

**Part 2
The Law Society**

Division 1 - Administration

Archives

2.1 The archives of the society must be in the custody of the chief executive officer at such location as the chief executive officer deems appropriate.

Rolls

2-2 An alteration or addition must not be made to the rolls of the society except under the authority of a court of competent jurisdiction or the benchers.

Division 2 - Bencher Elections

Bencher election

2-3 The election of benchers in all electoral districts must be held on the 1st Wednesday in May of each even-numbered year.

Voting Time Limits

2-3.1 Ballots may be cast at any time on or after the third Tuesday in April but not later than 5:00 p.m. on the first Tuesday in May in an election year. (ENACTED 12/15)

Electoral district boundaries

2-4 The boundaries of the electoral districts are as follows:

- (a) subject to clauses (b) and (c) and (d), the boundaries of the electoral districts established under clauses (b) and (c) of section 5 of the Act are the same as the boundaries of the Western Judicial District, Northern Judicial District, Dauphin Judicial District, Central Judicial District, and Eastern Judicial District, respectively, as those judicial districts were defined in The Municipal Boundaries Act, R.S.M. 1970, c. M250, s. 7 to 11;
Note: Section 7 to 11 of The Municipal Boundaries Act were repealed by S.M. 1982-83-84, c. 82.
- (b) the Eastern Electoral District does not include the area described in clause (c);
- (c) the City of Winnipeg Electoral District is the part of the City of Winnipeg that is bounded by the highway commonly known as the Perimeter Highway.
- (d) the Central and Dauphin Electoral District includes the combined boundaries of the Central Judicial District and the Dauphin Judicial District.

(AM. 12/15)

Qualifications of candidates for bencher

2-5 To be eligible to be a candidate for election as a bencher, a member of the society must:

- (a) be a practising lawyer on the 1st Monday in March of the election year and have his or her name on the voting list on the 1st Monday in April of the election year;
- (b) maintain his or her principal office in the district in which he or she seeks to be a candidate;
- (c) be nominated for election as provided for under these rules; and
- (d) not be a life bencher or an ex officio bencher.

(AM. 01/08)

Nominations in the Winnipeg district

2-6 The nomination of a candidate for election as a bencher in the City of Winnipeg Electoral District is valid only if:

- (a) it is in writing, names only one candidate and is signed by at least five members of the society who maintain a principal office in that district and whose names are on the voting list;
- (b) the nominee consents in writing to the nomination; and
- (c) the nomination and consent are received by the chief executive officer on or before the 1st Monday in April before the election is to take place.

Nominations in other districts

2-7 The nomination of a candidate for election as a bencher in an electoral district of the province other than the City of Winnipeg Electoral District is valid only if:

- (a) it is in writing, names only one candidate and is signed by at least two members of the society who maintain a principal office in that district and whose names are on the voting list;
- (b) the nominee consents in writing to the nomination; and
- (c) the nomination and consent are received by the chief executive officer on or before the 1st Monday in April before the election is to take place.

Nomination form

2-7.1 The nomination of a candidate for election as a bencher and the candidate's consent must be contained in the nomination form provided by the society. (ENACTED 01/08)

Decisions as to eligibility, validity of nominations and votes

2-8 The vice-president must decide questions about the eligibility of any candidate

for election as a bencher, the validity of any nomination and the validity of any vote cast in the election.

Acclamation

2-9 If the number of candidates nominated does not exceed the number to be elected in an electoral district, the vice-president must declare that those nominated are elected as benchers for that district by acclamation.

Entitlement to vote

2-10 Only members who are practising lawyers on the 1st Monday in March of the election year and whose names appear on the voting list on election day are entitled to vote. A practising lawyer who maintains his or her principal office outside the province of Manitoba may only vote in the City of Winnipeg Electoral District. (AM. 03/05)

Voters list

2-11 On the 1st Monday in March in an election year, the chief executive officer must prepare an alphabetical list of voters and any member of the society may examine the list at the society office, during normal office hours.

Rectification of list

2-12 A member of the society who has reason to believe that the voters list improperly includes or omits a name, or contains an error respecting the electoral district in which a member is entitled to vote, may report the error to the chief executive officer, who must promptly investigate the report and correct any error that exists.

CEO may establish procedures

2-12.1 The benchers may authorize the chief executive officer to:

- (a) establish the procedures by which election materials are prepared and circulated and by which members may vote; and
- (b) use electronic processes, including the internet, for the circulation of election notices, forms, ballots, documentation and other material.

(ENACTED 01/08)

Notice of election

2-13 By the 2nd Monday in March in an election year, the chief executive officer must circulate written notice of the election and a nomination form to each practising lawyer whose name appears on the voting list. (AM. 01/08)

Circulation of voting papers

2-14 By the 3rd Monday in April in an election year, the chief executive officer must circulate to each practising lawyer whose name is on the voting list:

- (a) a ballot that lists under each electoral district the names, in alphabetical order, of all candidates nominated for that electoral district;

- (b) voting instructions;
- (c) biographical information received from the candidates; and
- (d) such other materials as may be required.

