

**Part 3
Authority to Practise Law**

Division 1 - General

Pre-paid legal services plans

3-1 Repealed (12/03)

Definition

3-1.1(1) In this division,

“closed pre-paid legal services plan” means a plan that limits a plan member’s right to select the lawyer of his or her choice to provide the legal services under the plan. (ENACTED 12/03)

Advertising of closed pre-paid legal services plans

3-1.1(2) The advertising and subscription materials of a closed pre-paid legal services plan must indicate plainly that plan members are giving up their choice of legal counsel under the plan. (ENACTED 12/03)

Division 2 - Temporary Practice under the Inter-Jurisdictional Practice Protocol

(Repealed 05/07)

Division 3 - Inter-jurisdictional law firms

Definitions

3-27 In this division,

“inter-jurisdictional law firm” means a law firm, not all of the members of which are members of the society, that maintains an office in Manitoba and an office in one or more Canadian or foreign jurisdictions;

“member” in relation to an inter-jurisdictional law firm means:

- (a) a partner or voting shareholder of the firm, and
- (b) a person carrying on the practice of law jointly, or in association with two or more people, or holding out to the public that he or she is carrying on the practice of law in that manner;

(AM. 02/03)

Permitted services of inter-jurisdictional law firm

3-28 An inter-jurisdictional law firm may provide legal services to the public in

Manitoba only if:

- (a) at least one member of the firm:
 - (i) is entitled, as a member of the society, to practise law in Manitoba; and
 - (ii) practises law principally in Manitoba; and
- (b) where the firm maintains an office in one or more foreign jurisdictions, the requirements of those jurisdictions, or a substantial number of them, are similar to the requirements in the Act and rules that apply to inter-jurisdictional law firms.

Books and records of inter-jurisdictional law firms

3-29 An inter-jurisdictional law firm must:

- (a) make available to the chief executive officer, on demand, the books, records and accounts the firm is required to keep with respect to its practice in Manitoba; and
- (b) keep those books, records and accounts in Manitoba.

Prohibition re: non-compliant firm

3-30 No member of the society shall practise in Manitoba as a member, employee or associate of an inter-jurisdictional law firm that does not satisfy the requirements of this division.

Limited authority of non-members to practise

3-31 Rule 3-28 does not entitle a person who is not a member of the society to practise as a lawyer in Manitoba beyond the scope of the rules set out in divisions 4 and 6 of this part. (AM. 02/13)

Division 4 - Foreign Legal Consultants

Foreign legal consultants

3-32 In this division, "foreign legal consultant" means a person who practises in Manitoba the law of a foreign jurisdiction in which the person is entitled to practise law. (AM. 02/03)

Application for permit

3-33 A person may apply for a permit to act as a foreign legal consultant by delivering a completed permit application and the required permit fee to the chief executive officer.

Issuance of permit

3-34 The chief executive officer may issue to an applicant a permit to act as a foreign legal consultant if he or she is satisfied that the applicant:

- (a) is a member in good standing of the legal profession in the foreign jurisdiction in which the applicant is entitled to practise law;
- (b) is a person of good character and repute;
- (c) has practised the law of the foreign jurisdiction for at least three complete years, or has undertaken in writing to work, while acting as a foreign legal consultant, only under the direct supervision of a foreign legal consultant entitled to practise in that jurisdiction who has satisfied the three-year practice requirement;
- (d) has provided a written undertaking that he or she will:
 - (i) not accept, hold, transfer or in any other manner deal with trust funds,
 - (ii) submit to the jurisdiction of the society and comply with the Act, rules and code, and
 - (iii) promptly notify the chief executive officer if he or she ceases to be entitled to practise law in the foreign jurisdiction or fails to satisfy any applicable legal education requirement of the foreign jurisdiction;
- (e) carries professional liability insurance or a bond, indemnity or other security that:
 - (i) is reasonably comparable in coverage and amount to that maintained by the society, and
 - (ii) extends to services rendered by the foreign legal consultant while acting as such; and
- (f) participates in an insurance or reimbursement program, or provides a fidelity bond or other security satisfactory to the chief executive officer, for the purpose of compensating claimants who have sustained pecuniary losses as a result of the foreign legal consultant's misappropriation or wrongful conversion of money or property entrusted to or received by the consultant in his or her capacity as a foreign legal consultant in Manitoba.

