

The Legal Profession Act, 1990

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Chapter L-10.1* of the *Statutes of Saskatchewan, 1990-91* (effective October 1, 1991) as amended by the *Statutes of Saskatchewan, 1996, c.7; 1997, c.S-50.11 and T-22.2; 1998, c.C-45.2; 2005, c.38; 2006, c.25; 2007, c.5; 2009, c.T-23.01; and 2010, c.B-12, and c.17 and 19.*

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER L-10.1

An Act respecting the Legal Profession, the Law Foundation and the Law Society of Saskatchewan

PART I

Short Title and Interpretation

Short title

1 This Act may be cited as *The Legal Profession Act, 1990*.

Interpretation

2(1) In this Act:

(a) **“bencher”** means a bencher of the society who is elected, constituted or appointed in accordance with this Act;

(b) **“certificate”** means, except in sections 48, 73 and 83, a certificate issued to a member by the society entitling the member to practise law in Saskatchewan;

(b.1) **“competence”** means, except in subsection 49(3), bringing adequate skill and knowledge to the practice of law including the management of a practice;

(c) **“complainant”** means a person who makes a complaint to the society about the conduct of a member;

(d) **“conduct unbecoming”** means any act or conduct, whether or not disgraceful or dishonourable, that:

(i) is inimical to the best interests of the public or the members; or

(ii) tends to harm the standing of the legal profession generally;

and includes the practice of law in an incompetent manner where it is within the scope of subclause (i) or (ii);

(e) **“court”** means Her Majesty’s Court of Queen’s Bench for Saskatchewan, unless the context requires otherwise;

(f) **“financial institution”** means a chartered bank, a credit union incorporated or continued pursuant to *The Credit Union Act, 1998* or a trust corporation that holds a valid and subsisting licence issued pursuant to *The Trust and Loan Corporations Act, 1997*;

(g) **“foundation”** means the Law Foundation continued pursuant to section 74;

(g.1) **“hearing committee”** means a hearing committee appointed pursuant to section 47;

- (h) **“member”** means, subject to subsections (2) and (2.1) and sections 34.1, 60 and 84.1 and except where the context requires otherwise, a member of the society admitted pursuant to subsection 4(1) or declared to be a member pursuant to subsection 4(2);
- (i) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (j) **“prescribed”** means prescribed by the benchers;
- (k) **“rules”** means:
- (i) in Part VI other than in section 78, the rules made by the foundation pursuant to this Act; and
 - (ii) in any other Part and in section 78, the rules made by the benchers pursuant to this Act;
- (l) **Repealed.** 2005, c.38, s.3.
- (m) **“society”** means the Law Society of Saskatchewan continued pursuant to section 3.
- (2) References to members in any of the following do not include students-at-law:
- (a) sections 6, 12, 13.1, 16, 17, 20, 25, 26, and 74;
 - (b) Part V, other than section 63;
 - (c) rules made:
 - (i) respecting any matter mentioned in the provisions set out in clauses (a) and (b); or
 - (ii) pursuant to section 10 respecting the election of benchers.
- (2.1) The following provisions apply to non-members who are authorized to engage in the practice of law in Saskatchewan:
- (a) sections 38, 39, 40.1, 42, 43, 46 to 49, 54, 56, 57 and 84.1, subsections 40(1), (3) and (5) and 53(1), (2), (5) and (8) and clauses 40(2)(b) and (c);
 - (b) rules made respecting any matter mentioned in the provisions set out in clause (a).
- (3) Words that direct or empower a chairperson of a committee established pursuant to this Act to do any act or thing, or words that otherwise apply to a chairperson by name of office, include any vice-chairperson.
- (4) Words that direct or empower the executive director to do any act or thing, or words that otherwise apply to the executive director by name of office, include the deputy executive director.

1990-91, c.L-10.1, s.2; 1996, c.7, s.3; 1997,
c.T-22.2, s.90; 1998, c.C-45.2, s.476; 2005, c.38,
s.3; 2007, c.5, s.3; 2010, c.17, s.3.

PART II
Law Society

Law Society continued

- 3(1) The Law Society of Saskatchewan is continued as a corporation.
- (2) The society may acquire, hold, lease, sell or dispose of real and personal property for its corporate purposes.
- (3) All:
- (a) fees payable and assessments levied; and
 - (b) fines and penalties imposed;
- pursuant to this Act are the property of the society.
- (4) The society may borrow moneys for its purposes, and may mortgage or charge any of its property or its sources of funds as security for moneys borrowed.
- (5) The society may invest its funds in investments authorized pursuant to section 44 of *The Pension Benefits Act, 1992* and may sell or otherwise dispose of those investments and may reinvest the proceeds in similar investments.

1990-91, c.L-10.1, s.3; 1996, c.7, s.4.

Duty of society

- 3.1 In the exercise of its powers and the discharge of its responsibilities, it is the duty of the society, at all times:
- (a) to act in the public interest;
 - (b) to regulate the profession and to govern the members in accordance with this Act and the rules; and
 - (c) to protect the public by assuring the integrity, knowledge, skill, proficiency and competence of members.

2010, c.17, s.4.

Membership

- 4(1) The society may admit lawyers and students-at-law to be members.
- (2) All persons who are members of the society pursuant to *The Legal Profession Act* on the day before this section comes into force are members pursuant to this Act.

1990-91, c.L-10.1, s.4.

Officers

- 5(1) The officers of the society may consist of a president, vice-president, executive director, deputy executive director and any other officers that the society considers necessary.
- (2) The benchers may appoint a person other than a bencher to fill any office of the society, other than the offices of president and vicepresident.

1990-91, c.L-10.1, s.5; 2005, c.38, s.4.

Benchers

- 6(1)** The benchers constitute the governing body of the society and:
- (a) are responsible for the governance of the society and the legal profession;
 - (b) shall manage and conduct the business and affairs of the society; and
 - (c) shall perform the duties imposed, and exercise the powers conferred, on the society or the benchers pursuant to this Act or otherwise.
- (2) The benchers consist of:
- (a) the Dean of the College of Law of the University of Saskatchewan;
 - (b) not less than 17 benchers elected pursuant to the rules, of whom:
 - (i) not less than 50% are to be elected from members:
 - (A) who are eligible pursuant to section 17 and the rules; and
 - (B) whose only or principal place of practice is in the Regina City electoral division or the Saskatoon City electoral division; and
 - (ii) not less than 40% are to be elected from members:
 - (A) who are eligible pursuant to section 17 and the rules; and
 - (B) whose only or principal place of practice is in an electoral division other than Regina City or Saskatoon City;
 - (c) the benchers appointed pursuant to subsection (3); and
 - (d) the Attorney General of Canada and the Attorney General for Saskatchewan, who are *ex officio* benchers.
- (3) The Lieutenant Governor in Council, after consultation with the society, may appoint as benchers four persons who reside in Saskatchewan but are not members at least one of whom is to reside outside of Regina and Saskatoon.
- (4) A bencher appointed pursuant to subsection (3):
- (a) holds office at pleasure for a term not exceeding three years or until a successor is chosen and may be reappointed for not more than one additional consecutive term; and
 - (b) ceases to hold office if he or she ceases to reside in Saskatchewan.
- (5) The society shall remunerate and reimburse for expenses the benchers appointed pursuant to subsection (3) at the rate determined by the Lieutenant Governor in Council.
- (6) A bencher appointed pursuant to subsection (3) may exercise rights and serve as a member of committees to the same extent as other benchers.
- (7) The absence or inability to act as a member of the discipline committee by a bencher appointed pursuant to subsection (3) or the failure to appoint a bencher pursuant to subsection (3) does not impair the ability of the other members of the discipline committee to act.

Ex officio benchers

7 *Ex officio* benchers have no right to vote at a meeting of the benchers in convocation.

1990-91, c.L-10.1, s.7.

Appointment of representatives

7.1(1) Subject to subsection (2), the chairperson of any committee established, continued or appointed pursuant to this Act or the rules, other than a hearing committee, may appoint any person to carry out any responsibility imposed on the chairperson pursuant to this Act or the rules or to exercise any of the powers conferred on the chairperson or a committee pursuant to this Act or the rules that the chairperson believes may be more conveniently carried out or exercised by that person.

(2) The chairperson of any committee who makes an appointment pursuant to subsection (1) shall not appoint any person to exercise any power set out in clause 41(1.1)(a), subsection 41(3) or (4), clause 42(2)(a), subclause 42(2)(b)(ii), subsections 42(3), 45(1) or 46(1), clause 56(1)(b) or subsection 56(1.1).

(3) The chairperson may impose any limitations or terms and conditions that the chairperson considers appropriate on an appointment pursuant to subsection (1).

(4) The exercise of any of the chairperson's or committee's powers or the carrying out of any of the chairperson's or committee's responsibilities by a person who is appointed pursuant to subsection (1) is deemed to be the exercise or the carrying out by the chairperson or the committee.

2010, c.17, s.5.

8 Repealed. 2005, c.38, s.6.

Effect of disbarment, suspension

9(1) If a member who is serving as a bencher is disbarred, the member ceases to be a bencher on the day that the member is disbarred.

(2) If a member who is serving as a bencher is suspended from practice, the member's powers and duties as a bencher are suspended for the same period.

1990-91, c.L-10.1, s.9.