(AM. 01/08)

Secret ballot

2-14.1 The chief executive officer must ensure that all methods of voting preserve the anonymity of the voters and the secrecy of their vote. (ENACTED 01/08)

Voting for candidates

2-15 For ballots to be valid, the voters must:

- (a) cast their ballots in accordance with the instructions and procedures established by the chief executive officer; and
- (b) not vote for more candidates than the number of benchers to be elected in the district.

(AM. 01/08)

Rejection of ballots

2-16 A ballot that is not cast in accordance with the instructions circulated by the chief executive officer or is not received before election day is invalid. (AM. 01/08)

Votes in Winnipeg district

2-17 A practising lawyer entitled to vote in an electoral district other than the City of Winnipeg Electoral District is also entitled to vote in the City of Winnipeg Electoral District.

Votes outside Winnipeg district

2-18 No vote cast for a candidate in an electoral district, other than the City of Winnipeg Electoral District, shall be counted unless cast by a practising lawyer who maintains a principal office in the same electoral district as the candidate.

Election officials

2-19 Before each election the benchers must appoint:

- (a) two persons to act as scrutineers at the election; and
- (b) a person to act as deputy for the vice-president in case the vice-president is unable to act.

Custody of voting papers and counting of votes

2-20 Repealed

Right to be present

2-21 Any person entitled to vote in the election is entitled to be present at any place where paper ballots are being counted. (AM. 01/08)

Procedure on equality of votes

2-22 If there is an equality of votes for two or more candidates in any electoral district, the name of each candidate must be written on a separate piece of paper and placed in a suitable receptacle. The vice-president, in the presence of a scrutineer, must then draw at random a number of papers equal to the number of benchers in that district still to be elected and the candidate(s) named in the drawn paper(s) must be declared elected.

Declaration of candidates elected

2-23 The vice-president must declare elected the candidates who receive the greatest number of votes, up to the number of benchers to be elected in each district, and certify their election to the president. The president must report the results to the benchers at their next meeting.

Effect of failure to comply with Act and rules

2-24 Any accidental failure on the part of the president, vice-president or chief executive officer to comply with any of the provisions of the Act, rules, or the procedures established by the chief executive officer does not invalidate an election. (AM. 01/08)

Retention of documents

2-25 All ballots cast in the election and other election documents must be retained until all petitions against the election have been decided. (AM. 01/08)

Petition against election

2-26 Any person who lawfully voted in the election may file a written petition against the election of any candidate with the chief executive officer not later than 14 days after the election date. The petition must contain a statement of the grounds on which the election is disputed. The chief executive officer must provide a copy of the petition to the candidate whose election is disputed.

Committee to hear petition

2-27 The benchers must appoint a committee of benchers to hear the petition and the chief executive officer must give written notice of the day, time and place of the hearing to the petitioner and to the candidate whose election is disputed. After the hearing, the committee must report to the benchers, who must consider the report and declare whether the candidate whose election is disputed was or was not duly elected. Where the benchers declare that a candidate was not duly elected, they must declare some other eligible person elected.

Taking office and term

2-28 Persons elected or appointed as benchers take office on the first meeting of the benchers following their election or appointment, except that a person against whose election a petition has been filed must not take office until the benchers declare that he or she has been duly elected.

Part year counts as a year

2-28.1 For the purposes of establishing when a Bencher becomes a Life Bencher, part

of a year of service counts as a year of service. (ENACTED 06/13)

Failure to nominate enough candidates

2-29 When an electoral district fails to nominate enough candidates to elect the required number of benchers, the benchers must, with all convenient speed, appoint a practising member who maintains his or her principal office in the district with the vacancy to fill the vacancy.

Student bencher

2-30 Each year, on a date fixed by the chief executive officer, the students who are enrolled in the society's bar admission course must elect one student from among their number to be student bencher for a term of one year or until his or her successor is elected. The student bencher takes office at the first meeting of the benchers following his or her election.

Honorary appointments

2-31 The benchers may appoint a person an honorary bencher, ex-officio bencher or honorary member of the society. No fees or assessments are payable by honorary benchers or honorary members.

Appointed practising benchers

2-32 The benchers must appoint four practising lawyers as benchers in each even-numbered year. (ENACTED 12/15)

Qualification of candidates for appointed practising bencher

2-32.1 To be eligible to be a candidate as an appointed practising bencher, a member of the society must:

- (a) be a practising lawyer on the 1st Monday in March of the appointment year;
- (b) not be a life bencher or an ex-officio bencher;
- (c) meet the criteria that are established from time to time by the benchers to achieve representation by region, demographics, type of law practice, professional, leadership or management skills or other identified skills and attributes. (ENACTED 12/15)

Division 3 - Bencher Meetings

Regular meetings

2-33 Bencher meetings must be held in Manitoba, unless the benchers direct otherwise. There must not be less than six meetings each year.

Additional meetings

2-34 Additional meetings may be convened by the president and must be convened at the request of five or more benchers.

Notice of bencher meeting

2-35 The chief executive officer must give such notice as is practicable to the benchers and all members of the society of the date, time, place and purpose of all bencher meetings.

Quorum

2-36 Seven benchers constitute a quorum. Business must not be transacted unless a quorum is present.