The chief executive officer may attach conditions to the permit.

Referral to the admissions and education committee

3-35 If the chief executive officer refuses to issue or renew a permit, the applicant may refer the matter to the admissions and education committee. The committee must direct the chief executive officer to:

- (a) issue or renew a permit, subject to any conditions or limitations the committee may direct; or

- (b) reject the application.

Written reasons

3-36 If an application is rejected, the admissions and education committee must, at the written request of the applicant, give written reasons for the decision.

Term of permit

3-37 Subject to rule 3-38, a permit issued under this rule is valid from the issue date shown on it until the last day of the same calendar month in the next year.

Permit ceasing to be valid

3-38 Notwithstanding rules 3-37 and 3-44, a permit issued under this rule ceases to be valid if the foreign legal consultant:

- (a) is suspended as a result of proceedings under the Act; or
- (b) ceases to comply with any of the requirements of rule 3-34.

Requirement for permit

3-39 Subject to rule 3-40, a person may act as a foreign legal consultant in Manitoba only if he or she holds a valid permit under this rule.

Dual qualification

3-40 Subject to rule 3-31, a member of the society who is also qualified to practise law in a foreign jurisdiction need not obtain a permit to act as a foreign legal consultant if he or she carries professional liability insurance or a bond, indemnity or other security that is reasonably comparable in coverage and amount to that maintained by the society and extends to services rendered by him or her as a foreign legal consultant.

Marketing legal services

3-41 A foreign legal consultant, when engaging in advertising or any other form of marketing activity in Manitoba,

- (a) must use the term “foreign legal consultant”;
- (b) must state the foreign jurisdiction in which he or she is entitled to practise law, and the professional title used in that jurisdiction; and
- (c) unless he or she is a member, must not use any designation or make any representation from which a member of the public might reasonably conclude that he or she is a member.

Renewal of permit

3-42 A foreign legal consultant who intends to continue to act as such beyond the expiry of his or her permit must, before the permit expires, apply to the chief executive officer for a renewal of the permit. The renewal application must include evidence that the applicant continues to comply with the requirements set out in rule 3-34 and the renewal fee.

Issuance of renewal permit

3-43 The chief executive officer may issue a renewal permit to a foreign legal consultant who has complied with these rules.

Term of renewal permit

3-44 A renewal permit issued under rule 3-43 is valid for one year.

Application of complaints investigation and discipline

3-44.1 Divisions 6 and 8 of Part 3 of these rules apply to foreign legal consultants permitted to practice law in Manitoba under this division. (ENACTED 05/07)

Division 5 - Limited Liability Partnerships

Definitions

3-45 In this division,

“extra-provincial law society” means the governing body of the legal profession in another province or territory of Canada;

“extra-provincial limited liability partnership” means a limited liability partnership formed under the laws of another jurisdiction and registered as an extra-provincial limited liability partnership under The Business Names Registration Act; and

“Manitoba limited liability partnership” means a partnership that is registered under The Business Names Registration Act as a Manitoba limited liability partnership.
(Enacted 02/03)

Register

3-46 The chief executive officer must keep and maintain a register of LLPs containing the following information:

- (a) the name and registered office address of the LLP and the registration number assigned to it;
- (b) the date the chief executive officer approved the application of the law firm for registration as a LLP under The Business Names Registration Act;
- (c) the date the law firm was registered as a LLP and the dates of the renewal of the registration;
- (d) the names of members who are or have been partners in the LLP, or who own voting shares in a law corporation that is or has been a partner in the LLP;
- (e) the date the registration of the LLP expired or was cancelled; and
- (f) any other particulars that may be required.

(ENACTED 02/03)

Registration of Manitoba LLP

3-47 A law firm proposing to register as a Manitoba LLP under subsection 8.1(1) of The Business Names Registration Act must deliver to the chief executive officer:

- (a) a completed application form;
- (b) the required registration fee; and
- (c) any other information that may be required by the chief executive officer.

