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Legislative Assembly of British Columbia

BILL 21

LEGAL PROFESSIONS ACT

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Attorney General

Explanatory Note

This Bill replaces the *Legal Profession Act*, S.B.C. 1998, c. 9 and the *Notaries Act*, R.S.B.C. 1996, c. 334.

The Bill establishes a new regulator for legal professions, which are the professions of lawyer, notary public, regulated paralegal and any profession designated by regulation. The Bill creates a new licensing and discipline scheme and establishes the Legal Professions Tribunal.

The Bill requires the regulator to exercise its powers in the public interest and with a view to the following: the facilitation of access to legal services; reconciliation with Indigenous peoples; the removal of barriers to the practice of law faced by under-represented groups; and the regulation of legal professions in a manner that is transparent, timely and proportionate to the risk of harm posed by their practice.

The Bill establishes the Indigenous council, whose role is to advise the regulator on matters relating to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples in the context of the regulation of the practice of law and to exercise certain approval powers under the Act.

The Bill includes amendments to the *Legal Profession Act* and *Notaries Act*, to come into force on Royal Assent. Amendments to the *Legal Profession Act* allow the Law Society to exempt a person from the prohibition against the unauthorized practice of law if satisfied that the provision of legal services by the person will facilitate access to legal services without posing a significant risk to the public. Amendments to the *Notaries Act* allow notaries public to draft wills that provide for the assets of the deceased to vest when the beneficiary reaches the age of 25.

BILL 21 – 2024

LEGAL PROFESSIONS ACT

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PART 1 – INTERPRETATION AND APPLICATION

Definitions

1 In this Act:

“**applicant**”, except in Part 8 [*Tribunal Proceedings*], means a person who applies for a licence under Part 5 [*Licensing and Authority to Practise*];

- “**board**” means the board of directors of the regulator established under section 8 (1) [*board of directors*];
- “**chief executive officer**”, except in Part 11 [*Law Foundation of British Columbia*], means the chief executive officer appointed under section 20 (1) [*appointment of chief executive officer*];
- “**citation**” means a citation issued under section 90 (2) [*citations*];
- “**code of professional conduct**” means the code of professional conduct established under section 70 [*code of professional conduct*];
- “**competence order**” means an order made under section 88 [*competence orders*];
- “**custodian**” means a person appointed as a custodian under section 145 (2) [*appointment of custodian*];
- “**director**” means a person elected or appointed to the board;
- “**disciplinary record**”, in relation to a licensee, trainee or law firm
- (a) includes the following:
 - (i) any disciplinary action or remedial action taken in relation to the licensee, trainee or law firm under this Act, the *Legal Profession Act* or the *Notaries Act*;
 - (ii) any disciplinary action or remedial action taken in relation to the licensee, trainee or law firm under a law governing the practice of law in another jurisdiction, but
 - (b) does not include a complaint against the licensee, trainee or law firm that has been dismissed;
- “**discipline committee**” means the committee established under section 89 [*discipline committee*];
- “**discipline hearing**” means the hearing of a citation initiated under section 90 (2) [*citations*];
- “**First Nation**” means a First Nation whose traditional territory includes land within the boundaries of British Columbia;
- “**former lawyer**” includes the following:
- (a) a person who was a member of the Law Society at any time before the repeal of the *Legal Profession Act*;
 - (b) a person who was a member of the Law Society of British Columbia continued under section 2 of the *Legal Profession Act*, R.S.B.C. 1996, c. 255, at any time before the repeal of that Act;
- “**former licensee**” includes the following:
- (a) a person who was a member of the Law Society at any time before the repeal of the *Legal Profession Act*;

- (b) a person who was a member of the Law Society of British Columbia continued under section 2 of the *Legal Profession Act*, R.S.B.C. 1996, c. 255, at any time before the repeal of that Act;
- (c) a person who was a member of the Society of Notaries Public of British Columbia continued under section 2 of the *Notaries Act*, at any time before the repeal of that Act;
- (d) a person who was a member of the Society of Notaries Public of British Columbia continued under section 2 of the *Notaries Act*, S.B.C. 1981, c. 23, at any time before the repeal of that Act;

“**indemnity fee**” means the fee established under section 137 (1) (a) [*indemnity fees*];

“**Indigenous council**” means the Indigenous council established under section 29 [*Indigenous council*];

“**Indigenous peoples**” has the same meaning as in section 1 (1) of the *Declaration on the Rights of Indigenous Peoples Act*;

“**investigation**”, except in section 30 [*role of Indigenous council*], means an investigation under section 77 [*investigations*];

“**law corporation**” means a corporation that holds a law corporation permit issued under section 192 [*law corporation permit*];

“**law firm**” means a sole proprietorship, law corporation, partnership or any other business structure, arrangement or legal entity through which one or more licensees practise law;

“**Law Foundation**” means the Law Foundation of British Columbia continued under section 153 (1) [*Law Foundation continued*];

“**Law Society**” means the Law Society of British Columbia continued under section 2 of the *Legal Profession Act*;

“**lawyer**” means a person who

- (a) is authorized under this Act to practise law as a lawyer, or
- (b) is a non-practising lawyer;

“**legal profession**” means a legal profession designated under section 3 [*legal professions*];

“**Legal Profession Act**” means the *Legal Profession Act*, S.B.C. 1998, c. 9;

“**licence**” means a licence issued under Division 4 [*Licensing and Enrolment*] of Part 5 [*Licensing and Authority to Practise*];

“**licensee**” means a person who holds a licence;

“**licensing committee**” means the committee, if any, established under section 51 [*licensing committee*];

“**licensing hearing**” means a hearing of the tribunal initiated by an application under section 55 [*review of licensing or enrolment decision*];

- “limited practice licence”** means a limited practice licence issued under section 53 [*limited practice licence*];
- “limited practice licensee”** means a person who holds a limited practice licence;
- “non-practising lawyer”** means a person who holds a non-practising licence for the practice of law as a lawyer;
- “non-practising licence”** means a licence that is held in abeyance at the initiative of the licensee and does not include a licence that is suspended under this Act;
- “non-practising licensee”** means a person who holds a non-practising licence;
- “non-practising notary public”** means a person who holds a non-practising licence for the practice of law as a notary public;
- “Notaries Act”** means the *Notaries Act*, R.S.B.C. 1996, c. 334;
- “notary public”** means a person who
- (a) is authorized under this Act to practise law as a notary public, or
 - (b) is a non-practising notary public;
- “permit”** means a permit, other than a law corporation permit, issued to a law firm under a rule, if any, made under section 194 (2) (a) [*rules respecting law firms*];
- “practice review”** means a review, under section 73 [*practice reviews*], of the practice of law by a licensee or law firm;
- “practising lawyer”** means a lawyer who holds a practising licence;
- “practising licence”** means a licence that is not suspended or held in abeyance;
- “practising licensee”** means a licensee who holds a practising licence;
- “practising notary public”** means a notary public who holds a practising licence;
- “practising regulated paralegal”** means a regulated paralegal who holds a practising licence;
- “professional conduct order”** means an order made under section 87 [*professional conduct orders*];
- “regulated paralegal”** means a person who is authorized under this Act to practise law as a regulated paralegal;
- “regulator”** means Legal Professions British Columbia established under section 5 [*regulator amalgamated and continued*];
- “respondent”** means a licensee, trainee or law firm, or a former licensee or trainee, whose conduct or competence is the subject of a proceeding before the tribunal;
- “rule”** means a rule made by the board under this Act;

“**Society of Notaries Public**” means the Society of Notaries Public of British Columbia continued under section 2 of the *Notaries Act*;

“**trainee**” means a person enrolled under this Act in training to practise law as a licensee;

“**tribunal**” means the Legal Professions Tribunal established under section 95 [*Legal Professions Tribunal*];

“**tribunal chair**” means the chair of the tribunal appointed under section 96 (1) [*tribunal chair*];

“**tribunal rule**” means a rule made by the tribunal under section 131 [*tribunal rules*].

Application

- 2 This Act does not apply to a licensee who is a part time judicial justice, within the meaning of section 1 of the *Provincial Court Act*, while the licensee is acting in the licensee’s capacity as a part time judicial justice.

PART 2 – LEGAL PROFESSIONS

Legal professions

- 3 The following professions are designated as legal professions for the purposes of this Act:
- (a) the profession of lawyer;
 - (b) the profession of notary public;
 - (c) the profession of regulated paralegal;
 - (d) a profession designated by regulation.

Regulations designating legal professions

- 4 (1) For the purposes of section 3 (d), the Lieutenant Governor in Council may, on the recommendation of the Attorney General, make regulations designating a profession as a legal profession.
- (2) Before making a recommendation under subsection (1), the Attorney General must
- (a) consult the board, and
 - (b) consider all of the following:
 - (i) whether the designation is likely to facilitate access to legal services in British Columbia without posing a significant risk of harm to the public;
 - (ii) whether the activities performed in the practice of the profession are similar to, or overlap with, those performed in the practice of law;

- (iii) whether failing to designate the profession would undermine the regulator's ability to regulate the practice of law in British Columbia;
 - (iv) whether the practice of the profession is regulated in other jurisdictions;
 - (v) whether the designation would have an undue impact on the independence of licensees under this Act.
- (3) A regulation made under this section
- (a) must specify the activities that a licensee who practises the legal profession may perform in the course of practising law, and
 - (b) may reserve titles for the exclusive use of a licensee who practises the legal profession.

PART 3 – LEGAL PROFESSIONS BRITISH COLUMBIA

Division 1 – Legal Professions British Columbia

Regulator amalgamated and continued

- 5
- (1) The Law Society of British Columbia and the Society of Notaries Public of British Columbia are amalgamated and continued as a corporation, to be known as Legal Professions British Columbia, that
 - (a) is without share capital, and
 - (b) consists of the board.
 - (2) For the purposes of this Act, the regulator has all the powers and capacity of a natural person of full capacity.
 - (3) The *Business Corporations Act* does not apply to the regulator.

Duties of regulator

- 6
- (1) The regulator has the following duties:
 - (a) to regulate the practice of law in British Columbia;
 - (b) to establish standards and programs for the education, training, competence, practice and conduct of applicants, trainees, licensees and law firms;
 - (c) to ensure the independence of licensees.
 - (2) The regulator must exercise its powers and perform its duties under this Act in the public interest.

Guiding principles

- 7 In exercising powers and performing duties under this Act, the regulator must have regard to the following principles:
- (a) facilitating access to legal services;
 - (b) supporting reconciliation with Indigenous peoples and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples;
 - (c) identifying, removing or preventing barriers to the practice of law in British Columbia that have a disproportionate impact on Indigenous persons and other persons belonging to groups that are under-represented in the practice of law;
 - (d) regulating the practice of each legal profession in a manner that is
 - (i) transparent,
 - (ii) timely, and
 - (iii) proportionate to the risk of harm to the public posed by the practice.

Division 2 – Board of Directors and Chief Executive Officer

Board of directors

- 8 (1) The board of directors of the regulator is to consist of 17 directors, as follows:
- (a) 5 directors elected by and from among lawyers;
 - (b) 2 directors elected by and from among notaries public who are not also lawyers;
 - (c) 2 directors as follows:
 - (i) if the total number of regulated paralegals in British Columbia is less than 50, appointed by a majority of the other directors holding office;
 - (ii) if the total number of regulated paralegals in British Columbia is 50 or more, elected by and from among regulated paralegals;
 - (d) 3 directors appointed by the Lieutenant Governor in Council, of whom at least one must be an individual of a First Nation;
 - (e) 5 directors appointed, after a merit-based process, by a majority of the other directors holding office, of whom
 - (i) 4 must be lawyers,
 - (ii) one must be a notary public who is not also a lawyer, and
 - (iii) at least one must be an Indigenous person.
- (2) The 2 directors referred to in subsection (1) (c) (i) must be appointed on the recommendation, if any, of the board of directors of the BC Paralegal Association made after a merit-based process.

- (3) The 3 directors referred to in subsection (1) (d) must be appointed on the recommendation of the Attorney General made after a merit-based process.
- (4) Before making a recommendation for the purposes of the appointment of a person under subsection (1) (d), the Attorney General must
 - (a) consult the board respecting the desired skills, attributes and experience of persons to be appointed, and
 - (b) for the purpose of the appointment of a director who is an individual of a First Nation, seek nominations by First Nations.

Powers and duties of board

- 9**
- (1) The board must supervise the management of the affairs of the regulator and may
 - (a) exercise the powers conferred on it under this Act, and
 - (b) on behalf of the regulator, exercise the powers and perform the duties of the regulator under this Act.
 - (2) The board must appoint a chair from among the directors.
 - (3) The board may establish committees to assist the board.
 - (4) For the purposes of subsection (1), the board may delegate any power or duty of the board or the regulator to the chief executive officer or to a committee of the board, except the following:
 - (a) the power to establish committees of the board;
 - (b) the power to pass resolutions and make rules;
 - (c) the duty to appoint a chief executive officer;
 - (d) the duty to appoint a tribunal chair.
 - (5) The board may impose conditions and restrictions on any delegation made under subsection (4).

Executive committee

- 10**
- (1) Without limiting section 9 (3), the board may establish an executive committee.
 - (2) If the board establishes an executive committee, the executive committee must consist of no more than 5 members, of whom
 - (a) one is the chair of the board,
 - (b) one is a director who is a lawyer,
 - (c) one is a director who is a notary public,
 - (d) one is a director appointed or elected under section 8 (1) (c) [*board of directors*], and
 - (e) one is a director appointed by the Lieutenant Governor in Council.

- (3) A quorum of the executive committee is 4 members.

Oath of office

- 11** (1) The board must establish an oath of office for directors that must include a commitment to act in the public interest.
- (2) Before taking office as a director, a person elected or appointed as a director must take and sign the oath of office.

Term limits for directors

- 12** (1) Subject to subsections (3) and (4), a person may be appointed as a director for a term of no more than 3 years and may serve for no more than 6 consecutive years.
- (2) Subject to subsection (3), a person may be elected as a director for a term, of no more than 3 years, specified in the rules and may serve for no more than 6 consecutive years.
- (3) A director who has served on the board for 6 consecutive years is eligible to serve again after a break in service of at least 3 years.
- (4) A director appointed by the Lieutenant Governor in Council under section 8 (1) (d) [*board of directors*] whose term expires may continue to serve on the board, for no more than one year, until a successor is appointed.

Removal of director

- 13** (1) Subject to subsection (2), the board may remove a director if any of the following apply:
- (a) the director contravenes the oath of office or the code of conduct for directors established under section 18 [*code of conduct and conflicts of interest*];
 - (b) if the director is a licensee, the director
 - (i) contravenes the code of professional conduct, or
 - (ii) contravenes this Act or the rules;
 - (c) the director becomes bankrupt.
- (2) The board may remove a director to whom one or more of the circumstances described in subsection (1) apply if, after reasonable notice to the director, the board considers the circumstances sufficiently serious to justify the director's removal.
- (3) A director elected or appointed under section 8 (1) (a), (b), (c) (ii) or (e) [*board of directors*] ceases to be a director if the director ceases to hold a licence to practise law as a member of the legal profession the director was licensed to practise when elected or appointed.

If complaint against director

- 14** (1) If a director receives notice that the director is the subject of a complaint under section 76 [*complaints*], other than a complaint that has been dismissed under section 76 (3), the director must give written notice of the complaint to the board as soon as practicable.
- (2) On receiving notice of a complaint under subsection (1), the board may prohibit the director from exercising the powers and performing the duties of a director until the disposition of the complaint if the board determines that the complaint is sufficiently serious to justify the prohibition.

Vacancies

- 15** (1) If a director elected under section 8 (1) (a), (b) or (c) (ii) [*board of directors*] resigns, is removed or dies, the board
- (a) may, if the balance of the director's term does not exceed 6 months, appoint a person who holds a licence for the practice of the same legal profession as that of the director to fill the vacancy for the balance of the term, or
- (b) must, if the balance of the director's term exceeds 6 months, hold a by-election in accordance with section 8 (1) (a), (b) or (c) (ii), as applicable, to fill the vacancy.
- (2) If a director appointed under section 8 (1) (d) resigns, is removed or dies, the Lieutenant Governor in Council
- (a) may, if the balance of the director's term does not exceed 6 months, appoint a person in accordance with section 8 (1) (d) and (3) to fill the vacancy for the balance of the term, or
- (b) must, if the balance of the director's term exceeds 6 months, appoint a person in accordance with section 8 (1) (d) and (3) to fill the vacancy for the balance of the term.
- (3) If a director appointed under section 8 (1) (c) (i) or (e) resigns, is removed or dies, the board
- (a) may, if the balance of the director's term does not exceed 6 months, appoint a person in accordance with section 8 (1) (c) (i) and (2) or section 8 (1) (e), as applicable, to fill the vacancy for the balance of the term, or
- (b) must, if the balance of the director's term exceeds 6 months, appoint a person in accordance with section 8 (1) (c) (i) and (2) or section 8 (1) (e), as applicable, to fill the vacancy for the balance of the term.

If board membership does not meet requirements

- 16** (1) An act of the board is not invalid only because of a defect that is subsequently discovered in the appointment or election of a director.
- (2) The board may continue to exercise the powers and perform the duties of the board if
- (a) the term of a director ends or a director resigns, is removed, dies or is, for any reason, unable or unwilling to act as a director, and
 - (b) the composition of the board is not as described in section 8 because of the vacancy or absence.

Meetings and quorum

- 17** (1) The board must meet at least 4 times per year.
- (2) Subject to any rules made under section 28 (2) (j) [*rules respecting directors*], meetings of the board must be open to the public.
- (3) A quorum of the board is 12 directors.

Code of conduct and conflicts of interest

- 18** (1) The board must establish a code of conduct for directors.
- (2) The board must establish policies and procedures respecting conflicts of interest in relation to directors, including policies and procedures respecting the following:
- (a) the identification and disclosure of conflicts of interest;
 - (b) the actions to be taken if a conflict of interest is identified.

Remuneration of directors

- 19** The board must establish rates for the remuneration of directors and provide for the reimbursement of reasonable travel expenses and out-of-pocket expenses of directors.

Appointment of chief executive officer

- 20** (1) The board must, in accordance with this section, appoint a person as chief executive officer of the regulator.
- (2) The board must establish a committee whose role is to, by consensus, nominate persons for the purpose of an appointment under subsection (1).
- (3) The committee must consist of no more than 5 members, of whom at least one is a member of the Indigenous council or a person nominated by the Indigenous council.
- (4) Before appointing a person as chief executive officer or rescinding the appointment of a person as chief executive officer, the board must consult the Indigenous council.

Duties of chief executive officer

- 21** (1) The chief executive officer
- (a) is responsible for the management and administration of the regulator and the management of its officers and employees,
 - (b) must work in collaboration with the Indigenous council and the board to
 - (i) support reconciliation with Indigenous peoples and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, and
 - (ii) identify, remove or prevent barriers to the practice of law in British Columbia that have a disproportionate impact on Indigenous persons, and
 - (c) must work in collaboration with the tribunal chair to ensure the independence of the tribunal from the regulator.
- (2) The chief executive officer may delegate any of the powers of the chief executive officer under this Act to an officer or employee of the regulator.

Reconciliation initiatives

- 22** (1) The chief executive officer must appoint an employee of the regulator as a person whose role is to lead reconciliation initiatives by the regulator, including initiatives related to the following:
- (a) reconciliation with Indigenous peoples and the implementation of the United Nations Declaration on the Rights of Indigenous Peoples;
 - (b) increasing the number of Indigenous persons who are employed or retained by the regulator;
 - (c) increasing the number of Indigenous persons who practise law;
 - (d) preventing and mitigating the systemic challenges faced by Indigenous licensees and trainees and by the Indigenous clients of licensees.
- (2) A person appointed under subsection (1) must be an Indigenous person.
- (3) The chief executive officer must consult the Indigenous council before
- (a) appointing a person under subsection (1), or
 - (b) terminating the appointment of a person appointed under subsection (1).

Annual report of regulator

- 23** Each year the board must prepare and publish a report
- (a) respecting the activities of the regulator in the immediately preceding calendar year, and
 - (b) including a description of the following:
 - (i) the performance by the regulator of its duties under section 6 (1) [*duties of regulator*];

- (ii) the consideration given by the regulator, in exercising powers and performing duties under this Act, to the principles set out in section 7 [*guiding principles*].

Independent review

- 24** (1) The board must appoint a person it considers qualified to do the following at the expense of the regulator:
- (a) conduct a review of the extent to which this Act, the regulations and the rules facilitate access to legal services in British Columbia;
 - (b) at the conclusion of the review and no later than 5 years after the date this section comes into force, provide a report, with recommendations, to the board.
- (2) After receiving a report under subsection (1) (b), the board
- (a) may prepare a response to the report, and
 - (b) must provide the report, with the response prepared under paragraph (a), if any, to the Attorney General.
- (3) After receiving a report under subsection (2) (b), the Attorney General must
- (a) promptly table the report in the Legislative Assembly if it is then sitting, or, if the Legislative Assembly is not sitting, file the report with the Clerk of the Legislative Assembly, and
 - (b) publish the report by posting it on a publicly available website.

Rules – application

- 25** The rules are binding on the following:
- (a) the regulator;
 - (b) directors;
 - (c) licensees;
 - (d) former licensees, to the extent specified in the rules;
 - (e) trainees;
 - (f) applicants;
 - (g) persons described in section 38 (1) (f) or (g) [*exceptions from prohibition against unauthorized practice*];
 - (h) law firms.

Rules – consultation

- 26** Before making a rule, the board must consult the Indigenous council respecting the extent to which the rule accords with the principles set out in section 7 (b) and (c) [*guiding principles*].

General rule-making authority of board

- 27
- (1) The board may make any rules that it considers necessary or advisable for the performance of the duties of the regulator under section 6 (1) [*duties of regulator*].
 - (2) The authority to make rules under another provision of this Act does not limit subsection (1).
 - (3) The board may make different rules for different legal professions.
 - (4) The board may
 - (a) establish classes of licences, persons, entities, things, activities, transactions or circumstances, and
 - (b) make different rules for different licences, persons, entities, things, activities, transactions or circumstances and for different classes of licences, persons, entities, things, activities, transactions or circumstances.
 - (5) A rule made under this Act may adopt by reference, in whole or in part and with any changes the board considers appropriate, a regulation, code, standard or rule
 - (a) enacted as or under the law of another jurisdiction, including a foreign jurisdiction, or
 - (b) set by a provincial, national or international body or any other body that makes regulations, codes, standards or rules.
 - (6) Unless stated otherwise, a regulation, code, standard or rule referred to in subsection (5) is adopted as amended from time to time.

Rules respecting directors

- 28
- (1) The board may make rules respecting directors.
 - (2) Without limiting subsection (1), the board may make rules as follows:
 - (a) establishing procedures for the election of directors under section 8 (1) (a), (b) or (c) [*board of directors*];
 - (b) establishing a process for the screening of candidates in the election of directors;
 - (c) establishing regions for the election of directors;
 - (d) respecting the involvement of limited practice licensees in the election of directors;
 - (e) respecting terms of office for elected directors, including the staggering of terms of office;
 - (f) establishing a process for the screening and nomination of persons to be appointed under section 8 (1) (e);

- (g) respecting terms of office for directors appointed under section 8 (1) (c) (i) and (e), including the staggering of terms of office;
- (h) establishing procedures for the appointment of a chair and specifying the term of office, powers and duties of the chair;
- (i) establishing procedures for the filling of vacancies among directors elected under section 8 (a), (b) or to (c) (ii) and directors appointed under section 8 (1) (c) (i) or (e);
- (j) specifying the circumstances in which a meeting of the board may, in whole or in part, be closed to the public.

PART 4 – INDIGENOUS COUNCIL

Indigenous council

- 29** (1) The Indigenous council is to consist of the following members appointed by the board following a merit-based process:
- (a) 2 members who are directors;
 - (b) 1 member who is not a director;
 - (c) 2 to 4 members appointed from among persons nominated by the BC First Nations Justice Council;
 - (d) 1 to 2 members appointed from among persons nominated by Métis peoples or entities representing Métis peoples.
- (2) The members appointed under subsection (1) must
- (a) be Indigenous persons, and
 - (b) to the extent possible, collectively reflect the diversity of the Indigenous population of British Columbia.
- (3) In making an appointment under subsection (1) (b), (c) or (d), the board must consider the following:
- (a) the person's experience with and knowledge and understanding of the impact of the justice system on Indigenous persons;
 - (b) the person's experience working with organizations that support Indigenous persons;
 - (c) the person's knowledge of the Indigenous legal traditions of one or more Indigenous communities;
 - (d) the person's ties with one or more Indigenous communities.
- (4) A person who, for disciplinary reasons, is suspended or prohibited from practising law is not eligible to be appointed as a member of the Indigenous council.

- (5) The members appointed under subsection (1) must have the skills, attributes and experience, if any, identified under section 31 (b) [*policies and procedures of Indigenous council*].
- (6) If the board seeks a nomination under subsection (1) (c) or (d) of this section and a nomination is not made within 6 months of the date the nomination is sought, the board may appoint a member without a nomination.

Role of Indigenous council

- 30** The role of the Indigenous council is to
- (a) advise, and work in collaboration with, the board, the chief executive officer, the person appointed under section 22 (1) [*reconciliation initiatives*] and the tribunal chair on any matter relating to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples in the context of the regulation of the practice of law in British Columbia, including the following matters:
 - (i) the incorporation of Indigenous legal traditions and Indigenous practices into the practices and procedures of the regulator and of the tribunal;
 - (ii) the systemic challenges faced by Indigenous persons that require investigation and action by the regulator,
 - (b) advise on the following matters:
 - (i) a matter which, under this Act, requires consultation with the Indigenous council;
 - (ii) a matter referred to the Indigenous council by the board or the chief executive officer,
 - (c) participate in the regulator’s strategic planning processes,
 - (d) advise the board on the appointment of Indigenous members of the licensing committee, the discipline committee and the tribunal, and
 - (e) exercise the approval powers conferred on the Indigenous council by this Act.

Policies and procedures of Indigenous council

- 31** The Indigenous council may do the following:
- (a) establish policies and procedures for the meetings of the Indigenous council, including policies and procedures that incorporate Indigenous legal traditions and practices;
 - (b) identify the desired skills, attributes and experience, in addition to those described in section 29 [*Indigenous council*], of persons to be appointed as members of the Indigenous council;
 - (c) establish procedures for the appointment of a chair from among the members of the Indigenous council.