Entitlement to attend meeting

2-37 All members are entitled to attend bencher meetings but:

- (a) only benchers are entitled to vote; and
- (b) a member who is not a bencher must not speak without leave of the meeting.

Equality of votes

2-38 Each bencher is entitled to one vote on all matters, except that the presiding officer has an additional vote in the event of a tie.

Manner of voting

2-39 Voting must be by show of hands unless a bencher requests a vote by ballot.

Meetings in camera

2-40 The benchers may decide that any item of business be dealt with in camera, and if they do only benchers or benchers and specified employees of the society are entitled to be present during the discussion of the business item.

Presiding officer

2-41 The president, or in the absence of the president, the vice president or the immediate past president must preside at a bencher meeting. In the absence of the president, vice president and immediate past president, the benchers present must choose a bencher to preside at the meeting.

Proxy voting not allowed

2-42 A bencher is not entitled to vote by proxy.

Procedural issues

2-43 A dispute concerning the procedure to be followed at a bencher meeting that is not provided for in the Act or rules must be resolved in accordance with the most recent edition of Roberts Rules of Order.

Meeting by joining locations

2-44 The benchers may conduct a meeting by joining together two or more locations by means of communication that allows all participants to hear each other. A bencher participating in the meeting in that way is, for the purpose of these rules and calculation of a quorum, present at the meeting.

Rules

2-45 The benchers may make, amend, suspend or repeal a rule at any meeting.

Division 4 - Other Meetings

Annual general meeting

2-46 The benchers must hold an annual general meeting of the members of the society each year and the chief executive officer must give reasonable notice to all members of the date, time and place of the annual general meeting.

Quorum

2-47 Seven members of the society constitute a quorum at the annual general meeting.

Annual report and auditors

2-48 At each annual general meeting,

- (a) the chief executive officer must present the society's annual report for the immediately preceding fiscal year, which must include the financial statements for the year and the auditor's report on those statements; and
- (b) the members must appoint an auditor for the current year.

Voting

2-49 Members of the society are entitled to attend and speak at the annual general meeting. Each member who is present at the annual general meeting is entitled to one vote.

Division 5 - Election of Officers, Benchers and Committee Appointments

Nominating committee

2-50 No later than the month of March in each year, the benchers must appoint a nominating committee to propose candidates for the positions of president and vice-president and to recommend committee appointments and in each even numbered year, to recommend the appointment or re-appointment of practising lawyer benchers and lay benchers and to propose a candidate for the position of officer-at-large. (AM. 01/08); (AM 12/17)

Composition of committee

2-51 The following persons must sit as members of the nominating committee:

- (a) the president;
- (b) the vice-president;
- (c) four benchers consisting of;

- (d) two practising lawyer benchers, provided that at least one bencher maintains his or her principal office outside the City of Winnipeg Electoral District; and
- (e) two lay benchers; and
- (f) the immediate past president.

(AM. 05/11); (AM. 12/17)

Committee composition remains unchanged

2-51.1 The persons occupying the positions in Rule 2-51 at the time of their appointment shall remain on the committee until the committee's work is concluded. (ENACTED 12/17)

Entitlement to vote

2-52 All members of the nominating committee are entitled to vote. (AM. 05/11); (AM. 12/17)

Designates

2-53 Repealed 12/17

Nominations for president, vice-president

2-54 At a meeting of the benchers to be held in April in each year, the nominating committee must propose the name of at least one lawyer bencher candidate for the position of president and the names of at least two lawyer bencher candidates for the position of vice-president. Nominations of additional lawyer bencher candidates for the positions of president and vice-president may be accepted at the April meeting, if accompanied by the written consent of each candidate and the written endorsement of two benchers present at the meeting. (AM. 01/08) (AM 12/17)

Election of president, vice-president at April meeting

2-55 Subject to rule 2-56, if only one candidate is nominated for president, he or she must be declared to be elected to that position by acclamation and failing acclamation, the benchers in attendance at the April meeting must conduct an election by secret ballot for the positions of president and vice-president. Candidates elected as president and vice-president take office at the May meeting of the benchers and hold office until their successors take office. (AM. 01/08)

Vice-President deemed to be an elected bencher

2-56(1) Pursuant to subsection 6(2)(d)(iii) of the Act, if the bencher holding the position of vice-president is an elected bencher, at the time of a bencher election, he or she shall not be required to run for re-election and shall be deemed to be elected as a bencher for his or her electoral district, provided the vice-president:

- (a) is a practising lawyer on the first Monday in March of the election year;
- (b) has his or her name on the voting list on the first Monday in April of the election year;

- (c) continues to maintain his or her principal office in the electoral district for which he or she was last elected a bencher; and
- (d) is not a life bencher or an ex officio bencher.

(ENACTED 01/08) (AM. 06/08) (AM 12/17)

Vice-president deemed to be an appointed bencher

2-56(1.1) If the bencher holding the position of vice-president is an appointed bencher at the time of the bencher election, he or she shall not be required to apply for re-appointment and shall be deemed to be appointed as a bencher, provided the vice-president:

- (a) is a practising lawyer on the first Monday in March of the appointment year;
- (b) has his or her name on the voting list on the first Monday in April of the appointment year; and
- (c) is not a life bencher or an ex officio bencher.