(ENACTED 02/03)

Insurance and other eligibility requirements – Manitoba LLP

3-48 A member of the society who is a partner in a Manitoba LLP, or who owns voting shares in a law corporation that is a partner in the LLP, must:

- (a) have and maintain professional liability insurance that provides coverage of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and
- (b) be a practising lawyer as defined in Part 1 of the Act.

(ENACTED 02/03)

Certification for Manitoba LLP

3-49 If the chief executive officer is satisfied that

- (a) the partnership and the partners meet all the eligibility requirements imposed under the Act and rules for practice as a LLP; and
- (b) the partners are covered by liability insurance in the form and amount required by rule 3-48;

then he or she must issue a statement of certification to that effect pursuant to subsection 8.1(1) of The Business Names Registration Act. (ENACTED 02/03)

Registration of extra-provincial LLP

3-50 A limited liability partnership formed under the laws of another jurisdiction that proposes to register as an extra-provincial LLP under subsection 8.1(2) of The Business Names Registration Act must deliver to the chief executive officer

- (a) a completed application form;
- (b) the required registration fee; and
- (c) any other information that may be required by the chief executive officer.

(ENACTED 02/03)

Insurance and other eligibility requirement – extra-provincial LLP

3-51 An extra-provincial LLP must comply with the practice requirements for extra-provincial LLPs imposed under the Act and rules, and a member of the society who is a partner in the LLP, or who owns voting shares in a law corporation that is a partner in the

LLP must:

- (a) be a practising lawyer as defined in Part 1 of the Act: and
- (b) have and maintain professional liability insurance that provides coverage of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

(ENACTED 02/03)

Practise by extra-provincial LLP

3-52 An extra-provincial LLP that maintains an office in Manitoba and an office in one or more Canadian jurisdictions may provide legal services to the public in Manitoba if:

- (a) at least one partner of the LLP is entitled, as a member of the society, to practise law in Manitoba and practises law principally in Manitoba; and
- (b) the other partners of the extra-provincial LLP are practising members of an extra-provincial law society.

(ENACTED 02/03)

Books and records of extra-provincial LLP

3-53 An extra-provincial LLP must:

- (a) make available to the chief executive officer, on demand, the books, records and accounts the firm is required to keep with respect to its practice in Manitoba; and
- (b) keep those books, records and accounts in Manitoba.

(ENACTED 02/03)

Limited authority of non-members to practise through an extra-provincial LLP

3-54 Rule 3-52 does not entitle a person who is not a member of the society to practise as a lawyer in Manitoba beyond the scope of the rules set out in divisions 2 and 4 of this part. (ENACTED 02/03)

Certification for extra-provincial LLP

3-55 If the chief executive officer is satisfied that:

- (a) the partnership and the partners meet all the eligibility requirements imposed under the Act and rules for practice as a LLP; and
- (b) the Manitoba partners in the partnership are covered by liability insurance in the form and amount required by rule 3-51;

then he or she must issue a statement of certification to that effect pursuant to subsection 8.1(2) of The Business Names Registration Act. (ENACTED 02/03)

Proof of registration and renewal

3-56 A law firm must provide the chief executive officer with proof of:

- (a) its registration as a LLP; and
- (b) the renewal of its registration as a LLP;

within 15 days from the date of registration or renewal. (ENACTED 02/03)

Change in particulars

3-57 A LLP must immediately inform the chief executive officer in writing of:

- (a) any change in the particulars set out in the applications filed under rules 3-47 and 3-50;
- (b) any cancellation or expiration of its registration or any failure to renew its registration; and
- (c) the dissolution or winding up of the partnership.

(ENACTED 02/03)

Notification of non-compliance

3-58 If the Society becomes aware of the failure of a LLP or one or more of its partners to maintain compliance with the requirements imposed on a LLP and its partners under the Act and rules, then the chief executive officer must provide written notification of the non-compliance to the Director appointed under The Business Names Registration Act. (ENACTED 02/03)

Notice to clients

3-59 Without delay after being registered as a LLP, the partnership must send, to all of its existing clients, the notice required under sections 71 and 79 of The Partnership Act. (ENACTED 02/03)

Disclosure of partnership information

3-60 All information and documents relating to a LLP received by the society are confidential and must not be disclosed to any person unless otherwise authorized by law except that:

- (a) the information and documents may be used by the society for it to govern and administer its affairs; and
- (b) the following information may be disclosed to any person on request:
 - (i) the name and registered office address of the LLP
 - (ii) a list of current partners; and
 - (iii) a list of partners as of a specified date.