Rules

10 The benchers may make rules:

(a) establishing committees, determining the duties of committees and conferring on committees the power to act for the benchers in and in relation to any matters that the benchers direct, other than the power to make rules;

(a.1) prescribing the organization, powers and procedures of the benchers and committees and regulating the benchers and committees in the performance of their duties;

(a.11) respecting the appointment of persons pursuant to section 7.1;

- (a.2) regulating the election of benchers, including prescribing the following:
 - (i) when elections of benchers shall be held;
 - (ii) subject to section 16, who is eligible to vote in an election of benchers;
 - (iii) subject to section 17, who is eligible to be a candidate in an election of benchers, including prescribing the number of consecutive terms that a member may serve as a bencher;
 - (iv) the number and terms of office of elected benchers, including providing for benchers who are officers of the society to continue to hold office as a bencher until the term of office as an officer of the society expires;
 - (v) the procedures governing an election of benchers including:
 - (A) the procedure for nominating candidates;
 - (B) the division of Saskatchewan into electoral divisions and, subject to clause 6(2)(b), the number of benchers to be elected from each electoral division;
 - (C) provision for appointing or designating presiding officers for the election;
 - (D) the forms to be used;
 - (E) the procedure for conducting the elections and for determining the benchers elected;
 - (F) the procedure for disputing an election;
- (a.3) governing procedures for the appointment or election of officers of the society;
- (b) subject to subsection 6(5), prescribing remuneration and reimbursement for expenses payable to benchers in carrying out their duties pursuant to this Act;
- (c) prescribing a code of professional conduct for members;
- (d) prescribing the qualifications, courses and manner of study and examinations of students-at-law and the requirements preliminary to their admission as lawyers;
- (e) prescribing the evidence and information to be submitted by persons applying to be admitted as students-at-law or lawyers;
- (f) regulating the admission of lawyers as members;
- (f.1) respecting the resignation of members;
- (g) regulating the practice of law by members in association or otherwise in conjunction with persons who are resident or incorporated outside Saskatchewan;

- (h) fixing fees payable to the society:
 - (i) for the bar admission course;
 - (ii) for the admission of students-at-law and lawyers; and
 - (iii) from time to time, by members or categories of members;
- (i) providing for lawyers who are not members to practise law in specified situations, fixing fees payable by those lawyers and prescribing any terms and conditions or imposing any requirements on those lawyers that the benchers consider appropriate;
- (j) providing for the issuance of certificates to members and persons authorized to practise law in accordance with rules made pursuant to clause (i) and requiring those certificates to be displayed as prescribed;
- (k) requiring law firms or categories of law firms to apply to the society for and hold a permit, categorizing law firms, fixing fees payable for permits, imposing terms or conditions on the issuance of permits, providing for the revocation of permits and the effect of the revocation and otherwise regulating the issuance of permits;
- (l) prescribing standards of competence;
- (m) establishing procedures relating to the methods of assessment and review of competence, and generally providing for carrying out the powers of the professional standards committee pursuant to section 41;
- (n) providing for the making, investigating, hearing and determining of complaints against members and for any other matters necessary to carry out the discipline provisions of this Act;
- (o) establishing criteria and procedures for taking disciplinary action against members for contraventions of rules;
- (o.1) **Repealed.** 2010, c.17, s.6;
- (o.2) providing for the method of sending a copy of the formal complaint for the purposes of subsection 46(2) and of serving notice of a hearing on a member for the purposes of subsection 48(1);
- (p) providing for the manner and extent to which members may hold themselves out as engaging in the practice of law other than in the general practice of law;
- (q) providing for:
 - (i) the suspension from practice of members for contraventions of rules respecting the payment of fees or assessments levied or the filing of materials; and
 - (ii) the reinstatement, on any terms that the benchers consider appropriate, of members who have been suspended in accordance with rules made pursuant to subclause (i);

- (r) providing for the reinstatement of:
 - (i) persons who have been disbarred;
 - (ii) former students-at-law whose articles have been terminated;
 - (iii) persons who have resigned from the society; or
 - (iv) inactive members as active members;and providing for terms and conditions respecting their reinstatement;
- (s) requiring members to keep and maintain books, records and accounts in the prescribed form and manner with respect to all moneys, other negotiable property and other consideration received or disbursed in connection with the member's practice, and establishing criteria with respect to the furnishing of evidence that those books, records and accounts are being kept and maintained in accordance with the rules;
- (t) providing for:
 - (i) the investigation or inspection of books, records and accounts of members by:
 - (A) the officers, auditors or agents of the society; or
 - (B) any other person designated by the benchers or appointed by the conduct investigation committee; and
 - (ii) the method of assessment against a member of the expenses of investigations pursuant to subclause (i) where it is determined that the member has not complied with rules respecting the keeping of books, records and accounts;
- (t.01) for the purposes of section 14, prescribing the period that must elapse and the circumstances that must exist before a member may pay moneys from the member's trust account to the society or to the member's general account, and prescribing an amount for the purposes of clauses 14(1)(b) and 14(9)(b);
- (t.1) establishing procedures to prevent the disclosure of information that is privileged or confidential, which procedures may be made applicable to any person who, in the course of any proceeding pursuant to this Act, would acquire the confidential or privileged information;
- (u) regulating the content, form and manner of advertising by members;
- (v) regulating the provision of mediation services by members;
- (v.1) regulating the provision of alternative dispute resolution services by members;
- (w) respecting the establishment and maintenance of a system of continuing legal education and the monitoring of legal education provided otherwise;
- (x) providing for the giving of notice with respect to annual and special meetings of the society, specifying the effects of that notice, and establishing procedures for those meetings;

- (y) specifying the form and content of written requests for special meetings of the society and the time within which the meetings are to be held;
- (z) prescribing the content of bills for fees and disbursements charged to clients by members;
- (aa) providing that the society may provide funds and other assistance to establish or maintain law libraries;
- (bb) providing for the disbursement and appropriation of funds of the society;
- (cc) respecting any matter that is necessarily incidental to the matters set out in this section relating to the governance of the society and the legal profession.

1990-91, c.L-10.1, s.10; 1996, c.7, s.6; 2005, c.38, s.7; 2007, c.5, s.4; 2010, c.17, s.6.

Insurance

- 11(1) The benchers shall require as a condition of membership in the society that members maintain insurance that provides indemnity against professional liability claims in an amount determined by the benchers.
- (2) The society may enter into a contract of insurance pursuant to which any member or category of members is insured with respect to professional liability claims.
- (3) The benchers may:
 - (a) establish, administer, maintain and operate a professional liability insurance scheme;
 - (b) fix the assessments levied on members or categories of members with respect to the insurance scheme mentioned in clause (a);
 - (c) establish categories of membership for the purposes of this section; and
 - (d) exempt any member or category of members from the requirement to:
 - (i) maintain professional liability insurance; or
 - (ii) pay an assessment.
- (4) For the purposes of this section, the society may:
 - (a) establish a subsidiary corporation;
 - (b) in its own right or through a subsidiary corporation, enter into a reciprocal insurance exchange agreement; and
 - (c) levy assessments and impose retroactive assessments on members.
- (5) The society is deemed to be the agent of the member:
 - (a) in entering into a contract of insurance pursuant to subsection (2); and
 - (b) in carrying out the activities described in subsection (4).

1990-91, c.L-10.1, s.11.

Special fund

12(1) In this section, “**fund**” means the special fund created pursuant to clause (2)(a).

(2) The benchers may:

(a) create a special fund by the levy of an assessment on members for the purpose of reimbursing persons who suffer pecuniary loss as a result of a member’s misappropriation or wrongful conversion of moneys or other property entrusted to or received by the member in the member’s professional capacity; and

(b) in cases where they are of the opinion that reimbursement should be made, reimburse a person described in clause (a), in whole or in part, out of the fund.

(2.1) Money or other property entrusted to or received by a member that is to be applied to a financial or commercial undertaking, an investment or a project in which the member has an interest is deemed not to have been entrusted to or received by the member in the member’s professional capacity unless the benchers are satisfied that:

(a) the person who suffered the pecuniary loss mentioned in clause (2)(a) was unaware of the member’s interest at the time the money or other property was entrusted to or received by the member; or

(b) it would be inequitable to deny payment to the person who suffered the pecuniary loss.

(3) For the purposes of this section, the benchers may make rules:

(a) respecting the administration and investment of the fund;

(b) prescribing limitations on amounts that may be paid out of the fund;

(c) providing for charging to the fund:

(i) expenses incurred in connection with audits, investigations and hearings pertaining to members’ accounts; and

(ii) fees and expenses of trustees appointed pursuant to section 61; and

(d) fixing assessments payable by members or categories of members.

(4) The fund:

(a) is the property of the society; and

(b) is not subject to any trust.

(5) The society shall deposit the fund in an account in a financial institution, separate and apart from all other funds of the society.

(6) The benchers shall, not later than April 1 in each year:

(a) prepare a report with respect to the fund and all payments out of the fund during the last preceding year; and

(b) deliver a copy of the report to the minister.

Society subrogated

13(1) Where a payment is made to a person pursuant to subsection 12(2), the society is subrogated in the amount of the payment to any rights or remedies of that person against the member or another person regarding the loss with respect to which the payment was made.

(2) In the event of the death, insolvency or other disability of the member or other person mentioned in subsection (1), the society may proceed against the personal representative or the person administering the estate, as the case may be, of the member or other person.

1990-91, c.L-10.1, s.13.

National special fund

13.1(1) In this section, “**national special fund**” means the national special fund established in accordance with an agreement mentioned in subsection (2).

(2) The benchers may enter into an agreement with the law societies in other provinces and territories of Canada to establish a national special fund for the purpose of reimbursing a person in cases where:

- (a) money or other property was entrusted to, or received by, a lawyer in the lawyer’s professional capacity;
 - (b) the lawyer is entitled to practise law in jurisdictions in Canada where the lawyer is not a member of the law society in those jurisdictions;
 - (c) the lawyer misappropriated or wrongfully converted the money or property; and
 - (d) the person suffered a pecuniary loss as a result of the misappropriation or wrongful conversion.
- (3) An agreement mentioned in subsection (2) may include provisions respecting:
- (a) the administration of the national special fund;
 - (b) the circumstances in which payments may be made out of the national special fund; and
 - (c) any other matters that the benchers consider appropriate or necessary for the purposes of this section and the national special fund.
- (4) For the purposes of the national special fund, the benchers may:
- (a) levy an assessment on members in addition to the assessment mentioned in section 12; and
 - (b) cause the assessments to be deposited in the national special fund.
- (5) Subsections 12(2.1) to (6) and section 13 apply, with any necessary modification, to the national special fund.

2005, c.38, s.8.

Insurance program established

13.2 The society may establish, administer, maintain and operate an insurance program to carry out the purposes of sections 12 and 13.1.

2005, c.38, s.8.

Society trust account

14(1) A member may pay moneys from the member's trust account to the society if:

- (a) the moneys have been held in the member's trust account for the period prescribed in the rules;
- (b) the moneys exceed the amount prescribed in the rules;
- (c) the circumstances prescribed in the rules have been met; and
- (d) the society is satisfied that the member is unable to pay the moneys to the person who is entitled to them.

(2) The society shall:

- (a) maintain a trust account consisting of moneys paid to the society from members' trust accounts pursuant to subsection (1); and
- (b) pay to the foundation the interest accruing on moneys held in the account mentioned in clause (a).

(3) Where a person establishes to the satisfaction of the society that the person is entitled to moneys held pursuant to subsection (2), the society shall pay the moneys to the person.

(4) A dispute between the society and a person with respect to the person's entitlement to moneys held pursuant to subsection (2) may be determined on application to the court.

(5) The society is not liable to account to any person other than the foundation for interest on moneys held pursuant to subsection (2).

