

2019

CHAPTER 7

An Act to amend *The Legal Profession Act, 1990* and to make a consequential amendment to *The Notaries Public Act*

(Assented to May 15, 2019)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Legal Profession Amendment Act, 2019*.

SS 1990-91, c L-10.1 amended

2 *The Legal Profession Act, 1990* is amended in the manner set forth in this Act.

Section 2 amended

3(1) **Subsection 2(1) is amended:**

(a) **by repealing clause (a) and substituting the following:**

“(a) **‘admissions panel’** means a panel appointed in accordance with the rules for the purposes of any hearing related to admission”;

(b) **by repealing clause (b);**

(c) **in clause (b.1) by striking out “, except in subsection 49(3),”;**

(d) **in clause (g.1) by striking out “pursuant to section 47” and substituting “in accordance with the rules”;**

(e) **by adding the following clauses after clause (g.1):**

“(g.2) **‘licence’** means a licence issued to a member pursuant to section 24 entitling the member to practise law in Saskatchewan;

“(g.3) **‘limited licence’** means a licence issued to a person pursuant to section 24.1 entitling the person to engage in the limited practice of law in Saskatchewan;

“(g.4) **‘limited licensee’** means a person who has been issued a limited licence”;

(f) **in subclause (h)(i) by striking out “subsections (2) and (2.1)” and substituting “subsections (2) to (2.2)”;** and

(g) **by adding the following clause after clause (m):**

“(n) **‘suspension’** includes disqualification in sections 16, 17, 28, 83 and 87”.

(2) **Clause 2(2.1)(a) is repealed and the following substituted:**

“(a) sections 38, 39, 40, 43, 54, 56, 57 and 84.1”.

(3) The following subsection is added after subsection 2(2.1):

“(2.2) In the provisions set out in the regulations, a reference to ‘member’ includes a reference to a ‘limited licensee’ and those provisions apply, with any necessary modification, to limited licensees who are entitled to engage in the limited practice of law in Saskatchewan”.

Section 5 amended

4 The following subsections are added after subsection 5(2):

“(3) The executive director has the powers and duties given to the executive director by or pursuant to this Act and the rules, and those assigned or delegated to the executive director by a resolution of the benchers.

“(4) Subject to subsection (5), the executive director may delegate to one or more employees of the society any of the executive director’s powers, duties or functions.

“(5) The benchers may impose any limitations or terms and conditions that they consider appropriate on a delegation pursuant to subsection (4)”.

Section 6 amended

5(1) Subsection 6(2) is amended:

(a) in clause (a) by adding “, who is a bencher by virtue of that office” after “Saskatchewan”;

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

“(b) not less than 12 benchers elected or appointed pursuant to the rules”; **and**

(c) in clause (d) by striking out “*ex officio* benchers” and substituting “benchers by virtue of those offices”.

(2) Subsection 6(2.1) is amended by adding “or appointment” after “election”.

(3) Subsection 6(7) is repealed.

New section 7

6 Section 7 is repealed and the following substituted:

“Attorney General benchers

7 The Attorneys General who are benchers mentioned in clause 6(2)(d) have no right to vote at a meeting of the benchers in convocation”.

Section 7.1 amended

7(1) Subsection 7.1(1) is amended by striking out “Subject to subsection (2), the chairperson” and substituting “The chairperson”.

(2) Subsection 7.1(2) is repealed.

New section 7.2

8 The following section is added after section 7.1:

“Committees

7.2(1) The benchers may:

- (a) establish any committees that they consider necessary; and**
- (b) make rules respecting:**
 - (i) the practice and procedure of committees;**

- (ii) the appointment and termination of appointments to committees;
- (iii) the admissibility of any report or other material submitted to a committee as evidence in a civil proceeding; and
- (iv) any other matter respecting committees the benchers consider necessary or advisable.

(2) Subject to this Act and the rules, the benchers, on any terms or conditions that they may determine, may delegate any of their powers or duties to a committee that is provided for by this Act or the rules or that is established pursuant to subsection (1).