Remuneration of members of Indigenous council

- 32** The regulator must remunerate members of the Indigenous council at the rates established by the board for the remuneration of directors and reimburse them for reasonable travel expenses and out-of-pocket expenses.

Meetings

- 33** (1) The Indigenous council must meet at least 3 times per year.
- (2) Members of the Indigenous council may attend and speak at any meeting of the board, including a meeting, or part of a meeting, that is closed to the public.
- (3) If a member of the Indigenous council attends a meeting of the board, the regulator must, in accordance with section 32, remunerate the member for the member's attendance.

Independent review

- 34** (1) The Indigenous council must appoint a person it considers qualified to do the following at the expense of the regulator:
- (a) conduct a review of the extent to which this Act, the regulations and the rules accord with the principles set out in section 7 (b) and (c) [*guiding principles*];
 - (b) at the conclusion of the review and no later than 3 years after the date this section comes into force, provide a report, with recommendations, to the Indigenous council and the board.
- (2) Before making an appointment under subsection (1), the Indigenous council must consult with the chair of the board and with the chief executive officer.
- (3) After receiving a report under subsection (1) (b), the Indigenous council and the board,
- (a) may prepare a response to the report, and
 - (b) must provide the report, with the response prepared under paragraph (a), if any, to the Attorney General.
- (4) After receiving a report under subsection (3) (b), the Attorney General must
- (a) promptly table the report in the Legislative Assembly if it is then sitting, or, if the Legislative Assembly is not sitting, file the report with the Clerk of the Legislative Assembly, and
 - (b) publish the report by posting it on a publicly available website.

PART 5 – LICENSING AND AUTHORITY TO PRACTISE

Division 1 – Practice of Law

Practice of law

- 35** (1) For the purposes of this Act, a person practises law if the person, for the benefit of or at the request of another person, performs an activity that
- (a) involves the application of legal principles and legal judgment to the circumstances or objectives of the other person, and
 - (b) requires the knowledge and skill of a person trained in the law.
- (2) Without limiting subsection (1), the practice of law includes the following activities:
- (a) giving advice with respect to the legal rights or obligations of another person;
 - (b) drafting, revising or completing legal documents that affect the legal rights or obligations of another person;
 - (c) representing another person in any of the following:
 - (i) a court or administrative tribunal proceeding;
 - (ii) a formal dispute resolution process;
 - (iii) any other proceeding in which legal pleadings are filed or a record is established as the basis for judicial review;
 - (iv) the negotiation of legal rights and obligations.

Provision of legal information

- 36** A person does not practise law only because the person provides legal information to another person.

Division 2 – Authority to Practise Law

Unauthorized practice of law

- 37** (1) Subject to section 38, a person must not practise law in British Columbia unless the person holds a licence issued under Division 4 [*Licensing and Enrolment*] of this Part.
- (2) Subject to section 38, a person must not practise law if the person is
- (a) a non-practising licensee,
 - (b) a licensee whose licence is suspended, or
 - (c) a person who, for disciplinary reasons, is suspended or prohibited from practising law in another jurisdiction.

Exceptions from prohibition against unauthorized practice

- 38** (1) Section 37 does not apply to any of the following persons:
- (a) a person who practises law as permitted under an enactment of British Columbia or Canada;
 - (b) a trainee who practises law as permitted by the rules;
 - (c) a person who
 - (i) is employed by a licensee, a law firm, a law corporation or the government,
 - (ii) acts under the supervision of a practising licensee, and
 - (iii) practises law as permitted by the rules;
 - (d) subject to subsection (2), a person who practises law without expectation of a fee, gain or reward, direct or indirect, from the person for whose benefit the person practises law, unless the person is, for disciplinary reasons,
 - (i) a licensee whose licence is suspended,
 - (ii) a person whose licence is cancelled, or
 - (iii) a person who is suspended or prohibited from practising law in another jurisdiction;
 - (e) a public officer performing the public officer's duties as a public officer;
 - (f) a person authorized to practise law in another jurisdiction who is authorized, in accordance with the rules, to practise law in British Columbia and who practises law in accordance with the rules;
 - (g) a practitioner of foreign law who is authorized, in accordance with the rules, to practise law in British Columbia and who practises law in accordance with the rules;
 - (h) a non-practising licensee who practises law in accordance with the rules;
 - (i) a person in a class of persons prescribed under section 212 [*regulations respecting exceptions*].
- (2) A person described in subsection (1) (d) who is not a licensee may represent another person
- (a) in a court proceeding only with leave of the court, and
 - (b) in an administrative tribunal proceeding only as permitted by the administrative tribunal.

Officers of court

- 39** A licensee is an officer of any court in British Columbia in which a licence permits the licensee to appear.

Reserved titles

- 40** (1) A person must not use the title “lawyer” unless the person is a lawyer.
- (2) A person must not use the title “Notary Public in and for the Province of British Columbia” or “notary public” unless the person is
- (a) a notary public, or
 - (b) a lawyer.
- (3) A person must not use the title “regulated paralegal” unless the person is a regulated paralegal.
- (4) A person must not use a title reserved by a regulation made under section 4 [*regulations designating legal professions*] unless the person is a licensee who practises the legal profession, designated by that regulation, for which the title is reserved.

False representation

- 41** A person must not falsely represent themselves or any other person as being
- (a) a licensee,
 - (b) a trainee, or
 - (c) a person described in section 38 (1) [*exceptions from prohibition against unauthorized practice*].

Restrictions for licensee with suspended or cancelled licence

- 42** (1) The Supreme Court, on application by the chief executive officer, may make an order described in subsection (2) in relation to any of the following persons:
- (a) a licensee whose licence is suspended under section 59 [*summary orders*];
 - (b) a person whose licence is suspended or cancelled under Part 6 [*Professional Conduct, Competence and Discipline*];
 - (c) a person whose licence is suspended or cancelled under Part 8 [*Tribunal Proceedings*];
 - (d) a person who, for disciplinary reasons, is suspended or prohibited from practising law in another jurisdiction;
 - (e) a licensee who, for disciplinary reasons, has surrendered the licensee’s licence.
- (2) In an order under subsection (1), the court may prohibit a person from acting as any of the following:
- (a) a personal representative of a deceased person;
 - (b) a trustee of the estate of a deceased person;
 - (c) a committee under the *Patients Property Act*;

- (d) an attorney under Part 2 of the *Power of Attorney Act*;
- (e) a representative under the *Representation Agreement Act*.

Appointment of notaries by Lieutenant Governor in Council

- 43** (1) The Lieutenant Governor in Council may, by commission under the Great Seal of British Columbia, appoint to be a notary public during pleasure an employee of the government of British Columbia or of the government of Canada.
- (2) An appointment and commission under this section confers on the person appointed the powers to perform the following activities:
- (a) administer oaths;
 - (b) take affidavits, declarations and acknowledgements;
 - (c) attest instruments by the person’s seal;
 - (d) give notarial certificates of the person’s acts.
- (3) An appointment and commission under this section may impose limits on the person’s exercise of the powers listed in subsection (2).
- (4) A person appointed under this section is not, by virtue of the appointment, a licensee under this Act.

Rules respecting authority to practise

- 44** The board may make rules as follows:
- (a) specifying the activities persons practising law under section 38 (1) (c) [*exceptions from prohibition against unauthorized practice*] may perform in the course of practising law;
 - (b) describing the circumstances in which persons described in section 38 (1) (f) to (h) may be authorized to practise law;
 - (c) specifying the activities persons authorized to practise law under paragraph (b) of this section may perform in the course of practising law.

Division 3 – Scopes of Practice

Lawyers scope of practice

- 45** Subject to any rules made under section 65 [*restricted areas of practice*], a licence to practise law as a lawyer permits a licensee to perform, in the course of practising law, all activities described in section 35 [*practice of law*].

Notaries public scope of practice

- 46** (1) A licence to practise law as a notary public permits a licensee to perform, in the course of practising law, the following activities:
- (a) drafting, revising, completing or filing the following legal documents:
 - (i) instruments required to complete a property transaction, including those relating to real or personal property, that are intended, permitted or required to be registered, recorded or filed in a registry or other public office in British Columbia;
 - (ii) contracts, charter parties and other mercantile instruments;
 - (iii) wills
 - (A) by which the will-maker directs the will-maker's estate to be distributed immediately on death,
 - (B) that provide that if the beneficiaries named in the will predecease the will-maker, there is a gift over to alternative beneficiaries vesting immediately on the death of the will-maker, or
 - (C) that provide for the assets of the deceased to vest in the beneficiary or beneficiaries as members of a class no later than the date on which the beneficiary or beneficiaries or the youngest of the class attains the age of 25;
 - (iv) instruments
 - (A) for the purposes of the *Representation Agreement Act*,
 - (B) relating to health care for the purposes of making advance directives, as defined in the *Health Care (Consent) and Care Facility (Admission) Act*, or
 - (C) for the purposes of the *Power of Attorney Act*;
 - (v) affidavits that may be or are required to be administered, sworn or made by the laws of British Columbia, another province, Canada or another country;
 - (b) attesting or protesting all commercial or other instruments brought before the notary public for attestation or public protestation;
 - (c) administering oaths;
 - (d) an activity described in an Act that specifically authorizes or requires a notary public to perform the activity;
 - (e) an activity, if any, prescribed under section 213 (1) [*regulations respecting scopes of practice*];
 - (f) an activity, if any, specified in a rule made under section 48 (1) (a) [*rules respecting scopes of practice*].

- (2) In the course of performing the activities listed in subsection (1) of this section, a notary public may do the following:
- (a) give advice with respect to the legal rights or obligations of a person;
 - (b) draft, revise or complete legal documents that affect the legal rights or obligations of a person;
 - (c) represent a person in the negotiation of the person’s legal rights or obligations.

Regulated paralegals scope of practice

- 47 (1) Subject to subsection (2), a licence to practise law as a regulated paralegal permits a licensee to perform, in the course of practising law, the following activities:
- (a) an activity prescribed under section 213 (1) [*regulations respecting scopes of practice*];
 - (b) an activity specified in a rule made under section 48 (1) (b).
- (2) If the Lieutenant Governor in Council establishes classes of regulated paralegals and prescribes activities for each class, a licence to practise law as a regulated paralegal permits a licensee to perform, in the course of practising law, the activities prescribed for the class or classes to which the licensee belongs.

Rules respecting scopes of practice

- 48 (1) The board may make rules as follows:
- (a) specifying activities for the purposes of section 46 (1) (f);
 - (b) specifying activities for the purposes of section 47 (1) (b);
 - (c) specifying activities, in addition to the activities prescribed under section 4 (3) (a) [*regulations designating legal professions*], a licence to practise a legal profession designated under section 4 (1) permits a licensee to perform.
- (2) If the board establishes classes of regulated paralegals and specifies activities for each class, a licence to practise law as a regulated paralegal permits a licensee to perform, in the course of practising law, the activities prescribed for the class or classes to which the licensee belongs.

Division 4 – Licensing and Enrolment

Definitions

- 49 In this Division, “**application**” means an application for a licence under section 52 [*licence to practise legal profession*] or 53 [*limited practice licence*].

Eligibility requirements for licence or enrolment

- 50** (1) The board must establish eligibility requirements for a licence and for enrolment as a trainee.
- (2) Eligibility requirements established under subsection (1) may include the following:
- (a) education, training, experience and other qualifications;
 - (b) examinations and assessments;
 - (c) evidence of a person’s suitability for the practice of law.

Licensing committee

- 51** (1) The board may establish a licensing committee for the following purposes to be carried out in the circumstances described in the rules:
- (a) reviewing applications;
 - (b) issuing licences;
 - (c) reviewing requests under the rules for enrolment as a trainee;
 - (d) enrolling trainees.
- (2) If established, the licensing committee must include the following members appointed by the board:
- (a) at least one member of the public;
 - (b) at least one Indigenous person, who may be a licensee or a member of the public;
 - (c) for each legal profession whose total membership is 50 or more, at least one person who is licensed to practise that legal profession.
- (3) A director is not eligible to be appointed as a member of the licensing committee.
- (4) A former director is not eligible to be appointed as a member of the licensing committee until one year after the date on which the former director ceased to be a director.
- (5) If a licensing committee is established, the board must appoint a chair of the licensing committee from among the members appointed under subsection (2).
- (6) The chair of the licensing committee may appoint panels for the review of an application or request for enrolment as a trainee.
- (7) A panel appointed under subsection (6) must include at least 3 members, one of whom must be a person who is not licensed to practise the same legal profession as that the applicant seeks to practise.

Licence to practise legal profession

- 52** (1) A person may apply for a licence to practise a legal profession by
- (a) submitting to the chief executive officer an application in the form and manner required by the chief executive officer, and
 - (b) paying the application fee established by the board.
- (2) On receiving an application under subsection (1), the chief executive officer or, if required by the rules, the licensing committee must do one of the following:
- (a) if satisfied that the applicant meets the eligibility requirements established under section 50 (1) [*eligibility requirements for licence or enrolment*], approve the application;
 - (b) approve the application subject to limits or conditions on the licence, with written reasons;
 - (c) deny the application, with written reasons.
- (3) A decision under subsection (2) must
- (a) be delivered to the applicant, and
 - (b) if the decision is to approve the application subject to limits or conditions or to deny the application, inform the applicant of the right to apply, no later than 30 days after the date the decision is received by the applicant, for a review of the decision under section 55 [*review of licensing or enrolment decision*].
- (4) The chief executive officer or the licensing committee, as applicable, may, on application or on the initiative of the chief executive officer or the licensing committee, vary or remove a limit or condition imposed under subsection (2) (b) of this section.

Limited practice licence

- 53** (1) A person may, in the manner described in subsection (2), apply for a limited practice licence if the person
- (a) is not a licensee and seeks to engage in the limited practice of law by performing one or more activities described in section 35 [*practice of law*],
 - (b) is a notary public and seeks to perform, in the course of practising law, one or more activities described in section 35 that are not described in section 46 [*notaries public scope of practice*], prescribed under section 213 (1) [*regulations respecting scopes of practice*] or specified in a rule made under section 48 (1) (a) [*rules respecting scopes of practice*],

- (c) is a regulated paralegal and seeks to perform, in the course of practising law, one or more activities described in section 35 that are not prescribed under section 213 (1) or specified in a rule made under section 48 (1) (b),
 - (d) is licensed to practise a legal profession designated under section 4 [*regulations designating legal professions*] and seeks to perform, in the course of practising law, one or more activities described in section 35 that are not prescribed under section 4 (3) or specified in a rule made under section 48 (c), or
 - (e) is a limited practice licensee and seeks to perform, in the course of practising law, one or more activities described in section 35 that are not already specified in the limited practice licence held by the person.
- (2) A person described in subsection (1) of this section may apply for a limited practice licence by
- (a) submitting to the chief executive officer an application in the form and manner required by the chief executive officer, and
 - (b) paying the application fee established by the board.
- (3) On receiving an application under subsection (2), the chief executive officer or, if required by the rules, the licensing committee must do one of the following:
- (a) if satisfied that the applicant meets the eligibility requirements established under section 50 (1) [*eligibility requirements for licence or enrolment*], approve the application;
 - (b) approve the application subject to limits or conditions on the limited practice licence, with written reasons;
 - (c) deny the application, with written reasons.
- (4) A decision under subsection (3) must
- (a) be delivered to the applicant, and
 - (b) if the decision is to approve the application subject to limits or conditions or to deny the application, inform the applicant of the right to apply, no later than 30 days after the date the decision is received by the applicant, for a review of the order under section 55 [*review of licensing or enrolment decision*].
- (5) The chief executive officer or the licensing committee, as applicable, may, on application or on the initiative of the chief executive officer or the licensing committee, vary or remove a limit or condition imposed under subsection (3) (b).
- (6) A limited practice licence must specify the activities the limited practice licensee may perform in the course of practising law.

False, misleading or incomplete application

- 54**
- (1) The chief executive officer may reconsider a licensee's application if the chief executive officer has reasonable grounds to believe that the licensee
 - (a) made a false or misleading statement respecting the licensee's eligibility under section 50 [*eligibility requirements for licence or enrolment*] in or in relation to the application, or
 - (b) deliberately submitted an incomplete application.
 - (2) Following a reconsideration under subsection (1), the chief executive officer must do one of the following:
 - (a) if satisfied that the licensee meets the eligibility requirements established under section 50 (1), confirm the approval of the application;
 - (b) confirm the approval of the application subject to limits or conditions on the licence, with written reasons;
 - (c) rescind the approval of the application and cancel the licence, with written reasons.
 - (3) A decision under subsection (2) must
 - (a) be delivered to the licensee whose licence is the subject of the decision, and
 - (b) if the decision is to confirm the approval of the application subject to limits or conditions or to rescind the approval of the application, inform the licensee of the right to apply, no later than 14 days after the date the decision is received by the licensee, for a review of the decision.
 - (4) At any time during a reconsideration under subsection (1), the chief executive officer may, by order, suspend the licence until the chief executive officer makes a decision under subsection (2).
 - (5) An order under subsection (4) must
 - (a) be in writing,
 - (b) include reasons for the order,
 - (c) be delivered to the licensee subject to the order, and
 - (d) inform the licensee of the right to apply, no later than 14 days after the date the order is received by the licensee, for a review of the order.
 - (6) An order under subsection (4) is not effective until the date the order is received by the licensee subject to the order.

Review of licensing or enrolment decision

- 55**
- (1) An applicant or licensee may apply to the tribunal for a review of the following:
 - (a) a decision denying the applicant's application;

- (b) a decision approving the applicant’s application subject to limits or conditions;
 - (c) a decision varying a limit or condition imposed on the licensee’s licence;
 - (d) a decision confirming the approval of the licensee’s application subject to limits and conditions under section 54 (2) (b);
 - (e) a decision cancelling the licensee’s licence under section 54 (2) (c);
 - (f) an order suspending the licensee’s licence under section 54 (4).
- (2) A person seeking enrolment under the rules as a trainee may, no later than 30 days after the date the decision is received by the person, apply to the tribunal for a review of a decision
- (a) denying the person’s request for enrolment as a trainee, or
 - (b) enrolling the person as a trainee subject to limits or conditions.
- (3) On receiving an application under subsection (1) or (2), the tribunal must hold a licensing hearing under Part 8 [*Tribunal Proceedings*].

Annual fee

- 56** (1) Subject to subsections (3) and (4), a licensee must, each year, pay to the regulator an annual fee consisting of
- (a) a practice fee in the amount set by the board, and
 - (b) the indemnity fee, unless the licensee is exempt from paying the indemnity fee under a rule made under section 143 (2) (c) [*rules respecting indemnification*].
- (2) A licensee must pay the annual fee described in subsection (1) by the date specified by the chief executive officer.
- (3) A licensee whose licence is suspended under this Act, or a non-practising licensee, must, by the date specified by the chief executive officer, pay the annual fee set by the board for suspended licensees or non-practising licensees, as applicable.
- (4) A licensee may be exempt from paying all or part of the annual fee in accordance with any rules made under section 62 (2) (d) [*rules respecting licences*].
- (5) The board may establish special fees to be paid by licensees and applicants for the purposes of the regulator.

Duties of licensees

- 57** In the course of practising law, a licensee must
- (a) perform only the activities permitted by the licensee’s licence, and
 - (b) comply with any limit or condition imposed on the licence.

Duties of trainees

- 58** In the course of practising law, a trainee must
- (a) perform only the activities permitted by the rules, and
 - (b) comply with any limit or condition imposed on the trainee’s enrolment as a trainee.

Summary orders

- 59** (1) The chief executive officer may make an order against a licensee or law firm that fails to do any of the following:
- (a) pay the annual fee or a special fee established under section 56 [*annual fee*] by the date specified by the chief executive officer;
 - (b) cooperate with an investigation under this Act;
 - (c) meet the requirements referred to in section 69 [*continuing competence and education requirements*];
 - (d) comply with a requirement imposed under a rule made under section 74 [*rules respecting competence, professional conduct and financial responsibility*];
 - (e) cooperate with a practice review ordered under section 87 (1) (b) [*professional conduct orders*] or 88 (1) (a) [*competence orders*];
 - (f) complete or provide proof of completion of a remedial program required in an order under section 87 (1) (c) or 88 (1) (b);
 - (g) receive counselling or medical treatment, including treatment for a substance use problem or substance use disorder, as required in an order made under section 88 (1) (c);
 - (h) pay a fine imposed under section 87 (1) (e) by the date it is due;
 - (i) pay a fine imposed under section 122 (3) (e) or (5) (d) [*actions after discipline hearing*] by the date it is due;
 - (j) complete or provide proof of completion of a remedial program required to be completed under section 122 (3) (c) (i);
 - (k) pay costs ordered under section 73 (3) [*practice reviews*] or 125 [*costs*].
- (2) In an order made against a licensee or law firm under subsection (1) of this section, the chief executive officer may impose limits or conditions on the licensee’s licence or on the permit of the law firm or suspend the licensee’s licence or the permit of the law firm
- (a) for a specified period,
 - (b) until the licensee or law firm remedies the failure that is the subject of the order,
 - (c) from a specified date until the licensee or law firm remedies the failure that is the subject of the order, or

- (d) for a specified minimum period and until the licensee or law firm remedies the failure that is the subject of the order.
- (3) Subject to the rules, the chief executive officer may apply to the tribunal for an order cancelling the licence of a licensee or the permit of a law firm described in subsection (1).
- (4) Before the chief executive officer makes an application under subsection (3), the chief executive officer must
 - (a) deliver notice of the application to the licensee or law firm that is the subject of the application, and
 - (b) inform the licensee or law firm of the right to make submissions to the tribunal on the application.

Prohibition against licence surrender

- 60** A licensee who is the subject of an investigation, a professional conduct order or a citation may not surrender the licensee’s licence without the consent of the chief executive officer.

Registry

- 61** The chief executive officer must establish and maintain on a publicly available website a registry in which, subject to any rules made under section 62 (2) (f), the following information must be entered:
- (a) the name of each licensee;
 - (b) the business telephone number and business email address of each practising licensee;
 - (c) the class of licence each licensee holds;
 - (d) a notation of any limits or conditions imposed on a licence;
 - (e) a notation of each suspension or cancellation of a licence under this Act;
 - (f) a notation of each suspension or disbarment under the *Legal Profession Act*, and of each suspension or termination of membership under the *Notaries Act*, in relation to a licensee, if the suspension, disbarment or termination was made public before the coming into force of this section;
 - (g) a notation of each disciplinary action, other than an action described in paragraph (f), taken in relation to a licensee under the *Legal Profession Act* or the *Notaries Act*, if the information was made public before the coming into force of this section;
 - (h) any additional information required by the rules.

Rules respecting licences

- 62** (1) The board may make rules respecting licences.
- (2) Without limiting subsection (1), the board may make rules as follows:
- (a) specifying the circumstances in which an application must be considered by the licensing committee;
 - (b) specifying the limits and conditions that may be imposed on licences under section 52 (2) (b) [*licence to practise legal profession*] or 53 (3) (b) [*limited practice licence*] and establishing a process for varying or removing a limit or condition;
 - (c) establishing requirements and procedures for the transition from a practising licence to a non-practising licence and from a non-practising licence to a practising licence;
 - (d) respecting exemptions for the purpose of section 56 (4) [*annual fee*];
 - (e) for the purpose of section 56, allowing for the payment of the annual fee by instalments;
 - (f) for the purpose of section 61,
 - (i) specifying any additional information to be entered into the registry, including information in relation to former licensees,
 - (ii) establishing a period during which information in relation to a licensee or former licensee must be included in the registry, and
 - (iii) establishing exceptions to the application of section 61.

Rules respecting trainees

- 63** (1) The board may make rules respecting trainees.
- (2) Without limiting subsection (1), the board may make rules as follows:
- (a) establishing procedures for enrolment of a person as a trainee;
 - (b) specifying the circumstances in which a request for enrolment as a trainee must be considered by the licensing committee;
 - (c) establishing the enrolment fee for each class of trainee;
 - (d) establishing, maintaining or endorsing education programs for trainees;
 - (e) specifying the limits and conditions that may be imposed on the enrolment of a person as a trainee;
 - (f) specifying the activities that trainees of each class may perform in the course of practising law.

Rules respecting practice specialties

- 64** (1) The board may make rules respecting the recognition of specialties in one or more areas of the practice of law.
- (2) Without limiting subsection (1), the board may make rules as follows:
- (a) designating practice specialties, including a specialty in providing legal services to Indigenous clients, and providing that licensees or law firms must not hold themselves out as a specialist in an area or type of practice unless they are qualified and certified in accordance with a rule made under paragraph (b);
 - (b) providing for the qualification and certification of licensees in a practice specialty designated under paragraph (a).

Rules respecting restricted areas of practice

- 65** (1) The board may make rules respecting restricted areas of practice for lawyers.
- (2) Without limiting subsection (1), the board may make rules as follows:
- (a) designating restricted areas of practice and providing that lawyers must not practise law in a restricted area of practice unless they are qualified in accordance with a rule made under paragraph (b);
 - (b) providing for the qualification of lawyers in a restricted area of practice designated under paragraph (a).
- (3) The board must make rules respecting the qualifications a licensee must have to do any of the following in relation to a family law dispute as defined in section 1 of the *Family Law Act*:
- (a) conduct a mediation;
 - (b) conduct an arbitration;
 - (c) act as a parenting coordinator as defined in section 1 of that Act.

Rules respecting disclosure in public interest

- 66** The board may make rules authorizing the chief executive officer to disclose to the public certain information relating to a licensee, trainee or law firm if the chief executive officer is satisfied that it is in the public interest to do so.

Rules respecting undertakings

- 67** The board may make rules respecting the giving and acceptance of undertakings.