(6) Where no application by a person claiming to be entitled to money held by the society pursuant to subsection (2) has been made within 10 years after the money is received by the society, the society shall pay the money to the foundation.

(7) If a person establishes to the satisfaction of the foundation that he or she is entitled to money paid to the foundation, the foundation shall pay an equivalent amount to that person out of the Law Foundation Account.

(8) A dispute respecting a person's entitlement to money paid to the foundation may be determined on application to the court.

(9) Notwithstanding subsections (1) to (8), a member may transfer moneys from the member's trust account to the member's general account if:

- (a) the moneys have been held in the member's trust account for the period prescribed in the rules;
- (b) the moneys do not exceed the amount prescribed in the rules;
- (c) the circumstances prescribed in the rules have been met; and
- (d) the society is satisfied that the member is unable to pay the moneys to the person who is entitled to them.

1990-91, c.L-10.1, s.14; 1996, c.7, s.8; 2007, c.5, s.5; 2010, c.17, s.7.

15 Repealed. 2005, c.38, s.9.

Eligibility to vote

16 All members, except members under suspension, are eligible to vote at an election of benchers.

1990-91, c.L-10.1, s.16.

Eligibility as candidate

17 All members, except members under suspension, are eligible as candidates in an election of benchers.

2005, c.38, s.10.

18 Repealed. 2005, c.38, s.11.

19 Repealed. 2005, c.38, s.11.

Vacancies

20 Where:

- (a) there is a failure to elect the required number of benchers; or
- (b) an elected bencher vacates office for any reason;

the remaining benchers may appoint a member who is eligible pursuant to section 17 and the rules to fill the vacancy for the remainder of the period for which the other benchers have been elected.

1990-91, c.L-10.1, s.20; 2005, c.38, s.12.

Annual meeting

21(1) The society shall hold an annual meeting of members at the place and time designated by the benchers.

(2) The benchers shall give at least 21 days' notice of an annual meeting to each member in accordance with the rules.

1990-91, c.L-10.1, s.21.

Special meeting

22(1) The benchers:

- (a) may convene a special meeting of members at any time;
- (b) shall convene a special meeting of members on the written request of at least 50 members.

(2) The request for and the calling, holding and procedure at a special meeting shall be in accordance with the rules.

(3) The benchers shall give at least 21 days' notice of a special meeting to each member in accordance with the rules.

1990-91, c.L-10.1, s.22.

PART III
The Legal Profession and the Practice of Law

Eligibility as student-at-law

23(1) The society may admit as a student-at-law a person who produces the prescribed evidence and information and otherwise complies with the rules.

(2) **Repealed.** 2010, c.19, s.15

(3) Where a person is refused admission as a student-at-law, the society shall inform the person in writing of the reasons for the refusal.

(4) A person whose application to be admitted as a student-at-law is refused:

- (a) may request the benchers to review the application; and
- (b) has the right to appear before the benchers in support of the application.

(5) The benchers shall make rules with respect to the review pursuant to subsection (4) of applications.

1990-91, c.L-10.1, s.23; 2010, c.19, s.15.

Eligibility as lawyer

24(1) Any person may apply to the society to be admitted as a lawyer, and the society may admit that person as a member if that person:

- (a) produces evidence satisfactory to the benchers of service as a student-at-law or practice as a lawyer;
- (b) produces evidence that the person has completed a legal education program that is prescribed in the rules;
- (c) complies with the rules; and
- (d) fulfils any other requirement that the benchers may prescribe.

(1.1) Notwithstanding subsection (1), the society may admit as a member a person who produces evidence establishing to the satisfaction of the benchers that the person:

- (a) has complied with the rules with respect to registration; and
- (b) is a member in good standing of a law society established pursuant to the legislation of another jurisdiction in Canada, or the legislation of a jurisdiction outside of Canada that is recognized by the benchers.

(2) Where a person is refused admission as a member, the society shall inform the person in writing of the reasons for the refusal.

(3) A person whose application for admission pursuant to this section as a member is refused:

- (a) may request the benchers to review the application; and
- (b) has the right to appear before the benchers in support of the application.

- (4) The benchers shall make rules with respect to the review of applications pursuant to subsection (3).
- (5) The benchers may make rules:
- (a) establishing categories of membership on the basis of the frequency or extent of members' practice of law in Saskatchewan;
 - (b) prescribing the conditions on and requirements of each category of member;
 - (c) exempting a member or category of members from any provision of this Act or the rules.

1990-91, c.L-10.1, s.24; 2010, c.19, s.15.

Oath or affirmation

25 A person, before being admitted as a member, shall take and subscribe the prescribed oath or affirmation.

1990-91, c.L-10.1, s.25.

Duty to keep roll

26 The executive director shall continue to keep a roll and enter on the roll the names of all persons who are admitted as members.

1990-91, c.L-10.1, s.26; 2005, c.38, s.13.

Resignation

27(1) A member may resign from the society in accordance with the rules.

(2) All of a member's rights and privileges as a member cease on the member's resignation.

(3) Resignation of a member does not preclude the person from applying to the society at a later date for admission as a member.

1990-91, c.L-10.1, s.27; 2010, c.17, s.8.

Effect of disbarment, suspension

28(1) The rights and privileges of a member who is disbarred pursuant to this Act or by any competent authority are removed on disbarment, and the person ceases to be a member of the society.

(2) The rights and privileges of a member who is suspended from practice pursuant to this Act or by any competent authority are removed for the period of the suspension.

(3) If a member is disbarred or suspended from practice, the executive director shall:

- (a) give notice immediately to the judges of the Court of Appeal, the court and the Provincial Court of Saskatchewan of the name of the member; and
- (b) cause a notice of the disbarment or suspension to be published and posted in any manner that the executive director considers appropriate.

1990-91, c.L-10.1, s.28; 2005, c.38, s.14; 2010, c.17, s.9.

Reinstatement

- 29(1)** A person who has been disbarred may apply for reinstatement in accordance with the rules after any period fixed by the order disbarring the member.
- (2) A person whose application for reinstatement is refused may, within 30 days after the day of the refusal, appeal from the decision of the benchers to the Court of Appeal, and the Court of Appeal may allow or disallow the appeal.
- (3) On an appeal pursuant to subsection (2), the Court of Appeal shall consider:
- (a) the proceedings before the benchers on the application for reinstatement;
 - (b) the past record of the appellant as shown by the books and records of the society;
 - (c) the evidence taken before the benchers and any committee of benchers to which the application was referred and the report of that committee; and
 - (d) the decision that is the subject of the appeal.
- (4) The procedure on an appeal pursuant to section 56 applies, with any necessary modification, to an appeal pursuant to this section.
- (5) The society shall give notice of the reinstatement of a member to all judges mentioned in clause 28(3)(a).

1990-91, c.L-10.1, s.29; 2005, c.38, s.15; 2010, c.17, s.10.

Unauthorized practice

- 30(1)** No person, other than a member who holds a certificate, shall:
- (a) practise at the bar of any court of civil or criminal jurisdiction in Saskatchewan;
 - (b) advise, do or perform any work or service for fee or reward, either directly or indirectly, in matters pertaining to the law of Saskatchewan or of any jurisdiction outside Saskatchewan;
 - (c) sue out any writ or process; or
 - (d) commence, carry on or defend any action or proceeding in any court.
- (2) A person, other than a member who holds a certificate, who commences, prosecutes or defends an action or proceeding in a court of civil or criminal jurisdiction or acts as counsel or lawyer in an action or proceeding is:
- (a) incapable of recovering any fee, reward or disbursement on that account; and
 - (b) deemed to be guilty of a contempt of the court in which the proceeding has been commenced, carried on, defended or prosecuted, and may be proceeded against for contempt before the Court of Appeal or a judge of the court sitting in chambers.

1990-91, c.L-10.1, s.30; 2010, c.17, s.11.

Exceptions re unauthorized practice

31 Section 30 does not apply to:

- (a) an articled student-at-law or any other person required to serve under articles who, while serving under articles:
 - (i) appears as counsel in proceedings before a judge of the Provincial Court of Saskatchewan, justice of the peace or a judge of the court sitting in chambers;
 - (ii) acts as counsel in proceedings in which a student-at-law is authorized by The Queen's Bench Rules to act; or
 - (iii) performs under the supervision of a member any acts, not related to court appearances, that are prescribed in the rules;
- (b) a person authorized to practise in accordance with the rules made pursuant to clause 10(i) while the person is acting within the scope of that authorization;
- (c) a member of a police force appearing for the Crown before a judge of the Provincial Court of Saskatchewan or justice of the peace;
- (d) an employee of the Government of Saskatchewan or the Government of Canada prosecuting summary conviction cases for the contravention of an Act or an Act of the Parliament of Canada, or a regulation made pursuant to an Act or an Act of the Parliament of Canada;
- (e) a sheriff with respect to proceedings taken for:
 - (i) relief pursuant to provisions relating to interpleader;
 - (ii) payment out of court of funds belonging to an execution debtor; or
 - (iii) directions of a court with respect to a seizure made or requested to be made by the sheriff; or
- (f) a person who is a plaintiff or defendant in proceedings and who commences, prosecutes or defends in the person's own name an action or proceeding in a court of civil or criminal jurisdiction.

1990-91, c.L-10.1, s.31.

False pretences

32(1) No person, other than a member who holds a certificate or a person who is authorized to practise in accordance with rules made pursuant to clause 10(i), shall:

- (a) pretend or hold himself or herself out to be a lawyer or a barrister and solicitor; or
 - (b) take, assume or use any name, title, addition or description other than one that the person actually possesses and is legally entitled to or that implies or is calculated to lead people to infer that the person is a lawyer or member or is recognized by law as a lawyer qualified and entitled to practise law or do business as a lawyer in Saskatchewan, or in any way publish or advertise himself or herself as such.
- (2)** No person who is not a member in good standing shall use the designations "barrister", "solicitor", "barrister and solicitor", "lawyer" or "attorney".

1990-91, c.L-10.1, s.32; 2010, c.17, s.12.

c. L-10.1

LEGAL PROFESSION, 1990

Court form

33 No person shall use in any manner a document or writing that simulates or is intended or is likely to lead any person to the belief that it is a court process or form, if it is not.

1990-91, c.L-10.1, s.33.

Officers of court

34 All members are officers of all duly constituted provincial and superior courts of civil and criminal jurisdiction in Saskatchewan.

1990-91, c.L-10.1, s.34.

PART IV
Competency and Discipline

Interpretation of Part

34.1 In this Part, “**member**” includes a former member.

1996, c.7, s.9.