(ENACTED 02/03)

Division 6 - Inter-Jurisdictional Practice Under the National Mobility Agreement

(ENACTED 07/03)

Definitions

3-61 In this division, unless the context indicates otherwise,

“business day” means any calendar day or part of a calendar day in which a lawyer provides legal services;

“discipline” includes a finding by a governing body of any of the following:

- (a) professional misconduct;
- (b) incompetence;
- (c) conduct unbecoming a lawyer;
- (d) lack of physical or mental capacity to engage in the practice of law;
- (e) any other breach of a lawyer’s professional responsibilities;

“disciplinary record” includes any of the following, unless reversed on appeal or review:

- (a) any action taken by a governing body as a result of discipline;
- (b) disbarment;
- (c) a lawyer’s resignation or otherwise ceasing to be a member of a governing body as a result of disciplinary proceedings;
- (d) restrictions or limits on a lawyer’s entitlement to practise, other than those imposed as a result of failure to pay fees to a governing body, insolvency or bankruptcy or other administrative matter;
- (e) any interim suspension or restriction or limits on a lawyer’s entitlement to practise imposed pending the outcome of a disciplinary hearing.

“entitled to practise law” means allowed, under all of the legislation and regulation of a home jurisdiction, to engage in the practice of law in the home jurisdiction;

“governing body” means the Law Society or Barristers’ Society in a Canadian common law jurisdiction, and the Barreau du Québec;

“home governing body” means any or all of the governing bodies of the legal profession in Canada of which a lawyer is a member, and “home jurisdiction” has a corresponding meaning;

“lawyer” means a member of a governing body other than the society;

"liability insurance" means compulsory professional liability errors and omissions insurance required by a governing body;

"Mobility Defalcation Compensation Agreement" means the 2010 Mobility Defalcation Compensation Agreement of the Federation of Law Societies of Canada, as amended from time to time; (ENACTED 06/10)

"National Mobility Agreement" means the 2002 National Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;

"National Registry" means the National Registry of Practising Lawyers established under the National Mobility Agreement;

"permit" means an inter-jurisdictional practice permit issued under rules 3-67 and 3-74(2). (ENACTED 05/07)

"Protocol" means the Inter-Jurisdictional Practice Protocol signed on behalf of the society on February 18, 1994 as amended from time to time. (ENACTED 05/07)

"provide legal services" means to engage in the practice of law:

- (a) physically in Manitoba except with respect to the law of a home jurisdiction;
or
- (b) physically in any other jurisdiction, with respect to the law of Manitoba; and

includes providing legal services respecting federal jurisdiction in Manitoba;

"reciprocating governing body" means a governing body that has

- (a) signed the National Mobility Agreement; and
- (b) adopted regulatory provisions giving effect to the requirements of the National Mobility Agreement;

"resident" has the meaning respecting a province or territory that it has with respect to Canada in the Income Tax Act (Canada);

"Territorial Mobility Agreement" means the 2006 Territorial Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time. (ENACTED 05/07)

"visiting lawyer" means a lawyer who is entitled to practise law in a Canadian jurisdiction other than Manitoba and holds a valid practising certificate or its equivalent issued by the lawyer's home jurisdiction and "practising lawyer" has a corresponding meaning.

Application and interpretation

3-62(1) This division, unless otherwise stated,

- (a) is intended to implement the provisions of the National Mobility Agreement;
and

- (b) applies to a visiting lawyer, who is a practising lawyer in the jurisdiction of a reciprocating governing body of which the visiting lawyer is a member.