PART 6 – PROFESSIONAL CONDUCT, COMPETENCE AND DISCIPLINE

Division 1 – Professional Conduct and Competence

Definitions

68 In this Part:

“conduct unbecoming a professional” means conduct in the professional, personal or private capacity of a licensee, trainee or law firm that brings a legal profession into disrepute, including the following:

- (a) committing an illegal act that reflects adversely on the licensee’s or trainee’s honesty, trustworthiness or fitness as a licensee or trainee;
- (b) taking improper advantage of the vulnerability of a person;
- (c) engaging in conduct involving dishonesty or conduct that undermines the administration of justice;

“incompetently”, in relation to the practice of law, means in a manner that demonstrates either of the following:

- (a) deficiencies, in any of the following, that give rise to a reasonable apprehension that the quality of service to clients of a licensee or law firm may be significantly adversely affected:
 - (i) the knowledge, skill or judgment of the licensee or law firm;
 - (ii) the attention to the interests of clients of the licensee or law firm;
 - (iii) the records, systems or procedures of the professional business of the licensee or law firm;
 - (iv) other aspects of the professional business of the licensee or law firm;
- (b) a health condition that prevents a licensee from practising law with reasonable skill and competence;

“professional conduct violation” means any of the following:

- (a) an act that contravenes this Act, the rules or the code of professional conduct in a manner that does not constitute professional misconduct or conduct unbecoming a professional;
- (b) an act that constitutes professional misconduct;
- (c) an act that constitutes conduct unbecoming a professional;

“professional misconduct” means conduct in a licensee’s professional capacity, or conduct by a law firm, that constitutes a marked departure from the standards of professional conduct established under this Act, in the rules and in the code of professional conduct.

Continuing competence and education requirements

- 69 A licensee must meet all applicable requirements established in the rules for the continuing competence and education of licensees.

Code of professional conduct

- 70 The board must establish a code of professional conduct for licensees.

Professional conduct and competence requirements

- 71 (1) A licensee, law firm or trainee must practise law in accordance with the following:
- (a) all applicable requirements of professional conduct established in this Act and the rules;
 - (b) the code of professional conduct.
- (2) A licensee, law firm or trainee must not
- (a) engage in conduct that constitutes professional misconduct or conduct unbecoming a professional, or
 - (b) practise law incompetently.

Assistance programs

- 72 The board may take any steps it considers advisable to promote and improve the standard of practice by licensees and trainees, including establishing, maintaining and supporting the following:
- (a) programs for the legal education of licensees and trainees;
 - (b) programs to assist licensees and trainees in managing or avoiding personal, emotional or health issues;
 - (c) programs to assist licensees and trainees with issues arising from their practice of law;
 - (d) programs to grant scholarships, bursaries or loans to persons engaged in a program of legal education;
 - (e) the provision of funding and other assistance to establish or maintain law libraries in British Columbia;
 - (f) programs providing for the publication of court and other legal decisions and of legal resource materials.

Practice reviews

- 73 (1) In a practice review authorized by a rule made under section 74 (3) (b) (iii) or ordered under section 87 (1) (b) [*professional conduct orders*], 88 (1) (a) [*competence orders*] or 122 (3) (b) or (5) (b) [*actions after discipline hearing*], the chief executive officer may do any of the following for the purpose of identifying any deficiencies in the practice, conduct or competence of a licensee or law firm:
- (a) by written notice, require the licensee or law firm to cooperate with the review, answer questions and provide access to information, records, books or accounts in the custody or under the control of the licensee or law firm;
 - (b) direct an assessor or other authorized person to prepare a report of the findings of the review and to provide the report to the chief executive officer and to the licensee or law firm whose practice was reviewed;
 - (c) impose limits or conditions on the licence of the licensee or on the permit of the law firm, including the following:
 - (i) restricting the activities the licensee or law firm may perform in the course of practising law;
 - (ii) requiring that the licensee or law firm be overseen, while practising law, by another licensee or law firm;
 - (iii) requiring that the licensee or law firm undertake additional training.
- (2) On receiving a report prepared under subsection (1) (b), the chief executive officer may conduct an investigation if findings contained in the report indicate that the licensee or law firm may have committed a professional conduct violation or practised law incompetently.
- (3) The chief executive officer may, by order, require a licensee or law firm whose practice has been reviewed to pay the costs of the review if an order is made against the licensee or law firm under Division 3 [*Discipline*] of this Part or under section 122.
- (4) An order under subsection (3) must be in writing.
- (5) Costs ordered under subsection (3) must be paid to the regulator.

Rules respecting competence, professional conduct and financial responsibility

- 74 (1) The board must make rules respecting competence, professional conduct and financial responsibility.
- (2) Without limiting subsection (1), the board must make rules establishing requirements for the continuing competence and education of licensees, including requirements for Indigenous cultural competency training.

- (3) Without limiting subsection (1), the board may make rules as follows:
 - (a) establishing standards for financial responsibility relating to the financial integrity and financial viability of the professional practice of a licensee or law firm;
 - (b) authorizing the chief executive officer to do any of the following for the purposes of routinely or randomly determining the competence of licensees or law firms and their compliance with this Act, the rules and the code of professional conduct:
 - (i) examine the records of a licensee or law firm;
 - (ii) require a licensee or law firm to answer questions;
 - (iii) conduct a practice review of a licensee or law firm.

Division 2 – Complaints and Investigations

Definitions and application

- 75** (1) In this Division and in Division 3 [*Discipline*]:
- “**licensee**” includes a former licensee;
 - “**trainee**” includes a former trainee.
- (2) In the case of a former licensee or former trainee, the application of this Division and Division 3 is limited to the period during which the former licensee or former trainee acted as a licensee or trainee.

Complaints

- 76** (1) A person may make a complaint to the chief executive officer if the person believes that a licensee, trainee or law firm
- (a) may have committed a professional conduct violation, or
 - (b) may have practised law incompetently.
- (2) A complaint must be made in accordance with the rules.
- (3) The chief executive officer may dismiss a complaint without an investigation if the chief executive officer determines that the complaint
- (a) is frivolous, vexatious, trivial or is not made in good faith,
 - (b) is not within the jurisdiction of the regulator, or
 - (c) does not contain allegations that, if admitted or proven, would constitute a professional conduct violation or the incompetent practice of law.
- (4) The chief executive officer must
- (a) if the complaint leads to an investigation, provide regular updates to the complainant on the progress of the investigation, and
 - (b) inform the complainant of the final resolution of the complaint.

Investigations

- 77 (1) On receiving a complaint, and unless the complaint is dismissed under section 76 (3), the chief executive officer must conduct an investigation to determine whether the licensee, trainee or law firm that is the subject of the complaint
- (a) has committed a professional conduct violation, or
 - (b) has practised law incompetently.
- (2) The chief executive officer may, on the chief executive officer's own initiative, conduct an investigation to determine whether a licensee, trainee or law firm
- (a) has committed a professional conduct violation, or
 - (b) has practised law incompetently.
- (3) A licensee, trainee or law firm that is the subject of an investigation must cooperate with the investigation.

Entry and inspection

- 78 (1) For the purpose of an investigation, the chief executive officer may, subject to any limit or condition established in the rules, do any of the following without a warrant:
- (a) during business hours, enter the business premises in which a licensee, trainee or law firm practises law;
 - (b) inspect or examine the records, or any other thing, of a licensee, trainee or law firm that relate to the practice of law by the licensee, trainee or law firm;
 - (c) observe the practice of law by the licensee, trainee or law firm or the licensee's supervision of the practice of law.
- (2) Despite subsection (1), the chief executive officer may enter business premises located in the private residence of a licensee or trainee only with the consent of the licensee or trainee or under the authority of a warrant issued under section 79 (3).
- (3) For the purpose of an investigation, the chief executive officer may order a licensee, a trainee, the representative of a law firm or any other person who may have information or records that are relevant to the investigation to do one or more of the following:
- (a) attend, in person or by electronic means, before the chief executive officer to answer questions on oath or in any other manner;
 - (b) provide written answers to written questions;
 - (c) produce for the chief executive officer a record or thing in the custody or under the control of the licensee, trainee or law firm.

- (4) The chief executive officer may apply to the Supreme Court for an order directing a person subject to an order under subsection (3) to comply with the order.
- (5) In granting an order under subsection (4), the court may do the following:
 - (a) modify an order under subsection (3);
 - (b) make an order for costs of the proceeding.
- (6) If a licensee, a trainee or the representative of a law firm fails to comply with an order under subsection (3), the chief executive officer may make an order suspending the licensee's licence, the trainee's enrolment as a trainee or the permit of the law firm until the licensee, trainee or representative complies with the order.
- (7) An order under subsection (6) must
 - (a) be in writing,
 - (b) include reasons for the order,
 - (c) specify the duration of the suspension,
 - (d) be delivered to the licensee, trainee or law firm subject to the order, and
 - (e) inform the licensee, trainee or law firm subject to the order of the right to apply, under subsection (8), for a review of the order.
- (8) A licensee, trainee or law firm subject to an order under subsection (6) may, at any time while the order is effective, apply to the tribunal for a review of the order.

Search and seizure

- 79**
- (1) The chief executive officer may apply to the Supreme Court for a warrant authorizing a person named in the order to do one or more of the following:
 - (a) at any reasonable time, enter into and search the premises, vehicle, receptacle or place specified in the order and conduct an inspection or examination of any record or thing;
 - (b) require the production of any record or thing, wherever located, belonging or relating to a licensee, trainee or law firm and inspect or examine it;
 - (c) on giving a receipt, seize and remove any record or thing inspected or examined under paragraph (a) or (b) for further inspection or examination.
 - (2) Unless the court directs otherwise, an application under subsection (1) may be made without giving notice to any person and may be heard in private.

- (3) The court may, on application under subsection (1), issue a warrant under this section if satisfied that there are reasonable grounds to believe that the record or thing contains evidence that a licensee, trainee or law firm
 - (a) has engaged in conduct that constitutes professional misconduct or conduct unbecoming a professional, or
 - (b) has practised law incompetently.
- (4) In a warrant under subsection (3), the court
 - (a) must specify the premises, vehicle, receptacle or place to be entered and searched,
 - (b) must generally describe any record or thing to be searched for or produced and any record or thing to be inspected, examined or seized,
 - (c) may impose any limit or condition the court considers appropriate, including the time of entry, the disposition of any record or thing seized and the access by any person to the record or thing seized, and
 - (d) may direct that section 80 does not apply to a record or thing specified in the order if all limits and conditions included under paragraph (c) of this subsection are complied with.
- (5) Despite a direction under subsection (4) (d) of this section, section 80 applies if the person who possessed or controlled the record or thing at the time of the seizure requests in writing that section 80 be applied to the record or thing seized.
- (6) A request under subsection (5) of this section must be delivered to the chief executive officer by personal service or registered mail no later than 21 days after the seizure.

Detention of things seized

- 80**
- (1) For the purposes of subsection (2), a person who makes a seizure under section 79 (1) (c) must report the seizure as soon as practicable to
 - (a) the judge who issued the warrant under which the seizure was made, or
 - (b) if it is not practicable to make the report to the judge described in paragraph (a) of this subsection, another judge of the Supreme Court.
 - (2) On receiving a report under subsection (1) of this section, the judge must,
 - (a) unless satisfied that an order under paragraph (b) of this subsection should be made, order the record or thing that was seized to be returned to its owner or a person entitled to it, or
 - (b) if satisfied that the detention is required for the purposes of this Act, order the record or thing to be detained.
 - (3) A person who conducts an investigation under this Act may make copies of any record detained under subsection (2) of this section.

- (4) A document certified by the chief executive officer to be a true copy made under the authority of subsection (3) of this section is evidence of the nature and content of the original document.
- (5) Subject to any limit or condition imposed under section 79 (4) (c), the person from whom any record or thing is seized under this section or the owner of the record or thing, if the owner is a different person, may
 - (a) inspect the record or thing at any reasonable time, and
 - (b) in the case of a record, obtain one copy of the record at the expense of the regulator.
- (6) A record may not be detained under this section for a period longer than 3 months from the time of its seizure unless, before the end of the period,
 - (a) the person from whom the record was seized consents to the continued detention of the record, or
 - (b) the Supreme Court, on application by the person who made the seizure and after being satisfied that the continued detention is justified, orders the continued detention of the record for a specified period.

Personal records in investigation or seizure

- 81**
- (1) In this section, “**personal information**” means personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*.
 - (2) In conducting an investigation or in seizing records or things in accordance with a warrant under section 79 (3), the chief executive officer may collect personal information unrelated to the investigation that, in error or incidentally, is contained in the records or other evidence of the licensee, trainee or law firm being investigated.
 - (3) If the chief executive officer collects personal information as described in subsection (2) of this section, the chief executive officer must
 - (a) return the personal information if, and as soon as, practicable, or
 - (b) sever the personal information from the records or other evidence containing it.

Regulator request for evidence

- 82**
- (1) On application by the chief executive officer, the Supreme Court may issue a letter of request directed to the judicial authority of a jurisdiction outside British Columbia in which a person is believed to be located, if satisfied that the person may have evidence that may be relevant to an investigation or a hearing under this Act.
 - (2) A letter of request issued under subsection (1) must be
 - (a) signed by a judge of the court, and
 - (b) provided to the chief executive officer for use under subsection (5).

- (3) A letter of request issued under subsection (1) may request the judicial authority to which it is directed to do one or more of the following:
 - (a) order the person who may have evidence to be examined on oath in the manner, at the place and by the date specified in the letter of request;
 - (b) in the case of an examination for the purposes of a hearing, order that a person who is a party to the hearing is entitled to
 - (i) be present or represented during the examination, and
 - (ii) examine the person referred to in paragraph (a);
 - (c) appoint a person to conduct the examination;
 - (d) order the person to be examined to produce at the examination a record or thing specified in the letter of request;
 - (e) direct that the evidence obtained by the examination be recorded and certified in the manner specified in the letter of request;
 - (f) take any other action that the court considers appropriate.
- (4) The failure of a person referred to in subsection (3) (b) to be present or represented during an examination or to examine the person referred to in subsection (3) (a) does not prevent the chief executive officer from reading in the evidence from the examination at a hearing if the examination has otherwise been conducted in accordance with the letter of request.
- (5) The chief executive officer must send a letter of request issued under subsection (1),
 - (a) if the examination is to be held in Canada, to the Deputy Attorney General for the Province of British Columbia, or
 - (b) if the examination is to be held outside Canada, to the Under Secretary of State for Global Affairs Canada.
- (6) A letter of request must include the following:
 - (a) any questions to be put to the person to be examined;
 - (b) the name, address and telephone number of the representative or agent of the chief executive officer;
 - (c) the name and, if known, the address and telephone number of
 - (i) the person to be examined, and
 - (ii) if applicable, the person entitled under subsection (3) (b) to be present or represented during the examination and to examine the person referred to in subsection (3) (a);
 - (d) if necessary, a translation of the letter of request and any questions into the official language of the jurisdiction where the examination is to take place, along with a certificate of the translator bearing the full name of the translator and certifying that the translation is a true and complete translation.

- (7) The chief executive officer must file with the Deputy Attorney General for the Province of British Columbia or with the Under Secretary of State for Global Affairs Canada, as applicable, an undertaking to be responsible for any expense incurred by either of them in relation to the letter of request and to pay them on notification of the amount.
- (8) This section does not limit any power of the chief executive officer to obtain evidence outside British Columbia by any other means.
- (9) The making of an order by a judicial authority in accordance with a letter of request issued under subsection (1) does not determine whether evidence obtained under the order is admissible in evidence in a hearing.
- (10) Unless provided otherwise by this section, the practice and procedure for obtaining the evidence of a person under this section is, to the extent possible, the same as the practice and procedure that govern similar matters in civil proceedings in the Supreme Court.

Immunity for persons required to report

- 83**
- (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against a licensee or trainee who makes a report to the regulator in accordance with a rule made under section 84 (2) (c).
 - (2) Subsection (1) of this section does not apply to a person referred to in that subsection in relation to anything done or omitted to be done in bad faith.

Rules respecting complaints and investigations

- 84**
- (1) The board may make rules respecting complaints and investigations.
 - (2) Without limiting subsection (1), the board may make rules as follows:
 - (a) establishing a process for making a complaint under section 76 [*complaints*];
 - (b) authorizing the variation of the process established under paragraph (a) of this subsection to accommodate the individual circumstances of a complainant;
 - (c) specifying the circumstances and manner in which a licensee or trainee must make a report to the regulator respecting another licensee, trainee or law firm;
 - (d) respecting the initiation and conduct of an investigation, whether or not a complaint under section 76 or a report by a licensee or trainee has been received;
 - (e) imposing limits or conditions on the exercise by the chief executive officer of the power under section 78 (1) [*entry and inspection*].

Division 3 – Discipline

Interim orders

- 85** (1) At any time after an investigation into a matter has begun, the chief executive officer may, by order, do one or more of the following if the chief executive officer considers it necessary in the public interest:
- (a) impose limits or conditions on a licensee’s licence;
 - (b) suspend a licensee’s licence;
 - (c) impose limits or conditions on the permit of a law firm;
 - (d) suspend the permit of a law firm;
 - (e) impose limits or conditions on a trainee’s enrolment as a trainee;
 - (f) suspend a trainee’s enrolment as a trainee;
 - (g) require a licensee or trainee to undergo an examination by a medical practitioner in order to determine if the licensee or trainee has sufficient capacity to practise law competently.
- (2) The chief executive officer may not make more than one order under subsection (1) in relation to a single matter referred to in that subsection.
- (3) An order under subsection (1) must
- (a) be in writing,
 - (b) include reasons for the order,
 - (c) specify the duration of the order, which must not exceed 3 months,
 - (d) be delivered to the licensee, trainee or law firm subject to the order, and
 - (e) inform the licensee, trainee or law firm of the right to apply for a review of the order under subsection (9).
- (4) An order under subsection (1) is not effective until the date the order is received by the licensee, trainee or law firm who is the subject of the order.
- (5) At any time before the expiry of an order under subsection (1), the chief executive officer may apply to the tribunal for an extension of the order.
- (6) At any time after the expiry of an order under subsection (1), the chief executive officer may apply to the tribunal for a new order in relation to the matter that is the subject of the original order.
- (7) Before the chief executive officer makes an application under subsection (5) or (6), the chief executive officer must
- (a) give the licensee, trainee or law firm who is the subject of the application notice of the application, and
 - (b) inform the licensee, trainee or law firm of the right to make submissions to the tribunal on the application.

- (8) If the chief executive officer determines that an order under subsection (1) is no longer necessary in the public interest, the chief executive officer must
 - (a) cancel or vary the order, and
 - (b) as soon as possible, notify, in writing, the licensee or trainee subject to the order of the cancellation or variation.
- (9) A licensee or trainee subject to an order under subsection (1) may, at any time while the order is effective, apply to the tribunal for a review of the order.
- (10) Unless the licensee or trainee who makes an application under subsection (9) consents to a longer period, the tribunal must hear the application no more than 7 days after receiving it.

Actions after investigation

- 86** Following an investigation, the chief executive officer may do one or more of the following in respect of a licensee, trainee or law firm that was the subject of the investigation:
- (a) if the chief executive officer determines that the licensee, trainee or law firm has committed a professional conduct violation that does not constitute professional misconduct or conduct unbecoming a professional, make a professional conduct order;
 - (b) if the chief executive officer determines that the licensee, trainee or law firm has committed a professional conduct violation that constitutes professional misconduct or conduct unbecoming a professional, submit a citation to the discipline committee;
 - (c) if the chief executive officer determines that the licensee, trainee or law firm has practised law incompetently,
 - (i) make a competence order, or
 - (ii) submit a citation to the discipline committee.

Professional conduct orders

- 87** (1) If the chief executive officer determines that a licensee, trainee or law firm has committed a professional conduct violation other than professional misconduct or conduct unbecoming a professional, the chief executive officer may, by order, do one or more of the following:
- (a) reprimand the licensee, trainee or law firm;
 - (b) require the licensee or law firm to submit to a practice review;
 - (c) require the licensee or trainee to complete a remedial program;
 - (d) impose limits or conditions on the licensee's licence, the permit of the law firm or the trainee's enrolment as a trainee;

- (e) impose a fine on the licensee, trainee or law firm, for each professional conduct violation, in an amount not exceeding the following:
 - (i) \$10 000 for the first professional conduct violation;
 - (ii) \$20 000 for a subsequent professional conduct violation;
 - (f) subject to subsection (2), take any other action the chief executive officer considers appropriate in the circumstances.
- (2) In an order under subsection (1) (f), the chief executive officer may not suspend or cancel the licence of a licensee or the permit of a law firm.
 - (3) Before the chief executive officer makes an order under subsection (1) (b), (c), (d), (e) or (f), the chief executive officer must
 - (a) give the licensee, trainee or law firm who is the subject of the order notice of the proposed order, including written reasons, and
 - (b) give the licensee, trainee or law firm a reasonable opportunity to make submissions to the chief executive officer on the proposed order.
 - (4) An order under subsection (1) must
 - (a) be in writing,
 - (b) include reasons for the order,
 - (c) be delivered to the licensee, trainee or law firm subject to the order, and
 - (d) inform the licensee, trainee or law firm of the right, if applicable, to apply for a review of the order under subsection (6).
 - (5) An order under subsection (1) is not effective until the date the order is received by the licensee, trainee or law firm subject to the order.
 - (6) A licensee, trainee or law firm subject to an order under subsection (1) (d), (e) or (f) may, no later than 14 days after the date the order is received, apply to the tribunal for a review of the order.

Competence orders

- 88** (1) If the chief executive officer determines that a licensee, trainee or law firm has practised law incompetently, the chief executive officer may, by order, do one or more of the following:
- (a) require the licensee to submit to a practice review;
 - (b) require the licensee or trainee to complete a remedial program;
 - (c) require the licensee or trainee to receive counselling or medical treatment, including treatment for a substance use problem or substance use disorder;
 - (d) impose limits or conditions on the licensee’s licence or on the trainee’s enrolment as a trainee;

- (e) suspend the licensee’s licence, the permit of the law firm or the trainee’s enrolment as a trainee
 - (i) for a specified period,
 - (ii) until the licensee or trainee meets a requirement imposed under paragraph (a), (b) or (c) or a condition imposed under paragraph (d),
 - (iii) from a specified date until the licensee or trainee meets a requirement imposed under paragraph (a), (b) or (c) or a condition imposed under paragraph (d), or
 - (iv) for a specified minimum period and until the licensee or trainee meets a requirement imposed under paragraph (a), (b) or (c) or a condition imposed under paragraph (d);
 - (f) subject to subsection (2), take any other action the chief executive officer considers appropriate in the circumstances.
- (2) In an order under subsection (1) (f), the chief executive officer may not cancel the licence of a licensee or the permit of a law firm.
 - (3) Before the chief executive officer makes an order under subsection (1), the chief executive officer must
 - (a) give the licensee, trainee or law firm who is the subject of the order notice of the proposed order, including written reasons, and
 - (b) give the licensee, trainee or law firm a reasonable opportunity to make submissions to the chief executive officer on the proposed order.
 - (4) An order under subsection (1) must
 - (a) be in writing,
 - (b) include reasons for the order,
 - (c) be delivered to the licensee, trainee or law firm subject to the order, and
 - (d) if applicable, inform the licensee, trainee or law firm of the right to apply for a review of the order under subsection (6).
 - (5) An order under subsection (1) is not effective until the date the order is received by the licensee, trainee or law firm subject to the order.
 - (6) A licensee or trainee subject to an order under subsection (1) (c), (d), (e) or (f) or a law firm subject to an order under subsection (1) (e) or (f) may, no later than 30 days after the date the order is received, apply to the tribunal for a review of the order.

Discipline committee

- 89** (1) The board must establish a discipline committee for the purpose of reviewing citations proposed to be issued against a licensee, trainee or law firm.

- (2) The discipline committee must include the following:
 - (a) at least one member of the public;
 - (b) at least one Indigenous person, who may be a licensee or a member of the public;
 - (c) for each legal profession whose total membership is 50 or more, at least one person who is licensed to practise that legal profession.
- (3) A director is not eligible to be appointed as a member of the discipline committee until one year after the date on which the director ceases to be a director.
- (4) The board must appoint a chair of the discipline committee from among the members appointed under subsection (2).
- (5) The chair of the discipline committee may appoint panels for the review of citations.
- (6) A panel must include at least 3 members, one of whom must be a person who is not licensed to practise the same legal profession as that of the licensee, trainee or law firm against whom a citation is proposed to be issued.

Citations

- 90**
- (1) If the chief executive officer submits a citation to the discipline committee, the discipline committee must review the citation and do one of the following:
 - (a) approve the citation;
 - (b) decline to approve the citation, with or without written reasons.
 - (2) If the discipline committee approves a citation, the chief executive officer must
 - (a) direct that a discipline hearing be held, and
 - (b) issue the citation to the affected licensee, trainee or law firm.
 - (3) A citation issued under subsection (2) must
 - (a) name the affected licensee, trainee or law firm, and
 - (b) describe the nature of the matter that is to be the subject of the discipline hearing.
 - (4) After the issuance of a citation, the chief executive officer
 - (a) may request that the tribunal set a date for the discipline hearing, and
 - (b) once a date is set for the discipline hearing,
 - (i) must, no later than 30 days before the first day of the hearing, give written notice of the date, time and place of the hearing to the affected licensee, trainee or law firm, and

- (ii) must advise the affected licensee, trainee or law firm that the tribunal may proceed with the discipline hearing in the absence of the licensee, trainee or a representative of the law firm.
- (5) If the discipline committee declines to approve a citation, the chief executive officer may submit to the discipline committee a new or amended citation in relation to the same facts as those related to the original citation.
- (6) For certainty, a decision by the discipline committee to decline to approve a citation does not prevent the chief executive officer from making a professional conduct order or a competence order in relation to the facts on which the citation is based.

Consent agreements

- 91** (1) At any time between the start of an investigation and the start of a proceeding under Part 8 [*Tribunal Proceedings*], the chief executive officer may enter into a consent agreement with the licensee, trainee or law firm that is the subject of the investigation.
- (2) A consent agreement under subsection (1) may result in any of the following:
- (a) the imposition of any requirement, fine, limit or condition that may be imposed in a professional conduct order, a competence order or an order under section 122 [*actions after discipline hearing*];
 - (b) the suspension or cancellation of any of the following:
 - (i) the licence of a licensee;
 - (ii) the enrolment of a trainee;
 - (iii) the permit of a law firm.
- (3) Subject to any rules made under section 94 (2) (c), no further action may be taken under this Part or under Part 8 in relation to the facts on which a consent agreement under subsection (1) of this section is based.

Alternative resolution

- 92** At any time between the start of an investigation and the start of a proceeding under Part 8 [*Tribunal Proceedings*], the chief executive officer may, in accordance with any rules made under section 94 (2) (e), resolve a discipline or competence matter using an alternative resolution process.

Consideration of disciplinary record

- 93** In making an order under this Part, or in entering into a consent agreement under section 91, the chief executive officer may consider the disciplinary record of the licensee, trainee or law firm that is the subject of the order or agreement.