Proceedings against former members

34.2(1) No proceedings conducted pursuant to this Part shall be commenced against a former member more than two years after the day he or she became a former member.

(2) For the purposes of this section, a proceeding is commenced when the society, pursuant to subsection 40(1):

- (a) receives a complaint; or
- (b) becomes aware of conduct that is or may be conduct unbecoming or conduct that may display incompetence.

1996, c.7, s.9.

Ethics committee

34.3(1) The ethics committee is established and consists of those benchers and members appointed by the president of the society.

(2) The president shall appoint a chairperson of the ethics committee and may appoint one or more vice-chairpersons.

(3) Subject to this Act and the rules, the ethics committee shall:

- (a) determine all matters necessary to the convening, holding and adjournment of its meetings; and
- (b) determine generally the transaction and management of its business.

2005, c.38, s.16; 2010, c.17, s. 13.

Professional standards committee

35(1) The competency and standards committee is continued as the professional standards committee.

(2) The professional standards committee consists of those benchers and members appointed by the president of the society.

(3) The president shall appoint a chairperson of the professional standards committee and may appoint one or more vice-chairpersons.

(4) Subject to this Act and the rules, the professional standards committee shall:

(a) determine all matters necessary to the convening, holding and adjournment of its meetings; and

(b) determine generally the transaction and management of its business.

2005, c.38, s.17; 2010, c.17, s.14.

Conduct investigation committee

35.1(1) The conduct investigation committee is established consisting of a minimum of six persons appointed by the president of the society.

(2) The conduct investigation committee appointed pursuant to subsection (1) shall consist of benchers, members or former benchers, but a majority of members of the committee must be benchers.

(3) The president shall appoint a bencher as chairperson of the conduct investigation committee and may appoint one or more benchers as vice-chairpersons.

(4) For the purposes of subsection 36(1.1), a member of the conduct investigation committee whose appointment pursuant to subsection (1) has ended, and who is investigating or has investigated the conduct of a member pursuant to subclause 42(2)(b)(i), continues as a member of the conduct investigation committee for all purposes relating to that investigation, but is eligible to be a member of the discipline committee for all other purposes.

(5) Subject to this Act and the rules, the conduct investigation committee shall:

(a) determine all matters necessary to the convening, holding and adjournment of its meetings;

(b) determine its procedure;

(c) establish a method by which it shall decide questions; and

(d) determine generally the transaction and management of its business.

2010, c.17, s.15.

c. L-10.1

LEGAL PROFESSION, 1990

Discipline committee

36(1) Subject to subsection (1.1), the discipline committee is continued and is comprised of:

- (a) all benchers; and
- (b) any members and former benchers appointed by the president.

(1.1) Subject to subsection 35.1(4), no member of the conduct investigation committee is eligible to be a member of the discipline committee.

(2) The president shall appoint a bencher as chairperson of the discipline committee and may appoint one or more benchers as vice-chairpersons.

(3) Subject to this Act and the rules, the discipline committee shall:

- (a) determine all matters necessary to the convening, holding and adjournment of its meetings;
- (b) determine its procedure;
- (c) establish a method by which the discipline committee and hearing committees shall decide questions; and
- (d) determine generally the transaction and management of its business.

1990-91, c.L-10.1, s.36; 2005, c.38, s.18; 2010, c.17, s.16.

Assistance employed by committees

37 In the execution of its duties pursuant to this Act, the conduct investigation committee, a hearing committee, the discipline committee or the professional standards committee may employ, at the expense of the society, any legal or other assistance that it considers necessary.

1990-91, c.L-10.1, s.37; 2005, c.38, s.19; 2010, c.17, s.17.

Right of members to counsel

38 A member whose conduct is the subject of proceedings conducted pursuant to this Part is entitled to be represented by counsel, at the member's expense, throughout the proceedings and to examine, cross-examine and re-examine all witnesses and to present evidence in defence and reply.

1990-91, c.L-10.1, s.38.

Subpoena

39(1) On application by:

- (a) a member whose conduct is under investigation;
- (b) counsel for the society; or

- (c) the chairperson of:
 - (i) the conduct investigation committee;
 - (ii) a hearing committee; or
 - (iii) the professional standards committee;

the local registrar of the court at any judicial centre, on payment of the appropriate fees, shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum*.

(2) Where a writ issued pursuant to subsection (1) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.

1990-91, c.L-10.1, s.39; 2005, c.38, s.20; 2010, c.17, s.18.

Preliminary review

40(1) Where the society:

- (a) receives a complaint with respect to a member, alleging conduct unbecoming;
- (b) otherwise becomes aware of conduct by a member that is or may be conduct unbecoming;
- (c) receives a complaint questioning the competence of a member but not alleging conduct unbecoming; or
- (d) otherwise becomes aware of conduct by a member that may display incompetence, but that does not constitute conduct unbecoming;

a person designated by the benchers shall review the conduct of the member.

(2) If, on completion of a review pursuant to subsection (1), the person designated by the benchers is of the opinion that:

- (a) the matter raises an issue of competence, the person shall refer the matter to the chairperson of the professional standards committee;
- (b) the matter raises an issue of discipline, the person shall refer the matter to the conduct investigation committee; or
- (c) the matter does not raise an issue of competence or discipline, the person may:
 - (i) refer the matter to the ethics committee; or
 - (ii) direct that no further action be taken.

(3) The person designated pursuant to subsection (1) shall notify the complainant, if any, of the decision taken on review pursuant to this section.

c. L-10.1

LEGAL PROFESSION, 1990

(4) If the chairperson of the committee to which a matter is referred pursuant to subsection (2) is of the opinion that the matter is more appropriately dealt with by another committee mentioned in subsection (2), the chairperson may refer the matter to the chairperson of that other committee.

(5) Notwithstanding subsection (4), where the conduct of a member raises an issue of competence, it may nevertheless be referred by the person designated pursuant to subsection (1) or the chairperson of the professional standards committee to the conduct investigation committee to be dealt with through the discipline process.

1990-91, c.L-10.1, s.40; 2005, c.38, s.21; 2010, c.17, s.19.

Duty of ethics committee

40.1(1) The ethics committee shall review each matter referred to it pursuant to section 40, 41, 42 or 46.

(2) The ethics committee may, for the purposes of conducting a review, request the member whose conduct is the subject of the complaint to:

- (a) answer any inquiries; and
- (b) provide the committee with any information, files or records within the member's possession or power.

(3) On completion of the review pursuant to this section, the ethics committee may:

- (a) provide guidance to the member whose conduct is the subject of the complaint respecting the ethical practice of law; or
- (b) refer the matter to the conduct investigation committee or the chairperson of the professional standards committee.

2005, c.38, s.22; 2010, c.17, s.20.

Duty of professional standards committee

41(1) The chairperson of the professional standards committee shall review each matter referred to him or her pursuant to section 40, 40.1, 42 or 46.

(1.1) Following that review, the chairperson of the professional standards committee shall:

- (a) direct that no further action be taken if he or she is of the opinion that the matter does not raise an issue of competence; or
- (b) in any other case, conduct an investigation to review whether, in his or her opinion, the member is practising law in a competent manner.

(1.2) **Repealed.** 2010, c.17, s.21.

(2) The committee appointed pursuant to subsection (1.1) may, for the purposes of the investigation, require the member who is being investigated to:

- (a) answer any inquiries; and
- (b) provide the committee with any information, files or records within the member's possession or power.

(3) On completion of an investigation pursuant to subsection (1.1), the professional standards committee may request the member who is being investigated to comply with:

(a) any restrictions or conditions that the committee may impose on the member's practice of law for any period of time that the committee considers advisable; or

(b) any other requirements that the committee considers appropriate to increase the member's knowledge or skill in the practice of law.

(4) On completion of an investigation pursuant to subsection (1.1), the professional standards committee may refer the matter to the conduct investigation committee or the ethics committee.

(5) Any report to the professional standards committee is not to be used as evidence in any civil proceeding.

1990-91, c.L-10.1, s.41; 1996, c.7, s.10; 2005, c.38, s.23; 2010, c.17, s.21.

Duty of conduct investigation committee

42(1) The conduct investigation committee shall review each matter referred to it pursuant to section 40, 40.1 or 41.

(2) On completion of a review pursuant to subsection (1):

(a) if the conduct investigation committee is of the opinion that the matter does not constitute conduct unbecoming, the conduct investigation committee may direct that no further action be taken; or

(b) if the conduct investigation committee is of the opinion that the member's conduct may constitute conduct unbecoming, the conduct investigation committee may:

(i) investigate any conduct of a member that may constitute conduct unbecoming, including any matter that comes to the attention of the committee during the course of an investigation that appears to constitute conduct unbecoming; or

(ii) invite the member to appear before the committee, and the committee may make an informal investigation of the matter and counsel the member.

(3) In addition to any action taken pursuant to subsection (2), the conduct investigation committee may refer the matter to the ethics committee or the professional standards committee.

(4) The chairperson of the conduct investigation committee shall notify the complainant, if any, of the decision made on a review pursuant to this section.

2010, c.17, s.22.

Review re complaints not proceeded with

43(1) A complainant may apply to the society for a review of a decision:

- (a) pursuant to subclause 40(2)(c)(ii) of a person designated pursuant to subsection 40(1);
- (a.1) pursuant to clause 41(1.1)(a) of the chairperson of the professional standards committee; or
- (b) pursuant to clause 42(2)(a) of the conduct investigation committee;

with respect to the determination of the complaint.

(2) The benchers shall make rules respecting a procedure for reviews mentioned in subsection (1).

(3) A complainant who applies for a review pursuant to subsection (1):

- (a) shall be advised orally or in writing of the date, time and place of the hearing, if any;
- (b) subject to subsection 49(6) is entitled to attend the hearing, if any; and
- (c) shall be advised in writing of the decision on the review.

(4) **Repealed.** 2005, c.38, s.25.

1990-91, c.L-10.1, s.43; 1996, c.7, s.11; 2005, c.38, s.25; 2010, c.17, s.23.

44 Repealed. 2010, c.17, s.24.

Suspension of member by conduct investigation committee

45(1) The conduct investigation committee, an investigation committee may suspend a member from practice pending:

- (a) the completion of its investigation and report; or
- (b) the decision of a hearing committee appointed pursuant to section 47 to determine the matter.

(2) Subject to subsection (4), a suspension imposed pursuant to this section expires:

- (a) if the conduct investigation committee directs that no hearing committee be appointed, on the day on which the conduct investigation committee makes that direction; or
- (b) if a hearing committee is appointed pursuant to subsection 47(1), on the completion of the hearing, unless the hearing committee continues the suspension beyond that day.

