

LEGAL PROFESSION ACT
RULES OF THE LAW SOCIETY
OF THE NORTHWEST TERRITORIES, amendment

The Executive of the Law Society of the Northwest Territories, under section 8 of the *Legal Profession Act* and every enabling power, orders that the *Rules of the Law Society of the Northwest Territories* established by regulation numbered R-005-2014, are amended as follows:

1. The definition "money" in subrule 1(1) is amended by striking out "electronic transfer" and substituting "electronic transfers".
2. Subrule 10(3) is amended by striking out "followed" and substituting "applied".
3. Subrule 11(1) is amended by striking out "in an approved form".
4. (1) Subrule 18(1) is repealed and the following is substituted:
 18. (1) Where an Executive member, other than a layperson appointed under paragraph 3(2)(a) of the Act, dies, resigns, is suspended, is struck off the Roll or is found guilty of conduct deserving of discipline, his or her office is vacant.
 - (2) Subrule 18(4) is repealed and the following is substituted:
 - (4) Subject to subrule (5), where a vacancy on the Executive occurs in a position other than that of the layperson appointed under paragraph 3(2)(a) of the Act, the remaining Executive members shall appoint an active resident member to fill the vacancy.
 - (3) That portion of subrule 18(5) preceding paragraph (a) is amended by striking out "Where a quorum" and substituting "Notwithstanding subrule (4), where quorum".
5. Subrule 31(5) is amended by striking out "are necessary to".
6. That portion of paragraph 40(1)(d) preceding subparagraph (i) is amended by striking out "sub rule 90(4)" and substituting "subrule 90(4)".
7. Paragraphs 41(1)(b) to (e) are repealed and the following is substituted:
 - (b) two letters of good character from reputable persons;
 - (c) a Certificate of Qualification from the National Committee on Accreditation, or proof from the proper authority of graduation from a law school approved by the Executive;
 - (d) a duly signed articling Agreement in an approved form, with two additional copies;
 - (e) an education plan in an approved form;
8. Subrule 44(2) is amended by striking out "Secretary and, if approved," and substituting "Secretary, and if approved".
9. Subparagraphs 49(b)(i) and (ii) are each amended by striking out "an Declaration" and substituting "a Declaration".
10. The following provisions are each amended in rule 50 by striking out "Supreme Court of the Northwest Territories" and substituting "Supreme Court":

- (a) that portion of subrule (2) preceding paragraph (a); and
- (b) that portion of subrule (6) preceding paragraph (a).

11. Each of the following provisions is amended by striking out "practice" and substituting "practise":

- (a) paragraph 52(6)(a);
- (b) subrules 91(1) and (2);
- (c) rule 92.

12. Subrule 53(1) is amended by

- (a) striking out "to practice law" in subparagraph (d)(ii) and substituting "to practise law"; and
- (b) adding "and" after the semicolon in paragraph (f).

13. Each of the following provisions is amended by striking out "a form approved by the Executive" and substituting "an approved form":

- (a) paragraph 59(1)(b);
- (b) subrule 140(3);
- (c) subrule 155(1).

14. Rule 60 is repealed and the following is substituted:

60. A member who fails to renew membership or to pay fees and levies related to that renewal on or before March 31 in a year is, without notice, automatically suspended from membership.

15. Paragraph 62(3)(b) is amended by striking out "concerns that the Executive has" and substituting "concerns of the Executive".

16. Subrule 63(3) is amended by adding a comma after "resigned".

17. (1) Subrule 70(3) is repealed and the following is substituted:

(3) A member shall, on renewing membership under rule 59, submit the following to the Executive Director:

- (a) a completed continuing professional development report referred to in paragraph 59(b) certifying compliance with subrule (2); and
- (b) any other information that demonstrates the member's compliance with the requirement under subrule (2).

(2) Subrule 70(6) is amended by striking out "must be recognized only" and substituting "may only be recognized".

18. (1) Subrule 71(1) is amended

- (a) by repealing that portion preceding paragraph (a) and substituting the following:

71. (1) A member who is unable to comply with rule 70 by March 31 of a reporting year may, before March 31 of that year, request an extension by submitting to the Executive

- (b) in paragraph (a), by striking out "a form approved by the Executive Director" and substituting "the approved form"; and
- (c) in paragraph (d), by striking out "late fee" and substituting "the late fee".