(AM. 05/07)

Application of the Inter-Jurisdictional Practice Protocol

3-62(2) Repealed(05/07)

Lawyers providing legal services for the Office of the Judge Advocate General

3-62(3) Notwithstanding this division, a member of the Canadian Forces who is a practising lawyer in a home jurisdiction in which he or she is a member of the governing body:

- (a) may deliver legal services for or on behalf of the Office of the Judge Advocate General without a permit; and
- (b) does not establish an economic nexus with Manitoba under rule 3-68, provided that he or she provides legal services exclusively for or on behalf of the Office of the Judge Advocate General.

Temporary mobility without a permit

3-63(1) A visiting lawyer who qualifies under subsection (3) may provide legal services in Manitoba without a permit for a maximum of 100 business days in any calendar year.

CEO may extend time

3-63(2) On application of a visiting lawyer who otherwise qualifies under subsection (3), the chief executive officer may allow the visiting lawyer to provide legal services in Manitoba without a permit beyond the time limit set in subsection (1).

Qualifications for temporary practice

3-63(3) Subject to subsection (4), to qualify to provide legal services on a temporary basis under subsection (1) or (2), a visiting lawyer must at all times:

- (a) be a practising lawyer in a home jurisdiction;
- (b) carry liability insurance that
 - (i) is reasonably comparable in coverage and limits to that maintained by the society, and
 - (ii) extends to the lawyer's temporary practice in Manitoba;
- (c) have defalcation compensation coverage from a governing body that extends to the lawyer's practice in Manitoba;
- (d) not be subject to conditions of or restrictions on the lawyer's practice or membership in the governing body in any jurisdiction; (AM. 12/03)
- (e) not be the subject of criminal or disciplinary proceedings in any jurisdiction;

- (f) have no disciplinary record in any jurisdiction; and
- (g) not establish an economic nexus with Manitoba contrary to rule 3-68.

Insurance exemption

3-63(4) The requirement in clause (b) of subsection (3) does not apply to a visiting lawyer who, if he or she was a member of the society, would be exempt under subsection 19(3) of the Act from the requirement to contribute to the society's professional liability claims fund with respect to legal services to be provided in Manitoba.

Compliance with Act and rules

3-64(1) The Act, these rules and the code apply to and bind a visiting lawyer providing legal services in Manitoba or respecting the law of Manitoba.

Responsibilities of visiting lawyer

3-64(2) It is the responsibility of a visiting lawyer providing legal services in Manitoba to:

- (a) record and verify the number of business days in which he or she provides legal services in Manitoba or with respect to Manitoba; and
- (b) prove that he or she has complied with these rules.

No holding out

3-64(3) A visiting lawyer must not hold out or allow himself or herself to be held out as willing or qualified to practise law in Manitoba except as a visiting lawyer.
(ENACTED 05/07)

Appearing before federal courts and administrative tribunals

3-65 As an exception to the requirements in rules 3-63(1), 3-63(3)(d), 3-63(3)(e) and 3-63(3)(f), a visiting lawyer who is not disqualified under rule 3-68(1) may appear before any of the following tribunals, prepare for such an appearance and otherwise further the matter giving rise to the appearance, without a permit and regardless of the number of days involved:

- (a) the Supreme Court of Canada;
- (b) the Federal Court of Canada;
- (c) the Tax Court of Canada;
- (d) a federal administrative tribunal;
- (e) service tribunals as defined in the National Defence Act;
- (f) the Court Martial Appeal Court of Canada.

Trust funds

3-66 A visiting lawyer must not maintain a trust account in Manitoba and must:

- (a) promptly remit funds received in trust to the visiting lawyer's trust account in the home jurisdiction; or
- (b) ensure that trust funds received are handled
 - (i) by a practising member of the Society and deposited into a trust account controlled by that member; and
 - (ii) in accordance with the Act and these rules.

Application for an inter-jurisdictional practice permit

3-67(1) A visiting lawyer who does not qualify to provide legal services without a permit under rule 3-63 or is disqualified under 3-68 may apply for an inter-jurisdictional practice permit. The visiting lawyer must deliver to the chief executive officer:

- (a) a completed permit application, including a written consent for the release of relevant information to the society;
- (b) any required permit fee or renewal fee;
- (c) a certificate of standing, in a form acceptable to the society, issued by each governing body of which the visiting lawyer is a member and dated not more than 30 days before the date of application;
- (d) proof of professional liability insurance; and
- (e) proof of defalcation coverage.