(ENACTED 12/17)

Failure of officers to be elected during an election year

2-56(2) During a year in which a bencher election is to be held:

- (a) if the vice-president is not elected to serve as president at the April meeting of the benchers, he or she immediately ceases to be the vice-president and the successful candidate for president shall become the vice-president;
- (b) if an elected bencher candidate is elected to take office as vice-president at the May meeting of the benchers and that individual fails to be re-elected as a bencher, then at the May meeting of the benchers the nominating committee must propose the names of at least two bencher candidates for the position of vice-president;
- (c) nominations of additional bencher candidates for the position of vice-president may be accepted at the May meeting if accompanied by the written consent of each candidate and the written endorsement of two benchers present at the May meeting. The benchers in attendance at the May meeting must conduct an election for the position of vice-president and voting must be by secret ballot.

(ENACTED 01/08) (AM. 06/08) (AM 12/17)

Failure of officers to be re-appointed during an election year

2-56(3) During a year in which a bencher election is to be held:

- (a) if an appointed lawyer bencher candidate is elected to take office as vice-president at the May meeting of the benchers and that individual fails to be re-appointed as a bencher, then no later than the September meeting of the

benchers the nominating committee must propose the names of at least two bencher candidates for the position of vice-president;

- (b) nominations of additional bencher candidates for the position of vice-president may be accepted at the September meeting if accompanied by the written consent of each candidate and the written endorsement of two benchers present at the September meeting. The benchers in attendance at the September meeting must conduct an election for the position of vice-president and voting must be by secret ballot.
- (c) if the lay bencher candidate appointed to take office as officer-at-large at the May meeting of the benchers is not re-appointed as a bencher, than at the September meeting of the benchers the nominating committee must propose the name of a lay bencher candidate for the position of officer-at-large.

(ENACTED 12/17)

Term of officer-at-large

2-56(4) The term of the officer-at-large is two years. (ENACTED 12/17)

Committee appointments

2-57 At the May meeting of the benchers, the nominating committee must recommend the names of people to sit as members of bencher committees and in even numbered years, must recommend the name of a lay bencher to sit as the officer-at-large. (ENACTED 01/08) (AM 12/17)

Division 6- Bencher Vacancies and Removal

Removal of elected, appointed practising bencher, student bencher and dean for absences etc.

2-58 Where an elected bencher, appointed practising bencher, student bencher or the Dean:

- (a) fails to attend three successive regular meetings of the benchers;
- (b) is found guilty of professional misconduct, conduct unbecoming, or incompetence;
- (c) gives an undertaking to cease or refrain from practicing as a lawyer or to withdraw from the bar admission course; or
- (d) is convicted of an offence punishable by more than six months imprisonment or is sentenced to a term of imprisonment, whether conditional or otherwise,

he or she then ceases to be a bencher, unless reinstated by resolution of the benchers passed at one of the next two scheduled regular meetings of the benchers. (AM. 12/15)

Effect of disbarment, suspension, expulsion, resignation

2-59 Where a student bencher is expelled from the society, permitted to resign his or her membership in the society or found by a court to be of unsound mind, he or she then ceases to be a bencher. Where an elected bencher, appointed practising bencher or the Dean is disbarred, suspended from practising law, permitted to resign his or her membership in the society or found by a court to be of unsound mind, he or she then ceases to be a bencher. (AM. 12/15)

Removal of appointed lay bencher

2-60 Where a person appointed as a bencher under section 7(1) of the Act fails to attend three successive regular meetings of the benchers or is convicted of an offence punishable by more than six months imprisonment or is sentenced to a term of imprisonment, whether conditional or otherwise, he or she then ceases to be a bencher, unless reinstated by resolution of the benchers passed at one of the next two scheduled regular meetings of the benchers. Where an appointed lay bencher is found by a court to be of unsound mind, he or she then ceases to be a bencher. (AM. 12/15)

Term of appointment

2-61 A person appointed as a lay bencher or a practising bencher under section 7 of the Act must serve for a term of two years or until a successor is appointed, up to a maximum period of eight years. (AM. 12/15)

Filling of vacancies

2-62 Where a person ceases to be a bencher by operation of rules 2-58 through 2-60 or a vacancy results from any other cause, the vacancy must be filled as follows:

- (a) in the case of a student bencher, the students who at the time of the vacancy are enrolled in the bar admission course must, with all convenient speed, elect another student from among their number to fill the vacancy;
- (b) in the case of the Dean, the Faculty of Law of the University of Manitoba must, with all convenient speed, appoint a person who is a fulltime member of the academic staff of the Faculty of Law at the University of Manitoba to fill the vacancy;
- (c) in the case of an elected bencher, the remaining benchers must, with all convenient speed, appoint a practising lawyer who maintains his or her principal office in the electoral district where the vacancy occurred to fill the vacancy; and
- (d) in the case of an appointed practising bencher, the remaining benchers must, with all convenient speed, appoint a practising lawyer to fill the vacancy; and
- (e) in the case of an appointed lay bencher, the committee mentioned in subsection 7(1) of the Act must, with all convenient speed, appoint another person to fill the vacancy.