(2) Paragraph 71(4)(b) is amended by striking out "fails to".

(3) Subrule 71(5) is amended by striking out "Chair" and substituting "chairperson".

19. Rule 82 is repealed and the following is substituted:

REINSTATEMENT OF AND STRIKING OFF SUSPENDED MEMBERS

82. (1) Subject to subrule (2), the Executive Director shall reinstate a member suspended under section 48.1 of the Act or under these rules for reasons other than discipline, on payment of the reinstatement fee set out in Schedule A.

(2) The Executive Director shall reinstate a suspended member when the member pays the reinstatement fee set out in Schedule A and satisfies whichever of the following requirements is applicable:

- (a) where the suspension relates to a failure to renew membership or pay fees and levies related to that renewal under rule 60, the member has filed an Application for Renewal in an approved form and paid those fees and levies;
- (b) where the suspension relates to a failure to pay the assessment under paragraph 90(11)(a), the member has paid that assessment;
- (c) where the suspension relates to a failure to certify in writing the circumstances entitling the member to the exemption under subrule 90(7) and paragraph 90(11)(c), the member certifies the circumstances to the Executive Director;
- (d) where the suspension relates to a failure to provide proof of exemption from payment of the levy under paragraph 90(11)(b), the member has certified in writing the facts entitling the member to the exemption and submitted that certification to the Executive Director;
- (e) where the suspension results under paragraph 90(11)(d) for a failure to comply with subrule 91(2), the member has provided
 - (i) the notifications required by paragraph 91(1)(a), and
 - (ii) proof of payment of the insurance levy;
- (f) where the suspension relates to a failure to file a Law Firm Self-Report or an Accountant's Report under Part VI of the Act or subrule 101(3) or (4), the member has filed the required form with the Secretary;
- (g) where the suspension relates to a failure to give evidence, answer inquiries or produce or make available records or other property under Part VI of the Act or subrule 103(4), the member has given the evidence, answered the inquiries or produced or made available the records or other property.

(3) Where a member is suspended for more than two years under section 48.1 of the Act or under these rules for reasons other than discipline, the Executive may require the member to pass the bar admission examinations established under rule 39.

20. (1) Paragraph 83(1)(c) is amended by striking out "Rules" and substituting "rules".

(2) Subrule 83(3) is amended by striking out "what further period" and substituting "any further period".

21. (1) Subrule 90(1) is repealed and the following is substituted:

90. (1) The Professional Liability Claims Fund that receives money collected from members for the payment of premiums payable by the Society under a group contract entered into by the Society under subsection 61(1) of the Act, is continued.

(2) Subparagraph 90(4)(b)(ii) is amended by striking out "an employer who does not practice law" and substituting "an employer that does not practise law".

22. **Subrule 95(1) is amended**
- (a) **in the definition "accountant", by striking out "public accounting firm" and substituting "professional accounting firm";**
 - (b) **in the definition "expenses", by striking out "courier/postage," and substituting "courier, postage"; and**
 - (c) **in paragraph (e) of the definition "financial institution", by striking out the semi-colon and substituting a comma.**
23. **The definition "trust money" in rule 97 is amended by**
- (a) **striking out "forthwith" in paragraph (c) and substituting "without delay"; and**
 - (b) **adding a comma in that portion of paragraph (d) preceding subparagraph (i) after "paragraph 108(1)(f)" in that portion of paragraph (d) preceding subparagraph (i).**
24. **Subrule 100(2) is amended by striking out "practicable" and substituting "is practicable".**
25. (1) **Paragraph 101(1)(a), is amended by striking out "a form approved by the Executive Director" and substituting "the approved form".**
- (2) **Subrule 101(2) is amended by striking out "the Executive Director and include" and substituting "the Executive Director, and must include".**
- (3) **Subrule 101(8) is amended by striking out "under this section" and substituting "under this rule".**
26. (1) **Subrule 106(3) is amended**
- (a) **in that portion preceding paragraph (a), by striking out "Every law firm" and substituting "A law firm"; and**
 - (b) **in paragraph (a), by striking out "the law firm's practice within the Northwest Territories" and substituting "its practice in the Northwest Territories".**
- (2) **Subparagraph 106(4)(a)(iv) is amended by striking out "and/or file number" and substituting "and file number".**
27. **Subrule 108(2) is amended by striking out "the Rules" and substituting "these rules".**
28. **Rule 109 is amended**
- (a) **in subparagraph (b)(ii), by striking out "shall execute" and substituting "may execute"; and**
 - (b) **in paragraph (e), by adding a comma after "financial institution".**
29. **Paragraph 110(1)(a) is amended by striking out "or remitter" and substituting "or other remitter".**
30. **Paragraphs 113(2)(b) and (d) are each amended by striking out "client's file" and substituting "client file".**
31. **Subrule 117(4) is repealed and the following is substituted:**
- (4) **A law firm shall allow only one lawyer to act as the responsible lawyer for the law firm at any one time, unless the law firm is specifically exempted from this requirement by the Executive Director.**
32. **Subrule 120(2) is repealed and the following is substituted:**
- (2) **The law firm shall file a Law Firm Self-Report in an approved form, within 14 days after the departure date of the responsible lawyer.**