(AM. 05/07)

CEO may issue permit

3-67(2) On application under this rule, the chief executive officer may issue a permit, subject to any conditions and restrictions that he or she considers appropriate if, in the discretion of the chief executive officer, it is consistent with the public interest to do so.

Term of permit

3-67(3) A permit issued or renewed under this rule:

- (a) subject to clause (c), is effective until one year from the date it was issued;
- (b) if issued under rules 3-63(3) and 3-68(4), allows a visiting lawyer to provide legal services for not more than 100 business days in that year; and
- (c) ceases to be valid if the holder of the permit
 - (i) ceases to hold a valid practising certificate or its equivalent issued by his or her home jurisdiction;
 - (ii) fails to maintain professional liability insurance as required under rule 3-63(3)(b); or

(iii) is suspended or disbarred in any jurisdiction.
(AM. 05/07)

Waiver of permit fee

3-67(4) Clause (b) of rule 3-67(1) does not apply to an application made by a visiting lawyer who is a member of a governing body in a jurisdiction in which:

- (a) the visiting lawyer is entitled to practise law; and
- (b) the governing body does not charge members of the society a fee for permission to practise law in the jurisdiction on a temporary basis.

(ENACTED 05/07)

Renewal of permit

3-67(5) Before expiry of a permit under clause (a) of subsection (3), the holder of a permit may apply for its renewal under subsection (1). (ENACTED 05/07)

Automatic revocation of permission to practise

3-67(6) A visiting lawyer practising in Manitoba with or without a permit, automatically ceases to be able to provide legal services in this province if he or she fails to meet or satisfy any conditions, limitations or requirement imposed under this division or division 7.
(ENACTED 05/07)

Economic nexus with Manitoba

3-68(1) A visiting lawyer who has established an economic nexus with Manitoba is not permitted to provide legal services under this division.

Economic nexus defined

3-68(2) For the purposes of this division, an economic nexus is established by actions inconsistent with a temporary basis for providing legal services, including but not limited to doing any of the following in Manitoba:

- (a) providing legal services beyond 100 business days, or any longer period allowed under rule 3-63(2);
- (b) opening an office from which legal services are offered or provided to the public;
- (c) becoming resident;
- (d) opening or operating a trust account, or accepting trust funds, except as permitted under rule 3-66;
- (e) holding oneself out or allowing oneself to be held out as willing or qualified to practise law in Manitoba except as a visiting lawyer.

Exception for affiliated office

3-68(3) A visiting lawyer who provides legal services in or from an office affiliated with

the lawyer's law firm in his or her home jurisdiction does not, for that reason alone, establish an economic nexus with Manitoba.

Visiting lawyer may apply for call and admission

3-68(4) A visiting lawyer who becomes disqualified under this rule must cease providing legal services forthwith, but may apply under rule 5-27.1 for call and admission or under rule 3-67 for an inter-jurisdictional practice permit. (AM. 05/07; 10/10)

CEO may allow practice pending application

3-68(5) On application by a visiting lawyer, the chief executive officer may allow the visiting lawyer to continue to provide legal services pending consideration of an application under rules 5-27.1 or 3-67. (AM. 05/07; 10/10)

National Registry of Practising Lawyers

3-69(1) The chief executive officer must provide to the National Registry the current and accurate information about practising members required under the National Mobility Agreement.

Disclosure of registry information

3-69(2) No one may use or disclose information obtained from the National Registry except for a purpose related to enforcement of the Act and these rules.

Enforcement

3-70(1) The chief executive officer may require a visiting lawyer to:

- (a) account for and verify the number of business days spent providing legal services;
- (b) verify compliance with any rules specified by the chief executive officer; and
- (c) disclose the name of each governing body of which the visiting lawyer is a member.

