

# 2007

## CHAPTER 5

### An Act to amend *The Legal Profession Act, 1990*

(Assented to March 21, 2007)

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, 2007*.

#### S.S. 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)** Clause 2(1)(h) is amended by striking out “34.1 and 60” and substituting “34.1, 60 and 84.1”.

**(2)** Clause 2(2.1)(a) is amended by striking out “56 and 57” and substituting “56, 57 and 84.1”.

#### Section 10 amended

**4** The following clause is added after clause 10(t):

“(t.1) establishing procedures to prevent the disclosure of information that is privileged or confidential, which procedures may be made applicable to any person who, in the course of any proceeding pursuant to this Act, would acquire the confidential or privileged information”.

#### Section 14 amended

**5(1)** Subsection 14(6) is amended by striking out “Minister of Finance” and substituting “foundation”.

**(2)** Subsection 14(7) is repealed and the following substituted:

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

**(3)** Subsection 14(8) is amended by striking out “Minister of Finance” and substituting “foundation”.

#### Section 50 amended

**6** The following subsection is added after subsection 50(3):

“(4) The hearing committee, the discipline committee or the benchers may act pursuant to subsection (3) whether or not a member or any other person who may claim solicitor and client privilege has acted pursuant to subsection 84.1(3)”.

## Section 76 amended

**7 Subsection 76(3) is repealed and the following substituted:**

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

## New section 84.1

**8 The following section is added after section 84:****“Solicitor and client privilege during proceeding****84.1(1) In this section:**

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

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

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

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

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

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

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

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

- (4) If the Court of Queen's Bench or the Court of Appeal on an application or appeal pursuant to this Act considers it necessary to prevent the disclosure of answers, information, a member's records or other property with respect to which solicitor and client privilege may be claimed, the court shall order that:
- (a) all or any part of the proceedings before the court that deal with the answers, information, member's records or other property be held in private; and
  - (b) the public be refused access to the information, member's records or other property and to any other document containing the answers.
- (5) Subsections (3) and (4) apply, with any necessary modification, to:
- (a) every person who keeps any of a member's records or other property; and
  - (b) records or other property of a member seized pursuant to an order described in subsection 61(9) or 63(3).
- (6) Compliance with subsection (2) or (5) does not breach or constitute a waiver of solicitor and client privilege and the privilege continues for all other purposes”.

**Coming into force**

- 9(1) Subject to subsection (2), this Act comes into force on assent.
- (2) Section 5 of this Act comes into force on assent but is retroactive and is deemed to have been in force on and from December 31, 2006.