(3) A member who is suspended from practice pursuant to this section may, at any time during the period of suspension, by notice to the chairperson of the discipline committee, request a review of the suspension.

(4) On receipt of a request pursuant to subsection (3), the chairperson of the discipline committee shall appoint any number of benchers, who are not members of the conduct investigation committee, to:

- (a) review the reasons for the suspension; and
- (b) determine whether the suspension should continue.

(5) The benchers conducting a review pursuant to subsection (4) shall:

- (a) determine whether the suspension should continue; and
- (b) inform the member of their decision and the reasons for the decision.

(6) Where a suspension is imposed pursuant to this section, the conduct investigation committee or the chairperson of the discipline committee may direct the society to apply pursuant to section 61 for the appointment of a trustee.

1990-91, c.L-10.1, s.45; 2010, c.17, s.25.

Decision of conduct investigation committee

46(1) On the completion of its investigation, the conduct investigation committee shall make a written report to the chairperson of the discipline committee and may:

- (a) direct the chairperson of the discipline committee to appoint a hearing committee to hear and determine the formal complaint set out in the written report;
- (b) invite the member under investigation to appear before the conduct investigation committee to enable the committee to counsel the member;
- (c) refer the matter to the ethics committee or the professional standards committee; or
- (d) direct that no further action be taken with respect to the matter under investigation.

(2) If the conduct investigation committee directs the chairperson of the discipline committee to appoint a hearing committee to hear and determine the formal complaint set out in the written report mentioned in subsection (1), the conduct investigation committee shall, in accordance with the rules, send a copy of the formal complaint to the member whose conduct is the subject of the hearing.

2010, c.17, s.26.

Hearing committee

47(1) If the written report of the conduct investigation committee includes a direction pursuant to clause 46(1)(a), the chairperson of the discipline committee shall appoint a hearing committee to hear and determine the formal complaint.

(2) A hearing committee appointed pursuant to subsection (1) consists of not more than five members of the discipline committee, none of whom were members of any committee appointed pursuant to subsection 45(4) with respect to the matter.

2010, c.17, s.26.

Powers and duties of hearing committee

48(1) If a hearing committee is appointed pursuant to subsection 47(1) to hear and determine the formal complaint set out in the written report mentioned in subsection 46(1), the hearing committee shall, in accordance with the rules, serve notice on the member whose conduct is the subject of the hearing of the date, time and place of the hearing.

(2) A hearing committee shall:

- (a) hear the formal complaint with respect to which it is appointed; and
- (b) decide whether or not the complaint is well founded, notwithstanding that the existence, interpretation or construction of a contract or the determination of any other question of fact may be involved.

(3) The hearing committee need not refer any matter mentioned in clause (2)(b) to a court for adjudication.

(4) During the course of a hearing, the hearing committee may amend the formal complaint before it if the amendment is, in the committee's opinion, necessary to determine the charge indicated in the formal complaint.

(5) Subject to subsection (6), a hearing committee may:

- (a) find that the complaint is well founded on any charge revealed by the facts; and
- (b) if the circumstances warrant for the purposes of clause (a), substitute the charge mentioned in clause (a) for, or amend or add to, the charge set out in the formal complaint that the committee was appointed to hear.

(6) If, during the course of a hearing, the evidence shows that the conduct of the member who is the subject of the hearing may warrant a charge that is different from or in addition to a charge specified in the formal complaint, the hearing committee:

- (a) shall notify the member of that fact; and
- (b) may amend, add to or substitute the charge in the formal complaint.

(7) If a hearing committee acts pursuant to clause (6)(b), it shall adjourn the hearing for any period that the committee considers sufficient to give the member an opportunity to prepare a defence to the amended, added or substituted charge in the formal complaint, unless the member otherwise consents.

(8) The chairperson of the hearing committee shall advise any person who made a complaint pursuant to subsection 40(1) orally or in writing of the date, time and place of the hearing and, subject to subsection 49(6), the complainant is entitled to attend the hearing.

(9) Subject to subsection 49(6), the hearing committee shall conduct all hearings in public.

(10) A hearing committee may accept any evidence that it considers appropriate and is not bound by the rules of law concerning evidence.

(11) A certificate purporting to be signed by the executive director or an equivalent officer of a law society in another province or territory that states that a person was convicted of a disciplinary offence by the law society in that province or territory and that may contain a summary of the facts surrounding that offence is admissible in evidence as proof, in the absence of evidence to the contrary, of its contents without proof of the appointment or signature of the executive director or other officer.

2010, c.17, s.26.

Procedure re hearing committee

49(1) The conduct investigation committee shall direct the prosecution of the formal complaint, but its members shall not participate in any other manner in the hearing of the formal complaint except as witnesses when required.

(2) The testimony of witnesses is to be under oath or affirmation administered by the chairperson of the hearing committee.

(3) A member whose conduct is the subject of a hearing is competent and compellable to give evidence at the hearing.

(4) If the member whose conduct is the subject of the hearing fails to attend the hearing, the hearing committee, on proof of service of the notice mentioned in subsection 48(1), may proceed with the hearing in the member's absence.

(5) A member who appears in person or by counsel before the hearing committee is deemed to have received proper notice unless the appearance is for the purpose of challenging the notice.

(6) The hearing committee may exclude the complainant or the public from any part of the hearing if the hearing committee is of the opinion that:

(a) evidence brought in the presence of the complainant or the public may result in a breach of solicitor and client privilege; or

(b) the possible disclosure of intimate financial or personal matters outweighs the desirability of allowing the complainant or the public to be present during part of the hearing.

(7) The hearing committee may act pursuant to subsection (6) whether or not a member or any other person who may claim solicitor and client privilege has acted pursuant to subsection 84.1(3).

2010, c.17, s.26.

50 Repealed. 2010, c.17, s.26.

51 Repealed. 2010, c.17, s.26.

Suspension of member by hearing committee

52(1) A hearing committee may suspend from practice the member whose conduct is the subject of the hearing pending its decision.

(2) A suspension imposed pursuant to subsection (1) expires:

(a) where the hearing committee finds that the complaint is not well founded, on the day of its decision; or

(b) if the hearing committee finds that the formal complaint is well founded, on the day that it assesses a penalty or imposes a requirement.

(3) Notwithstanding clause 45(2)(b), the hearing committee may, at any time during the hearing, revoke a suspension imposed pursuant to section 45.

1990-91, c.L-10.1, s.52; 2010, c.17, s.27.

Decision of hearing committee; powers re penalties

53(1) A hearing committee shall provide its decision to the chairperson of the discipline committee in accordance with the rules, not later than 45 days after the hearing.

(2) A decision of a majority of the members of a hearing committee is the decision of the hearing committee.

(3) If a hearing committee finds that a formal complaint is well founded, the hearing committee may, by order, do one or more of the following:

(a) assess any penalties or impose any requirements that it considers appropriate, including but not limited to:

(i) directing that the member be disbarred and setting the period, not exceeding five years, during which the person is not eligible to apply for reinstatement;

(ii) suspending the member from practice for a specified period or until specified requirements are met, including requirements that the member:

(A) successfully complete specified classes;

(B) obtain medical treatment or treatment for addiction to drugs or alcohol;

(iii) specifying conditions under which the member may continue to practise, including conditions that the member:

(A) not do specified types of work;

(B) successfully complete specified classes;

(C) not have exclusive control of the member's trust account;

(D) obtain medical treatment or treatment for addiction to drugs or alcohol;

(E) practise only as a partner with, or as an associate or employee of, one or more members that the committee may specify;

- (iv) imposing a fine in any amount that the committee may specify;
 - (v) requiring the member to pay:
 - (A) the costs of the inquiry, including the costs of the conduct investigation committee and hearing committee;
 - (B) the costs of the society for counsel during the inquiry; and
 - (C) all other costs related to the inquiry;
 - (vi) reprimanding the member;
 - (vii) permitting the member to resign from the society;
- (b) if the formal complaint that has been determined to be well founded relates to the transfer of identified property or funds in an ascertainable amount, require the member to transfer the property or the amount to the rightful owner;
- (c) make any direction or set any requirement that the committee considers appropriate.
- (4) In addition to an order made pursuant to subsection (3), the hearing committee may order that, if a member fails to make payment in accordance with an order pursuant to subclause (3)(a)(iv) or (v), the member be suspended from practice.
- (5) When the hearing committee makes an order pursuant to this section, the hearing committee:
- (a) shall specify the penalty assessed or requirement imposed in its decision pursuant to subsection (1);
 - (b) shall send the following to the member whose conduct was the subject of the hearing:
 - (i) a copy of the committee's decision; and
 - (ii) a notice of the penalty assessed or requirement imposed; and
 - (c) shall send a notice of the penalty assessed or requirement imposed to the complainant, if any, and may send a notice of the penalty assessed or requirement imposed to any other person that the hearing committee considers advisable.
- (6) Where a hearing committee finds that a complaint is well founded against a non-member who is authorized to engage in the practice of law in Saskatchewan, the hearing committee may, by order, do one or more of the following:
- (a) reprimand the non-member;
 - (b) require the non-member to pay:
 - (i) the costs of the inquiry, including the costs of the conduct investigation committee, hearing committee and discipline committee;
 - (ii) the costs of the society for counsel during the inquiry; and
 - (iii) all other costs related to the inquiry;

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- (c) impose a fine in any amount that the committee may specify;
 - (d) prohibit the non-member from engaging in the practice of law in Saskatchewan for a specified period;
 - (e) declare that, had the non-member been a member, he or she would have:
 - (i) been disbarred or suspended from practice; or
 - (ii) been permitted to continue to practise only under specified conditions.
- (7) The hearing committee may order that, if a non-member fails to make payment in accordance with an order pursuant to clause (6)(b) or (c), the non-member is prohibited from engaging in the practice of law in Saskatchewan.
- (8) The hearing committee may order the society to pay the costs of the hearing to the member whose conduct was the subject of the hearing if:
- (a) the hearing committee finds that the formal complaint is not well founded; and
 - (b) it is established, to the satisfaction of the hearing committee, that the formal complaint was made without reasonable grounds.

1990-91, c.L-10.1, s.53; 1996, c.7, s.17; 2005, c.38, s.27; 2010, c.17, s.28.

Possible criminal offence

54(1) If the conduct investigation committee suspends a member pursuant to section 45, the chairperson of that committee shall immediately report the suspension to the Deputy Minister of Justice.

(2) If a hearing committee, on making its decision pursuant to subsection 53(1), believes that the member who is the subject of the hearing may be guilty of a criminal offence related to the member's practice, the chairperson of that committee shall immediately report the belief and surrounding circumstances to the Deputy Minister of Justice.