Rules respecting discipline

- 94** (1) The board may make rules respecting the discipline of licensees, trainees and law firms.
- (2) Without limiting subsection (1), the board may make rules as follows:
- (a) establishing a process for the protection of the privacy of a licensee, trainee or law firm being investigated and for the severing, destruction or return of personal, business or other records that are unrelated to an investigation and that, in error or incidentally, form part of
 - (i) the records or things of a licensee, trainee or law firm being investigated, or
 - (ii) the records or things seized in accordance with an order of the court under section 79 [*search and seizure*];
 - (b) respecting the issuance, amendment or rescission of a citation;
 - (c) specifying the actions the chief executive officer may take if a licensee, trainee or law firm breaches a term of a consent agreement under section 91 [*consent agreements*];
 - (d) authorizing the chief executive officer to summarily suspend or cancel the licence of a licensee convicted of an indictable offence in British Columbia or in another jurisdiction;
 - (e) respecting the use of alternative resolution processes in the resolution of discipline and competence matters.
- (3) Rules made under subsection (2) (e) may include rules that reflect or are influenced by Indigenous practices in relation to dispute resolution, which rules must be developed in collaboration with and approved by the Indigenous council.

PART 7 – LEGAL PROFESSIONS TRIBUNAL

Legal Professions Tribunal

- 95** (1) The Legal Professions Tribunal is established to conduct hearings under Part 8 [*Tribunal Proceedings*].
- (2) The tribunal consists of
- (a) a tribunal chair, and
 - (b) the tribunal members appointed under section 98.
- (3) The tribunal may retain any staff, consultants and specialists the tribunal considers necessary to assist the tribunal in the exercise of its powers and the performance of its duties.

Tribunal chair

- 96**
- (1) The board must, after a merit-based process, appoint a tribunal chair for an initial term of no more than 3 years.
 - (2) A director is not eligible to be appointed as tribunal chair until one year after the date on which the director ceases to be a director.
 - (3) The tribunal chair
 - (a) is responsible for the governance and management of the tribunal, and
 - (b) must work in collaboration with the chief executive officer to ensure the independence of the tribunal from the regulator.
 - (4) In addition to the responsibilities described in subsection (3), the tribunal chair has the powers and duties of a tribunal member.
 - (5) The tribunal chair may
 - (a) designate one or more tribunal members as vice chairs, and
 - (b) delegate any power or duty of the tribunal chair to a vice chair.
 - (6) The tribunal chair must appoint tribunal members to hearing panels.
 - (7) After a performance review conducted by the board, the tribunal chair may be reappointed for additional terms of no more than 5 years each.

Acting tribunal chair

- 97**
- (1) The tribunal chair may designate a vice chair or another tribunal member as the acting tribunal chair for a period, not exceeding 6 months, during which the tribunal chair is absent.
 - (2) Despite subsection (1), if the tribunal chair is absent or incapacitated for an extended period not exceeding 6 months, the board may designate a vice chair or another tribunal member as the acting tribunal chair for the period during which the tribunal chair is absent or incapacitated.
 - (3) If the tribunal has no chair, the board may appoint a person who is a tribunal member, or who would otherwise be qualified for appointment as a tribunal member or as the chair, as the acting chair for a period not exceeding 6 months.
 - (4) A person designated under this section has all the powers and may perform all the duties of the tribunal chair.

Tribunal members

- 98**
- (1) The board must appoint tribunal members for initial terms of no more than 3 years.
 - (2) Of the tribunal members appointed under subsection (1),
 - (a) at least 2 must be members of the public,

- (b) at least 2 must be Indigenous persons, who may be licensees or members of the public,
 - (c) at least 2 must be lawyers,
 - (d) at least 2 must be notaries public who are not also lawyers, and
 - (e) if the total number of regulated paralegals in British Columbia is 50 or more, at least 2 must be regulated paralegals.
- (3) Appointments under subsection (1) must be made
 - (a) after a merit-based process conducted by the tribunal chair, and
 - (b) on the recommendation of the tribunal chair.
 - (4) A director is not eligible to be appointed as a tribunal member until one year after the date on which the director ceases to be a director.
 - (5) Tribunal members may be full time or part time members.
 - (6) After a performance review conducted by the tribunal chair, a tribunal member may be reappointed for additional terms of no more than 4 years each.

Tribunal member's absence or incapacity

- 99** (1) If a tribunal member is absent or incapacitated for an extended period of time or expects to be absent or incapacitated for an extended period of time, the board, after consultation with the tribunal chair, may appoint another person who would otherwise be qualified for appointment as a tribunal member to replace the member until the earlier of the following:
- (a) the date the tribunal member returns to full duty;
 - (b) the date the tribunal member's term expires.
- (2) The appointment of a person to replace a tribunal member under subsection (1) is not affected by the tribunal member returning to less than full duty.

If tribunal membership does not meet requirements

- 100** (1) An act of the tribunal is not invalid only because of a defect that is subsequently discovered in the appointment of the tribunal chair or a tribunal member.
- (2) The tribunal may continue to exercise the powers and perform the duties of the tribunal if
- (a) the term of a tribunal member ends or a tribunal member resigns, is removed, dies or is, for any reason, unable or unwilling to act as a tribunal member, and
 - (b) the composition of the tribunal is not as described in section 98 (2) because of the vacancy or absence.

Oath of office and code of conduct

- 101** (1) The tribunal must establish a code of conduct for tribunal members, including the tribunal chair and vice chair.
- (2) A person appointed as a tribunal member must
- (a) before taking office as a member, take and sign an oath of office established by the tribunal, and
 - (b) comply with the code of conduct established under subsection (1).

Removal of tribunal member

- 102** (1) Subject to subsection (2), the board may remove a tribunal member, including the tribunal chair or vice-chair, if the tribunal member contravenes the oath of office or the code of conduct established under section 101.
- (2) The board may remove a tribunal member under subsection (1) if, after reasonable notice to the tribunal member, the board, by resolution, considers the contraventions sufficiently serious to justify the removal of the tribunal member.

Tribunal finances

- 103** (1) Each year on or before the date specified by the board, the tribunal must prepare and submit to the board for approval an annual budget.
- (2) Once the board approves a budget under subsection (1), the board must pay the expenses required for the administration and operation of the tribunal in accordance with the budget.

Remuneration of tribunal members

- 104** The board must establish rates for the remuneration of tribunal members and provide for the reimbursement of reasonable travel expenses and out-of-pocket expenses of tribunal members.

Tribunal fees

- 105** The tribunal may charge fees with respect to services provided, or anything done, by the tribunal, staff of the tribunal or other persons.

Rules respecting tribunal

- 106** (1) The board must make the following rules respecting the tribunal:
- (a) respecting the budget to be prepared and submitted under section 103 (1) [*tribunal finances*];
 - (b) requiring the tribunal to prepare and submit to the board an annual report on the activities of the tribunal and specifying the information to be contained in the annual report.

- (2) The board may not make any rules respecting the tribunal other than the rules described in subsection (1).

PART 8 – TRIBUNAL PROCEEDINGS

Definitions

107 In this Part:

“**applicant**” means a person who makes an application;

“**application**” means an application

(a) by a licensee, trainee or law firm under any of the following:

- (i) section 55 (1) or (2) [*review of licensing or enrolment decision*];
- (ii) section 85 (9) [*interim orders*];
- (iii) section 87 (6) [*professional conduct orders*];
- (iv) section 88 (6) [*competence orders*], or

(b) by the chief executive officer under either of the following:

- (i) section 59 (3) [*summary orders*];
- (ii) section 85 (5) or (6);

“**party**” means an applicant, a respondent or the regulator.

Tribunal orders

- 108** (1) In order to facilitate the just and timely resolution of an application or citation, the tribunal, if requested by a party or on its own initiative, may make any order
- (a) contemplated by a tribunal rule, or
 - (b) that the tribunal considers necessary for the purpose of controlling its own proceeding.
- (2) Without limiting subsection (1), the tribunal may, at any time before the tribunal makes a final decision and at the request of the parties, make a consent order in respect of one or more of the matters to be dealt with in the proceeding.

Time limits

- 109** If satisfied that special circumstances exist, the tribunal may extend the time set out in Part 5 [*Licensing and Authority to Practise*] or 6 [*Professional Conduct, Competence and Discipline*] to make an application to the tribunal, even if the time has expired.

Application or citation does not operate as stay

- 110**
- (1) The filing of an application does not operate as a stay or suspend the operation of the decision or order that is the subject of the application.
 - (2) The issuance of a citation does not operate as a stay or suspend the operation of an order under section 85 (1) [*interim orders*].
 - (3) Despite subsections (1) and (2) of this section, the tribunal may, on application by a party, order a stay of a decision or order.

Power to compel witnesses and order disclosure

- 111**
- (1) A party may prepare and serve a summons, in the form established by the tribunal, requiring a person
 - (a) to attend before the tribunal, in person or by electronic means, to give evidence, on oath or in any other reasonable manner, that is admissible and relevant to an issue in the proceeding, or
 - (b) to produce for the tribunal, that party or another party a record or thing in the custody or under the control of the person that is admissible and relevant to an issue in the proceeding.
 - (2) At any time before or during a proceeding, the tribunal may make an order requiring a person
 - (a) to attend before the tribunal, in person or by electronic means, to give evidence, on oath or in any other reasonable manner, that is admissible and relevant to an issue in the proceeding, or
 - (b) to produce for the tribunal or a party a record or thing in the custody or under the control of the person that is admissible and relevant to an issue in the proceeding.
 - (3) On application by the tribunal to the Supreme Court, a person who fails to comply with an order under subsection (2) is liable to be committed for contempt as if in breach of an order or judgment of the court.

Evidence

- 112**
- In conducting a proceeding, the tribunal may do one or more of the following:
- (a) subject to any rules made by the tribunal under section 131 (2) (c) [*tribunal rules*], receive, and accept as evidence, information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court;
 - (b) ask questions of the parties and witnesses;
 - (c) inform itself in any other way it considers appropriate.

Failure to attend

- 113** (1) This section applies if an applicant, respondent or representative of a law firm fails to attend or to remain in attendance at a hearing of the tribunal.
- (2) If satisfied that the applicant or respondent has received notice of the hearing, a hearing panel may
- (a) proceed with the hearing in the absence of the applicant, respondent or representative, and
 - (b) make any order that the hearing panel could have made in the presence of the applicant, respondent or representative.

Hearings open to public

- 114** (1) An oral hearing of the tribunal must be open to the public.
- (2) Despite subsection (1), a hearing panel may direct that all or part of the evidence be received with the public excluded if the hearing panel is of the opinion that
- (a) all or part of the evidence is information that is confidential or subject to privilege, including solicitor-client privilege,
 - (b) the desirability of avoiding disclosure in the interests of any person or party affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, or
 - (c) it is not practicable to hold the hearing in a manner that is open to the public.
- (3) A hearing panel must make a record submitted in a hearing accessible to the public unless the hearing panel is of the opinion that subsection (2) (a) or (b) applies in relation to the record.

Maintenance of order at hearing

- 115** (1) A hearing panel may make any order or give any direction it considers necessary for the maintenance of order at an oral hearing.
- (2) If a person disobeys or fails to comply with an order or direction under subsection (1), the tribunal may call on the assistance of a peace officer to enforce the order or direction.
- (3) A peace officer called on under subsection (2) may take any action that is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose.
- (4) Without limiting subsection (1), the tribunal may, by order,
- (a) impose restrictions on a person's continued participation in or attendance at a proceeding, and
 - (b) exclude a person from further participation in or attendance at a proceeding until the tribunal orders otherwise.

Contempt proceeding for uncooperative person

- 116** (1) The failure or refusal of a person summoned as a witness to do any of the following makes the person, on application to the Supreme Court by the tribunal, liable to be committed for contempt as if in breach of an order or judgment of the court:
- (a) attend a hearing;
 - (b) take an oath;
 - (c) answer questions;
 - (d) produce records or things in the person’s custody or possession.
- (2) The failure or refusal of a person to comply with an order under section 115 makes the person, on application to the court by the tribunal, liable to be committed for contempt as if in breach of an order or judgment of the court.
- (3) Subsections (1) and (2) do not limit the conduct for which a finding of contempt may be made by the court in respect of conduct by a person in a proceeding before the tribunal.

Recording tribunal proceeding

- 117** (1) The tribunal may record or transcribe its proceedings.
- (2) If the tribunal records or transcribes a proceeding, the record or transcription must be considered to be correct and to constitute part of the record of the proceeding.
- (3) If, by mechanical, electronic or human failure or other accident, the recording or transcription of a proceeding is destroyed, interrupted or incomplete, the validity of the proceeding is not affected.

Actions after licensing hearing

- 118** A hearing panel must take one of the following actions after a licensing hearing:
- (a) direct the chief executive officer to issue a licence or limited practice licence;
 - (b) direct the chief executive officer to issue a licence or limited practice licence subject to any limit or condition that the panel considers appropriate;
 - (c) confirm the denial of an application for the licence or limited practice licence;
 - (d) vary or remove a limit or condition imposed on a licence or a limited practice licence;
 - (e) direct the chief executive officer to enrol a person as a trainee;
 - (f) direct the chief executive officer to enrol a person as a trainee subject to any limits or conditions that the panel considers appropriate;
 - (g) confirm the denial of a person’s request for enrolment as a trainee;

- (h) vary or remove a limit or condition imposed on the enrolment of a person as a trainee.

Actions after hearing of section 59 application

- 119** A hearing panel must take one of the following actions after the hearing of an application under section 59 (3) [*summary orders*]:
- (a) dismiss the application;
 - (b) cancel the licence of the licensee, or the permit of the law firm, that is the subject of the application.

Actions after hearing of section 85 application

- 120** A hearing panel must take one of the following actions after the hearing of an application under section 85 (5) or (6) [*interim orders*]:
- (a) dismiss the application;
 - (b) if the application is made under section 85 (5),
 - (i) extend the duration of the order that is the subject of an application
 - (A) to the date specified in the application, or
 - (B) to any other date the hearing panel considers appropriate, or
 - (ii) vary the order, with or without extending its duration;
 - (c) if the application is made under section 85 (6),
 - (i) make the order applied for, or
 - (ii) make any other order the tribunal considers appropriate.

Actions after hearing of Part 6 application

- 121** A hearing panel must take one of the following actions after the hearing of an application under section 78 (8) [*entry and inspection*], 85 (9) [*interim orders*], 87 (6) [*professional conduct orders*] or 88 (6) [*competence orders*]:
- (a) dismiss the application;
 - (b) rescind or vary the order that is the subject of the application;
 - (c) refer the order back to the chief executive officer for reconsideration, with or without directions.

Actions after discipline hearing

- 122** (1) In this section, “**conduct unbecoming a professional**”, “**incompetently**”, “**professional conduct violation**” and “**professional misconduct**” have the same meaning as in section 68 [*definitions*].
- (2) A hearing panel must take one of the following actions after a discipline hearing:
- (a) dismiss the citation;

- (b) determine that the respondent has done one or more of the following:
 - (i) committed professional misconduct or conduct unbecoming a professional;
 - (ii) practised law incompetently;
 - (iii) committed a professional conduct violation other than professional misconduct or conduct unbecoming a professional.
- (3) If a hearing panel makes a determination under subsection (2) (b) (i) or (ii) in relation to a licensee, the panel may, by order, do one or more of the following:
 - (a) reprimand the licensee;
 - (b) require the licensee to submit to a practice review;
 - (c) require the licensee to do one or both of the following:
 - (i) complete a remedial program to the satisfaction of the board;
 - (ii) receive counselling or medical treatment, including treatment for a substance use problem or substance use disorder;
 - (d) impose limits or conditions on the licensee's licence;
 - (e) impose a fine, in an amount not exceeding \$250 000, to be paid to the regulator;
 - (f) suspend the licensee's licence
 - (i) for a specified period,
 - (ii) until the licensee meets a requirement imposed under paragraph (b) or (c) or a condition imposed under paragraph (d),
 - (iii) from a specified date until the licensee meets a requirement imposed under paragraph (b) or (c) or a condition imposed under paragraph (d), or
 - (iv) for a specified minimum period and until the licensee meets a requirement imposed under paragraph (b) or (c) or a condition imposed under paragraph (d);
 - (g) cancel the licensee's licence;
 - (h) subject to the fine limit specified in paragraph (e), make any order it considers necessary in the public interest, including an order for restitution.
- (4) If a hearing panel makes a determination under subsection (2) (b) (i) or (ii) in relation to a trainee, the panel may, by order, do one or more of the following:
 - (a) reprimand the trainee;
 - (b) require the trainee to complete a remedial program to the satisfaction of the board;
 - (c) impose limits or conditions on the trainee's enrolment as a trainee;

- (d) impose a fine, in an amount not exceeding \$10 000, to be paid to the regulator;
 - (e) suspend the trainee's enrolment as a trainee
 - (i) for a specified period,
 - (ii) until the trainee completes a remedial program required under paragraph (b) or meets a condition imposed under paragraph (c),
 - (iii) from a specified date until the trainee completes a remedial program required under paragraph (b) or meets a condition imposed under paragraph (c), or
 - (iv) for a specified minimum period and until the trainee completes a remedial program required under paragraph (b) or meets a condition imposed under paragraph (c);
 - (f) cancel the trainee's enrolment as a trainee;
 - (g) subject to the fine limit specified in paragraph (d), make any order it considers necessary in the public interest, including an order for restitution.
- (5) If a hearing panel makes a determination under subsection (2) (b) (i) or (ii) in relation to a law firm, the panel may, by order, do one or more of the following:
- (a) reprimand the law firm;
 - (b) require the law firm to submit to a practice review;
 - (c) impose limits or conditions on the permit of the law firm;
 - (d) impose a fine, in an amount not exceeding \$5 000 000, to be paid to the regulator;
 - (e) subject to the fine limit specified in paragraph (d), make any order it considers necessary in the public interest, including an order for restitution.
- (6) If a hearing panel makes a determination under subsection (2) (b) (iii) in relation to a licensee, trainee or law firm, the hearing panel
- (a) may make any order the chief executive officer could have made under section 87 [*professional conduct orders*] in relation to the licensee, trainee or law firm, but
 - (b) may not make any other order.
- (7) In making an order under this section, a hearing panel must consider the following purposes:
- (a) the protection of the public interest;
 - (b) general and specific deterrence;
 - (c) the making of reparation for harm done to victims.

Panel for final hearing

- 123** The panel for the final hearing of a citation must consist of at least 3 tribunal members, of whom
- (a) one must be a tribunal member who is not licensed to practise the same legal profession as that of the respondent, and
 - (b) if the respondent or complainant is an Indigenous person, one must be an Indigenous person.

Tribunal consideration of disciplinary record

- 124** In making an order under this Part, a hearing panel may consider the disciplinary record of the applicant or respondent that is the subject of the order.

Costs

- 125**
- (1) A hearing panel may make an order requiring a party to pay one or more of the following costs in connection with an application or citation:
 - (a) the costs of another party;
 - (b) the costs of an investigation by the regulator;
 - (c) the actual costs and expenses of the tribunal.
 - (2) An order under subsection (1) must be in writing.
 - (3) Costs ordered under subsection (1) (b) or (c) must be paid to the regulator.
 - (4) A hearing panel may require an applicant or respondent to deposit with the tribunal or the regulator an amount of money the hearing panel considers sufficient to cover all or part of the anticipated costs of another party in connection with an application or citation.
 - (5) An order under subsection (1) may include directions respecting the disposition of money deposited under subsection (4).

Debt due to regulator

- 126**
- (1) A fine imposed under section 122 [*actions after discipline hearing*] or costs ordered under section 73 (3) [*practice reviews*] or 125 to be paid to the regulator may be recovered as a debt due to the regulator and, when collected, are the property of the regulator.
 - (2) To recover a debt under subsection (1), the chief executive officer must issue a certificate specifying the unpaid amount, with interest, and the name of the person required to pay it.
 - (3) The regulator must, on the request of a party, issue a certificate specifying the amount of costs, with interest, ordered under section 125 and owed to the party.
 - (4) No later than 30 days after the date a certificate is issued under subsection (2) or (3), a party may apply to the tribunal for a review of the certificate.

- (5) On receiving an application under subsection (4), the tribunal may do one of the following:
 - (a) confirm the certificate;
 - (b) vary the certificate;
 - (c) cancel the certificate.
- (6) A certificate issued under subsection (2) or (3) or confirmed or varied under subsection (5) has the same force and effect, and proceedings may be taken on it, as if it were a judgment of the Supreme Court for the recovery of a debt in the amount specified in the certificate against the person named in the certificate.

Final decision

- 127** A hearing panel must make a final decision in writing and must give reasons for the decision.

Enforcement of decision

- 128** (1) A party in whose favour a hearing panel makes a decision, or a person designated in the decision, may file a certified copy of the decision with the Supreme Court.
- (2) A decision filed under subsection (1) has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court.

Appeal

- 129** Any party named in a final decision of a hearing panel may appeal the decision or order to the Court of Appeal.

General

- 130** Sections 56 [*immunity protection for tribunal and members*] and 61 [*application of Freedom of Information and Protection of Privacy Act*] of the *Administrative Tribunals Act* apply to the tribunal.

Tribunal rules

- 131** (1) The tribunal has the power to control its own processes and may make tribunal rules respecting practice and procedure to facilitate the just and timely resolution of the matters before it.
- (2) Without limiting subsection (1), the tribunal may make rules respecting the following:
 - (a) the appointment and composition of hearing panels;
 - (b) the practice and procedure for proceedings before hearing panels;
 - (c) the evidence that may be admissible before the tribunal;

- (d) the means by which particular facts may be proved or evidence may be given during a hearing;
 - (e) the circumstances in which an award of costs may be made by the tribunal.
- (3) The tribunal may waive or modify one or more of its rules in any proceeding before it.
 - (4) The tribunal must make all tribunal rules accessible to the public.
 - (5) In making tribunal rules, the tribunal
 - (a) may seek the advice of the Indigenous council, and
 - (b) must make rules that are designed to meet the specific needs of Indigenous persons who are parties to, or witnesses in, a proceeding before the tribunal.
 - (6) Rules made under subsection (5) (b) must be developed in collaboration with and approved by the Indigenous council.

Practice directives

- 132** (1) The tribunal chair may issue practice directives.
- (2) Practice directives must be consistent with this Act and with the tribunal rules.
- (3) The tribunal is not bound by its practice directives in the exercise of its powers or the performance of its duties.
- (4) The tribunal must make any practice directives issued under subsection (1) accessible to the public.

PART 9 – INDEMNIFICATION

Definition

- 133** In this Part, “**trust protection indemnification**” means indemnification for licensees to compensate persons who sustain pecuniary loss as a result of dishonest appropriation of money or other property entrusted to and received by a licensee in the licensee’s capacity as a licensee.

Professional liability indemnification

- 134** The board may maintain a professional liability indemnification program and may use the indemnity fees for that purpose.

Trust protection indemnification

- 135** (1) The board must maintain a trust protection indemnification program and may use the indemnity fees for that purpose.

- (2) The board may
 - (a) establish conditions and qualifications for a claim against a licensee under the trust protection indemnification program, including time limits for making a claim, and
 - (b) place limits on the amounts that may be paid out of the indemnity fund established under section 138 [*indemnity fund*] in respect of a claim under the trust protection indemnification program.

Other indemnification

- 136** The board may maintain any indemnification program it considers necessary in the public interest and may use the indemnity fees for that purpose.

Indemnity fees

- 137** (1) The board may establish
 - (a) the indemnity fee for each class of licensee, and
 - (b) the amount to be paid for each class of transaction or activity, designated under the rules, for which a licensee must pay a fee to fund the professional liability or trust protection indemnification program.(2) The board may use fees established under this section to act as the agent for the licensees in obtaining professional liability indemnification, trust protection indemnification or any other indemnification.

Indemnity fund

- 138** (1) The board must maintain an indemnity fund, comprising indemnity fees and other income of the professional liability and trust indemnification programs.
- (2) The indemnity fund
 - (a) must be accounted for separately from other funds,
 - (b) is not subject to any process of seizure or attachment by a creditor of the regulator, and
 - (c) is not subject to a trust in favour of a person who has sustained a loss.(3) A payment made from the indemnity fund in respect of a claim against a licensee under the trust indemnification program
 - (a) may be recovered from the licensee or former licensee on whose account it was paid, or from the estate of that person, as a debt owing to the regulator, and
 - (b) is, if collected, the property of the regulator and must be accounted for as part of the fund.

Reimbursement to regulator

- 139** Subject to the rules, a licensee must not practise law if
- (a) the regulator has, on behalf of the licensee,
 - (i) paid a deductible amount under the professional liability indemnification program in respect of a claim or potential claim under that program, or
 - (ii) made an indemnity payment under the trust indemnification program in respect of a claim under that program, and
 - (b) the licensee has not reimbursed the regulator for the payment under paragraph (a) by the date that the indemnity fee or an instalment of that fee is due.

Time extensions

- 140** The chief executive officer may waive or extend the time
- (a) to pay all or part of the indemnity fee, or
 - (b) to reimburse all or part of a payment made under section 139 (a).

Application of other Acts to indemnification programs

- 141** (1) In this section:
- “**indemnification program**” means an indemnification program established under section 134 [*professional liability indemnification*], 135 [*trust protection indemnification*] or 136 [*other indemnification*];
 - “**subsidiary**” means
 - (a) a corporation that is a company, as defined in the *Business Corporations Act*, of which the regulator holds all of the issued shares, or
 - (b) a corporation that is a society, as defined in the *Societies Act*, of which the regulator is the only member, as defined in that Act.
- (2) Despite the *Financial Institutions Act* and the *Insurance Act*, in relation to the establishment, administration, maintenance and operations of an indemnification program,
- (a) the regulator or a subsidiary is not an insurer as defined in the *Financial Institutions Act* or the *Insurance Act*,
 - (b) the regulator or a subsidiary is not carrying on insurance business in British Columbia,
 - (c) a contract respecting an undertaking to indemnify given under an indemnification program is not a contract as defined in the *Insurance Act*,
 - (d) the regulator or a subsidiary is not required to be licensed under Division 2 of Part 6 of the *Financial Institutions Act* as an insurance adjuster or insurance agent, and

- (e) an employee of the regulator or a subsidiary is not required to be licensed under Division 2 [*Insurance Agents and Adjusters*] of Part 6 [*Regulation of Other Persons*] of the *Financial Institutions Act* as an insurance adjuster, employed insurance adjuster, insurance agent or insurance salesperson.
- (3) Subsection (2) does not apply in respect of a subsidiary that is a captive insurance company registered under the *Insurance (Captive Company) Act*.
- (4) Divisions 4 [*Amalgamation into a Foreign Jurisdiction*] and 8 [*Transfer of Incorporation*] of Part 9 [*Company Alterations*] of the *Business Corporations Act* do not apply to a subsidiary in respect of an indemnification program.