(AM. 12/15)

Division 7 - Committees

Appointment

2-63(1) The benchers may appoint any person and any number of persons as members of a committee of the benchers.

Delegation to committees and chief executive officer

2-63(2) The benchers may delegate to the chief executive officer or to a committee established by them the authority to do any act or exercise any power or jurisdiction that the benchers are authorized to do under the Act, except the power to make rules.

Standing committees

2-63(3) The benchers must appoint the following standing committees:

- (a) admissions and education;
- (b) complaints investigation;
- (c) discipline;
- (d) equity;
- (e) nominating;
- (f) practice and ethics;
- (g) professional liability claims fund; and
- (h) reimbursement claims fund.

Other committees

2-64 The benchers may appoint other committees as necessary.

Committee composition

2-65 Subject to rules 2-51, 5-70(2), 5-93(4) and 5-94(1), the benchers must appoint not less than two benchers to serve as members on all standing committees.

Appointment of chairperson

2-66 The benchers may appoint one member of each committee to be the chairperson or two members to be co-chairpersons and may appoint another member to be the vice-chairperson.

Vacancies

2-67 The benchers may terminate a committee appointment or appoint a person to fill a vacancy on a committee.

Ex-officio members

2-68 The president and vice president are ex-officio members of all committees except the discipline committee.

Quorum

2-69 At all committee meetings except meetings of the complaints investigation committee, meetings of panels of the practice and ethics committee, and hearings held by panels of the admissions and education committee, the trust safety appeal committee and the discipline committee, at least half of the members of a committee are required to attend a meeting to constitute a quorum. (AM. 05/08) (AM. 10/19)

Member of standing committee must not be counsel

2-70 A member of a standing committee must not appear before the benchers or any bencher committees as counsel on behalf of the society or on behalf of a member. (ENACTED 06/11)

Bencher must not be counsel

2-70(1) Repealed 06/11

Life bencher

2-70(2) Repealed 06/11

Division 8 - Members

Categories of membership

2-71(1) The following are the categories of membership in the society:

- (a) practising lawyers, as defined in section 1 of the Act;
- (b) non-practising members;
- (c) inactive members; and
- (d) suspended members;
- (e) Canadian legal advisors.

(AM 05/10; 10/10)

Member in good standing

2-71(2) A member of the society is a member in good standing unless suspended from practising law under the Act or rules.

Non-practising members

2-72 Any member of the society in good standing may become a non-practising member by:

- (a) undertaking in writing to the chief executive officer that he or she will not

- practise law in Manitoba; and
- (b) paying the non-practising fee.

Inactive members

2-73 Any member of the society in good standing may become an inactive member by undertaking in writing to the chief executive officer that he or she will not practise law in Manitoba.

Withdrawal from practice

2-74(1) Subject to subsection (4), a member who intends to withdraw from the practice of law in Manitoba and become a non-practising or inactive member must, before withdrawing, advise the chief executive officer in writing and obtain his or her approval of the member's intended disposition of all:

- (a) open and closed files,
- (b) wills,
- (c) titles and other important documents and records,
- (d) other valuables, and
- (e) trust accounts and trust money,

which relate to the member's practice and are within the member's possession or power.

Notice to society

2-74(2) Subject to subsection (4), a member who has withdrawn from practice under subsection (1) must, within three months after the withdrawal occurs, confirm to the chief executive officer in writing that:

- (a) the documents and property referred to in clauses (a) through (d) of subsection (1) have been disposed of, and any way in which the disposition differs from that reported under subsection (1); and
- (b) all trust accounts referred to in clause (e) of subsection (1) have been closed and that:
 - (i) all the balances have been remitted to the clients or other persons on whose behalf they were held or, with the consent of the client, transferred to another practising member with written instructions concerning the conditions attaching to them, and
 - (ii) any net interest earned on a pooled trust account has been remitted to the Manitoba Law Foundation in accordance with the provisions of the

Act.

Extension of time

2-74(3) The chief executive officer may, upon application in writing by a member, extend the time limit referred to in subsection (2).

Non-application of rule

2-74(4) This rule does not apply to a member who is practising as a member of a law firm that will continue in existence and will continue to have possession and power over the documents, property, and accounts described in subsection (1).

Power to recover expenses

2-74(5) Where a member fails to comply with the requirements of this rule, the society may require the member to pay any expenses incurred by the society in the course of winding up the member's practice, including expenses for the storage and disposition of files, documents and other property relating to the member's practice.

Business name, address

2-75(1) A member must advise the chief executive officer of:

- (a) the name under which the member, or his or her law firm or employer carries on business; and
- (b) the address of his or her place of business.

Changes

2-75(2) A lawyer must immediately advise the chief executive officer of:

- (a) any change in the lawyer's place of business; and
- (b) any change in the address of the lawyer's place of business.

Supervision of law office

2-75(3) A member or law firm must not maintain an office unless the office is under the direct supervision of a properly qualified practising lawyer who is a member in good standing and who attends the office on a regular basis.

Notice of membership in another jurisdiction

2-76 A member must notify the chief executive officer immediately upon becoming a member of the law society or governing body of the legal profession in another Canadian jurisdiction.