(3) The benchers shall not delegate the power to make rules.

(4) Subject to this Act and the rules, a committee may establish its own procedures”.

Section 10 amended

9 Section 10 is amended:

(a) in the portion preceding clause (a) by striking out “lawyers” and substituting “members”;

(b) by adding the following clauses after clause (a.11):

“(a.12) delegating to the executive director, or to the delegate of the executive director, the authority to do any act or exercise any power or jurisdiction of the benchers pursuant to this Act and the rules, other than the power to make rules;

“(a.13) authorizing a committee established pursuant to this Act or the rules to delegate authority granted to it pursuant to this Act to the executive director or to the delegate of the executive director”;

(c) by repealing clause (a.2) and substituting the following:

“(a.2) regulating the election and appointment of benchers”;

(d) by adding the following clause after clause (a.3):

“(a.4) prescribing circumstances in which a person ceases to be a bencher or an officer of the society, or may be removed as a bencher or as an officer of the society”;

(e) by repealing clause (j) and substituting the following:

“(j) providing for the issuance of licences to members and persons authorized to practise law in accordance with rules made pursuant to clause (i) and requiring those licences to be displayed as prescribed”;

(f) by adding the following clause after clause (k):

“(k.1) for the purposes of section 31, exempting persons and classes of persons from the prohibition against the unauthorized practice of law and, as a condition of the exemption, requiring any exempted person or class of exempted persons to comply with any term or condition”;

(g) by repealing clause (m) and substituting the following:

“(m) establishing procedures relating to the methods of assessment and review of competence”;

(h) by repealing clause (o.2) and substituting the following:

“(o.2) providing for the method of sending a copy of a formal complaint and of serving notice of a hearing on a member”;

(i) by adding the following clause after clause (p):

“(p.1) for the purposes of subsection 30(3), defining legal information”;

(j) in clause (q):

(i) in subclause (i) by striking out “or the filing of materials” and substituting “, the filing of materials or the completion of continuing legal education requirements”; and

(ii) in subclause (ii) by striking out “benchers consider” and substituting “society considers”; and

(k) by adding the following clause after clause (z):

“(z.1) subject to subsection 81(2), respecting the commencement of proceedings pursuant to this Act”.

Section 13.1 amended

10(1) Subsection 13.1(2) is amended in the portion preceding clause (a) by striking out “benchers” and substituting “society”.

(2) Clause 13.1(3)(c) is amended by striking out “benchers consider” and substituting “society considers”.

(3) Subsection 13.1(4) is amended in the portion preceding clause (a) by striking out “benchers” and substituting “society”.

Section 16 amended

11 Section 16 is amended by striking out “All members” and substituting “Subject to the rules, all members”.

Section 17 amended

12 Section 17 is amended by striking out “All members” and substituting “Subject to the rules, all members”.

New heading for Part III

13 The heading to Part III is struck out and the following substituted:

**“PART III
Legal Services and the Practice of Law”.**

Section 24 amended

14(1) Subsection 24(1) is amended by striking out “benchers” and substituting “society” in each of the following provisions:

(a) clause (a);

(b) clause (d).

(2) The following subsection is added after subsection 24(1.1):

“(1.2) The society shall issue a licence to each member admitted pursuant to subsection (1) or (1.1) in accordance with the rules”.

New section 24.1

15 The following section is added after section 24:

“Eligibility as limited licensee

24.1(1) Subject to the regulations, the society may issue a limited licence to engage in the limited practice of law to a person who:

- (a) does not fully meet the requirements to be admitted as a student-at-law or a lawyer pursuant to section 23 or 24;
- (b) has complied with the rules and the regulations with respect to applications for limited licences;
- (c) agrees to practise in accordance with the conditions and restrictions specified on a limited licence; and
- (d) has paid the prescribed fees.