33. (1) Subrule 121(1) is repealed and the following is substituted:

121. (1) A law firm shall first obtain approval from the Society before opening a trust account, and shall thereafter keep current the approval to maintain and operate a trust account.

(2) That portion of subrule 121(2) preceding paragraph (a) is amended by striking out "law firm must" and substituting "law firm shall".

34. (1) That portion of subrule 122(2) preceding paragraph (a) is repealed and the following is substituted:

(2) After reviewing an application submitted under subrule (1), the Executive Director may

35. (1) Subrule 123(1) is amended by adding a comma after "responsible lawyer".

(2) Subrule 123(2) is repealed and the following is substituted:

(2) If the Executive Director receives a notice under rule 104 or considers that a law firm or responsible lawyer is failing to comply with these rules or actively assess or respond to risks to trust accounts, the Executive Director shall

- (a) attach conditions to the approval to open, operate and maintain a trust account; or
- (b) revoke the approval to open, operate and maintain a trust account.

36. (1) Subrule 124(1) is repealed and the following is substituted:

124. (1) A law firm shall, unless specifically exempted by the Executive Director, maintain

- (a) at least one pooled trust account in the name of the law firm; and
- (b) at least one general bank account in the name of the law firm.

(2) Subrules 124(3) and (4) are each amended by striking out "Every law firm" and substituting "A law firm".

37. Paragraph 128(3)(c) is amended by striking out "forthwith" and substituting "without delay".

38. (1) Paragraph 129(1)(a) is repealed and the following is substituted:

- (a) the separate interest-bearing account must be opened in the name of the law firm in trust for the client, and the name of the bank account must include a reference to the specific client;

(2) That portion of subrule 129(3) preceding paragraph (a) is amended by striking out "compliance with 131(2)" and substituting "compliance with subrule 131(2)".

39. (1) That portion of subrule 130(4) preceding paragraph (a) is amended by striking out "if not held for a designated purpose,".

(2) Subrule 130(5) is repealed and the following is substituted:

(5) Subject to subrules (3) and (4), money in a law firm's trust account that becomes payable to the firm must be withdrawn no later than one month after the law firm is entitled to the funds.

40. (1) That portion of subrule 131(1) preceding paragraph (a) is amended by striking out "which, at the time the cheque is signed by the lawyer shall" and substituting "that, must at the time the cheque is signed by the lawyer,".