2010, c.17, s.29.

55 Repealed. 2010, c.17, s.30.

Appeal to Court of Appeal

56(1) If a formal complaint against a member is determined by the hearing committee to be well founded:

- (a) the member may appeal the decision of the hearing committee or a penalty assessed or requirement imposed by the hearing committee resulting from the decision to the Court of Appeal within 30 days after the day of the decision or the assessment of a penalty or imposition of a requirement, whichever is later, by:
 - (i) filing a notice of appeal with the registrar of the Court of Appeal; and
 - (ii) serving a copy of the notice of appeal on the executive director; and

- (b) the society, at the direction of the conduct investigation committee, may appeal a penalty assessed or requirement imposed by the hearing committee resulting from the decision to the Court of Appeal within 30 days after the day of the assessment of a penalty or imposition of a requirement by:
- (i) filing a notice of appeal with the registrar of the Court of Appeal; and
 - (ii) serving a copy of the notice of appeal on the member whose conduct was the subject of the hearing.
- (1.1) If a formal complaint against a member is determined by the hearing committee not to be well founded, the society, at the direction of the conduct investigation committee, may appeal the decision of the hearing committee to the Court of Appeal within 30 days after the day of the decision, by:
- (a) filing a notice of appeal with the registrar of the Court of Appeal; and
 - (b) serving a copy of the notice of appeal on the member whose conduct was the subject of the hearing.
- (2) The Court of Appeal may extend the time for commencing an appeal pursuant to subsection (1) or (1.1) if, in its opinion, exceptional circumstances exist.
- (3) Subject to subsection (4), the commencement of an appeal to the Court of Appeal does not stay the effect of a penalty assessed or requirement imposed by the hearing committee.
- (4) An appellant, on five days' notice to the executive director, may apply to the Court of Appeal for a stay of proceedings pending the disposition of the appeal.
- (5) On hearing an appeal pursuant to this section, the Court of Appeal may make any order that it considers appropriate.

1990-91, c.L-10.1, s.56; 2005, c.38, s.29; 2010, c.17, s.31.

Non-compliance with order

- 57(1)** If a member does not comply with a requirement imposed in an order pursuant to clause 53(3)(b) within 15 days after the day on which a notice is sent to the member pursuant to clause 53(5)(b), the rightful owner named in the order may file a certified copy of the order with the court and enforce the order as if it were a judgment of the court.
- (2) If a member does not comply with a requirement imposed in an order pursuant to subclause 53(3)(a)(iv) or (v) within 15 days after the day on which a notice is sent to the member pursuant to clause 53(5)(b) or any other time specified in the order, the society may file a certified copy of the order with the court and enforce the order as if it were a judgment of the court.

2010, c.17, s.32.

Dissolution of hearing committees

58(1) A hearing committee is dissolved when all appeals with respect to the matter for which it was appointed are exhausted or, if no appeal is taken, on the expiration of the time allowed to bring an appeal.

(2) Subject to subsection (3), if a member of any committee appointed pursuant to this Part ceases to be a bencher, he or she is to continue as a member of that committee until it is dissolved unless otherwise directed by the chairperson of the discipline committee or the chairperson of the professional standards committee.

(3) If a member appointed as a member of any committee pursuant to this Part is suspended or disbarred, he or she is removed as a member of that committee as of the date that he or she was suspended or disbarred.

2010, c.17, s.33.

Improper conduct of certain others

59 Sections 34 to 58 apply, with any necessary modification, to a student-at-law, a person required to serve under articles or a person authorized to practise law in accordance with the rules made pursuant to clause 10(i).

1990-91, c.L-10.1, s.59.

PART V Members' Property and Fees

Interpretation of Part

60 In this Part:

- (a) "**member**" includes a former member;
- (b) "**member's records**" means anything kept or acquired by a member or the partnership in which a member practises or given to a member or the partnership in which a member practises by or for a client or any other person, and, without restricting the generality of the foregoing, includes ledgers, books of account, records, files, documents, papers, securities, shares, trust money in cash or on deposit and negotiable instruments:
 - (i) if they relate in any way to the member's practice or former practice as a lawyer or to the business or affairs of the member's clients or former clients; and
 - (ii) whether they were acquired before or after the member ceased to practise as a lawyer;
- (c) "**records**" includes electronic records.

1990-91, c.L-10.1, s.60; 2010, c.17, s.34.

Appointment of trustee

61(1) The society may apply to a judge of the court, either *ex parte* or on any notice that the judge may direct, for an order pursuant to subsection (2) where:

- (a) a member has been disbarred;
 - (b) a member is suspended from practice;
 - (c) a member dies;
 - (d) a member is for any reason unable to practise as a lawyer;
 - (e) a member has absconded or is otherwise improperly absent from the member's place of practice or has neglected the member's practice for an unduly extended period;
 - (f) there is reason to believe that the trust moneys held by a member are not sufficient to meet the member's liabilities for those moneys; or
 - (g) there are reasonable grounds to believe that circumstances warrant the appointment of a trustee.
- (2) On an application pursuant to subsection (1), a judge may, by order:
- (a) appoint a person with or without bond to be trustee:
 - (i) to take possession of all of the member's records and other property pertaining to:
 - (A) the practice of the member concerned; and
 - (B) any trust with respect to which the member is or was the sole trustee; and
 - (ii) to do anything that the member was capable of doing in connection with the member's practice;

for the purpose of managing or winding up the practice of the member;

- (b) make an order described in subsection (9);
 - (c) direct any financial institution or other depository of the member's records and other property to deal with, hold, pay over or deliver any of that property to the trustee, or otherwise deal with the property;
 - (d) give directions and advice to a trustee appointed pursuant to this section relating to the disposition of the member's records or other property;
 - (d.1) direct that the costs of the trustee appointed pursuant to this section be paid by the member or the member's estate, as the case may be;
 - (e) give any directions or make any further order that the situation requires.
- (3) On an application, a judge of the court may:
- (a) amend an order made pursuant to subsection (2);
 - (b) remove a trustee appointed by an order made pursuant to subsection (2) and appoint another trustee;
 - (c) make any other order that the judge considers appropriate.

(4) Where a member with respect to whom an order is sought pursuant to this section has a partner who is a member in good standing in the society, the society shall give notice to the partner of the application unless the judge dispenses with service on the partner.

(5) A trustee who is appointed with respect to the trust property of a deceased or incapacitated member shall, from the day of the appointment, be substituted as trustee of that property in the place of the personal representative or property guardian of that member.

(6) In every order made pursuant to this section, the judge shall give directions to the society with respect to the method and time for service of the order.

(7) A person who receives notice that an order has been made pursuant to this section shall retain and shall not dispose of any of the member's records or other property until directed to do so by the trustee or by order of a judge of the court.

(8) Where a judge of the court is satisfied by the oath of a person designated by the benchers that the person believes, on reasonable and probable grounds, that:

- (a) any of the circumstances set out in clauses (1)(a) to (g) exists with respect to a member; and
- (b) any of the member's records or property of the member pertaining to the member's practice is or is likely to be found in a specified place;

the judge may make an order described in subsection (9).

(9) An order pursuant to subsection (8) authorizes the person named in the order, together with any peace officer that the person may call on for assistance, at any reasonable time, to enter by force if necessary the place named in the order and every part of the place named in the order and of the premises connected with that place to:

- (a) examine the place and connected premises;
- (b) search for and seize and take possession of anything that there are reasonable and probable grounds to believe constitute:
 - (i) the member's records; or
 - (ii) property of the member that pertains to the member's practice; and
- (c) place in the custody of the trustee any records or other property seized pursuant to clause (b).

1990-91, c.L-10.1, s.61; 2005, c.38, s.31.

Property in custody

62(1) Where a member's records or other property have been placed in the custody of a trustee pursuant to section 61, the chairperson of the discipline committee or a person designated by the chairperson for the purpose may examine the property.

(2) The trustee shall, on any notice and in any form that the trustee considers appropriate, inform the member's clients and any other person that the trustee considers necessary that:

- (a) the member's records and other property are in the custody of the trustee;
- (b) an examination of the records and other property indicates that the client or other person appears to have an interest in it; and
- (c) the client or other person may apply to the trustee in person or by counsel or agent, subject to any solicitor's lien of the member that the trustee may exercise on or with respect to the member's records or other property:
 - (i) for the delivery of those records and that other property; or
 - (ii) for leave to make copies of any documents and papers among the records and other property that the client or other person considers necessary to copy with respect to any dealings the client or other person had with the member.

1990-91, c.L-10.1, s.62.

Investigation of records, etc.

63(1) Every member and every person who keeps any of a member's records or other property shall comply with a demand of a person designated by the benchers to produce any of the member's records or other property that the person designated by the benchers reasonably believes are required for the purposes of an investigation pursuant to this Act.

(2) Where, on an *ex parte* application by the society, a judge of the court is satisfied by the oath of a person designated by the benchers that the person believes, on reasonable and probable grounds, that:

- (a) a member whose records or other property have been demanded pursuant to subsection (1), or a person who keeps records or other property of that member, has:
 - (i) refused to comply with a demand pursuant to subsection (1); or
 - (ii) failed to comply with a demand pursuant to subsection (1) within a reasonable time of the demand; and
- (b) records or other property that are the subject of a demand pursuant to subsection (1):
 - (i) are required for the purposes of an investigation pursuant to this Act; and
 - (ii) are or are likely to be found in a specified place;

the judge may make an order described in subsection (3).

(3) An order pursuant to subsection (2) authorizes the person named in the order, together with any peace officer that the person may call on for assistance, at any reasonable time, to enter by force if necessary the place named in the order and every part of the place named in the order and of the premises connected with that place to:

- (a) examine the place and connected premises; and
- (b) search for and seize and take possession of the member's records and other property demanded pursuant to subsection (1).

(4) Where any member's records or other property are produced pursuant to subsection (1) or seized pursuant to an order described in subsection (3) or 61(9), the person designated by the benchers to whom the records or other property were produced or who seized the records or other property, a member of the committee conducting the investigation for which the records or other property were demanded or the trustee may:

- (a) make or cause to be made one or more copies of the records or other property produced or seized and return the originals to the person who produced them or from whom they were seized; or
- (b) retain any of the member's records or other property and dispose of them in accordance with the directions of the chairperson of the discipline committee.

(5) Every entry and search pursuant to this section or subsection 61(9) is to be made during normal business hours unless the judge who issues the order authorizing the entry and search authorizes entry and search at another time.