(2) Subject to the regulations, the benchers may make rules respecting the issuance of limited licences and the regulation of limited licensees, including the following matters:

- (a) the eligibility of persons who are not students-at-law or lawyers to be limited licensees, including the following:
 - (i) the criteria for considering an application for a limited licence;
 - (ii) the training or education of an applicant for a limited licence;
- (b) the fees to be paid by an applicant for a limited licence;
- (c) any insurance to be maintained by a limited licensee;
- (d) terms and conditions to which a limited licensee may be subject;
- (e) the eligibility of limited licensees to vote at an election of benchers;
- (f) the eligibility of limited licensees as candidates in an election of benchers;
- (g) the competency and discipline provisions that apply to limited licensees.

(3) The Lieutenant Governor in Council may make regulations:

- (a) respecting the criteria that the society must consider in evaluating an application for a limited licence pursuant to subsection (2);
- (b) respecting the training or education of an applicant for a limited licence mentioned in subsection (2);
- (c) respecting the conditions on and requirements of limited licensees;

(d) for the purposes of subsection 2(2.2), specifying the provisions of this Act that apply to limited licensees, including any modifications to those provisions as may be required to make them applicable;

(e) respecting any other matter necessary or advisable for the regulation of limited licensees.

(4) A limited licensee shall comply with the regulations and the rules governing limited licensees”.

Section 29 amended

16(1) Subsection 29(2) is amended by striking out “benchers” and substituting “admissions panel”.

(2) Clause 29(3)(c) is amended by striking out “benchers and any committee of benchers to which the application was referred and the report of that committee” and substituting “admissions panel and the report of that panel”.

New section 29.1

17 The following section is added after section 29:

“Practice of law

29.1 The practice of law is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person that require the knowledge and skill of a person trained in the law, and includes the following:

- (a) giving advice or counsel to others with respect to their legal rights or responsibilities or the legal rights or responsibilities of others;
- (b) drafting or completing legal documents or agreements that affect the legal rights of an entity or person;
- (c) representing another entity or person in any of the following:
 - (i) a court;
 - (ii) a formal administrative adjudicative proceeding;
 - (iii) a formal dispute resolution process;
 - (iv) any other administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review;
- (d) negotiating legal rights or responsibilities on behalf of another entity or person”.

New section 30

18 Section 30 is repealed and the following substituted:

“Authority to practise law

30(1) Subject to section 31, no persons other than members who hold a licence shall:

- (a) practise law in Saskatchewan; or
- (b) hold themselves out as, or represent themselves to be, persons who may practise law in Saskatchewan.

(2) Subject to section 31, a person, other than a member who holds a licence, who commences, prosecutes or defends an action or proceeding in a court of civil or criminal jurisdiction or acts as counsel or a lawyer in an action or proceeding is:

- (a) incapable of recovering any fee, reward or disbursement on that account; and
- (b) deemed to be guilty of a contempt of the court in which the proceeding has been commenced, carried on, defended or prosecuted, and may be proceeded against for contempt before the Court of Appeal or a judge of the court sitting in chambers.

(3) Nothing in this section affects the ability of a person or entity to provide members of the public with information of a general nature about the law and legal procedures or any other legal information as defined in the rules”.

Section 31 amended

19 Section 31 is amended:

(a) by striking out “or” after clause (e); and

(b) by adding the following after clause (f):

“(g) a person preparing a document for the person’s own use or in relation to a proceeding to which the person is a party;

“(h) a limited licensee authorized to engage in the limited practice of law while the limited licensee is acting within the scope of that authorization; or

“(i) any other person or class of persons, as prescribed in the rules”.

New section 32

20 Section 32 is repealed and the following substituted:

“False pretences

32(1) No persons, other than members who hold a licence or persons who are authorized to practise in accordance with rules made pursuant to clause 10(i), shall pretend or hold themselves out to be a lawyer or a barrister and solicitor.