Third person right of action against indemnitor

- 142**
- (1) If a judgment has been granted against a licensee in respect of a liability against which the licensee is indemnified under an indemnification program, as defined in section 141 (1), and the judgment has not been satisfied, the judgment creditor may recover by action against the indemnitor the lesser of
 - (a) the unpaid amount of the judgment, and
 - (b) the amount that the indemnitor would have been liable under the policy to pay to the licensee had the licensee satisfied the judgment.
 - (2) The claim of a judgment creditor against the indemnitor under subsection (1) is subject to the same equities as would apply in favour of the indemnitor had the judgment been satisfied by the licensee.

Rules respecting indemnification

- 143**
- (1) The board may make rules respecting indemnification.
 - (2) Without limiting subsection (1), the board may make rules as follows:
 - (a) specifying any professional liability indemnification, trust protection indemnification or other indemnification to be maintained by a licensee;
 - (b) permitting licensees to pay the indemnity fee by instalments on or before the date by which each instalment of the indemnity fee is due;
 - (c) exempting a class of licensees from the requirement to maintain professional liability indemnification, trust protection indemnification or any other type of indemnification or from payment of all or part of the indemnity fee;
 - (d) designating classes of transactions and activities for which a licensee must pay a fee to fund the professional liability program, the trust indemnification program or any other indemnification program established by the board.

PART 10 – CUSTODIANSHIPS

Definitions

144 In this Part:

“**court**” means the Supreme Court;

“**practice**” includes a law practice carried out by a licensee on behalf of a law corporation whether as an employee of the law corporation or otherwise;

“**property**” includes books, records, accounts, funds, securities and any other real or personal property, wherever located,

(a) in the custody or under the control of a licensee, if held or used by the licensee for the benefit of a client or other person or otherwise held or used in the licensee’s capacity as licensee,

(b) in the custody or under the control of a person other than a licensee if the licensee has a duty to account to a licensee or other person for the property, or

(c) referred to in paragraph (a) or (b), if held or used by a corporation, including a law corporation.

Appointment of custodian

145 (1) The regulator may apply to the court, with or without notice to any person, for an order appointing a practising licensee or the regulator as a custodian of the practice of another licensee to

(a) take custody or control of all or part of the property of the licensee, and

(b) determine the status of, manage, arrange for the conduct of and, if appropriate, terminate the practice of the licensee.

(2) The court may grant an order appointing a custodian under subsection (1) if the court is satisfied that sufficient grounds for the appointment exist.

(3) Without limiting the court’s discretion to grant an order under subsection (2), the following are sufficient grounds for an order appointing a custodian of the practice of a licensee:

(a) the licensee consents to the appointment;

(b) the licensee resigns, dies or otherwise ceases to be a licensee;

(c) the licensee is unable, for any reason, to practise as a licensee;

(d) the licensee disappears or neglects or abandons the practice of law;

(e) the licensee’s licence is suspended under section 59 [*summary orders*], Part 6 [*Professional Conduct, Competence and Discipline*] or Part 8 [*Tribunal Proceedings*] of this Act;

(f) the licensee’s licence is cancelled;

- (g) the licensee, for disciplinary reasons, is suspended or prohibited from practising law in another jurisdiction.
- (4) If a law corporation carries on the business of providing legal services through a licensee who is the subject of an application under subsection (1), the court may order the custodian appointed under subsection (2) to
 - (a) take custody or control of all or part of the property of the law corporation, and
 - (b) determine the status of, manage, arrange for the conduct of and, if appropriate, terminate the practice of the law corporation.
- (5) An order under subsection (2) must direct that any person receiving notice of the order must retain all of the licensee's property that is in or comes into the custody or under the control of the person, unless directed otherwise by the custodian or by an order of the court.
- (6) An order under subsection (2) may do one or more of the following:
 - (a) direct the sheriff to search for, seize, remove and place into the custody or under the control of the custodian all or part of the licensee's property;
 - (b) authorize the sheriff, for the purpose of paragraph (a), to enter
 - (i) any building or place other than the licensee's private dwelling and open any safety deposit box or other receptacle, and
 - (ii) the licensee's private dwelling and open any safe or other receptacle, if there are grounds to believe that the licensee's property may be found at the private dwelling;
 - (c) direct any savings institution or other person to deal with, hold or dispose of the licensee's property as the court directs and to deliver to the custodian or otherwise, as the court directs, one or more of the following:
 - (i) the licensee's property;
 - (ii) a copy of records relating to the licensee's practice;
 - (iii) a copy of other records, if necessary for the effective conduct of the custodianship;
 - (d) give directions to the custodian respecting the disposition of the licensee's property and the manner in which the custodianship should be conducted;
 - (e) give directions respecting the service of an order or notice required under this Part;
 - (f) include any other orders or give any other directions to facilitate the conduct of the custodianship;

- (g) if the licensee’s licence is suspended or cancelled for disciplinary reasons, or if the licensee is a person referred to in subsection (3) (g), prohibit the licensee from acting as any of the following until the licensee holds a practising licence under this Act or until the court orders otherwise:
 - (i) a personal representative of a deceased person;
 - (ii) a trustee of the estate of a deceased person;
 - (iii) a committee under the *Patients Property Act*;
 - (iv) an attorney under Part 2 of the *Power of Attorney Act*;
 - (v) a representative under the *Representation Agreement Act*;
 - (vi) a trustee of a trust if the licensee is a trustee as a result of the licensee’s practice of law.
- (7) Unless directed otherwise by the court, a custodian appointed under subsection (2) must promptly serve an order under this Part on the licensee.
- (8) A sheriff, deputy sheriff or civil enforcement officer executing an order under this Part has the same powers and entitlements to fees and disbursements as if the sheriff, deputy sheriff or officer was a civil enforcement officer carrying out an enforcement proceeding under the *Money Judgment Enforcement Act*.

If regulator appointed as custodian

- 146** If the regulator is appointed as a custodian under section 145 (2),
- (a) the duties of a custodian must be performed, and the powers of a custodian exercised, on behalf of the regulator by a practising licensee retained or appointed by the chief executive officer,
 - (b) the *Freedom of Information and Protection of Privacy Act* does not apply to a licensee’s records that are in the regulator’s custody or under the regulator’s control, and
 - (c) the *Personal Information Protection Act* applies to the regulator in relation to a licensee’s records that are in the regulator’s custody or under the regulator’s control as if the regulator were an organization under that Act.

Powers of custodian

- 147** A custodian may do one or more of the following:
- (a) notify a client of the licensee or any other person of the custodian’s appointment;
 - (b) communicate with a client or person referred to in paragraph (a) respecting the conduct of the custodianship;

- (c) represent a client of the licensee, in place of the licensee, in any cause or matter in respect of which the licensee was acting at the time the custodian was appointed, to the extent necessary to protect the interests of the client;
- (d) conduct or authorize an investigation of the property of the licensee;
- (e) request from the licensee or any other person information or records that may be reasonably necessary to facilitate the conduct of the custodianship and, if necessary, apply to the court for an order to enforce the request;
- (f) report to an insurer any facts of which the custodian becomes aware that indicate that the licensee in the licensee's professional capacity may be liable to a client or other person;
- (g) cooperate with an insurer respecting any claim arising out of the licensee's practice, to the extent required by the policy;
- (h) advise a client or other person of any facts of which the custodian becomes aware that may give rise to a claim for payment out of the trust protection indemnification fund established under Part 9 [Indemnification];
- (i) deal with the assets and liabilities of the licensee's practice to the extent necessary to protect the interests of clients and, subject to the interests of clients,
 - (i) pay all or part of the expenses and disbursements of and incidental to any acts done or proceedings taken under this Part, and
 - (ii) preserve the value of the practice;
- (j) employ or retain assistance in the conduct of the custodianship.

Regulator access to property

- 148** (1) The chief executive officer may at any time examine and make copies of any of a licensee's property in the custody or under the control of a custodian.
- (2) Copies made under subsection (1) must be made at the regulator's expense and only for the regulator's own use.

Property in custody or under control of custodian

- 149** (1) In this section, "solicitor's lien" includes a notary's lien and a similar lien of another licensee.
- (2) A custodian may deliver property in the custody or under the control of the custodian to a person claiming the property if the custodian is satisfied that
- (a) the person is entitled to the property,
 - (b) no solicitor's lien exists or appears to exist in relation to the property,
- and

- (c) the chief executive officer has been given a reasonable opportunity to examine the property under section 148.
- (3) A licensee whose property is in the custody or under the control of a custodian under this Part may make a claim for a solicitor's lien in relation to any part of the property by delivering to the custodian a notice of a claim for lien.
- (4) A notice under subsection (3) must
 - (a) be in writing,
 - (b) be delivered no later than 30 days after service on the licensee of the order under section 145 (2) [*appointment of custodian*], and
 - (c) give full particulars of the claim.
- (5) On receiving a notice under subsection (3), the custodian must promptly give written notice of the claim for lien to the apparent owner of the property.
- (6) After notice is given under subsection (4), the rights of the parties must be determined according to law.
- (7) If a licensee fails to file a claim for lien under this section within the period referred to in subsection (4) (b), the custodian may deliver the property to the person entitled to it if the custodian is satisfied that it is proper to do so.

Application to court

- 150**
- (1) On an application by a custodian, the regulator, the licensee who is the subject of an order under section 145 (2) [*appointment of custodian*] or any other interested person, the court may, by order, do one or more of the following:
 - (a) discharge the custodian, unless the regulator demonstrates why the custodianship should be continued;
 - (b) appoint another practising licensee or the regulator as a custodian;
 - (c) summarily determine the validity of a claim to a solicitor's lien, as defined in section 149 (1), filed under section 149 (3).
 - (2) On application by a custodian or the regulator, the court may, by order, do one or more of the things described in section 145 (6).
 - (3) If the court makes an order under subsection (2) of this section, section 145 (7) and (8) applies.
 - (4) Despite anything in this Part, the court may at any time
 - (a) extend or shorten the period within which anything is required to be done, or
 - (b) dispense with any of the requirements of this Part.

Liability and costs

- 151** (1) Section 205 [*protection against actions*] applies to protect a custodian, the regulator and a person acting for one of them, in relation to anything done or omitted to be done by any of them in good faith while acting or purporting to act under this Part.
- (2) No costs may be awarded against a custodian, the regulator or a person acting for one of them for anything done or omitted to be done by any of them in good faith while acting or purporting to act under this Part.
- (3) Unless the court orders otherwise, a licensee whose practice is the subject of an order under section 145 (2) [*appointment of custodian*] or the estate of the licensee must pay to the regulator the fees, expenses and disbursements of and incidental to any acts done or proceedings taken under this Part, including the fees, expenses and disbursements of a custodian.
- (4) Subject to the rules, a licensee whose practice is the subject of an order under section 145 (2) must not practise law unless the licensee has paid the fees, expenses and disbursements described in subsection (3) of this section.

PART 11 – LAW FOUNDATION OF BRITISH COLUMBIA

Definitions

152 In this Part:

“**board of trustees**” means the board of trustees of the Law Foundation established under section 155 [*board of trustees*];

“**trustee**” means a member of the board of trustees of the Law Foundation.

Law Foundation continued

- 153** (1) The Law Foundation of British Columbia continued under section 58 (1) of the *Legal Profession Act* is continued as a corporation without share capital.
- (2) The Law Foundation consists of the board of trustees.
- (3) For the purposes of this Act, the Law Foundation has all the powers and capacity of a natural person of full capacity.
- (4) Subject to subsection (5), the *Business Corporations Act* does not apply to the Law Foundation.
- (5) The Lieutenant Governor in Council may, by order, direct that one or more provisions of the *Business Corporations Act* apply to the Law Foundation.

Object of Law Foundation

- 154** The Law Foundation must continue and maintain, or establish and maintain, one or more funds to be used for the following purposes:
- (a) legal education;
 - (b) legal research;
 - (c) legal aid;
 - (d) law reform;
 - (e) establishing, operating and maintaining law libraries in British Columbia.

Board of trustees

- 155** (1) The board of trustees is to consist of no more than 18 trustees, as follows:
- (a) no more than 12 trustees appointed by the board of directors of the regulator, of whom
 - (i) at least 2 must be lawyers,
 - (ii) at least 2 must be notaries public,
 - (iii) if the total number of regulated paralegals in British Columbia is 50 or more, at least 2 must be regulated paralegals, and
 - (iv) at least one must be an Indigenous person;
 - (b) no more than 2 trustees appointed by the trustees described in paragraph (a);
 - (c) the Attorney General or a designate of the Attorney General, who is a non-voting trustee;
 - (d) no more than 3 trustees, of whom at least one must be an individual of a First Nation, appointed by the Attorney General.
- (2) The Attorney General must seek nominations by First Nations for the purpose of the appointment, under subsection (1) (d), of a trustee who is an individual of a First Nation.
- (3) A director is not eligible to be appointed as a trustee under subsection (1).
- (4) The board of trustees may establish committees to assist the board of trustees.

Term limits for trustees

- 156** (1) Subject to subsection (2), a person may be appointed as a trustee for a term of no more than 3 years and may not serve for more than 6 consecutive years.
- (2) A trustee who has served on the board of trustees for 6 consecutive years is not eligible to serve as a trustee again until after a break in service of at least 3 years.
- (3) A trustee appointed under section 155 (1) (d) whose term expires may continue to serve as a trustee until a successor is appointed.

Removal of trustee

- 157** (1) The board of trustees may remove a trustee if any of the following apply to the trustee:
- (a) the trustee becomes bankrupt;
 - (b) the trustee contravenes a term of the oath of office for trustees, or the code of conduct for trustees, if any, established by the board of trustees;
 - (c) if the trustee is a licensee appointed under section 155 (1) (a), the trustee
 - (i) contravenes the code of professional conduct,
 - (ii) contravenes a provision of this Act or the rules, or
 - (iii) ceases to be a licensee.
- (2) The board of trustees may remove a trustee to whom one or more of the circumstances described in subsection (1) apply if, after reasonable notice to the trustee, the board of trustees, by resolution passed by a vote of at least 2/3 of the other trustees holding office, considers the circumstances sufficiently serious to justify the trustee's removal.

Vacancies

- 158** If a trustee resigns, is removed or dies, the person or body that appointed the trustee may fill the vacancy for the balance of the trustee's term.

If board of trustee membership does not meet requirements

- 159** (1) An act of the board of trustees is not invalid only because of a defect that is subsequently discovered in the appointment of a trustee.
- (2) The board of trustees may continue to exercise the powers and perform the duties of the board if
- (a) the term of a trustee ends or a trustee resigns, is removed, dies or is, for any reason, unable or unwilling to act as a trustee, and
 - (b) because of the vacancy or absence, the composition of the board is not as described in section 155 (1) [*board of trustees*].

Quorum

- 160** A quorum of the board of trustees is a majority of the trustees holding office, excluding the Attorney General or the designate of the Attorney General.

Chair

- 161** The board of trustees must elect one trustee to be the chair of the board.

Chief executive officer

- 162** (1) The board of trustees must appoint a person as chief executive officer of the Law Foundation.

- (2) The chief executive officer of the Law Foundation is responsible for the management and administration of the Law Foundation and its officers and employees.

Delegation of board of trustees' powers and duties

- 163** For the purposes of section 154 [*object of Law Foundation*], the board of trustees may delegate any power or duty of the board of trustees to the chief executive officer of the Law Foundation or to a committee of the board of trustees, except the following:
- (a) the power to establish committees of the board;
 - (b) the duty to appoint a chief executive officer.

Bylaws

- 164** The board of trustees may make bylaws relating to the governance, affairs, business, property and objects of the Law Foundation.

Application of funds

- 165** (1) A fund continued or established under section 154 [*object of Law Foundation*] consists of any money received by the Law Foundation, including the following:
- (a) all money that is remitted to the Law Foundation under section 167 (4) [*trust accounts of licensees and law firms*];
 - (b) any interest that has accrued from the investment of a fund of the Law Foundation.
- (2) The Law Foundation must deposit any money it receives into a savings institution designated under section 171 (2) (a) [*rules respecting trust accounts*] until the money is invested or applied in accordance with this section.
 - (3) The Law Foundation may use a fund established under section 154 only for the purposes described in that section.
 - (4) The board of trustees may apply the funds of the Law Foundation for the purposes described in section 154 in any manner the board of trustees determines, including by granting loans of the funds on any terms and conditions the board of trustees determines.
 - (5) Without limiting subsection (3), the board of trustees may pay out of the funds of the Law Foundation the costs, charges and other expenses
 - (a) involved in the administration of the Law Foundation, or
 - (b) incurred by the board of trustees in carrying out the objects of the Law Foundation.

- (6) The board of trustees may invest any money received by the Law Foundation if the money is not immediately required for the administration of the Law Foundation or for the objects of the Law Foundation.
- (7) An investment under subsection (6) must be in the name of the Law Foundation and may be made only as permitted under the provisions of the *Trustee Act* respecting the investment of trust property.
- (8) The board of trustees must appoint one of the following to perform an annual audit of the accounts of the Law Foundation:
 - (a) a member of a provincial organization of chartered professional accountants within Canada authorized by that organization to perform an audit;
 - (b) a professional accounting corporation, as defined in the *Chartered Professional Accountants Act*, authorized by the CPABC, as defined in that Act, to perform an audit;
 - (c) a registered firm as defined in the *Chartered Professional Accountants Act*, authorized by the CPABC, as defined in that Act, to perform an audit.

PART 12 – TRUST ACCOUNTS

Definitions

166 In this Part:

“**board of trustees**” has the same meaning as in Part 11;

“**pooled trust funds**” means money that

- (a) has been received, in trust, from or on behalf of a client by a licensee or law firm, and
- (b) is not the subject of an instruction under section 167 (5) to hold the money in a separate trust account.

Trust accounts of licensees and law firms

- 167
- (1) A licensee or law firm who receives or holds money in trust must establish a trust account at a savings institution designated under section 171 (2) (a) [*rules respecting trust accounts*] and deposit into the account money received or held in trust.
 - (2) A trust account established under subsection (1) must bear interest at a rate approved by the board of trustees.
 - (3) Any fees charged to the Law Foundation in respect of a trust account established under subsection (1) must be charged at an amount approved by the board of trustees.

- (4) Subject to subsection (5), a licensee or law firm that receives interest on money received or held in a trust account established under subsection (1)
 - (a) holds the interest in trust for the Law Foundation,
 - (b) must remit the interest to the Law Foundation in accordance with the rules, and
 - (c) is not liable to account for the interest to any person other than the Law Foundation.
- (5) On instruction from a client, a licensee or law firm may establish and deposit money received from or held in trust for or on behalf of the client into a separate trust account, in which case
 - (a) this section and the rules made for the purposes of this section do not apply, and
 - (b) interest paid on money in the account is the property of the client.

Unclaimed trust funds

- 168**
- (1) A licensee or law firm must pay to the regulator unclaimed money the licensee or law firm holds in a trust account in accordance with the rules made under section 171 (2) (b) [*rules respecting trust accounts*].
 - (2) Payment of money under subsection (1) extinguishes the licensee's or law firm's liability to the person for whom or on whose behalf the money is held.
 - (3) The regulator must hold in trust any money paid to it under subsection (1).
 - (4) Despite subsection (3), the regulator may retain, for its purposes, interest received on any money held by it under that subsection.
 - (5) A person who, but for a payment under subsection (1), could have claimed money held by a licensee or law firm may claim from the regulator the money paid to the regulator.
 - (6) If the regulator is satisfied that the person claiming money under subsection (5) is entitled to the money, the regulator must pay to the person
 - (a) the money claimed, and
 - (b) interest on the money at a rate that the board considers reflects market rates during the period the regulator held the money.
 - (7) The regulator must pay to the Law Foundation money received under subsection (1), excluding any interest retained under subsection (4), if
 - (a) the money is not claimed under subsection (5) within 5 years after the date it is received by the regulator, or
 - (b) the money was claimed within that period but the regulator determined the person claiming the money was not entitled to it.

- (8) If, under subsection (7), the regulator pays money to the Law Foundation,
 - (a) subsections (5) and (6) continue to apply in relation to the money as if the money had not been paid to the Law Foundation, and
 - (b) the Law Foundation must indemnify the regulator for any claims paid under subsection (6), including any interest paid by the regulator for the period the Law Foundation held the money.
- (9) A person whose claim under subsection (5) is refused, in whole or in part, may apply to the Supreme Court for a review of the decision of the regulator.
- (10) On hearing an application under subsection (9), the court may make any order it considers appropriate, including an order allowing the claim plus interest in an amount determined by the court.

Overdrawn pooled trust fund account

- 169** Despite any agreement between the licensee or law firm and a savings institution, a licensee or law firm must, as soon as practicable, notify the regulator if the pooled trust fund account of the licensee or law firm is overdrawn by an amount exceeding the following:
- (a) \$2 500;
 - (b) if a rule is made under section 171 (3) (h), the amount specified in that rule.

Trust account reviews and audits

- 170** (1) The chief executive officer may request that a licensee, former licensee or law firm do one or more of the following:
- (a) provide information or an annual report concerning the records, books and accounts of a licensee, former licensee or law firm;
 - (b) have all or part of the records, books and accounts of the licensee, former licensee or law firm reviewed or audited;
 - (c) provide the chief executive officer with an accountant’s report on the records, books and accounts of the licensee, former licensee or law firm.
- (2) The chief executive officer may
- (a) exempt classes of licensees or law firms from some or all of the requirements of subsection (1), and
 - (b) determine the qualifications required of a person performing a review or an audit referred to in subsection (1) (b).

Rules respecting trust accounts

- 171** (1) The board must make rules respecting trust accounts.
- (2) Without limiting subsection (1), the board must make rules as follows:
- (a) designating savings institutions and classes of savings institutions in which licensees or law firms may deposit money that they hold in trust;
 - (b) respecting the payment to the regulator, under section 168 (1) [*unclaimed trust funds*], of unclaimed funds held in trust.
- (3) Without limiting subsection (1), the board may make rules as follows:
- (a) establishing standards of accounting for and management of funds held in trust by licensees or law firms;
 - (b) providing for precautions to be taken by licensees and law firms for the care of funds or property held in trust by them;
 - (c) permitting a licensee or law firm to hold money in trust for more than one beneficiary in the same trust account;
 - (d) governing the payment to the Law Foundation of interest on trust accounts;
 - (e) creating and maintaining a fund consisting of money paid to the regulator under section 168 (1);
 - (f) establishing procedures for investigating and adjudicating claims made under section 168 (5);
 - (g) requiring that a licensee or law firm do one or more of the following:
 - (i) subject to the interest rate and amount for any fees approved by the board of trustees under section 167 (2) and (3) [*trust accounts of licensees and law firms*], use an approved form of agreement respecting the terms and conditions under which pooled trust funds will be held at designated savings institutions;
 - (ii) tender the agreement, prepared and approved under subparagraph (i), at a designated savings institution before the licensee or law firm deposits pooled trust funds at that savings institution;
 - (iii) report annually to any savings institution into which the licensee or law firm has deposited pooled trust funds the information required under the *Canada Deposit Insurance Corporation Act* (Canada);
 - (h) specifying an amount for the purpose of section 169 [*overdrawn pooled trust fund account*];
 - (i) authorizing the chief executive officer to suspend the licence of a licensee, or the permit of a law firm, that fails to comply with a request under section 170 (1);

- (j) respecting the recovery, from a licensee, former licensee or law firm, of the regulator’s costs relating to a review or audit, under section 170 (1), of the records, books and accounts of the licensee or law firm if the records, books and accounts do not comply with the requirements of this Act, the rules or the code of professional conduct;
 - (k) establishing requirements respecting trust accounts for former licensees.
- (4) Rules made under subsections (2) (a) and 3 (a) and (b) of this section apply despite section 19 [*depositories*] of the *Trustee Act*.

PART 13 – FEES FOR LEGAL SERVICES

Definitions

172 In this Part:

- “**agreement**” means a written agreement entered into under section 174 (1), requiring payment of the fees, charges and disbursements associated with the legal services provided or to be provided by a licensee or law firm;
- “**bill**” means a licensee’s written statement of fees, charges and disbursements;
- “**charges**” includes taxes on fees and disbursements and interest on fees and disbursements;
- “**contingent fee agreement**” means a written agreement that provides that payment to the licensee or law firm for legal services provided depends, at least in part, on the happening of an event;
- “**court**”, except in section 188 [*right to costs out of property recovered*], means the Supreme Court;
- “**registrar**” means the registrar of the court.

Application

- 173** (1) Unless the court orders otherwise, this Part, except sections 174, 178 [*bill of licensee or law firm*] and 179 (1), (2), (3), (5) and (6) [*review of bill*], does not apply to a class proceeding within the meaning of the *Class Proceedings Act*.
- (2) This Part applies to the bill or agreement of a former licensee if the former licensee was practising law when the legal services were provided.

Agreement for legal services

- 174** (1) A licensee or law firm may enter into an agreement for the provision of legal services with any other person.
- (2) An agreement may be signed on behalf of a licensee by an authorized agent who is a practising licensee.
- (3) Subsection (1) applies despite any law or usage to the contrary.

- (4) Any provision in an agreement is void if it provides one or both of the following:
 - (a) that the licensee or law firm is not liable for negligence;
 - (b) that the licensee is relieved from any responsibility which would otherwise apply to the licensee as a licensee.