Designated persons

2-77(1) A law firm, as defined Part 1 of the Rules, must:

- (a) register with the law society in the manner prescribed by the chief executive officer;

- (b) except for sole practitioners, designate two lawyers in the law firm to receive and respond to communications from the society on behalf of the firm;
- (c) except for sole practitioners, designate two lawyers in the law firm to receive information from the society with respect to the following matters pertaining to members of the law firm:
 - (i) complaints, charges and disciplinary matters;
 - (ii) professional liability insurance reports, claims or processes;
 - (iii) the failure to pay monies owing to the society.

(ENACTED 12/18) (AM 10/19)

2-77(2) Subrules (1)(a) and (b) do not apply to:

- (a) a public body such as government or a Crown corporation;
- (b) a corporation that is not a law corporation;
- (c) a law corporation that provides legal services solely as part of another law firm as a partner, associate or employee of the law firm.

(ENACTED 12/18) (AM 10/19)

2-77(3) A designated representative is not responsible for a disciplinary violation by a law firm as a result of being a designated representative. (ENACTED 12/18)

2-77(4) A designated representative may be, but is not required to be, the law firm's trust account supervisor under Division 4 of the rules. (ENACTED 12/18)

Notice of bankruptcy

2-78(1) A member or law corporation must notify the chief executive officer immediately upon:

- (a) making a proposal,
- (b) making a voluntary assignment in bankruptcy, or
- (c) being petitioned into bankruptcy,

under the Bankruptcy and Insolvency Act (Canada) and must provide the chief executive officer with:

- (d) copies of all material filed in connection with the proceeding;
- (e) a written undertaking to the complaints investigation committee, in a form acceptable to the committee, that the member will not sign cheques drawn on any trust bank account; and
- (f) a written undertaking to the complaints investigation committee, in a form

acceptable to the committee, that no director, officer, shareholder or employee of the law corporation will sign trust cheques drawn on any trust bank account.

Approval of signatory

2-78(2) Upon receipt of an undertaking referred to in subsections (1)(e) and (1)(f), the chief executive officer may approve another practising lawyer as signatory for a trust bank account pursuant to rule 5-44(1)(d). (AM. 12/18)

Notice of discharge

2-78(3) The member or law corporation must notify the chief executive officer immediately upon receiving an absolute order of discharge under the Bankruptcy and Insolvency Act (Canada) and provide the chief executive officer with a copy of the order.

Discharge of undertaking

2-78(4) Upon receipt of the absolute order of discharge, the chief executive officer must provide the order to the complaints investigation committee, and the committee must discharge the undertaking given in subsection (1).

Waiver of undertaking

2-78(5) A member or law corporation may make written application to the chief executive officer for waiver of the requirement to provide the undertaking in subsection (1) and the chief executive officer may waive the undertaking if he or she concludes that its imposition would create an undue hardship for the member or law corporation.

Appearance before committee

2-78(6) Following notification to the chief executive officer under subsection (1), the complaints investigation committee may request the member or a voting shareholder of the law corporation to appear before the committee to discuss the proposal, voluntary assignment in bankruptcy or petition into bankruptcy, and such other matters as the committee considers appropriate. Failure to appear in answer to the request of the committee, without reasonable excuse, may constitute professional misconduct.

Notice of judgment

2-79(1) A member or law corporation must notify the chief executive officer immediately upon a judgment becoming outstanding against the member or the law corporation and remaining unsatisfied for a period of 30 days, whether or not an appeal is entered.

Appearance before committee

2-79(2) Following notification to the chief executive officer under subsection (1), the complaints investigation committee may request the member or a voting shareholder of the law corporation to appear before the committee to discuss the judgment, the financial resources and ability of the member or law corporation to satisfy the judgment, and such other matters as the committee considers appropriate. Failure to appear in answer to the request of the committee, without reasonable excuse, may constitute professional

misconduct.

Notice of charges

2-80(1) A member, articling student, applicant for admission, resumption or reinstatement, law corporation or visiting lawyer charged with an offence under a federal statute must, as soon as practicable, give written notice to the chief executive officer of:

- (a) the particulars of the charge; and
- (b) the disposition of the charge and any agreement arising out of the charge.

(AM. 12/06)

Appearance before committee

2-80(2) Following receipt of the notification under subsection (1), the chief executive officer may refer the matter to the appropriate law society committee and the committee may request the member, articling student, applicant for admission, resumption or reinstatement, visiting lawyer, or the voting shareholder of the law corporation to appear before it to discuss the charge or its disposition and such other matters as the committee considers appropriate. Failure to appear in answer to the request of the committee, without reasonable excuse, may constitute professional misconduct. (AM. 12/06)

Answer within 14 days

2-81(1) Where the society makes a written request to a member for a response within 14 days, the member must respond in writing within 14 days after receipt of the letter and must provide the information or explanation requested. Delivery of the letter to the mailing address of the member appearing in the records of the society is deemed to be prima facie receipt of the letter by the member.

Failure to reply

2-81(2) Failure to file a written response as required under subsection (1), without reasonable excuse, may constitute professional misconduct.