(2) No persons, other than members who hold a licence, limited licensees or persons who are authorized to practise in accordance with rules made pursuant to clause 10(i), shall:

- (a) take, assume or use any name, title, addition or description:
 - (i) other than one that they actually possess and are legally entitled to; or
 - (ii) that implies or is calculated to lead people to infer that they are entitled to practise law in Saskatchewan; or
- (b) in any way publish or advertise themselves as entitled to practise law in Saskatchewan.

(3) No person who is not a member in good standing shall use the designations ‘barrister’, ‘solicitor’, ‘barrister and solicitor’, ‘lawyer’ or ‘attorney’”.

Sections 34.3 and 35 repealed

21 Sections 34.3 and 35 are repealed.

Section 35.1 amended

22 Subsections 35.1(2) to (4) are repealed.

Section 36 repealed

23 Section 36 is repealed.

Section 37 amended

24 Section 37 is amended by striking out “the professional standards committee” and substituting “any other committee designated in the rules”.

New sections 39 and 40

25 Sections 39 to 42 are repealed and the following substituted:

“Subpoena

39(1) Within the context of a hearing pursuant to this Act and the rules, the following may apply to the court for a writ of *subpoena ad testificandum* or *subpoena duces tecum*:

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

(2) On receipt of an application pursuant to subsection (1), the local registrar of the court at any judicial centre, on payment of the appropriate fees, shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum*.

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

“Preliminary investigation

40(1) A person designated by the society shall investigate the conduct of any member if the society:

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

(2) For the purposes of an investigation authorized pursuant to subsection (1), a person designated by the society may, at any time, make a written demand requiring a person to do either or both of the following:

- (a) attend, in person or by electronic means, before the designated person to answer questions on oath or affirmation, or in any other manner;
- (b) produce for the designated person a record or thing in the person’s possession or control that the designated person reasonably believes is required for the purposes of an investigation pursuant to this Act.

- (3) The society may apply to a judge of the court for an order:
 - (a) directing a person to comply with a demand made pursuant to subsection (2); or
 - (b) directing an officer or governing member of a person to cause the person to comply with a demand made pursuant to subsection (2).
- (4) A person subject to an order pursuant to subsection (3) is liable to be committed for contempt if the person fails or refuses to:
 - (a) attend before the designated employee or appointed person;
 - (b) take an oath or make an affirmation;
 - (c) answer questions; or
 - (d) produce records or things in the person's possession or control.
- (5) If any member's records, or other property, are produced pursuant to subsection (2), the person designated by the society to whom the records or other property were produced may:
 - (a) make or cause to be made one or more copies of the records or other property produced and return the originals to the person who produced them; or
 - (b) retain any of the member's records or other property and dispose of them in accordance with the rules.
- (6) A copy or extract of a member's records or other property certified by a person mentioned in subsection (5) who made the copy or extract is admissible in evidence in any action, proceeding or prosecution and, in the absence of evidence to the contrary, is proof of the original record or property and its contents without proof of the signature or capacity of the person.
- (7) After conducting a preliminary investigation pursuant to this section, the person designated by the society may:
 - (a) direct that further action be taken in accordance with the rules; or
 - (b) direct that no further action be taken".

Section 43 amended

26(1) Subsection 43(1) is repealed and the following substituted:

"(1) If there is a decision that no further action be taken with respect to the determination of a complaint, a complainant may apply to the society for a review of that decision".

(2) Subsection 43(3) is repealed.

New section 45

27 Sections 45 to 49 are repealed and the following substituted:

"Suspension of member by conduct investigation committee

45 The conduct investigation committee may suspend a member from practice in accordance with the rules".

Sections 52 and 53 repealed

28 Sections 52 and 53 are repealed.

New section 54

29 Section 54 is repealed and following substituted:

“Possible criminal offence

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

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

(3) The executive director, in the executive director’s sole discretion, may, at any time, disclose to a law enforcement authority any information about possible criminal activity on the part of a member that is obtained during an investigation or audit pursuant to this Act”.