- (2) That portion of subrule 131(2) preceding paragraph (a) is amended by striking out the comma after "that".
41. (1) Subrule 132(1) is amended by striking out "the law firm's" and substituting "its".
- (2) Subrule 132(3) is amended
- (a) in paragraph (a), by striking out "shortage" and substituting "deficiency"; and
 - (b) in paragraph (b), by striking out "when the deficiency" and substituting "when it".
42. (1) Paragraph 134(3)(b) is amended
- (a) in subparagraph (i), by striking out "the lawyer so commences" and substituting "so commencing"; and
 - (b) in subparagraph (ii), by adding a comma after "on demand".
43. (1) Subrule 134.1(3) is amended
- (a) in paragraph (b), by striking out "that person's last known address" and substituting "their last known address"; and
 - (b) by repealing paragraph (d) and substituting the following:
 - (d) the name of the person who paid the money to the law firm, their last known address according to the law firm's records, and the date on which the money was paid to the firm;
- (2) That portion of subrule 134.1(4) preceding paragraph (a) is repealed and the following is substituted:
- (4) An application that relates to trust money that cannot be attributed to any client or other person must state
44. Subrule 134.5(1) is amended by adding a comma after "retainer".
45. (1) Subparagraph 134.8(9)(b)(i) is amended by striking out "25 per cent" and substituting "25%".
- (2) That portion of subrule 134.8(12) preceding paragraph (a) is repealed and the following is substituted:
- (12) A lawyer who is not able to obtain the information referred to in subrule (9) or to confirm the accuracy of that information in accordance with subrule (10), shall
- (3) Paragraphs 134.8(14) and (16) are each amended by striking out "the accuracy of it," and substituting "its accuracy,".
46. The heading preceding rule 135.1 is repealed and the following is substituted:
- Criminal Activity, Duty to Withdraw from Representation
47. Subrule 135.1(2) is amended by striking out "lawyer is retained" and substituting "lawyer has been retained".
48. That portion of paragraph 135.2(a) preceding subparagraph (i) is amended by striking out the colon after "purposes of".
49. Subrule 136(3) is amended by striking out "Secretary" and substituting "Executive Director".

50. Rule 138 is amended

- (a) **in the definition "entitled to practise law", by striking out "all of";**
- (b) **in the definition "Executive Director", by striking out "Rules" and substituting "rules"; and**
- (c) **in the definition "governing body", by striking out the period and substituting a semi-colon.**

51. The following provisions are each amended by striking out "*Partnership Act*" wherever it appears and substituting "*Partnership and Business Names Act*":

- (a) **the definitions "extra-territorial limited liability partnership", "limited liability partnership", "partnership" and "registered" in rule 142;**
- (b) **paragraph 143(1)(c);**
- (c) **rule 144;**
- (d) **rule 145.**

52. Rule 148 is amended by

- (a) **striking out "*Partnership Act*" and substituting "*Partnership and Business Names Act*"; and**
- (b) **striking out "these rules and the Act" and substituting "the Act and these rules".**

53. Paragraph 149(2)(a) is amended by striking out "completed" and substituting "a completed".

54. Subrule 151(2) is amended by striking out "change is made and submit with such notification" and substituting "change is made, and submit with the notification".

55. Subrules 152(2) and (3) are repealed and the following is substituted:

(2) A professional corporation applying for registration as a territorial law professional corporation under section 6 of the *Professional Corporations Act*, shall submit the following to the Secretary:

- (a) an Application for Registration by Territorial Law Professional Corporation in an approved form;
- (b) a copy of the applicant's current articles or bylaws filed under the *Business Corporations Act* and *Business Corporations Regulations*;
- (c) a copy of the applicant's current Notice of Directors filed under the *Business Corporations Regulations*;
- (d) the fee set out in item 7(b) of Schedule A.

(3) On approving the registration of a professional corporation as a territorial law professional corporation, the Secretary shall endorse the approved form submitted under paragraph (2)(a) to state that the professional corporation is registered as a territorial law professional corporation.

56. Subrules 153(2) are repealed and the following is substituted:

(2) A professional corporation applying for registration as an extra-territorial law professional corporation under section 6 of the *Professional Corporations Act*, shall submit the following to the Secretary:

- (a) an Application for Registration by Extra-Territorial Law Professional Corporation in an approved form;
- (b) a copy of the applicant's extra-territorial registration filed under the *Business Corporations Act*;
- (c) a copy of the applicant's current articles or bylaws filed in the extra-territorial jurisdiction;
- (d) a copy of the current list of directors filed in the extra-territorial jurisdiction;
- (e) the fee set out in item 7(c) of Schedule A.

57. Paragraph 157(2)(c) is repealed and the following is substituted:

- (c) a copy of the applicant's securities register, if it has changed since last filed with the Secretary;

Sheldon Toner
President