Division 8.1 – Professional Development

(ENACTED 05/11)

Definitions

2-81.1(1) In this division,

“continuing professional development” means learning activities that protect the public interest by enhancing the competence, integrity and professional responsibility of lawyers;

“eligible activities” are learning activities determined by the chief executive officer that comply with the guiding principles for mandatory continuing professional development approved by the benchers. (ENACTED 05/11)

Professional Development

2-81.1(2) In order to enhance standards for the education, professional responsibility and competence of lawyers, the benchers may, from time to time, require lawyers to:

- (a) report annually on the extent of their continuing professional development activities,
- (b) complete a minimum number of hours of continuing professional development,
- (c) (complete mandatory training and educational requirements relating to the practice of law or a particular area of law,
- (d) complete such other programs, training or reporting as the benchers determine may be appropriate for this purpose.

(ENACTED 02/11) (AM 05/11)

Requirement to report continuing professional development activities

2-81.1(3) On or before April 1st in each year, all members who maintained active practising status during the preceding calendar year or for any part of that year must file a report with the chief executive officer with respect to their continuing professional development activities during the preceding calendar year. The report must be in the form prescribed by the chief executive officer. (ENACTED 10/07) (AM. 02/11; 05/11)

Mandatory Code of Professional Conduct training

2-81.1(4) All practising lawyers must successfully complete a society training program on the Code of Professional Conduct before January 1, 2012. (ENACTED 02/11) (AM. 05/11)

Mandatory Code of Professional Conduct training for other members

2-81.1(5) When a non-practising, inactive or suspended member applies to resume active practice and has not completed a society training program on the Code of Professional Conduct, he or she must successfully complete a program within six months of resuming active practice. (ENACTED 02/11) (AM. 05/11)

Extension of time for completion of training or reporting

2-81.1(6) The chief executive officer may extend the time for completion of the requirements set out in subsections (3), (4) and (5). (ENACTED 02/11) (AM. 05/11)

Failure to comply

2-81.1(7) Failure to complete the requirements set out in subsections (3), (4) (5) and (11), without reasonable excuse, may constitute professional misconduct. (ENACTED 02/11) (AM 05/11)

Mandatory continuing professional development

2-81.1(8) Commencing January 1, 2012, and subject to subsection (10), a practising lawyer must complete one hour of eligible activities for each month or part of a month in a calendar year during which the lawyer maintained active practising status. Where the lawyer

maintained active practising status for three or more months in the calendar year, one and a half hours of the total eligible hours must relate to ethics, professional responsibility or practice management. (ENACTED 05/11)

Carry over permitted only in exceptional circumstances

2-81.1(9) In exceptional circumstances, the chief executive officer may permit the carry over of not more than 12 hours of eligible activities to the next calendar year. (ENACTED 05/11)

Exemption in year of call

2-81.1(10) A practising lawyer is exempt from complying with subsection (8) in the calendar year in which the lawyer is called to the bar in Manitoba, but must comply with the requirement to report set out in subsection (3). (ENACTED 05/11)

Auditing compliance

2-81.1(11) In order to demonstrate compliance with subsection (8), a member must:

- (a) keep all documents substantiating the completion of the eligible activities set out in the member's annual reporting until December 31 of the year following the year in which the activities were reported; and
- (b) provide the documents set out in paragraph (a) to the chief executive officer on request, together with such further information as may be reasonably required by the chief executive officer for purposes of auditing the member's compliance with the rules.

(ENACTED 05/11)

Failure to complete continuing professional development activities

2-81.1(12) Where a practising lawyer fails to comply with subsection (8), the chief executive officer may send a letter to the lawyer advising that he or she must comply with the requirements within 60 days from the date the letter is sent. A member who fails to comply within 60 days is automatically suspended from practising law until such time as the requirements have been met and a reinstatement fee paid. (ENACTED 05/11) (AM. 09/13)

Referral to complaints investigation committee

2-81.1(13) Where a member is suspended more than once for failing to comply with subsection (8), the chief executive officer may also refer the matter to the complaints investigation committee for its consideration. (ENACTED 05/11)

Division 8.2 – Annual Member Report

(ENACTED 05/11)

Annual member report

2-81.2(1) On or before April 1st in each year, all members who maintained active

practising status during the preceding calendar year or for any part of that year must complete and file an annual member report in the form prescribed by the chief executive officer. (ENACTED 02/11)

Extension of time for filing annual report

2-81.2(2) The chief executive officer may extend the time for a member to file the report required under subsection (1). (ENACTED 02/11)

Failure to file

2-81.2(3) Failure to complete and file the report required in subsection (1) without reasonable excuse may constitute professional misconduct. (ENACTED 02/11)

Division 9 - Fees and Assessments

Definition

2-82 In this division,

“**member**” does not include a student unless the context indicates otherwise.

Annual practising certificate

2-83 To obtain a practising certificate, a member must pay an annual fee to the society, consisting of:

- (a) a practising fee and contributions to the education and reimbursement funds, unless the member is exempt under rule 5-37.1, all to be paid each year:
 - (i) in full, on or before April 1st; or
 - (ii) in instalments, the amount and due date to be determined by the chief executive officer.
- (b) a contribution to the professional liability claims funds, unless the member is exempt under subsection 19(3) of the Act or under rules 5-30(3) or 5-30(4), to be paid each year:
 - (i) in full, on or before July 1st; or
 - (ii) in instalments, the amount and due date to be determined by the chief executive officer.
- (c) any other fee, assessment or levy imposed on practising lawyers under rule 2-85.