(6) A copy or extract of a member's records or other property certified by a person mentioned in subsection (4) who made the copy or extract is admissible in evidence in any action, proceeding or prosecution as prima facie proof of the original record or property and its contents without proof of the signature or capacity of the person.

1990-91, c.L-10.1, s.63.

Contracts for remuneration

64(1) Notwithstanding any law or usage to the contrary, a member may contract in writing with a person with respect to the remuneration of the member, on a basis other than fee for service, for services rendered or to be rendered to the person.

(2) The benchers may make rules:

- (a) respecting the form, content and scope of fee agreements;
- (b) prescribing the subject matter of provisions that shall or shall not be included in fee agreements.

(3) A member or a person who has entered into a fee agreement with a member pursuant to subsection (1) may apply to a judge of the court for a determination as to whether or not the agreement is fair and reasonable.

(4) Where, on an application pursuant to subsection (3), a judge determines that a fee agreement is fair and reasonable, the agreement is deemed for all purposes to be fair and reasonable.

1990-91, c.L-10.1, s.64.

Courts' powers not limited

65 Nothing in this Act limits the powers of the courts with respect to the revision or assessment of a bill of costs.

1990-91, c.L-10.1, s.65; 2005, c.38, s.32.

Solicitor's lien

66(1) A member who is employed to prosecute or defend a proceeding in a court or tribunal may apply to the court for an order granting the member a lien or charge against any personal property not in the member's possession that is recovered or preserved as a result of the member's services for the proper fees and expenses of or in relation to the proceedings, including counsel fees.

(2) On an application pursuant to subsection (1) or for the enforcement of an order made pursuant to subsection (1), a judge may make any order that the judge considers appropriate for payment of the lien or charge out of the property recovered or preserved.

(3) A member has a lien or charge for the member's proper fees and expenses in relation to all legal services performed by the member for a client against any property owned by the client that is in the member's possession.

(4) Nothing in subsection (3) overrides the exceptions to a solicitor's lien at common law.

(5) On application by a client, the court may, on any terms and conditions that the court considers appropriate, order the delivery of any of the client's property in a member's possession that is held pursuant to subsection (3).

1990-91, c.L-10.1, s.66.

Application for taxation

67(1) A bill of fees or disbursements with respect to services performed by a member may be assessed:

(a) on application to the court:

(i) by the person charged with the bill, within 30 days after the day on which the person received the bill;

(ii) by the member, if no application is made pursuant to subclause (i); or

(iii) by the person charged with the bill, after the expiration of the time set out in subclause (i), if the court is satisfied that it is in the interests of justice to do so; or

(b) on application to the local registrar described in subsection (2), at the request of both the member and the person charged with the bill, at any time.

(2) An application pursuant to clause (1)(a) shall be referred by the court to the local registrar of the court at the judicial centre nearest to which the member who performed the services carries on the member's practice.

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(3) The court may restrain the bringing of an action with respect to that bill pending a reference pursuant to subsection (2).

(4) On an assessment of a bill pursuant to this Act, the local registrar may order any further particulars or details of the services for which the bill was ordered.

1990-91, c.L-10.1, s.67; 2005, c.38, s.33.

***Ex parte* assessment**

68 If either party to a reference pursuant to section 67, having received notice, fails to attend the assessment, the local registrar may proceed to assess the bill in the person's absence.

2005, c.38, s.34.

Costs

69 Every order for a reference pursuant to clause 67(1)(a) shall direct, and every reference pursuant to clause 67(1)(b) shall request, the local registrar to:

- (a) assess the costs; and
- (b) certify the amount that the local registrar may determine to be due to or from each party with respect to the bill and the costs of the assessment.

1990-91, c.L-10.1, s.69; 2005, c.38, s.35.

Rights of persons other than principal

70(1) Subject to subsections (2) and (3), the provisions of this Act with respect to an application for assessment by a person charged with a bill apply, with any necessary modification, to a person who, although not charged with the bill, is liable to pay or has paid a bill to the member or to the person charged with the bill.

(2) Where an application is made pursuant to subclause 67(1)(a)(iii) by a person who is not charged with the bill, the court may take into consideration any circumstances raised by the applicant even if those circumstances would not have been considered if the person charged with the bill were the applicant.

(3) If an application for assessment is brought by a person who is not charged with the bill, the court may order the member who charged the bill to deliver a copy of the bill to the applicant, and the applicant is responsible for the costs of the copy.

1990-91, c.L-10.1, s.70; 2005, c.38, s.36.

Taxation after payment

71(1) Payment of a bill does not preclude the court from referring the bill for assessment if:

- (a) an application for assessment is made within 30 days after the day on which the bill was paid; or
- (b) an application for assessment is made within six years after the day on which the bill was paid and the court is satisfied that it is in the interests of justice to allow the assessment after the expiration of the time specified in clause (a).

(2) A reference pursuant to this section is subject to any terms and directions that the court considers proper in the circumstances.

1990-91, c.L-10.1, s.71; 2005, c.38, s.37.

Appeal of taxation

72 A party to a reference may appeal the decision of the local registrar to the court.

1990-91, c.L-10.1, s.72.

Status of taxed bill

73(1) Subject to an appeal pursuant to section 72, the certificate of the local registrar given on assessment is final and conclusive as to the amount specified.

(2) Payment of the amount certified by the local registrar to be due and directed to be paid may be enforced in the same manner as a judgment of the court.

1990-91, c.L-10.1, s.73; 2005, c.38, s.38.

Action pursuant to *The Small Claims Act* for fees and disbursements

73.1(1) Where, in an action pursuant to *The Small Claims Act, 1997* respecting a bill of fees and disbursements with respect to services performed by a member, an issue arises respecting the amount of the bill and no application has been made pursuant to section 67, the judge, notwithstanding section 67, has jurisdiction to determine the amount of the bill.

(2) Subject to an appeal pursuant to *The Small Claims Act, 1997*, a determination by a judge pursuant to subsection (1) is final.

1996, c.7, s.21; 1997, c.S-50.11, s.54.

PART VI Law Foundation

Foundation continued

74(1) The Law Foundation is continued as a corporation consisting of:

- (a) the minister or the minister's designate;
- (b) three persons appointed by the minister, of whom at least one is not a member of the society; and
- (c) five persons who are members of the society and are appointed by the benchers.

(2) A member of the foundation, other than the minister or the minister's designate, holds office for a term of two years and until a successor is appointed.

(3) The benchers shall appoint one of the members of the foundation mentioned in clause (1)(c) to be chairperson of the foundation.

(4) Where a vacancy occurs in the office of a member of the foundation, the person or body by whom the member was appointed may appoint to the vacant office any person eligible to be appointed to that office.

(5) A person appointed pursuant to subsection (4) holds office for the remainder of the term of the member of the foundation being replaced and until a successor is appointed.

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- (6) The members of the foundation may act notwithstanding a vacancy in the membership of the foundation.
- (7) No act done by the authority of the foundation is invalid in consequence of any defect that is discovered in the appointment of the members of the foundation.
- (8) An appointed member of the foundation may resign by giving 30 days' notice in writing to the foundation of the intention to do so, and the resignation takes effect on the earlier of:
 - (a) the expiration of the notice; or
 - (b) the acceptance of the resignation by the foundation.
- (9) Membership in the foundation terminates when:
 - (a) a member of the foundation ceases to possess the qualifications necessary for appointment; or
 - (b) the member's appointment is terminated for cause by the minister or the benchers, as the case may be.

1990-91, c.L-10.1, s.74; 2010, c.17, s.35.

Powers of foundation

75 The foundation may acquire, hold, mortgage, dispose of and otherwise deal with real and personal property for the purposes of the foundation.

1990-91, c.L-10.1, s.75.

Fund of foundation

76(1) The purpose of the foundation is to establish and maintain a fund to be used for the purposes of legal education, legal research, legal aid, law libraries and law reform.

(2) The foundation shall apply the funds of the foundation in any manner that it may decide for its purposes.

(3) The funds of the foundation shall consist of all moneys paid to the foundation by the society pursuant to subsection 14(6), all moneys paid to the foundation by members pursuant to section 78, interest accruing from investment of the funds of the foundation and any other moneys received by the foundation.

(4) The costs, charges and expenses:

- (a) of the administration of the foundation; and
- (b) incurred by the foundation in carrying out its purposes;

shall be paid out of the funds of the foundation.

(5) The foundation shall pay all moneys of the foundation into an account in a financial institution to be called the "Law Foundation Account" pending investment or application in accordance with this section, and that account is to be used for the purposes of the foundation.

- (6) The foundation:
- (a) may invest at interest, in the name of the foundation, any funds of the foundation that are not required for the purposes of the foundation; and
 - (b) for the purposes of that investment and any subsequent variation or transposition of it, has all the powers of investment and all the other powers of a trustee pursuant to *The Trustee Act, 2009*.
- (7) The accounts of the foundation are to be audited annually by an individual who:
- (a) is a member in good standing of a recognized accounting profession that is regulated by an Act; and
 - (b) is appointed by the benchers.

1990-91, c.L-10.1, s.76; 2006, c.25, s.4; 2007, c.5, s.7; 2009, c.T-23.01, s.64.

Power to make rules

77(1) The foundation may make rules for purposes relating to the affairs, business, property and objects of the foundation and, without limiting the generality of the foregoing, may make rules respecting:

- (a) the number and designation of its officers;
 - (b) subject to subsection 74(3), the appointment and terms of office of its officers and all matters relating to its officers;
 - (c) the resignation or removal of its officers;
 - (d) the number and designations of its employees, other than officers, and the terms and conditions of their employment;
 - (e) the remuneration, if any, of its officers and employees; and
 - (f) the operation of the Law Foundation Account.
- (2) Sections 88 to 92 apply, with any necessary modification, to rules of the foundation.

1990-91, c.L-10.1, s.77; 2006, c.25, s.4.

Payment of interest to foundation

78(1) A member who receives or holds moneys in trust for or on account of clients generally shall deposit the moneys in an interest bearing account.

- (2) A member who is credited with interest on moneys received or held in trust for or on account of clients generally:
- (a) is deemed to hold the interest in trust for the foundation; and
 - (b) shall remit the interest to the foundation in accordance with the rules.
- (3) The benchers shall make rules to ensure that all interest described in subsection (2) is paid to the foundation.

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(4) No member is liable, by virtue of the relation between lawyer and client or by virtue of the relation between the member as trustee and a *cestui que trust*, to account to any person other than the foundation for interest described in subsection (2).