Contingent fee agreement

- 175**
- (1) A contingent fee agreement that requires payment of an amount that exceeds the limits established in the rules is void unless approved by the court under subsection (4).
 - (2) If a contingent fee agreement is void under subsection (1), the licensee or law firm may charge the fees that could have been charged had there been no contingent fee agreement, but only if the event that would have allowed payment under the void contingent fee agreement occurs.
 - (3) A licensee or law firm may apply to the court for approval of an amount that exceeds the limits established by the board
 - (a) before entering into a contingent fee agreement, and
 - (b) after serving the client with at least 5 days' written notice.
 - (4) The court may grant an application under subsection (3) if
 - (a) the licensee or law firm and the client agree on the proposed amount, and
 - (b) the court is satisfied that the proposed amount is reasonable.
 - (5) In an application under subsection (3),
 - (a) the hearing must be held in private,
 - (b) the style of proceeding must not disclose the identity of the licensee or the client, and
 - (c) if the licensee or law firm or the client requests that the court records relating to the application be kept confidential,
 - (i) the records must be kept confidential, and
 - (ii) unless the court orders otherwise, no person other than the licensee, the client or a person authorized by the licensee or client may search the records.
 - (6) Despite subsection (5), reasons for judgment relating to an application under subsection (3) may be published if neither of the following is disclosed:
 - (a) the names of the licensee or law firm and the client;
 - (b) any information that may identify the licensee or law firm or the client.

Restrictions on contingent fee agreement

- 176**
- (1) A contingent fee agreement must not provide that a licensee or law firm is entitled to receive both of the following:
 - (a) a fee based on a proportion of the amount recovered;
 - (b) a portion of an amount awarded as costs in a proceeding or paid as costs in the settlement of a proceeding or anticipated proceeding.
 - (2) Licensees and law firms entering into contingent fee agreements must meet any condition established in a rule made under section 189 (2) (e) [*rules respecting agreements and fees*].
 - (3) A contingent fee agreement for services related to any of the following matters is void:
 - (a) the guardianship or custody of a child;
 - (b) parenting time of, contact with or access to a child;
 - (c) a matrimonial dispute.
 - (4) Despite subsection (3) (c), a licensee or law firm may apply to the court for approval of a contingent fee agreement for services relating to a matrimonial dispute.
 - (5) Section 175 (4) to (6) applies to an application under subsection (4) of this section.

Examination of agreement

- 177**
- (1) A person who has entered into an agreement with a licensee or law firm may apply to the registrar to have the agreement examined.
 - (2) An application under subsection (1) must be made no later than 3 months after the date
 - (a) the agreement was entered into, or
 - (b) the relationship between the licensee or law firm and the applicant under subsection (1) was terminated.
 - (3) A person may make an application under subsection (1) even if the person has made payment under the agreement.
 - (4) On an application under subsection (1), the registrar must do the following:
 - (a) if the registrar considers that the agreement is fair or reasonable in the circumstances existing at the time the agreement was entered into, confirm the agreement;
 - (b) if the registrar considers that the agreement is unfair or unreasonable in the circumstances existing at the time the agreement was entered into, modify or cancel the agreement.

- (5) If the registrar cancels an agreement under subsection (4) (b), the registrar
 - (a) may require the licensee or law firm to prepare a bill for review, and
 - (b) must review the fees, charges and disbursements for the services provided as though there were no agreement.
- (6) A party to the examination of an agreement under this section may appeal a decision of the registrar under subsection (4) or (5) to the court.
- (7) The procedure under the Supreme Court Civil Rules for the assessment of costs, review of bills and examination of agreements applies to the examination of an agreement under this section.

Bill of licensee or law firm

- 178**
- (1) A licensee or law firm must deliver a bill to the person charged and may deliver the bill
 - (a) by ordinary mail, registered mail or courier to the last known business or residential address of the person charged, or
 - (b) by email to the last known email address of the person charged.
 - (2) A bill under subsection (1) must be signed by or on behalf of the licensee or on behalf of the law firm or accompanied by a letter, signed by or on behalf of the licensee or on behalf of the law firm, that refers to the bill.
 - (3) A bill under subsection (1) is sufficient in form if
 - (a) it contains a reasonably descriptive statement of the services with a lump sum charge and a detailed statement of disbursements, and
 - (b) meets any other requirements established in the rules.
 - (4) Subject to subsection (5), a licensee or law firm must not sue to collect money owed on a bill until 30 days after the bill was received by the person charged.
 - (5) The court may permit a licensee or law firm to sue to collect money owed on a bill before the end of the 30-day period described in subsection (4) if the court finds that
 - (a) the bill has been delivered as required by subsection (1), and
 - (b) there is probable cause to believe that the person charged is about to leave British Columbia other than for a short period.

Review of bill

- 179**
- (1) Subject to subsection (10), the person charged or a person who has agreed to indemnify that person may file an appointment to have a bill reviewed by the registrar before the earliest of the following:
 - (a) 12 months after the bill was delivered under section 178 (1);
 - (b) 3 months after the bill was paid.

- (2) The person who filed an appointment under subsection (1) must deliver a copy of the appointment to the licensee or law firm at the address shown on the bill at least 5 days before the date set for the review.
- (3) Subject to subsection (10), a licensee or law firm may file an appointment to have a bill reviewed 30 days or more after the bill was delivered under section 178 (1).
- (4) The licensee or law firm who filed an appointment under subsection (3) must serve a copy of the appointment on the person charged at least 5 days before the date set for the review.
- (5) The following persons may file an appointment under subsection (3) on behalf of a licensee or law firm:
 - (a) the agent of the licensee or law firm;
 - (b) the personal representative of a deceased licensee;
 - (c) the assignee of the licensee or law firm;
 - (d) in the case of a partnership, one of the partners or the agent of one of the partners;
 - (e) the custodian of the licensee’s practice appointed under section 145 (2) *[appointment of custodian]*.
- (6) If a licensee or law firm has sued to collect on a bill, the court in which the action was commenced may order that the bill be referred to the registrar, whether or not any party has applied for such an order.
- (7) On a referral under subsection (6), the registrar may
 - (a) review the bill and issue a certificate, or
 - (b) make a report and recommendation to the court.
- (8) When making an order under subsection (6), the court may direct that the registrar take action under subsection (7) (a) or (b).
- (9) Section 182 *[remedies that may be ordered by registrar]* applies to a certificate issued under subsection (7) (a) of this section.
- (10) In either of the following circumstances, the bill must not be reviewed unless the court finds that special circumstances justify a review of the bill and orders that the bill be reviewed by the registrar:
 - (a) the licensee or law firm has sued and obtained judgment for the amount of the bill;
 - (b) the application under subsection (1) or (3) was not made within the period described in subsection (1) or (3).

- (11) If a licensee or law firm sues to collect money owed on a bill, the lawsuit must not proceed if an application is made under subsection (1) before or after the lawsuit is commenced, until
 - (a) the registrar has issued a certificate, or
 - (b) the application for an appointment is withdrawn.
- (12) The procedure under the Supreme Court Civil Rules for the assessment of costs, review of bills and examination of agreements applies to the review of bills under this section.
- (13) The registrar may refer a question arising under this Part to the court for directions or a determination.

Matters to be considered on review

- 180**
- (1) This section applies to a review or examination under any of the following sections:
 - (a) section 177 (5) [*examination of agreement*];
 - (b) section 179;
 - (c) section 186 (3) (a) [*order to deliver bill or property*];
 - (d) section 187 (2) (b) [*change of licensee or law firm*];
 - (e) section 188 (2) [*right to costs out of property recovered*].
 - (2) Subject to subsections (4) and (5) of this section, the registrar must allow fees, charges and disbursements for the following services:
 - (a) those reasonably necessary and proper to conduct the proceeding or business to which they relate;
 - (b) those authorized by the client or subsequently approved by the client, whether or not the fees, charges or disbursements were reasonably necessary and proper to conduct the proceeding or business to which they relate.
 - (3) Subject to subsections (4) and (5) of this section, the registrar may allow fees, charges and disbursements for the following services, even if not necessary or proper to conduct the proceeding or business to which they relate:
 - (a) those reasonably intended by the licensee or law firm to advance the interests of the client at the time the services were provided;
 - (b) those requested by the client after being informed by the licensee or law firm that the fees, charges or disbursements were unnecessary and unlikely to advance the interests of the client.

- (4) At a review of a bill, the registrar must consider all of the circumstances, including the following:
 - (a) the complexity, difficulty or novelty of the issue involved;
 - (b) the skill, specialized knowledge and responsibility required of the licensee or law firm;
 - (c) the amount involved;
 - (d) the time reasonably spent;
 - (e) if there has been an agreement that sets a fee rate that is based on an amount per unit of time spent by the licensee or law firm, whether the rate was reasonable;
 - (f) the importance of the matter to the client;
 - (g) the result obtained.
- (5) The discretion of the registrar under subsection (4) is not limited by the terms of an agreement between the licensee or law firm and the client.

Costs of review

- 181** (1) Costs of a review of a bill must be paid by the following:
- (a) the licensee or law firm whose bill is reviewed, if 1/6 or more of the total amount of the bill is subtracted from it;
 - (b) the person who makes an application under section 179 (1) [*review of bill*], if
 - (i) less than 1/6 of the total amount of the bill is subtracted from it, or
 - (ii) the person withdraws the application.
- (2) Despite subsection (1), the registrar may, in special circumstances, order the payment of costs other than as provided in that subsection.

Remedies that may be ordered by registrar

- 182** (1) On the application of a party to a review under this Part, the registrar may order that a party
- (a) be permitted to pay money in instalments on the terms the registrar considers appropriate, or
 - (b) not be permitted to collect money on the certificate for a period the registrar specifies.
- (2) On a review under this Part, the registrar may
- (a) issue a certificate for the amount the registrar has allowed the licensee or law firm for fees, charges and disbursements, and
 - (b) summarily determine the amount of the costs of the review and add it to or subtract it from the amount shown on the certificate.

- (3) If the registrar issues a certificate under subsection (2), the registrar must add to the amount certified an amount of interest calculated
 - (a) on the amount the registrar has allowed the licensee or law firm for fees, charges and disbursements, exclusive of the costs of the review,
 - (b) from the date the licensee or law firm delivered the bill to the date the certificate is issued, and
 - (c) at the rate agreed to by the parties at the time the licensee or law firm was retained, or, if there was no agreement, at the rate the registrar would allow under the *Court Order Interest Act* on an order obtained by default.
- (4) If the registrar issues a certificate under subsection (2) that requires the licensee or law firm to refund money to another person, the registrar must add to the amount to be refunded an amount of interest calculated
 - (a) on the amount the licensee or law firm is required to refund to the other person,
 - (b) from the date the money to be refunded was paid to the licensee or law firm to the date the certificate is issued, and
 - (c) at the rate the registrar would allow under the *Court Order Interest Act* on an order obtained by default.

Refund of fee overpayment

- 183** A licensee or law firm must, on demand,
- (a) refund fees, charges and disbursements received or retained in excess of the amount allowed under this Part or the rules, and
 - (b) pay any interest added under section 182 (4).

Appeal

- 184** (1) A party to a review may appeal the registrar's decision to the court no later than 14 days after the date the registrar issues the certificate under section 182 (2).
- (2) On appeal, the court may make any order it considers appropriate.
 - (3) If ordered by the court, the registrar must vary the certificate.

Registrar's certificate

- 185** (1) If the registrar is satisfied that there is money due from a licensee or law firm to a person charged, the registrar may issue an interim certificate as to the amount payable by the licensee or law firm.
- (2) If an interim certificate issued under subsection (1) is entered, the court may order the money certified to be paid immediately
 - (a) to the person charged, or
 - (b) into court.

- (3) After a review under sections 179 [*review of bill*] and 180 [*matters to be considered on review*], the certificate may be filed in a registry of the court and, on the expiry of the period described in section 184 (1), the certificate is deemed to be a judgment of the court.

Order to deliver bill or property

- 186**
- (1) The court may order, on terms it considers appropriate, delivery of a bill to the person charged if
 - (a) the bill has not been delivered, and
 - (b) the bill, if it had been delivered, could have been the subject of an application under section 179 [*review of bill*].
 - (2) A person charged may apply to the court for an order that the licensee or law firm deliver one or more of the following to the court, to the client or to the agent of the client:
 - (a) an accounting;
 - (b) property;
 - (c) a list of any property of the client in the control of the licensee or law firm.
 - (3) In making an order under subsection (2), the court may
 - (a) order the review of the bill of the licensee or law firm and require the person charged to pay or secure the claim of the licensee or law firm before delivery under subsection (2) is made, and
 - (b) relieve the licensee or law firm of any undertakings given or any responsibilities in relation to the property.

Change of licensee or law firm

- 187**
- (1) If a client changes licensees or law firms or begins acting on the client's own behalf, the client or the new licensee or new law firm may apply to the court for an order directing that the client's former licensee or former law firm deliver the client's records to a licensee or law firm designated by the client or to the client, as applicable.
 - (2) In an order under subsection (1), the court may
 - (a) make the direction conditional on the client
 - (i) paying all amounts due from the client to the client's former licensee or former law firm, or
 - (ii) giving security for the payment of the claim of the licensee or law firm in an amount and manner satisfactory to the court, and
 - (b) if the amounts described in paragraph (a) (i) are disputed, order a review by the registrar.

Right to costs out of property recovered

- 188**
- (1) A licensee or a law firm that is retained to prosecute or defend a proceeding in a court or before a tribunal has a charge against any property that is recovered or preserved as a result of the proceeding for the proper fees, charges and disbursements of or in relation to the proceeding.
 - (2) The court that heard the proceeding or in which the proceeding is pending may order the review and payment out of the property of the fees, charges and disbursements referred to in subsection (1).
 - (3) Sections 179 to 182 apply to a review under subsection (2).
 - (4) If the proceeding was before a tribunal, the licensee may apply to the Supreme Court for an order under subsection (2).
 - (5) All acts done to defeat, or that operate or tend to defeat, the charge are void against the charge, unless made to a bona fide purchaser for value without notice of the charge.
 - (6) A proceeding for the purpose of realizing or enforcing a charge arising under this section may not be taken until after an application has been made to the appropriate court for direction.

Rules respecting agreements and fees

- 189**
- (1) The board may make rules respecting agreements and fees.
 - (2) Without limiting subsection (1), the board may make rules as follows:
 - (a) establishing ethics requirements and other requirements for the making of agreements and for billing practices;
 - (b) regulating the form and content of agreements;
 - (c) limiting the amount that licensees or law firms may charge for services provided under contingent fee agreements;
 - (d) specifying requirements for the form of a bill in addition to those described in section 178 (3) (a) [*bill of licensee or law firm*];
 - (e) setting conditions to be met by licensees and law firms entering into contingent fee agreements.

PART 14 – BUSINESS STRUCTURES

Definitions

190 In this Part:

“**law corporation permit**” means any of the following:

- (a) a permit issued under section 192 [*law corporation permit*];

- (b) a permit issued to a law corporation or personal law corporation under the *Legal Profession Act* or the *Legal Profession Act*, R.S.B.C. 1996, c. 255;

“limited liability partnership” means a partnership registered as a limited partnership under Part 6 of the *Partnership Act*.

Authorized and prohibited activities of law corporations

- 191**
- (1) A law corporation is authorized to carry on the business of the practice of law through persons who are
 - (a) practising licensees, or
 - (b) subject to this Act and the rules, a person referred to in section 38 (1) (b), (c), (f) or (g) [*exceptions from prohibition against unauthorized practice*] who is an employee of the law corporation.
 - (2) A partnership consisting of law corporations or of one or more licensees and one or more law corporations is authorized to carry on the business of the practice of law through persons described in subsection (1) of this section.
 - (3) A corporation whose name includes the words “law corporation” must not carry on any business unless it holds a valid law corporation permit.
 - (4) Subject to subsection (5), a law corporation must not carry on any activities other than the practice of law or the provision of services directly associated with the practice of law.
 - (5) Subsection (4) does not prohibit a law corporation from investing its funds in real estate, personal property, mortgages, stocks, bonds, insurance or any other type of investment.
 - (6) A person must not enter into a voting trust agreement, proxy or any other type of agreement vesting the authority to exercise the voting rights attached to shares in a law corporation if the person is not a practising licensee or a law corporation.

Law corporation permit

- 192**
- (1) If the chief executive officer is satisfied that the corporation has complied with the rules made under this Part, the chief executive officer must issue a law corporation permit to a corporation that is one of the following:
 - (a) a company, as defined in the *Business Corporations Act*, that is in good standing under that Act;
 - (b) an extraprovincial company as defined in the *Business Corporations Act*.
 - (2) The chief executive officer may refuse to issue a law corporation permit under subsection (1) if
 - (a) the law corporation has previously had its law corporation permit cancelled, or

- (b) a shareholder of the law corporation was a shareholder of a law corporation or personal law corporation that has previously had its law corporation permit cancelled.
- (3) The chief executive officer must inform the Registrar of Companies of the revocation of a law corporation permit under this Part or the rules.
- (4) Unless the board directs otherwise, and subject to the rules made under this Part, if a law corporation fails to pay the renewal fee set by the board by the date it is due, its law corporation permit ceases to be valid and the corporation must
 - (a) immediately surrender its law corporation permit to the chief executive officer, and
 - (b) cease providing legal services to the public.

Responsibility of licensees

- 193**
- (1) The liability of a licensee for the licensee’s own professional negligence while practising law is not affected by the fact that the licensee is practising law
 - (a) as an employee, shareholder, officer, director or contractor of a law corporation or on its behalf, or
 - (b) through a limited liability partnership.
 - (2) The application of this Act and the rules to a licensee is not affected by the licensee’s relationship to
 - (a) a law corporation as an employee, shareholder, officer, director or contractor, or
 - (b) a limited liability partnership as a partner, employee or contractor.
 - (3) Nothing in this Part affects, modifies or limits any law applicable to the fiduciary, confidential or ethical relationship between a licensee and a person receiving legal services provided by the licensee.
 - (4) The relationship between a law corporation carrying on business as authorized under this Part and the rules and a person receiving legal services provided by the corporation is subject to all applicable law relating to the fiduciary, confidential and ethical relationships that exist between a licensee and a client.
 - (5) All rights and obligations respecting professional communications made to or information received by a licensee, or in respect of advice given by a licensee, apply to a law corporation and its employees, shareholders, officers, directors and contractors.
 - (6) An undertaking given by or on behalf of a law corporation that would constitute an undertaking if given by a licensee is deemed to be an undertaking given by the licensee who gives, signs or authorizes it.

Rules respecting law firms

- 194** (1) The board may make rules respecting law firms.
- (2) Without limiting subsection (1), the board may make rules as follows:
- (a) requiring a law firm to register with the regulator or to obtain a permit from the regulator;
 - (b) establishing procedures for the application, issuance and renewal of permits required under paragraph (a);
 - (c) requiring a law firm to designate a practising licensee to act as a contact person for the law firm and requiring the law firm to provide the licensee's name and contact information;
 - (d) specifying the information a law firm must submit to and regularly update with the regulator;
 - (e) setting registration or licensing fees to be paid by law firms.

Rules respecting law corporations

- 195** (1) The board may make rules respecting law corporations.
- (2) Without limiting subsection (1), the board may make rules as follows:
- (a) establishing procedures for the application, issuance and renewal of law corporation permits;
 - (b) establishing procedures for the cancellation of law corporation permits;
 - (c) authorizing the chief executive officer to impose limits or conditions on a law corporation permit issued or renewed under this Part;
 - (d) respecting names and the approval of names by which the following may be known, be incorporated or practise law:
 - (i) a law corporation;
 - (ii) a partnership consisting of one or more law corporations and one or more licensees;
 - (iii) a partnership consisting of law corporations;
 - (iv) a law corporation that has shareholders that consist of one or more law corporations or one or more licensees, or both;
 - (e) setting fees for
 - (i) obtaining a law corporation permit, and
 - (ii) renewing a law corporation permit;
 - (f) respecting the disposition of shares of a shareholder of a law corporation who ceases to be a practising licensee;
 - (g) setting an amount of insurance that the holder of a law corporation permit must carry or provide to each of its employees or contractors for the purpose of providing indemnity against professional liability claims.

- (3) The amount set by a rule made under subsection (2) (g)
 - (a) may be different for different law corporation permit holders, and
 - (b) is in addition to any amount that a licensee must carry under a rule made under Part 9 [*Indemnification*].
- (4) An act of a corporation, including a transfer of property to or by the corporation, is not invalid only because it contravenes this Part or the rules.

Rules respecting limited liability partnerships

- 196**
- (1) The board may make rules respecting the practice of law through limited liability partnerships.
 - (2) Without limiting subsection (1), the board may make rules as follows:
 - (a) authorizing licensees and law corporations to carry on the practice of law through limited liability partnerships;
 - (b) establishing requirements, limits and conditions for licensees and law corporations to carry on the practice of law through limited liability partnerships.

Rules respecting alternative business structures

- 197**
- (1) The board may make rules respecting business structures other than a sole proprietorship, a law corporation or a partnership, through which the business of the practice of law is carried out.
 - (2) Without limiting subsection (1), the board may make rules as follows:
 - (a) authorizing licensees to carry on the practice of law through business structures other than a sole proprietorship, a law corporation or a partnership;
 - (b) authorizing the business structures described in paragraph (a) to include persons who are not licensees;
 - (c) establishing requirements, limits and conditions for licensees to carry on the practice of law through the business structures described in paragraph (a).

PART 15 – ENFORCEMENT

Offences

- 198**
- (1) Section 5 of the *Offence Act* does not apply to this Act, the regulations or the rules.
 - (2) A person commits an offence if the person
 - (a) contravenes section 37 [*unauthorized practice of law*], 40 [*reserved titles*] or 41 [*false representation*],

- (b) provides false, misleading or incomplete information contrary to section 207 (1) or (2) [*complete and accurate information*],
 - (c) uses or deliberately discloses information contrary to section 209 [*confidential and privileged information*], or
 - (d) wilfully interferes with or obstructs another person in the exercise of a power or performance of a duty under this Act or in carrying out an order under this Act.
- (3) A person does not commit an offence under subsection (2) (c) of this section if, at the time the information was provided, the person did not know that the information was false, misleading or incomplete and, with the exercise of reasonable diligence, could not have known that the information was false, misleading or incomplete.
- (4) An information alleging an offence under this Act may be laid in the name of the regulator on oath by the chief executive officer or by a person authorized by the board.

Limitation

- 199** The time limit for laying an information to commence a prosecution for an offence under section 198 is 2 years after the date that the facts on which the proceeding is based first come to the knowledge of the regulator.

Offence by corporation

- 200** If a corporation commits an offence under section 198, an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the offence also commits the offence.

Single and continuing offences

- 201** (1) In this section:
- “**offence**” means an offence under section 198 [*offences*];
 - “**order**” includes an order that may be made by the Supreme Court under this Act.
- (2) In a prosecution under this Act, it is sufficient to prove that the accused has committed on one occasion any of the acts described in section 198 (2).
- (3) If a person commits an offence and continues to commit the offence, separate penalties may be imposed with respect to the offence for each day the offence continues.
- (4) If a person commits an offence and an order is made with respect to the matter that is the subject of the offence, but the offence continues after the date by which the order is to be complied with,
- (a) the person may be prosecuted both for the original offence and for the additional offence of contravening the order, and

- (b) subsection (3) applies from the date by which the order is to be complied with.

Penalties

- 202**
- (1) An individual who commits an offence under this Act is liable on conviction to a fine not exceeding \$200 000 or to imprisonment for a term not exceeding 2 years, or to both.
 - (2) If a corporation commits an offence under this Act,
 - (a) the corporation is liable on conviction to a fine not exceeding \$500 000, and
 - (b) an employee, officer, director or agent of the corporation who authorizes, permits or acquiesces in the offence is liable on conviction to a fine not exceeding \$200 000 or to imprisonment for a term not exceeding 2 years, or to both.

Injunctions

- 203**
- (1) The chief executive officer may apply to the Supreme Court for an interim or permanent injunction restraining a person from contravening this Act or the rules if the chief executive officer is satisfied that the contravention would pose a significant risk of harm to the public.
 - (2) The court may, on application under subsection (1), grant an injunction if satisfied that there is reason to believe that there has been or will be a contravention of this Act or the rules.
 - (3) The court may grant an interim injunction until the outcome of an application under subsection (1).

Contempt

- 204**
- (1) A court before which a person represents another person in contravention of section 37 [*unauthorized practice of law*] may hold the representing person in contempt of court.
 - (2) The court may hold a person in contempt under subsection (1) on application by either of the following:
 - (a) the regulator;
 - (b) a person interested in the proceeding in which section 37 was contravened.

PART 16 – GENERAL

Protection against actions

- 205** (1) No legal proceeding for damages lies or may be commenced or maintained against a person for anything done, or omitted to be done, in good faith while acting or purporting to act under this Act on behalf of the regulator or the Law Foundation.
- (2) The regulator or the Law Foundation, as the case may be, must indemnify a person referred to in subsection (1) for any costs or expenses incurred by the person in any legal proceeding taken for anything done or omitted to be done in good faith while acting or purporting to act under this Act on behalf of the regulator or the Law Foundation.

Delivery of documents under this Act

- 206** (1) A document that is required or permitted under this Act to be delivered by the board, the chief executive officer, the tribunal or the board of trustees, as defined in section 152 [*definitions*], must be delivered in accordance with this section.
- (2) A document may be delivered to an individual
- (a) by leaving the document with the individual,
 - (b) by sending the document by ordinary mail, registered mail or courier
 - (i) to the last known address of the individual, or
 - (ii) if the individual is a licensee or trainee, to the address of the business premises where the individual practises law, or
 - (c) by sending the document by email to an email address provided by the individual.
- (3) A document may be delivered to a corporation
- (a) by leaving the document with
 - (i) an officer or director of the corporation, or
 - (ii) if the corporation is an extraprovincial corporation, an attorney of the corporation,
 - (b) by sending the document by ordinary mail, registered mail or courier to
 - (i) the registered office of the corporation,
 - (ii) an address for service provided by the corporation, or
 - (iii) if the corporation is an extraprovincial corporation, the address of an attorney of the corporation, or
 - (c) by sending the document by email to an email address provided by the corporation.

- (4) A document may be delivered to a partnership
 - (a) by leaving the document with a partner,
 - (b) by sending the document by ordinary mail, registered mail or courier to the business office of the partnership, or
 - (c) by sending the document by email to an email address provided by the partnership.
- (5) A document delivered in accordance with this section, unless received earlier, is deemed to be received as follows:
 - (a) if delivered by sending the document by ordinary mail, on the eighth day after it is mailed;
 - (b) if delivered by sending the document by registered mail, courier or email, on the third day after it is sent.

Complete and accurate information

- 207** (1) A person who provides information when applying for any of the following must ensure that, at the time the information is provided, the information is complete and accurate:
- (a) a licence under section 52 [*licence to practise legal profession*] or 53 [*limited practice licence*];
 - (b) enrolment as a trainee;
 - (c) a permit under a rule made under section 194 (2) (b) [*rules respecting law firms*];
 - (d) a law corporation permit under a rule made under section 195 (2) (a) [*rules respecting law corporations*].
- (2) A person who is required under this Act to submit information must ensure that, at the time the information is submitted, the information is complete and accurate.

