount owing.
- (4) If a member contravenes subrule (3) by:
- (a) returning the library material after the recorded return date;
 - (b) returning the library material in a damaged condition;
 - (c) failing for any reason to return the library material after the recorded return date, or
 - (d) failing to make a payment on time as required by subrule (3)(b),
- the member shall pay to the Joint Library Committee the appropriate library fine for the contravention within the time prescribed under subrule (2)(d) for its payment on being notified by the chief librarian of the amount of the fine and the time limited for its payment.
- (5) Notwithstanding Rule 1(2), a library fine shall be paid by means of cash or a cheque payable to the Joint Library Committee and delivered or mailed to the chief librarian or the librarian in charge of the library from which the material was borrowed.
- (6) The payment of a library fine for a contravention of subrule (3) does not affect the liability of the member to pay to the Joint Library Committee compensation for the loss or loss of use of the library material, for damage caused to the library material, or for the fee for a service provided or for a disbursement incurred on behalf of the member under subrule (2).
- (7) If a member:
- (a) fails to pay a library fine within the time prescribed for its payment; or

- (b) fails to pay compensation for the loss, or loss of use, of library material, or for damage to library material, or
- (c) fails to pay the fee for a service provided or for a disbursement incurred on behalf of the member under subrule (2),

within a reasonable time after a demand by the chief librarian to do so, the Chair of the Joint Library Committee may, without further investigation or notice to the member, order the suspension of the member's library privileges at the law library concerned or at all law libraries in Alberta and shall give written notice of the suspension to the member and to the chief librarian.

Feb2003

Library Assessments

- 171 (1)** For the purpose of raising funds to support the maintenance by the Society of law libraries, the Benchers may levy on:
- (a) all active members; or
 - (b) all active members practising in a specified area of Alberta,
- assessments called "library assessments".
- (1.1)** Notwithstanding subrule (1), no library assessment shall be levied on active members who have provided an undertaking acceptable to the Executive Director to provide legal services exclusively through a pro bono provider approved by the Executive Director.
- (2)** Money recovered by the Joint Library Committee by way of library assessments shall be segregated from other funds of the Society and used solely for the maintenance of law libraries in Alberta.

Dec2005

PART 10 REPEAL AND COMMENCEMENT

Repeal

- 172 (1) In this Part, "the old Rules" means the Rules of The Law Society of Alberta enacted effective May 1, 1991, and all amendments of those Rules.
- (2) Subject to Rules 174 and 175, the old Rules are repealed, effective 15 August, 1994.

Coming into Force

- 173 Subject to Rules 174 and 175, these Rules come into force on August 15, 1994.

Coming into Force of Division 5 of Part 2

- 174 (1) Division 5 of Part 2 of these Rules shall come into force, with respect to members of such extra-provincial law society or societies, on such date or dates as the Benchers may determine, having regard, without limitation, to reciprocal or other arrangements with those extra-provincial law society or societies.
- (2) Rule 65.1 of the old Rules shall remain in force with respect to applications by members of extra-provincial law societies, until Division 5 of Part 2 of these Rules comes into force with respect to the members of those extra-provincial law societies.

Continuance of Division 2 of Part 3 of the Old Rules

- 175 Notwithstanding Rule 173, Division 2 of Part 3 of the old Rules shall remain in force with respect to all matters regarding members' conduct to which that Division applies.