(AM. 02/04; 10/07; 10/10)

Proportionate payment

2-84 A member must only pay a proportional part of the annual fee for the practising year in which he or she is called or admitted or in which he or she resumes practise

under rule 5-24, except no proportionate payment will apply to a surcharge or deductible payable under rules 5-31 and 5-32. The chief executive officer may require the proportionate part of the annual fee to be paid in full or in instalments.

Special fees, levies and assessments

2-85 The benchers may set any special fee, levy or assessment necessary for the society to pursue its purpose and carry out its duties.

Notice from society – practising fees

2-86(1) The chief executive officer must send to each practising lawyer and non-practising member written notice of:

- (a) the amount of the annual practising and non-practising fees and the amount of the contributions to the reimbursement and education funds. The notice must be mailed on or before March 1st in each year;
- (b) the amount of any special fee, levy or assessments under rule 2-85;
- (c) the due date for payment, in full and by instalments, of any fee, contribution, levy or assessment.

(AM. 02/04; 10/07)

Notice from society – contribution to claims fund

2-86(2) The chief executive officer must send to each practising lawyer written notice of the amount of the contribution to the professional liability claims fund. The notice must be mailed on or before June 1st in each year and include the due dates for payment in full and by instalments. (ENACTED 10/07)

Late payment penalty

2-87(1) A practising lawyer who fails to pay any part of the annual fee set out in rule 2-83 must pay a penalty of \$10 per day until the fee is paid, to a maximum penalty of \$300.

Waiver of penalty

2-87(2) The chief executive officer may waive or reduce a penalty assessed under subsection (1).

Suspension for non-payment of annual fee, penalties

2-88 A member who fails to pay any part of the annual fee set out under rule 2-83 or a penalty assessed under rule 2-87 within 30 days of its due date is automatically suspended from practising law.

Reinstatement fee

2-89 A member who is suspended from practising law under rule 2-88 must pay a reinstatement fee in addition to any fee or penalty owing in order to be reinstated to practice. The member must be reinstated on the date of payment.

Refund during practising year

2-90 A member who has paid the annual fee for a practising year and ceases to practise for any reason other than suspension or who becomes exempt from the professional liability claims fund assessment by operation of subsection 19(3) of the Act or rule 5-30(3) during that year, is entitled to a refund of a portion of the fee in an amount determined by the chief executive officer. (AM. 10/07)

Division 10 - Suspensions for Failure to Pay

Automatic suspension

2-91 A member is automatically suspended from practising law if he or she, within 30 days of the due date or within 30 days of any later date that the chief executive officer, upon application, has approved:

- (a) fails to pay any fine or costs ordered to be paid by a discipline panel under subsections 72(1) and 72(2) of the Act;
- (b) fails to pay the costs of the inspection of his or her accounts and records as required under rule 5-47(9);
- (c) fails to pay any deductible owing under a group insurance contract under subsection 45(5) of the Act; or
- (d) fails to reimburse the society for expenses incurred by the society in carrying out a custodial order obtained under subsection 57(1) of the Act or in winding up a member's practice under rule 2-74.

Reinstatement fee

2-92 A member who is suspended from practising law under rule 2-91 must pay a reinstatement fee in addition to the fees, costs, fines or expenses owing in order to be reinstated to practice. The member must be reinstated on the date of payment.

Suspension may be rescinded

2-93 A member who is suspended under rule 2-91 may apply to the chief executive officer for an extension of time to pay the monies owing. If the application is granted the suspension is deemed to be rescinded from the date of the suspension and any reinstatement fee owing may be waived.

Failure to pay within extended time

2-94 A member who is granted an extension of time to pay under rule 2-93 is automatically suspended from practising law if he or she fails to pay the monies owing within the extended period of time and the provisions of rule 2-92 apply.

Exception

2-95 Clause (a) of rule 2-91 does not apply to a member who appeals a decision of

a discipline panel made under section 72 of the Act. Any fine or costs still owing after determination of the appeal must be paid within 30 days of receipt by the member of the certificate of decision of the Court of Appeal or within 30 days of any later date that the chief executive officer, upon application, has approved. A member who fails to pay is automatically suspended from practising law.

Reinstatement

2-96 Where a member is suspended from practising law under rule 2-95, the provisions of rule 2-92 apply.

Notice to courts

2-97 The chief executive officer must notify each member of the society and each of the chief justices of the Court of Appeal and the Court of Queen's Bench and the chief judge of the Provincial Court of the name of a member who is suspended under the Act or rules and the name of a law corporation whose permit is suspended.

Suspension in effect for more than 12 months

2-98 Repealed 10/10

No refund of fees

2-99 A member who is disbarred, permitted to resign, suspended or who otherwise withdraws from practice for disciplinary reasons and has paid the practising fees and contributions in full or in part is not entitled to any refund for the period following the date of the disbarment, resignation, suspension or withdrawal.

(ENACTED 05/10) (AM 05/19)