(AM. 05/07)

Failure to comply with CEO's request

3-70(2) If a visiting lawyer fails or refuses to comply with a requirement under subsection (1) within 20 calendar days, or such longer time that the chief executive officer may permit in writing:

- (a) the visiting lawyer is prohibited from providing legal services without a permit;
- (b) any permit issued to the visiting lawyer under rule 3-67 is rescinded; and
- (c) the chief executive officer must advise the visiting lawyer's home governing body of the visiting lawyer's failure to comply and the consequences.

(AM. 05/07)

Application to admissions and education committee

3-70(3) A visiting lawyer who is affected by subsection (2) may apply to the admissions and education committee for restoration of any or all rights lost under that subsection and the committee may, in its discretion, grant the application, subject to any conditions it considers to be in the public interest.

Notice of federal offence

3-70(4) Repealed (12/06)

Disciplinary proceedings

3-70(5) The provisions of the rules and Act dealing with complaints investigation and discipline apply to a visiting lawyer providing legal services in Manitoba as though he or she was a member of the society. (ENACTED 05/07)

Member compliance

3-70.1 A member who provides legal services in another Canadian jurisdiction must comply with the applicable legislation, regulations, rules and code of professional conduct of that jurisdiction. (ENACTED 05/07)

Enforcement of fine

3-70.2 A fine imposed on a member by another governing body may be enforced under rule 2-91. (ENACTED 05/07)

Transfer under National Mobility Agreement and Territorial Mobility Agreement

3-71(1) Repealed (10/10)

Transfer examination not required

3-71(2) Repealed (10/10)

Certification regarding reading materials

3-71(3) Repealed (10/10)

Applicant has no greater rights

3-71(4) Repealed (10/10)

Members called to the bar in more than one jurisdiction

3-72(1) Repealed (05/07)

Application for insurance exemption

3-72(2) Repealed (05/07)

Responsibility for the conduct of discipline proceedings

3-73(1) If there is an allegation of misconduct against a member of the society while he or she is practising temporarily in another Canadian jurisdiction under the authority of provisions equivalent to rule 3-63, the society must:

- (a) consult with that jurisdiction's governing body about the manner in which disciplinary proceedings will be conducted; and

- (b) subject to subsection (2), assume responsibility for the conduct of the disciplinary proceedings.

Society may allow other governing body to assume conduct

3-73(2) The society may agree to allow the other governing body to assume responsibility for the conduct of disciplinary proceedings under subsection (1), including the expenses of the proceeding.

Primary considerations in reaching agreement under subsection (2)

3-73(3) In deciding whether to agree under subsection (2), the primary considerations will be the public interest, convenience and cost.

CEO to provide information

3-73(4) To the extent that it is reasonable in the circumstances, the chief executive officer must do the following on the request of a governing body that is investigating the conduct of a member of the society or a visiting lawyer who has provided legal services:

- (a) provide all relevant information and documentation respecting the lawyer or visiting lawyer; and
- (b) co-operate fully in the investigation and any citation and hearing.

Further application of subsection (4)

3-73(5) Subsection (4) applies when the society agrees with a governing body under subsection (2).

Proof of lawyer's guilt

3-73(6) A duly certified copy of a disciplinary decision of another governing body concerning a lawyer found guilty of professional misconduct, incompetence or conduct unbecoming a lawyer is proof of the lawyer's guilt.

Reimbursement Fund

3-73.1

- (a) The provisions of the Protocol concerning claims for compensation for misappropriation apply to a claim made against the reimbursement fund involving inter-jurisdictional practice in a jurisdiction where a reciprocating governing body has not signed and implemented the Mobility Defalcation Compensation Agreement.
- (b) The Mobility Defalcation Compensation Agreement applies to a claim against the reimbursement fund involving inter-jurisdictional practice in a jurisdiction where a reciprocating governing body has signed and implemented the Mobility Defalcation Compensation Agreement.

(ENACTED 05/07) (AM. 06/10)

Dispute resolution

3-73.2 If a dispute arises with another governing body concerning any matter under the National Mobility Agreement, the society may do one or both of the following:

- (a) agree with the other governing body to refer the matter to a single mediator;
- (b) submit the dispute to arbitration under Appendix 5 of the Protocol.