Certain matters privileged

- 208** (1) In this section:
- “**proceeding**” does not include a proceeding under Part 8 [*Tribunal Proceedings*];
- “**report**” includes any document created or received by a person in the course of an investigation, audit, review or hearing but does not include an original document that belongs to a complainant or respondent or to a person other than an employee or agent of the regulator.
- (2) If a person has made a complaint to the regulator respecting a licensee or law firm,
- (a) the regulator or the complainant must not be required to disclose or produce the complaint in any proceeding, and

- (b) the complaint is not admissible in any proceeding without the written consent of the complainant.
- (3) If a licensee or law firm responds to the regulator in respect of a complaint or investigation, the regulator may deliver a copy or summary of the response to the complainant but
 - (a) the licensee, the law firm or the regulator must not be required to disclose or produce the response or a copy or summary of the response in any proceeding, and
 - (b) the response or a copy or summary of the response is not admissible in any proceeding without the written consent of the licensee or law firm.
- (4) A report made under this Act or a record concerning an investigation, audit, review or hearing
 - (a) must not be required to be disclosed or produced in any proceeding, and
 - (b) is not admissible in any proceeding without the written consent of the chief executive officer.
- (5) Without the written consent of the chief executive officer, a person
 - (a) must not be compelled to disclose, in any proceeding, information that the person has acquired in the course of an investigation, audit, review or hearing or in the exercise of other powers or the performance of other duties under this Act, and
 - (b) is not competent to testify in a proceeding if testifying in the proceeding would result in the disclosure of information referred to in paragraph (a).

Confidential and privileged information

- 209**
- (1) In this section and in section 210, “**privilege**” includes solicitor-client privilege.
 - (2) A person who is required under this Act or the rules to provide information or records that are confidential or privileged must do so, despite the confidentiality or privilege.
 - (3) Information or records provided in accordance with subsection (2) are admissible in a proceeding under Part 8 [*Tribunal Proceedings*] of this Act, despite the confidentiality or privilege.
 - (4) A licensee, trainee or law firm that, in accordance with this Act or the rules, provides the regulator with any information or records that are confidential or privileged is deemed conclusively not to have breached any duty or obligation that would otherwise have been owed to the regulator or to the client of the licensee, trainee or law firm not to disclose the information or records.

- (5) For certainty, if a licensee, trainee or law firm discloses, in accordance with this Act or the rules, any privileged information or privileged records to the regulator, the privilege of the information or records is not affected by the disclosure.
- (6) A person who, in the course of exercising powers or performing duties under this Act, acquires information or records that are confidential or privileged has the same obligation respecting the protection of the information or records as the person from whom the information or records were obtained.
- (7) A person who, in the course of an investigation, audit, review or hearing under this Act, acquires information or records that are confidential or privileged must not disclose the information or records to any person except for a purpose contemplated by this Act or the rules.
- (8) A person who, in the course of an appeal under section 129 [*appeal*] or an application under the *Judicial Review Procedure Act* respecting a matter under this Act, acquires information or records that are confidential or privileged must not
 - (a) use the information or records other than for the purpose for which they were obtained, or
 - (b) disclose the information or records to any person other than for the purpose for which they were obtained.
- (9) The Court of Appeal, on an appeal under section 129, and the Supreme Court, on an application under the *Judicial Review Procedure Act* respecting a matter under this Act, may exclude members of the public from the hearing of the appeal or application if the court considers the exclusion necessary to prevent the disclosure of information or records that are confidential or privileged.
- (10) In giving reasons for judgment on an appeal or application referred to in subsection (9), the Court of Appeal or the Supreme Court must take all reasonable precautions to avoid including in those reasons any information before the court on appeal or application that is confidential or privileged.
- (11) The *Freedom of Information and Protection of Privacy Act* does not apply to information or records that are
 - (a) subject to solicitor-client privilege, and
 - (b) provided, in accordance with this Act or the rules, to the regulator by a licensee, trainee or law firm or by the client of a licensee, trainee or law firm.

Security arrangements to protect confidential and privileged information

- 210** The chief executive officer must make reasonable security arrangements to protect against the unauthorized access, collection, use, disclosure or disposal of confidential or privileged information or records in the custody or under the control of the regulator.

PART 17 – REGULATIONS

General regulation-making authority

- 211** (1) The Lieutenant Governor in Council may make regulations respecting any matter for which regulations are contemplated by this Act.
- (2) The authority to make regulations under another provision of this Act does not limit subsection (1).
- (3) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:
- (a) delegate a matter to a person;
 - (b) confer a discretion on a person;
 - (c) establish or define classes of persons, places, things, circumstances, decisions or activities;
 - (d) make different regulations for different persons, places, things, circumstances, decisions or activities, or for different classes of persons, places, things, circumstances, decisions or activities.

Regulations respecting exceptions

- 212** (1) The Lieutenant Governor in Council may, on the recommendation of the Attorney General, make regulations prescribing classes of persons for the purposes of section 38 (1) (i) [*exceptions from prohibition against unauthorized practice*].
- (2) Before making a recommendation referred to in subsection (1) of this section, the Attorney General must consult the board.

Regulations respecting scopes of practice

- 213** (1) The Lieutenant Governor in Council may, on the recommendation of the Attorney General, make regulations prescribing activities for the purposes of sections 46 (1) (e) [*notaries public scope of practice*] and 47 (1) [*regulated paralegals scope of practice*].
- (2) Before making a recommendation referred to in subsection (1) of this section, the Attorney General must consult the board.

Application

- 214** If there is a conflict or inconsistency between a regulation made by the Lieutenant Governor in Council under this Act and a rule made under this Act, the regulation prevails.

PART 18 – TRANSITIONAL PROVISIONS, REPEALS, CONSEQUENTIAL AMENDMENTS, RELATED AMENDMENTS AND AMENDMENTS TO THIS ACT

Division 1 – Definitions for Transitional Provisions

Definitions

- 215** In Divisions 2 to 6 of this Part:
- “**amalgamation date**” means the date section 5 (1) [*regulator amalgamated and continued*] comes into force;
 - “**asset**” includes a right, interest and property;
 - “**board of examiners**” means the board of examiners appointed under section 10 of the *Notaries Act*;
 - “**former Acts**” means the *Legal Profession Act* and the *Notaries Act*;
 - “**former societies**” means the Law Society and the Society of Notaries Public;
 - “**liability**” includes an obligation;
 - “**privilege**” includes solicitor-client privilege.

Division 2 – Transitional Provisions Related to Amalgamation

Transition – assets, liabilities and agreements

- 216**
- (1) The assets of each former society continue as the assets of the regulator.
 - (2) The liabilities of each former society continue as the liabilities of the regulator.
 - (3) On the amalgamation date, a reference to the following in any commercial paper, lease, licence, permit or other instrument or document is deemed to be a reference to the regulator:
 - (a) the Law Society or the benchers;
 - (b) the Society of Notaries Public or the directors of the Society of Notaries Public.
 - (4) The amalgamation of the former societies does not constitute an assignment by operation of law, a transfer or any other disposition of the assets of a former society to the regulator.

Transition – effect of amalgamation

- 217** Despite any other enactment, the continuation under this Division of assets and liabilities takes effect
- (a) without the execution or issue of any record,
 - (b) without any registration or filing of this Act or any other record in or with any registry, office or court,
 - (c) despite any prohibition on all or any part of the continuation,
 - (d) whether or not a duplicate certificate of indefeasible title has been issued by the registrar under the *Land Title Act*, and
 - (e) despite any condition, including the absence of any consent or approval, that is or may be required for all or any part of the continuation.

Transition – amalgamation is not default

- 218**
- (1) Despite any provision to the contrary in a record, the continuation of an asset or liability under section 216 (1) or (2) does not constitute a breach or contravention of, or an event of default under, the record and, without limiting this, does not entitle any person who has an interest in the asset or liability to claim any damages, compensation or other remedy.
 - (2) Section 5 (1) [*regulator amalgamated and continued*] must not be construed as a breach of any contract, agreement or order relating to the appointment or employment of a person, and no legal proceeding for damages lies or may be commenced or maintained as a result of a rescission of appointment or transfer of employment under this Act.

Transition – dealing with continued assets and liabilities

- 219**
- (1) In any record that deals with an asset or liability continued under this Act, it is sufficient for all purposes to cite this Act as having effected the continuation.
 - (2) An official who has authority over a registry or other office, including, without limitation, the personal property registry, in which title to or interests in the asset or liability are registered or recorded and who receives a record, referred to in subsection (1), executed by the regulator, must give the record the same effect as if the record had been executed by a former society.

Transition – records and confidential information

- 220**
- (1) Any records in the custody or under the control of a former society or the board of examiners immediately before the amalgamation date are deemed, as of that date, to be records in the custody or under the control of the regulator.
 - (2) Despite any provision to the contrary under this Act, a person who obtained records or information in the exercise of powers or performance of duties under the former Acts may disclose the records or information to a person who exercises similar powers or performs similar duties under this Act.

- (3) For certainty, the amalgamation of the former societies does not affect the privilege or confidentiality of any information contained within the records referred to in this section.

Transition – legal proceedings

- 221**
- (1) Any legal proceeding by or against a former society on the amalgamation date may be continued by or against the regulator and may not be continued against the former society.
 - (2) A conviction against a former society may be enforced against the regulator and may not be enforced against the former society.
 - (3) A ruling, order or judgment in favour of or against a former society may be enforced by or against the regulator and may not be enforced by or against the former society.
 - (4) A claim by or against a former society existing immediately before the amalgamation date must be commenced or continued by or against the regulator.
 - (5) A cause of action existing against a former society immediately before the amalgamation date exists against the regulator.
 - (6) Subject to subsections (1) to (5), a cause of action, claim or liability to prosecution existing immediately before the amalgamation date is unaffected by anything done under this Division.

Transition – Society of Notaries Public and board of examiners

- 222** On the amalgamation date,
- (a) the registration of the Society of Notaries Public under the *Societies Act* is cancelled, and
 - (b) the board of examiners is dissolved.

Division 3 – Transitional Provisions Related to Governance

Transition – transitional board

- 223**
- (1) A transitional board is established, consisting of the following members:
 - (a) 4 members, at least one of whom must be an Indigenous person, appointed by the benchers of the Law Society;
 - (b) one member appointed by the directors of the Society of Notaries Public;
 - (c) one member appointed by the BC Paralegal Association;
 - (d) one member appointed by the Lieutenant Governor in Council.

- (2) If the members to be appointed under subsection (1) (a), (b) or (c) are not appointed within 2 months after the date this section comes into force, the Attorney General may appoint members after a merit-based process.
- (3) The transitional board has the powers necessary to prepare for and facilitate the transition from the operation of the former Acts to the operation of this Act.
- (4) The transitional board must establish a conflicts of interest policy for its members.
- (5) The transitional board must appoint a person responsible for managing the transition from the operation of the former Acts to the operation of this Act.
- (6) Before appointing a person under subsection (5), the transitional board must consult the transitional Indigenous council.
- (7) The Law Society and the Society of Notaries Public must cooperate with the transitional board in the exercise of its powers and the performance of its duties under this section.
- (8) The transitional board is dissolved on the amalgamation date.

Transition – transitional Indigenous council

- 224**
- (1) A transitional Indigenous council is established, consisting of the following members, all of whom must be Indigenous persons:
 - (a) 3 members appointed by the BC First Nations Justice Council;
 - (b) 1 member appointed by Métis Nation British Columbia;
 - (c) 1 or 2 members of the transitional board appointed by the transitional board.
 - (2) If the members to be appointed under subsection (1) (a) and (b) are not appointed within 2 months after the date this section comes into force, the Attorney General may appoint members after a merit-based process.
 - (3) A person who, for disciplinary reasons, is suspended or prohibited from practising law must not be a member of the transitional Indigenous council.
 - (4) The role of the transitional Indigenous council is the role described in section 30 [*role of Indigenous council*], as that role relates to the transition from the operation of the former Acts to the operation of this Act.
 - (5) The transitional Indigenous council is dissolved on the amalgamation date.

Transition – advisory committee

- 225**
- (1) An advisory committee is established for the purpose of advising the transitional board and the transitional Indigenous council on the following:
 - (a) the transition from the operation of the former Acts to the operation of this Act;

- (b) the first rules of the board.
- (2) The advisory committee consists of the following members:
 - (a) the executive director of the Law Society or a designate of the executive director;
 - (b) the executive director of the Society of Notaries Public or a designate of the executive director;
 - (c) the executive director of the Law Foundation of British Columbia or a designate of the chief executive officer;
 - (d) one member who is an employee of the government appointed by the Attorney General to act as a liaison between the government and the advisory committee.
- (3) The advisory committee is dissolved on the amalgamation date.

Transition – first rules

- 226**
- (1) The transitional board and the transitional Indigenous council must collaborate to develop the first rules of the board.
 - (2) The first rules of the board
 - (a) must be developed before the amalgamation date, and
 - (b) may not be made unless they are first approved, before the amalgamation date, by the transitional Indigenous council.
 - (3) The first rules of the board come into force on the amalgamation date.

Transition – transitional tribunal chair and first tribunal rules

- 227**
- (1) The transitional board must, after a merit-based process, appoint a transitional tribunal chair.
 - (2) The transitional tribunal chair must develop the first tribunal rules.
 - (3) Any rule made under subsection (2) that, under section 131 (6) [*tribunal rules*], requires collaboration with and the approval of the Indigenous council must be developed in collaboration with and approved by the transitional Indigenous council before the amalgamation date.

Transition – expenses and remuneration

- 228**
- (1) The Law Society and the Society of Notaries Public must
 - (a) pay the operational costs incurred by the transitional board, the transitional Indigenous council and the advisory committee in the exercise of their powers and the performance of their duties,
 - (b) remunerate the members of the transitional board and transitional Indigenous council and reimburse them for reasonable travel expenses and out-of-pocket expenses, and

- (c) remunerate the person appointed under section 223 (5) [*transition – transitional board*].
- (2) The transitional board must establish rates for remuneration and reimbursement under subsection (1) (b) and (c).

Transition – protection against actions

- 229**
- (1) No legal proceeding for damages lies or may be commenced or maintained against a member of the transitional board, transitional Indigenous council or advisory committee for anything done, or omitted to be done, in good faith while acting or purporting to act under this Act.
 - (2) The former societies must indemnify a person referred to in subsection (1) for any costs or expenses incurred by the person in any legal proceeding taken for anything done or omitted to be done in good faith while acting or purporting to act under this Act.

Transition – first board

- 230**
- (1) On the amalgamation date,
 - (a) each bencher of the Law Society, whether elected or appointed, ceases to hold office as a bencher, and
 - (b) each director of the Society of Notaries Public, whether elected or appointed, ceases to hold office as a director.
 - (2) The first board of Legal Professions British Columbia consists of the members of the transitional board immediately before its dissolution.
 - (3) The first board has the powers conferred and the duties imposed on the board under this Act as if the first board were established under section 8 [*board of directors*].
 - (4) Sections 12 [*term limits for directors*] to 16 [*if board membership does not meet requirements*] apply to the first board as if the first board were established under section 8 and, for the purposes of sections 12 and 15 [*vacancies*], a director's term on the first board begins on the amalgamation date.
 - (5) Section 17 [*meetings and quorum*] does not apply to the first board.
 - (6) No later than 6 months after the amalgamation date,
 - (a) the first board must hold elections for the purposes of section 8 (1) (a), (b) and, if applicable, (c) (ii), and
 - (b) the directors to be appointed under section 8 (c) (i), if applicable, and section 8 (1) (d) must be appointed.

- (7) The terms of office of the directors appointed under section 8 (1) (c) (i), if applicable, and section 8 (1) (d) must not begin before the date the terms of office of the directors elected under section 8 (1) (a), (b) and, if applicable, (c) (ii), begin.
- (8) The first board must establish an oath of office for directors no later than the earlier of the following:
 - (a) the date that is 3 months after the amalgamation date;
 - (b) the earliest date a director elected under section 8 (a), (b) or (c) (ii) or appointed under section 8 (c) (i) or (d) takes office as a director.
- (9) A director must take the oath of office established under subsection 8 of this section
 - (a) as soon as practicable after the oath of office is established, if the director is a member of the first board, and
 - (b) before taking office as a director, if the director is elected under section 8 (a), (b) or (c) (ii) or appointed under section 8 (c) (i) or (d).

Transition – first chief executive officer

- 231**
- (1) The first chief executive officer of the regulator is the person appointed under section 223 (5) [*transition – transitional board*].
 - (2) The first chief executive officer has the powers conferred and the duties imposed on the chief executive officer under this Act as if the first chief executive officer were appointed under section 20 [*appointment of chief executive officer*].
 - (3) Section 21 [*duties of chief executive officer*] applies to the first chief executive officer as if the first chief executive officer were appointed under section 20.

Transition – first Indigenous council

- 232**
- (1) The first Indigenous council consists of the members of the transitional Indigenous council immediately before its dissolution.
 - (2) The first Indigenous council has the powers conferred and the duties imposed on the Indigenous council under this Act as if the first Indigenous council were established under section 29 [*Indigenous council*].
 - (3) No later than 6 months after the amalgamation date, the following members must be appointed:
 - (a) one member to be appointed under section 29 (1) (a);
 - (b) the member to be appointed under section 29 (1) (b).

Transition – committees

- 233** (1) For the purposes of subsection (2), “**committee**” includes a panel or member of, or a person appointed by or acting for, a committee.
- (2) Subject to subsection (3), all committees established under the former Acts are dissolved on the amalgamation date.
- (3) A committee established under a former Act that is authorized to continue to exercise its powers or required to continue to perform its duties, in relation to a matter, under section 237 [*transition – licensing applications*], 239 [*transition – investigations and practice reviews*], 240 [*transition – disciplinary proceedings under Legal Profession Act*] or 241 [*transition – disciplinary proceedings under Notaries Act*] is continued, for the purposes of the matter, until the date the committee has performed its duties in relation to the matter.
- (4) The records of a committee established under a former Act must, as soon as practicable after the amalgamation date or the date the committee has performed its duties under subsection (3), be transferred to
- (a) the board, in the case of the executive committee, or
 - (b) the chief executive officer, in any other case.

Transition – first tribunal chair

- 234** (1) The first tribunal chair is the transitional tribunal chair appointed under section 227 (1) [*transition – transitional tribunal chair and first tribunal rules*].
- (2) The first tribunal chair has the powers conferred and the duties imposed on the tribunal chair under this Act as if the first tribunal chair were appointed under section 96 (1) [*tribunal chair*].
- (3) Section 96 applies to the first tribunal chair as if the first tribunal chair were appointed under that section and, for the purpose of section 96 (1), the term of the first tribunal chair begins on the date of the person’s appointment under section 227 (1).

Division 4 – Transitional Provisions Related to Licensing

Transition – trainees

- 235** (1) A person who, immediately before the amalgamation date, is enrolled as an articled student under the *Legal Profession Act* is deemed to be enrolled as a trainee in training to practise law as a lawyer under this Act.
- (2) Time spent enrolled as an articled student under the *Legal Profession Act* is deemed to be time spent enrolled as a trainee in training to practise law as a lawyer under this Act.

- (3) Subject to the rules, a limit or condition imposed on an articulated student under the *Legal Profession Act* and in effect immediately before the amalgamation date continues to apply until it expires or is varied or removed in accordance with this Act.

Transition – licensees

- 236**
- (1) Subject to the rules, a person who, immediately before the amalgamation date, is a member of the Law Society under the *Legal Profession Act* is deemed to be a lawyer under this Act.
 - (2) A person who, immediately before the amalgamation date, is a member of the Society of Notaries Public under the *Notaries Act* is deemed to be a notary public under this Act.
 - (3) Subject to the rules, a limit, condition, requirement or suspension imposed under the *Legal Profession Act* or the *Notaries Act* and in effect immediately before the amalgamation date continues to apply until it expires or is varied or removed in accordance with this Act.
 - (4) Subject to the rules, a person referred to in subsection (1) or (2) who, immediately before the amalgamation date, was a non-practising member of the Law Society or the Society of Notaries Public is deemed to be a non-practising lawyer or a non-practising notary public, as the case may be, under this Act.

Transition – licensing applications

- 237**
- (1) In this section:
 - “**application**” means an application for any of the following made under the *Legal Profession Act*:
 - (a) enrolment as an articulated student;
 - (b) call and admission;
 - (c) reinstatement;
 - “**credentials committee**” means the credentials committee established under section 21 (1) (a) of the *Legal Profession Act*.
 - (2) If, on the amalgamation date, an application has not been referred to the credentials committee, this Act applies with respect to the application as if the application had been made under this Act.
 - (3) If, on the amalgamation date, an application has been referred to the credentials committee and the credentials committee has not made a decision on the application, the credentials committee may do one of the following:
 - (a) refer the application to the chief executive officer, in which case this Act applies with respect to the application as if it had been made under this Act;

- (b) make a decision on the application, in which case
 - (i) the credentials committee may continue to exercise powers and must perform duties with respect to the application under the *Legal Profession Act* as if that Act had not been repealed, and
 - (ii) in the exercise of powers and performance of duties under subparagraph (i), section 7 [*guiding principles*] of this Act applies to the credentials committee.

Transition – law corporations

- 238** A corporation that, immediately before the amalgamation date, is one of the following is deemed to hold a law corporation permit issued under section 192 [*law corporation permit*] of this Act:
- (a) a law corporation that holds a permit issued under section 82 of the *Legal Profession Act*;
 - (b) a notary corporation that holds a permit issued under section 58 of the *Notaries Act*.

Division 5 – Transitional Provisions Related to Discipline

Transition – investigations and practice reviews

- 239** (1) In this section:
- “**former discipline committee**” means the discipline committee established under section 36 (a) of the *Legal Profession Act*;
 - “**practice standards committee**” means the practice standards committee established under section 27 (2) of the *Legal Profession Act*.
- (2) If, before the amalgamation date, an investigation or a practice review under the *Legal Profession Act* has been commenced and has not been concluded, the investigation or practice review must be continued under this Act.
- (3) If, before the amalgamation date, the findings of an investigation under the *Legal Profession Act* have been referred to the former discipline committee and the former discipline committee has not performed its duties in relation to the matter referred to it, the former discipline committee must refer the matter to the chief executive officer and the chief executive officer may do one of the following:
- (a) refer the matter back to the former discipline committee, in which case the former discipline committee may continue to exercise its powers and must continue to perform its duties under the *Legal Profession Act* with respect to the matter as if that Act had not been repealed;
 - (b) refer the matter to the discipline committee, in which case this Act applies with respect to the matter as if the investigation had been conducted under this Act.

- (4) If, before the amalgamation date, a practice review under the *Legal Profession Act* has been referred to the practice standards committee and the practice standards committee has not concluded the practice review, the practice standards committee must refer the matter to the chief executive officer and the chief executive officer may do one of the following:
- (a) refer the practice review back to the practice standards committee, in which case the practice standards committee may continue to exercise its powers and must continue to perform its duties under the *Legal Profession Act* with respect to the practice review as if that Act had not been repealed;
 - (b) continue the practice review, in which case this Act applies with respect to the practice review as if it had been commenced under this Act.

**Transition – disciplinary proceedings under
*Legal Profession Act***

- 240** (1) In this section:
- “**transitioned citation**” means a citation issued under the *Legal Profession Act*;
 - “**tribunal**” has the same meaning as in section 44 (1) of the *Legal Profession Act*.
- (2) Subject to subsection (5), a tribunal is dissolved on the amalgamation date.
- (3) If, on the amalgamation date, a transitioned citation has been issued and a tribunal has not commenced a hearing under section 38 of the *Legal Profession Act* with respect to the transitioned citation,
- (a) the tribunal must transfer the citation to the chief executive officer, and
 - (b) this Act applies as if the transitioned citation had been issued by the chief executive officer under this Act.
- (4) If, on the amalgamation date, a transitioned citation has been issued and a tribunal has commenced a hearing under section 38 of the *Legal Profession Act* with respect to the transitioned citation, the tribunal may continue to exercise powers and must perform duties under the *Legal Profession Act* as if that Act had not been repealed.
- (5) If a tribunal is authorized, under subsection (4), to continue to exercise its powers, or required to continue to perform its duties, in relation to a matter after the amalgamation date, the tribunal is continued, for the purposes of the matter, until the date the tribunal has performed its duties in relation to the matter.

Transition – disciplinary proceedings under *Notaries Act*

- 241** (1) In this section:
- “**discipline committee**” means the discipline committee appointed under section 26 of the *Notaries Act*;

“**inquiry**” means an inquiry under section 27 of the *Notaries Act* into the conduct of a member or former member of the Society of Notaries Public.

- (2) If, on the amalgamation date, an inquiry has been commenced but no final decision has been made with respect to the matter that is the subject of the inquiry, the discipline committee may continue to exercise its powers and must continue to perform its duties under the *Notaries Act* with respect to the matter as if that Act had not been repealed.

Division 6 – Transitional Provisions Related to Law Foundation

Definitions

242 In this Division:

“**Notary Foundation**” means the Notary Foundation established under section 50 (1) of the *Notaries Act*;

“**transfer date**” means the date this Division comes into force.

Transition – dissolution of Notary Foundation

- 243**
- (1) The Notary Foundation is dissolved.
 - (2) The assets of the Notary Foundation immediately before the transfer date are transferred to and vested in the Law Foundation.
 - (3) The liabilities of the Notary Foundation immediately before the transfer date are transferred to and assumed by the Law Foundation.
 - (4) On the transfer date, a reference to the Notary Foundation in any record that creates, evidences or otherwise relates to anything transferred or assigned under subsection (2) or (3) is deemed to be a reference to the Law Foundation.

Transition – effect of transfer

244 Despite any other enactment, the transfer under this Division of assets and liabilities takes effect

- (a) without the execution or issue of any record,
- (b) without any registration or filing of this Act or any other record in or with any registry, office or court,
- (c) despite any prohibition on all or any part of the transfer,
- (d) whether or not a duplicate certificate of indefeasible title has been issued by the registrar under the *Land Title Act*, and
- (e) despite any condition, including the absence of any consent or approval, that is or may be required for all or any part of the transfer.