(5) Subject to subsection (6), nothing in this section or in the rules made pursuant to this section affects an arrangement in writing between the member and the member's client as to the application of the client's moneys or interest on the moneys.

(6) No arrangement described in subsection (5) applies to any interest on moneys of the client that has been credited to the member prior to their entering into the arrangement.

(7) Notwithstanding anything in this section or in rules made pursuant to this section, interest earned on moneys deposited in a separate account for a client is and remains the property of the client.

1990-91, c.L-10.1, s.78.

Annual report

79(1) The foundation shall:

(a) annually prepare and submit to the minister and the society a report respecting the work performed by the foundation in the immediately preceding fiscal year in carrying out its purposes;

(b) submit to the minister and the society the report of the auditor who has audited the accounts of the foundation for its immediately preceding fiscal year.

(2) The reports submitted pursuant to subsection (1) shall be laid before the Legislative Assembly by the minister in accordance with *The Tabling of Documents Act*.

1990-91, c.L-10.1, s.79.

PART VII
General

Offence and penalty

80 Every person who contravenes section 30, 32 or 33 is guilty of an offence and liable on summary conviction:

(a) in the case of a first offence, to a fine of not more than \$2,000; and

(b) in the case of a second or subsequent offence, to a fine of not more than \$5,000.

1990-91, c.L-10.1, s.80.

Power of benchers to commence proceedings

81(1) Subject to subsection (2), the benchers may:

- (a) commence or authorize the commencement of proceedings for any alleged contravention of this Act; and
- (b) make rules with respect to the commencement of proceedings pursuant to this Act.

(2) No prosecution with respect to an alleged offence pursuant to section 30, 32 or 33 of this Act shall be commenced or authorized to be commenced pursuant to subsection (1) after two years from the day of commission of the alleged offence.

2010, c.17, s.36.

Injunction

82(1) Where it appears that a person is acting or is likely to act in contravention of this Act or the rules, the society may apply to the court for an injunction enjoining any person from doing any act or thing that contravenes this Act or the rules, notwithstanding any penalty that may be provided by this Act with respect to that contravention.

(2) On an application pursuant to subsection (1), the court may grant an injunction, interim injunction or any other relief that it considers just.

1990-91, c.L-10.1, s.82.

Executive director's certificate as evidence

83 A certificate of the executive director certifying all or any of the following facts is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or official position of the person purporting to have signed the certificate:

- (a) that a named person was or was not, on a specified day or during a specified period a member, an active member, an inactive member or a suspended member, according to the roll;
- (b) that a named person was or was not, on a specified day or during a specified period, an articulated student-at-law, according to the records of the society; or
- (c) that a named person was or was not, on a specified day or during a specified period an officer of the society or a bencher, according to the records of the society.

2005, c.38, s.39.

Certain conduct protected

84(1) No person who submits documents or discloses information before any proceeding conducted pursuant to this Act is liable at law or liable to any penal proceeding pursuant to any Act for so doing.

(2) No committee appointed pursuant to this Act that discloses a report or part of a report of the committee to the public or any person is liable at law or liable to any penal proceeding.

(3) Subsection (2) applies, with any necessary modification, to a member of a committee who, with the consent of the committee, discloses a report or part of a report of the committee.

1990-91, c.L-10.1, s.84.

Solicitor and client privilege during proceeding

84.1(1) In this section:

(a) **“member”** includes a former member, a non-member who is authorized to engage in the practice of law in Saskatchewan, a student-at-law, a person required to serve under articles and a person authorized to practise law in accordance with the rules made pursuant to clause 10(i);

(b) **“member’s records”** means anything kept or acquired by a member or the partnership in which a member practises or given to a member or the partnership in which a member practises by or for a client or any other person, and, without restricting the generality of the foregoing, includes ledgers, books of account, records, files, documents, papers, securities, shares, trust money in cash or on deposit and negotiable instruments:

(i) if they relate in any way to the member’s practice or former practice as a lawyer or to the business or affairs of the member’s clients or former clients; and

(ii) whether they were acquired before or after the member ceased to practise as a lawyer;

(c) **“records”** includes electronic records.

(2) A member shall not in any proceedings pursuant to this Act refuse to answer inquiries or provide any information, member’s records or other property within the member’s possession or power on the grounds of solicitor and client privilege.

(3) If a member is required to answer inquiries or provide any information, member’s records or other property pursuant to subsection (2) and the member may claim solicitor and client privilege with respect to the answers, information, member’s records or other property, the member or any other person who may claim the solicitor and client privilege may require that:

(a) all or part of any proceedings pursuant to this Act that deal with the answers, information, member’s records or other property be held in private; and

(b) the public be refused access to the information, member’s records or other property and to any other document containing the answers.

(4) If the Court of Queen's Bench or the Court of Appeal on an application or appeal pursuant to this Act considers it necessary to prevent the disclosure of answers, information, a member's records or other property with respect to which solicitor and client privilege may be claimed, the court shall order that:

- (a) all or any part of the proceedings before the court that deal with the answers, information, member's records or other property be held in private; and
- (b) the public be refused access to the information, member's records or other property and to any other document containing the answers.

(5) Subsections (3) and (4) apply, with any necessary modification, to:

- (a) every person who keeps any of a member's records or other property; and
- (b) records or other property of a member seized pursuant to an order described in subsection 61(9) or 63(3).

(6) Compliance with subsection (2) or (5) does not breach or constitute a waiver of solicitor and client privilege and the privilege continues for all other purposes.

2007, c.5, s.8.

Service of documents

85(1) A notice or document required by Part IV or V to be given or served shall, unless otherwise provided for, be served in any manner set out in The Queen's Bench Rules other than by ordinary mail.

(2) A document served by registered mail is deemed to have been received on the seventh day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the document or received it at a later day.

1990-91, c.L-10.1, s.85.

Limitation on liability

86 No action lies or shall be instituted against the society, a bencher, a committee or member of a committee continued or established by or pursuant to this Act or the rules, the executive director or any other officer, employee or agent of the society or of a committee for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise of or supposed exercise of any power conferred by this Act or the rules or in the carrying out or supposed carrying out of any duty imposed or order made by or pursuant to this Act or the rules.

1990-91, c.L-10.1, s.86; 2005, c.38, s.40.

Reference to barrister, solicitor

87 A reference in any other Act to a barrister, solicitor, barrister and solicitor or lawyer is deemed to be a reference to a lawyer:

- (a) who is duly admitted as a member; and
- (b) whose right to practise is not suspended;

pursuant to this Act.

1990-91, c.L-10.1, s.87.

c. L-10.1

LEGAL PROFESSION, 1990

Rules to be filed

88(1) The society shall file with the Director of Corporations two copies, certified by the executive director to be true copies, of:

- (a) all rules and all amendments to those rules made pursuant to this Act; and
- (b) all amendments to rules or bylaws made pursuant to *The Legal Profession Act* prior to the day on which this Act comes into force;

within 30 days after the day on which they are made.

(2) Where the society adopts a code of professional conduct governing its members, and subscription to or observance of the code is a condition of membership, the code of professional conduct is, for the purpose of this section and sections 89 to 92, deemed to be a rule.

(3) Where a rule or bylaw is amended, the society shall file two copies of the rule or bylaw with the amendment.

1990-91, c.L-10.1, s.88; 2005, c.38, s.41; 2010, c.B-12, s.35.

Effective date

89 Rules and amendments to the rules take effect on the day on which they are made or on the day specified in the rule or amendment.

1990-91, c.L-10.1, s.89.

Effect of failure to file

90 Failure to file a rule or amendment as required by section 88 renders it ineffective as from the expiration of the time allowed for filing, and the rule or amendment is deemed to have been revoked.

1990-91, c.L-10.1, s.90.

Review by Legislative Assembly

91(1) One copy of all rules and amendments filed pursuant to subsection 88(1) is to be laid before the Legislative Assembly by the minister responsible for the administration of *The Business Corporations Act* in accordance with *The Tabling of Documents Act*.

(2) Where a rule or amendment laid before the Legislative Assembly is found by the Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, the rule or amendment ceases to have effect and is deemed to have been revoked.

1990-91, c.L-10.1, s.91; 2005, c.38, s.42; 2010, c.B-12, s.35.

Record of revocation and notification

92(1) Where it appears from any Votes and Proceedings of the Legislative Assembly that a rule or amendment has ceased to have effect, the Clerk of the Assembly shall forward two copies of the Votes and Proceedings to the Director of Corporations and at the same time advise that director that the copies are forwarded pursuant to this subsection.

(2) On receipt of the copies mentioned in subsection (1), the Director of Corporations shall:

- (a) file one of the copies with the rule or amendment to which it relates; and
- (b) forward the other copy to the society, and at the same time advise the society that the copy is forwarded pursuant to this subsection.

1990-91, c.L-10.1, s.92; 2005, c.38, s.43; 2010, c.B-12, s.35.

PART VIII

Transitional, Repeal, Consequential and Coming into Force

Transitional

93(1) Subject to section 9 of this Act, a person who is a bencher of the society pursuant to section 9 of *The Legal Profession Act* on the day before the day on which section 6 of this Act comes into force continues as a bencher until:

- (a) benchers are elected or appointed pursuant to section 6 of this Act; or
- (b) that bencher resigns, dies or is removed in accordance with this Act.

(2) A person who is a member of the foundation pursuant to section 45 of *The Legal Profession Act* on the day before the day on which section 74 of this Act comes into force continues as a member of the foundation until:

- (a) members of the foundation are appointed pursuant to section 74 of this Act; or
- (b) that member of the foundation resigns, dies or is removed in accordance with this Act.

(3) Rules and bylaws that:

- (a) were made pursuant to *The Legal Profession Act*, as that Act existed on the day before the coming into force of this Act; and
- (b) are subsisting on the day before the coming into force of this Act;

continue in force as rules until amended or repealed pursuant to this Act.

(4) Any proceedings arising from circumstances described in section 54 or 55 of *The Legal Profession Act* are continued pursuant to this Act, and the provisions of this Act apply, with any necessary modification, to those proceedings.

(5) A prosecution that was commenced or authorized to be commenced pursuant to *The Legal Profession Act*, as that Act existed on the day before the coming into force of this Act, is deemed to be commenced or authorized pursuant to this Act.

1990-91, c.L-10.1, s.93.

R.S.S. 1978, c.L-10 repealed

94 *The Legal Profession Act* is repealed.

1990-91, c.L-10.1, s.94.

95 to 101 **Dispensed.** These sections make consequential amendments to other Acts. The amendments have been incorporated into the corresponding Acts.

Coming into force

102 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.

1990-91, c.L-10.1, s.102.