Section 56 amended

30 Subsection 56(1.1) is amended in the portion preceding clause (a) by striking out “, at the direction of the conduct investigation committee,”.

New section 57

31 Sections 57 and 58 are repealed and the following substituted:

“Non-compliance with order

57(1) If a member does not comply with a requirement imposed in an order to transfer property or funds to a rightful owner within 15 days after the day on which a notice of the penalty assessed or requirement imposed by the hearing committee is sent to the member, the rightful owner named in the order may file a certified copy of the order with the court and enforce the order as if it were a judgment of the court.

(2) If a member does not comply with a requirement imposed in an order to pay a fine or costs within 15 days after the day on which a notice of the fine or costs assessed by the hearing committee is sent to the member, or within any other period specified in the order, the society may file a certified copy of the order with the court and enforce the order as if it were a judgment of the court”.

New section 59

32 Section 59 is repealed and the following substituted:

“Improper conduct of certain others

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

Section 60 amended

33 Clause 60(b) is amended in the portion preceding subclause (i) by striking out “partnership in which a member practises or given to a member or the partnership” and substituting “firm in which a member practises or given to a member or the firm”.

Section 61 amended

34 Subsection 61(4) is repealed and the following substituted:

“(4) If a member with respect to whom an order is sought pursuant to this section belongs to a firm that is a member in good standing in the society, the society shall give notice to the firm of the application unless the judge dispenses with service on the firm”.

Section 62 amended

35 Subsection 62(1) is repealed and the following substituted:

“(1) If a member’s records, or other property, have been placed in the custody of a trustee pursuant to section 61, the person designated by the society for the purpose may examine the records or property”.

Section 63 amended

36(1) Subsection 63(1) is repealed and the following substituted:

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

(2) Subsection 63(2) is amended in the portion preceding clause (a) by striking out “benchers” and substituting “society”.

(3) Subsection 63(4) is amended by striking out the portion preceding clause (a) and substituting the following:

“If any member’s records, or other property, are produced pursuant to subsection (1) or seized pursuant to an order described in subsection (3) or 61(9), the person designated by the society or the trustee may:”.

Section 64 amended

37 The following subsection is added after subsection 64(2):

“(2.1) A member and a person who has entered into a fee agreement with a member pursuant to subsection (1) may attend a mediation session with respect to the fee agreement”.

Section 67 amended

38 The following subsection is added after subsection 67(2):

“(2.1) On or before the referral by the court to the local registrar pursuant to subsection (2), a member and a person charged with the bill may attend a mediation session with respect to the bill”.

Section 76 amended**39(1) Subsection 76(5) is repealed and the following substituted:**

“(5) The foundation shall pay all moneys of the foundation into accounts in a financial institution pending investment or application in accordance with this section, and those accounts are to be used for the purposes of the foundation”.

(2) Clause 76(6)(a) is repealed and the following substituted:

“(a) may invest, in the name of the foundation, any funds of the foundation that are not required immediately for the purposes of the foundation”.

Section 77 amended**40 Clause 77(1)(f) is amended by striking out “Law Foundation Account” and substituting “accounts of the foundation”.****New section 79.1****41 The following section is added before section 80:****“Regulations**

79.1 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used but not defined in this Act;
- (b) creating new categories of membership and, for that purpose:
 - (i) specifying the requirements for a category of membership;
 - (ii) specifying the provisions of this Act that apply to a category of membership; and
 - (iii) respecting any other matter necessary or advisable for the regulation of that category of membership;
- (c) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations;
- (d) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act”.

New section 81**42 Section 81 is repealed and the following substituted:****“Power to commence proceedings**

81(1) Subject to subsection (2), the society may commence or authorize the commencement of proceedings for any alleged contravention of this Act.

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

RSS 1978, c N-8, section 2.2 amended**43 Section 2.2 of *The Notaries Public Act* is amended by striking out “certificate” and substituting “licence”.****Coming into force**

44 This Act comes into force on proclamation.