LCしてんかけ もつからしつかい かんきじ NUNAYUMI MALIGALIUQTIT LAW SOCIETY OF NUNAVUT BARREAU DU NUNAVUT



NOTICE TO THE PROFESSION

CLIENTS' TRUST ACCOUNTS

On 7 June 2022, the <u>Nunavut Law Foundation</u> ("NLF") circulated a notice to the profession asking all members who maintain clients' trust accounts to come into compliance with subsection 57(2) of the <u>Legal Profession Act</u> ("LPA") before membership renewals are due on 31 January 2024 to the Law Society of Nunavut ("LSN"). This request was in response to broad non-compliance with this section and resulting deficiency in funds available to the NLF to fulfill its mandate, which is to provide awards and grants, and support important law-related projects and initiatives in Nunavut.

Receiving and holding money in trust

One routine aspect of practicing law is receiving and holding money in trust before providing legal services to a client. All client money, except money referred to in section 88 of the <u>Rules of the Law Society of Nunavut</u> ("Rules"), shall be paid into a separate interest-bearing bank account called a "clients' trust account" and accounted for in a way that allows the member to determine what funds are held on behalf of each and every client.

Reporting to the LSN

As per section 28 of the *LPA*, the burden of proof to show moneys on trust have been properly dealt with lies with the member. Members do this by filing an Accountants' Report (Form E) and instructing their bank, treasury branch, credit union or trust company to remit the interest earned on the moneys to the NLF semi-annually.

Letter of Direction

A draft sample letter of direction, which can be provided to the member and/or firm's financial institution to direct clients' trust account interest to the NLF, can be found here.

No obligation to open or maintain clients' trust account

If a member does not need to open or maintain a clients' trust account for their Nunavut clients, a Statutory Declaration (Form F) can be filed in lieu of completing an Accountants' Report (Form E). If there is a change in a member's practice such that a clients' trust account is required to be opened and maintained, the member must notify the LSN immediately to ensure compliance with the *Rules* and the *LPA*.

If a Statutory Declaration (Form F) is filed, a trust account levy of \$105 must also be paid. This applies to those holding Restricted Appearance Certificates and inactive memberships. For more information, please see the LSN's Fees Chart.