(ENACTED 05/07)

Division 7 - Temporary Practice by Lawyers from Non-Signatory Jurisdictions

(ENACTED 07/03)

Definitions

3-74(1) In this division, unless the context indicates otherwise,

"non-signatory jurisdiction" means a governing body in a Canadian jurisdiction that has not signed the National Mobility Agreement or adopted regulatory provisions giving effect to the agreement's requirements.

"visiting lawyer" has the same meaning as found in rule 3-61. (ENACTED 05/07)

Application for a permit

3-74(2) A visiting lawyer who is not entitled to provide legal services in Manitoba or respecting the law of Manitoba under division 6 of this Part may apply for an inter-jurisdictional practice permit by delivering to the chief executive officer the documents and any required permit fee required under rule 3-67(1) and the chief executive officer may issue or renew a permit, subject to any conditions and restrictions that he or she considers appropriate if, in the discretion of the chief executive officer it is consistent with the public interest to do so. (AM. 05/07)

Term of permit

3-74(3) Subject to rules 3-67(3)(c) and 3-67(6), a permit issued under subsection (2) is valid until the date of completion of the matter for which the permit was granted. (AM. 05/07)

Compliance with Act and rules

3-74(4) The Act, these rules and the code apply to and bind a visiting lawyer providing legal services under this division and the provisions of the rules and the Act dealing with complaints investigation and discipline apply to the visiting lawyer as though he or she was a member of the society. (AM. 05/07)

Application of division 6

3-74(5) Rules 3-64(3), 3-65 and 3-66 apply to temporary mobility under this division. (ENACTED 05/07)

Division 8 – Services Delivered by or through Civil Society Organizations

Definition

3-75 In this division, “civil society organization” means a registered charity under the *Income Tax Act* (Canada), a not-for-profit corporation incorporated under the laws of Manitoba, or a not-for-profit corporation permitted under the laws of Manitoba to operate in the Province. (ENACTED 04/21)

Provision of Legal Services through Registered Civil Society Organizations

3-76 A member may provide legal services to the clients of a civil society organization if:

- (a) the member is an employee or independent contractor of, or a volunteer with the civil society organization,
- (b) the civil society organization has registered with the Society in accordance with rule 3-77, and
- (c) the member has the appropriate insurance as required under rule 3-83.

(ENACTED 04/21)

Registration

3-77 In order to be registered with the society under this division, a civil society organization shall complete and submit to the society the registration form required by the chief executive officer and shall adhere to the conditions therein.

(ENACTED 04/21)

Requirement to file Annual Report

3-78 On or before March 31st in each year, a civil society organization must file a report with the society in the form prescribed by the chief executive officer.

(ENACTED 04/21)

De-registration

3-79

- (1) A civil society organization may be de-registered at the discretion of the chief executive officer for failing to comply with the conditions of its registration as determined by the chief executive officer.
- (2) Members may not provide legal services through a civil society organization that has been de-registered by the chief executive officer.

(ENACTED 04/21)

Member Control of Delivery of Services

3-80 A member providing legal services under this division must maintain control of the delivery of those services and must be able to take any action necessary to ensure that he or she complies with the Act, the rules and the code of professional conduct.

(ENACTED 04/21)

Multi-service Civil Society Organizations

3-81 A member providing legal services under this division may refer a client to an employee of the civil society organization who provides non-legal services, but the member shall ensure that no confidential or privileged information concerning the client is disclosed to the non-member employee unless the client gives his or her informed consent.

(ENACTED 04/21)

Fees

3-82

- (1) Services provided by members under this division shall be provided at no cost to the client.
- (2) Costs for disbursements in connection with the provision of legal services may be required from a client, including but not limited to court filing fees, photocopying costs, court reporting services and fees for experts.
- (3) If costs for disbursements will be charged to a client receiving services under this division, the client must be informed of and understand his or her obligations prior to entering into the lawyer-client relationship.
- (4) Neither members providing services under this division nor civil society organizations facilitating those services may give or receive any financial or other reward for the referral of clients or client matters.

(ENACTED 04/21)

Insurance Requirements

3-83 Members providing legal services under this division shall maintain professional liability insurance as required by sections 19(2) and (3) of the Act.

(ENACTED 04/21)