Transition – transfer is not default

- 245** (1) Despite any provision to the contrary in a record, the transfer to the Law Foundation of an asset or liability under section 243 (2) or (3) does not constitute a breach or contravention of, or an event of default under, the record and, without limiting this, does not entitle any person who has an interest in the asset or liability to claim any damages, compensation or other remedy.
- (2) Section 243 (1) and (4) must not be construed as a breach of any contract, agreement or order relating to the appointment or employment of a person, and no legal proceeding for damages lies or may be commenced or maintained as a result of a rescission of appointment or transfer of employment under this Act.

Transition – dealing with transferred assets and liabilities

- 246** (1) In any record that deals with an asset or liability transferred under this Act, it is sufficient for all purposes to cite this Act as having effected the transfer.
- (2) If an asset or liability transferred under this Act to the Law Foundation is registered or recorded in the name of the Notary Foundation, the Law Foundation may, in its own name,
- (a) effect a transfer, charge, encumbrance or dealing with the asset or liability, and
 - (b) execute any record required to give effect to the transfer, charge, encumbrance or dealing.
- (3) An official who has authority over a registry or other office, including, without limitation, the personal property registry, in which title to or interests in the asset or liability are registered or recorded and who receives a record, referred to in subsection (2), executed by the Law Foundation, must give the record the same effect as if the record had been executed by the Notary Foundation.

Transition – records and confidential information

- 247** (1) Any records in the custody or under the control of the Notary Foundation immediately before the transfer date are deemed, as of that date, to be records in the custody or under the control of the Law Foundation.
- (2) For certainty, the dissolution of the Notary Foundation and the transfer of its assets and liabilities to the Law Foundation do not affect the privilege or confidentiality of any information contained within the records referred to in subsection (1).

Transition – legal proceedings

- 248** (1) Any legal proceeding by or against the Notary Foundation on the transfer date may be continued by or against the Law Foundation and may not be continued against the Notary Foundation.
- (2) A conviction against the Notary Foundation may be enforced against the Law Foundation and may not be enforced against the Notary Foundation.
- (3) A ruling, order or judgment in favour of or against the Notary Foundation may be enforced by or against the Law Foundation and may not be enforced by or against the Notary Foundation.
- (4) A claim by or against the Notary Foundation existing immediately before the transfer date must be commenced or continued by or against the Law Foundation.
- (5) A cause of action existing against the Notary Foundation immediately before the transfer date exists against the Law Foundation.
- (6) Subject to subsections (1) to (5), a cause of action, claim or liability to prosecution existing immediately before the transfer date is unaffected by anything done under this Division.

Transition – first board of trustees

- 249** (1) On the transfer date and despite section 155 [*board of trustees*], the board of trustees of the Law Foundation consists of the following trustees:
- (a) all persons who, immediately before the transfer date, were members of the board of governors of the Law Foundation;
- (b) two persons appointed by the Notary Foundation and who, immediately before the transfer date, were members of the board of governors of the Notary Foundation.
- (2) Sections 155 (4) to 159 apply to the board of trustees established under subsection (1) as if the board of trustees were established under section 155 and, for the purposes of sections 156 [*term limits for trustees*] and 158 [*vacancies*], a trustee's term on the board of trustees is deemed to have begun at the same time the trustee's term on the applicable board of governors began.

Transition – audits

- 250** An auditor appointed by the Notary Foundation before the transfer date and whose appointment is in effect immediately before the transfer date
- (a) is deemed to have been appointed by the Law Foundation, and
- (b) may proceed with the audit of any account of the Notary Foundation as if the *Notaries Act* were not repealed.

Division 7 – Repeals

Repeal provisions of *Attorney General Statutes Amendment Act, 2018*

- 251** The following provisions of the *Attorney General Statutes Amendment Act, 2018*, S.B.C. 2018, c. 49, are repealed:
- (a) sections 25 to 38;
 - (b) sections 41 to 44;
 - (c) sections 47 to 50;
 - (d) sections 52 to 81;
 - (e) sections 83 to 90.

Repeal of *Legal Profession Act*

- 252** The *Legal Profession Act*, S.B.C. 1998, c. 9, is repealed.

Repeal of *Notaries Act*

- 253** The *Notaries Act*, R.S.B.C. 1996, c. 334, is repealed.

Division 8 – Consequential Amendments

Arbitration Act

- 254** *Section 24 of the Arbitration Act, S.B.C. 2020, c. 2, is amended by striking out “Legal Profession Act” and substituting “Legal Professions Act”.*

Business Corporations Act

- 255** *Section 119.1 of the Business Corporations Act, S.B.C. 2002, c. 57, is amended in the definition of “regulator” by repealing paragraph (d) and substituting the following:*
- (d) Legal Professions British Columbia; .

Business Practices and Consumer Protection Act

- 256** *Section 142.1 (3) of the Business Practices and Consumer Protection Act, S.B.C. 2004, c. 2, is amended*
- (a) *by repealing paragraph (b) and substituting the following:*
 - (b) *the Legal Professions Act; , and*
 - (b) *by repealing paragraph (i).*

Class Proceedings Act

- 257** *Section 36.1 of the Class Proceedings Act, R.S.B.C. 1996, c. 50, is amended by striking out “continued under section 58 (1) of the Legal Profession Act” and substituting “continued under section 153 of the Legal Professions Act”.*

Court Agent Act

- 258** *Section 3 of the Court Agent Act, R.S.B.C. 1996, c. 76, is repealed and the following substituted:*

Application of Act

- 3** This Act has no application
- (a) within the limits of any municipality in which there are 2 or more practising lawyers, or
 - (b) to any court sitting in a location within 8 km of which there are 2 or more practising lawyers.

Evidence Act

- 259** *Section 60 of the Evidence Act, R.S.B.C. 1996, c. 124, is amended by repealing paragraphs (d) and (e) and substituting the following:*

- (d) practising lawyers, practising notaries public and practising regulated paralegals as those terms are defined in section 1 of the *Legal Professions Act*; .

Financial Institutions Act

- 260** *Section 70 (b) of the Financial Institutions Act, R.S.B.C. 1996, c. 141, is amended by striking out “section 1 (1) of the Legal Profession Act” and substituting “section 1 of the Legal Professions Act”.*

Freedom of Information and Protection of Privacy Act

- 261** *Schedule 2 of the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, is amended by striking out the following:*

Public Body: Notaries Public, Board of Examiners
Head: Chair

Public Body: Notary Foundation
Head: Chair .

262 Schedule 3 is amended

- (a) by striking out “Law Society of British Columbia” and “Society of Notaries Public of British Columbia”, and**
- (b) by adding “Legal Professions British Columbia”.**

Health Care (Consent) and Care Facility (Admission) Act

- 263 Section 19.5 (4) and (5) (a) of the *Health Care (Consent) and Care Facility (Admission) Act, R.S.B.C. 1996, c. 181, is amended by striking out “a lawyer or a member in good standing of the Society of Notaries Public of British Columbia” and substituting “a practising lawyer or a practising notary public as those terms are defined in section 1 of the *Legal Professions Act*”.***

Health Professions and Occupations Act

- 264 Section 309 (3) of the *Health Professions and Occupations Act, S.B.C. 2022, c. 43, is repealed and the following substituted:***

- (3) The chair must be one of the following:
 - (a) a lawyer, as defined in section 1 of the *Legal Professions Act*;
 - (b) a former lawyer, as defined in section 1 of the *Legal Professions Act*, other than a former lawyer who has been suspended or prohibited from practising law;
 - (c) a person who, in another province of Canada,
 - (i) is authorized to practise law as a lawyer, or
 - (ii) was authorized to practise law as a lawyer and has not been suspended or prohibited from practising law in that province.

- 265 Section 444 (3) is repealed and the following substituted:**

- (3) The person appointed as the director of discipline must be one of the following:
 - (a) a lawyer, as defined in section 1 of the *Legal Professions Act*;
 - (b) a former lawyer, as defined in section 1 of the *Legal Professions Act*, other than a former lawyer who has been suspended or prohibited from practising law;
 - (c) a person who, in another province of Canada,
 - (i) is authorized to practise law as a lawyer, or
 - (ii) was authorized to practise law as a lawyer and has not been suspended or prohibited from practising law in that province.

266 Section 445 (2) (b) is repealed and the following substituted:

- (b) one of the following:
 - (i) a lawyer, as defined in section 1 of the *Legal Professions Act*;
 - (ii) a former lawyer, as defined in section 1 of the *Legal Professions Act*, other than a former lawyer who has been suspended or prohibited from practising law;
 - (iii) a person who, in another province of Canada,
 - (A) is authorized to practise law as a lawyer, or
 - (B) was authorized to practise law as a lawyer and has not been suspended or prohibited from practising law in that province.

Insurance Premium Tax Act

267 Section 5.2 of the *Insurance Premium Tax Act*, R.S.B.C. 1996, c. 232, is repealed and the following substituted:

Exemption – indemnity fee under *Legal Professions Act*

- 5.2** Despite section 4, no tax is payable by a taxpayer who is a licensee under the *Legal Professions Act* in respect of an indemnity fee established under section 137 (1) (a) of that Act.

International Commercial Arbitration Act

268 Section 21.01 (2) of the *International Commercial Arbitration Act*, R.S.B.C. 1996, c. 233, is repealed and the following substituted:

- (2) Section 37 of the *Legal Professions Act* does not apply to a person who
 - (a) is not a practising lawyer under that Act, and
 - (b) does one or more of the following:
 - (i) appears as counsel or advocate in arbitral proceedings;
 - (ii) gives legal advice concerning arbitral proceedings;
 - (iii) prepares statements, documents or other materials in connection with arbitral proceedings.

Interpretation Act

269 *Section 29 of the Interpretation Act, R.S.B.C. 1996, c. 238, is amended by repealing the definitions of “barrister” or “solicitor” or “barrister and solicitor” and “lawyer” and substituting the following:*

“barrister” or “solicitor” or “barrister and solicitor” means a lawyer;

“lawyer” means a practising lawyer as defined in section 1 of the *Legal Professions Act*; .

Judicial Compensation Act

270 *Section 1 (1) of the Judicial Compensation Act, S.B.C. 2003, c. 59, is amended by repealing the definition of “lawyer” and substituting the following:*

“lawyer” means a lawyer or a former lawyer as those terms are defined in section 1 of the *Legal Professions Act*; .

King’s Counsel Act

271 *The following section is added to the King’s Counsel Act, R.S.B.C. 1996, c. 393:*

Definition

0.1 In this Act, “lawyer” has the same meaning as in section 1 of the *Legal Professions Act*.

272 *Section 2 is amended*

(a) in subsection (1) by striking out “the members of the Bar of British Columbia” and substituting “the lawyers”, and

(b) by repealing subsection (2) (c) and substituting the following:

(c) 2 lawyers who are appointed by the board of Legal Professions British Columbia for the purpose of this subsection.

273 *Section 4 is repealed and the following substituted:*

Eligibility for appointment

4 A person is not eligible to be appointed unless the person has been a lawyer for at least 5 years.

274 Section 6 (1) is amended

(a) by repealing paragraph (c) and substituting the following:

(c) lawyers who have filled the offices of Attorney General of Canada or Attorney General of British Columbia, according to seniority of appointment as Attorney General; ,

(b) in paragraph (d) by striking out “the members of the Bar” and substituting “lawyers”, and

(c) in paragraph (e) by striking out “members of the Bar of British Columbia” and substituting “lawyers”.

275 Section 7 is repealed.

276 Section 8 is amended by striking out “member of the Bar” and substituting “lawyer”.

277 Section 9 (2) (d) is repealed and the following substituted:

(d) 2 lawyers appointed for the purpose of this section by the board of Legal Professions British Columbia.

278 Section 10 is repealed and the following substituted:

**Automatic revocation of King’s Counsel appointment
on licence cancellation**

- 10** (1) If the licence, issued under the *Legal Professions Act*, of a person appointed under section 2 of this Act is cancelled for disciplinary reasons under that Act, the person’s appointment is revoked on the date of the cancellation.
- (2) Subsection (1) applies in relation to an appointment whether the appointment is made before or after the date this section comes into force.

Land Owner Transparency Act

279 Section 28 of the *Land Owner Transparency Act*, S.B.C. 2019, c. 23, is amended in the definition of “regulator” by repealing paragraph (d) and substituting the following:

(d) Legal Professions British Columbia; .

Land Surveyors Act

280 *Section 59 (2) of the Land Surveyors Act, R.S.B.C. 1996, c. 248, is amended*

(a) in paragraph (a) by striking out “Legal Profession Act” and substituting “Legal Professions Act”, and

(b) by repealing paragraph (b) and substituting the following:

(b) a notary public to engage in the practice of law under the authority of the Legal Professions Act, .

Land Title Act

281 *Section 167 (2) (a) of the Land Title Act, R.S.B.C. 1996, c. 250, is repealed and the following substituted:*

(a) an agent who is not a practising lawyer or a practising notary public as those terms are defined in section 1 of the Legal Professions Act, or .

Land Title and Survey Authority Act

282 *Section 1 of the Land Title and Survey Authority Act, S.B.C. 2004, c. 66, is amended in the definition of “stakeholder entity”*

(a) by repealing paragraph (b) and substituting the following:

(b) Legal Professions British Columbia; , and

(b) by repealing paragraph (g).

283 *Section 6 (1) is repealed and the following substituted:*

(1) The board of directors of the Authority is to consist of 11 individuals of whom

(a) 4 are to be appointed from the nominees provided under section 7 (1) by stakeholder entities, with 2 directors being appointed out of the nominees provided by each of the two stakeholder entities,

(b) 3 are to be appointed from the nominees provided under section 7 (1.1) by Legal Professions British Columbia, and

(c) 4 are to be appointed from the nominees provided under section 7 (2) by stakeholder entities, with one director being appointed out of the nominees provided by each of the 4 stakeholder entities.

284 Section 7 is amended

- (a) in subsection (1) by striking out “, the Law Society of British Columbia”,**
- (b) by adding the following subsection:**
 - (1.1) Legal Professions British Columbia must provide, at least 3 months before the expiry of the term of each director appointed from its nominees, to the directors of the Authority a list of at least 4 and not more than 6 qualified nominees for appointment as director. ,
- (c) in subsection (2) by striking out “subsection (1)” and substituting “subsection (1) or (1.1)”, and**
- (d) in subsections (3) and (4) by striking out “subsection (1) or (2)” wherever it appears and substituting “subsection (1), (1.1) or (2)”.**

Legal Services Society Act

285 Section 1 of the Legal Services Society Act, S.B.C. 2002, c. 30, is amended

- (a) in the definition of “funded agency” by striking out “a practising lawyer or notary public” and substituting “a practising lawyer or a practising notary public as those terms are defined in section 1 of the *Legal Professions Act*”,**
- (b) by repealing the definition of “law society”, and**
- (c) by adding the following definition:**
 - “**Legal Professions British Columbia**” means Legal Professions British Columbia established under section 5 of the *Legal Professions Act*; .

286 Section 4 is amended

- (a) by repealing subsection (3) and substituting the following:**
 - (3) Four directors are to be appointed by Legal Professions British Columbia. , **and**
- (b) in subsection (5) by striking out “the law society” and substituting “Legal Professions British Columbia”.**

287 Section 10 (4) is amended by striking out “the law society” and substituting “Legal Professions British Columbia”.

288 Section 12 is amended

(a) by striking out “Legal Profession Act” and substituting “Legal Professions Act”, and

(b) by striking out “an articled student” and substituting “a trainee authorized under that Act to practise the legal profession of a lawyer”.

289 Section 13 (3) is amended by striking out “Part 8 of the Legal Profession Act” and substituting “Part 13 of the Legal Professions Act”.

Mental Health Act

290 Section 24.1 (3) (b) of the Mental Health Act, R.S.B.C. 1996, c. 288, is repealed and the following substituted:

(b) one of the following:

(i) a lawyer as defined in section 1 of the *Legal Professions Act*;

(ii) a former lawyer as defined in section 1 of the *Legal Professions Act* other than a former lawyer who has been suspended or prohibited from practising law;

(iii) a person who

(A) is or was authorized to practise law as a lawyer in another province of Canada or in a foreign jurisdiction, and

(B) has not been suspended or prohibited from practising law in that province or jurisdiction, and .

Ministry of International Business and Immigration Act

291 Section 2 (5) of the Ministry of International Business and Immigration Act, R.S.B.C. 1996, c. 304, is amended by striking out “under the Notaries Act” and substituting “under the Notaries Act, R.S.B.C. 1996, c. 334, as it read immediately before its repeal”.

Mortgage Brokers Act

292 Section 11 (1) (c) of the Mortgage Brokers Act, R.S.B.C. 1996, c. 313, is repealed and the following substituted:

(c) a lawyer if the loan transaction is made in the course of and as part of the lawyer’s practice; .

Offence Act

293 Section 63.1 of the Offence Act, R.S.B.C. 1996, c. 338, is amended

- (a) in subsection (1) by striking out** “whether or not he or she is a member of the Law Society of British Columbia” **and substituting** “whether or not the enforcement officer is a lawyer as defined in section 1 of the *Legal Professions Act*”, **and**
- (b) in subsection (2) by striking out** “Section 15 (1) of the *Legal Profession Act*” **and substituting** “Section 37 of the *Legal Professions Act*”.

Power of Attorney Act

294 Section 1 of the Power of Attorney Act, R.S.B.C. 1996, c. 370, is amended by adding the following definitions:

- “**practising lawyer**” has the same meaning as in section 1 of the *Legal Professions Act*;
- “**practising notary public**” has the same meaning as in section 1 of the *Legal Professions Act*; .

295 Section 16 is amended

- (a) in subsection (4) by striking out** “a lawyer or a member in good standing of the Society of Notaries Public of British Columbia” **and substituting** “a practising lawyer or a practising notary public”, **and**
- (b) by repealing subsection (6) (b.1) (i) and (ii) and substituting the following:**
 - (i) a practising lawyer,
 - (ii) a practising notary public, .

296 Section 20 (7) is amended by striking out “a lawyer or notary public” **and substituting** “a practising lawyer or a practising notary public”.

Provincial Court Act

297 Section 6 (2) of the Provincial Court Act, R.S.B.C. 1996, c. 379, is repealed and the following substituted:

- (2) A person must not be appointed under this section as a judge unless the person
 - (a) has been, for at least 5 years, a lawyer as defined in section 1 of the *Legal Professions Act* or, before the coming into force of this section, a member in good standing of the Law Society of British Columbia, or

(b) has other legal or judicial experience satisfactory to the council.

298 Section 21 (2) (c) is repealed and the following substituted:

(c) the chair of the board of Legal Professions British Columbia or a person nominated by the chair of the board; .

Provincial Sales Tax Act

299 Section 1 of the Provincial Sales Tax Act, S.B.C. 2012, c. 35, is amended in the definition of “legal services” by repealing paragraphs (a) and (b) and substituting the following:

(a) services that constitute the practice of law under Division 1 of Part 5 of the *Legal Professions Act*, and .

Public Service Labour Relations Act

300 Section 1 (1) of the Public Service Labour Relations Act, R.S.B.C. 1996, c. 388, is amended in paragraphs (b) and (u) of the definition of “employee” by striking out “a practising lawyer or articled student as defined in section 1 (1) of the *Legal Profession Act*” and substituting “a practising lawyer as defined in section 1 of the *Legal Professions Act*, or a trainee authorized under that Act to practise the legal profession of a lawyer”.

Real Estate Services Act

301 Section 3 (3) (f) of the Real Estate Services Act, S.B.C. 2004, c. 42, is amended by striking out “*Legal Profession Act*” and substituting “*Legal Professions Act*”.

Representation Agreement Act

302 Section 13 of the Representation Agreement Act, R.S.B.C. 1996, c. 405, is amended

(a) in subsection (3.02) by striking out “a lawyer or a member in good standing of the Society of Notaries Public of British Columbia” and substituting “a practising lawyer or a practising notary public as those terms are defined in section 1 of the *Legal Professions Act*”, and

(b) by repealing subsection (5) (b.1) (i) and (ii) and substituting the following:

(i) a practising lawyer as defined in section 1 of the *Legal Professions Act*,

(ii) a practising notary public as defined in section 1 of the *Legal Professions Act*, .

Supreme Court Act

- 303** *Section 11 (2) of the Supreme Court Act, R.S.B.C. 1996, c. 443, is amended by striking out “a member in good standing of the Law Society of British Columbia” and substituting “a lawyer as defined in section 1 of the Legal Professions Act”.*

Unclaimed Property Act

- 304** *Section 1 of the Unclaimed Property Act, S.B.C. 1999, c. 48, is amended in the definition of “property” by striking out “a member of the Law Society of British Columbia” and substituting “a lawyer as defined in section 1 of the Legal Professions Act”.*

Vancouver Foundation Act

- 305** *Section 5 (1.2) (b) of the Vancouver Foundation Act, R.S.B.C. 2000, c. 1, is repealed and the following substituted:*
- (b) a lawyer
 - (i) who is a licensee under the *Legal Professions Act*,
 - (ii) who has been nominated by Legal Professions British Columbia in accordance with the bylaws of the foundation, and
 - (iii) whose nomination has been accepted by the board; .

Wills, Estates and Succession Act

- 306** *Section 77 (1) and (2) of the Wills, Estates and Succession Act, S.B.C. 2009, c. 13, is amended by striking out “lawyer or a member of the Society of Notaries Public of British Columbia” and substituting “practising lawyer or a practising notary public, as those terms are defined in section 1 of the Legal Professions Act,”.*
- 307** *Section 77 (4) is amended by striking out “a lawyer or member of the Society of Notaries Public of British Columbia” and substituting “a practising lawyer or a practising notary public, as those terms are defined in section 1 of the Legal Professions Act,”.*
- 308** *Section 83 (3) (b) is repealed and the following substituted:*
- (b) notaries public as defined in section 1 of the *Legal Professions Act*.

Workers Compensation Act

309 *Section 350 (2) (a) and (b) of the Workers Compensation Act, R.S.B.C. 2019, c. 1, is repealed and the following substituted:*

- (a) the employee need not be a lawyer under the *Legal Professions Act*;
- (b) section 37 [*unauthorized practice of law*] of the *Legal Professions Act* does not apply to the employee if the employee is not a licensee under the *Legal Professions Act*.

310 *Section 354 (2) is repealed and the following substituted:*

- (2) Section 37 [*unauthorized practice of law*] of the *Legal Professions Act* does not apply to a person while the person performs functions referred to in subsection (1).

Division 9 – Related Amendments

Legal Profession Act

311 *Section 15 (1) of the Legal Profession Act, S.B.C. 1998, c. 9, is amended*

- (a) *in paragraph (f) by striking out “and”,*
- (b) *by adding “, and” at the end of paragraph (g), and*
- (c) *by adding the following paragraph:*
 - (h) a person who is exempt from this provision under Division 1.1.

312 *The following Division is added to Part 2:*

Division 1.1 – Exemptions

Definitions for this Division

18.1 In this Division:

“**application**” means an application under section 18.2 (1);

“**exempt person**” means a person exempt under section 18.3 (2) from section 15 (1).

Applications for exemptions

18.2 (1) A person may apply for an exemption from section 15 (1) by submitting to the executive director an application in the form established by the executive director.

- (2) An application must
 - (a) describe the legal services the applicant seeks to provide,
 - (b) describe the education, training and credentials of the applicant as they relate to the legal services described under paragraph (a),
 - (c) specify to whom the applicant expects to provide the legal services described under paragraph (a),
 - (d) describe how the provision by the applicant of the legal services described under paragraph (a) would facilitate access to legal services in British Columbia,
 - (e) describe any risks to the public associated with the provision by the applicant of the legal services described under paragraph (a), and
 - (f) include any additional information specified in the rules.

Executive director may grant exemptions

- 18.3** (1) On receiving an application, the executive director may
- (a) grant the application, if satisfied that the provision by the applicant of the legal services described in the application
 - (i) will facilitate access to legal services in British Columbia, and
 - (ii) will not pose a significant risk to the public,
 - (b) approve the application subject to limits or conditions, with written reasons, or
 - (c) deny the application, with written reasons.
- (2) An exempt person must comply with the following:
- (a) the rules made under section 18.4;
 - (b) any limits and conditions imposed under subsection (1) (b) of this section.
- (3) The executive director may revoke an exemption granted under this section if
- (a) the exempt person fails to comply with the rules or with a limit or condition imposed under subsection (1) (b), or
 - (b) the executive director considers the continued provision of legal services by the exempt person to pose a significant risk to the public or to the clients of the exempt person.

Rules respecting exemptions

- 18.4** The benchers may make rules
- (a) specifying additional information to be included in an application,
 - (b) establishing a process for the review or reconsideration of a decision under section 18.3 (1) (b) or (c) or (4),
 - (c) establishing a code of conduct for exempt persons,

- (d) establishing measures to ensure the competence of exempt persons,
- (e) respecting the annual fee to be paid by exempt persons,
- (f) respecting the professional liability indemnification to be maintained by exempt persons, and
- (g) establishing a register of exempt persons.

313 Section 81 (1) (b) is repealed and the following substituted:

- (b) subject to this Act and the rules, any of the following persons who are employees of the law corporation:
 - (i) a person referred to in section 15 (1) (c), (e) or (f) or (2);
 - (ii) an exempt person under Division 1.1 of Part 2.

Notaries Act

314 Section 18 (b) (iii) of the Notaries Act, R.S.B.C. 1996, c. 334, is repealed and the following substituted:

- (iii) that provide for the assets of the deceased to vest in the beneficiary or beneficiaries as members of a class no later than the date on which the beneficiary or beneficiaries or the youngest of the class attains the age of 25; .

Division 10 – Amendments to This Act

315 Section 46 (1) (a) of the Legal Professions Act is amended by adding the following subparagraph:

- (iii.1) if the licensee meets the requirements specified in the rules,
 - (A) wills that include a grant of life estate, or
 - (B) documents required to obtain a grant of probate in British Columbia; .

316 The following section is added to Division 3 of Part 5:

Rules respecting requirements for drafting of certain wills

- 48.1** The board must make rules specifying the requirements a notary public must meet to be permitted to draft, revise, complete or file the wills and documents described in section 46 (1) (a) (iii.1).

Commencement

317 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Sections 1 to 214	By regulation of the Lieutenant Governor in Council
3	Sections 216 to 222	By regulation of the Lieutenant Governor in Council
4	Sections 230 to 310	By regulation of the Lieutenant Governor in Council
5	Sections 315 and 316	By regulation of the Lieutenant Governor in Council