

Legal Profession Act Consolidated to November 2022

Rules

Rules

8(1) The Executive shall make rules for the regulation of the Society, the management and conduct of its business affairs and for the exercise of the powers conferred or the performance of the duties imposed on the Society or the Executive by or under this Act and, without restricting the generality of these powers to make rules, may make rules

- (a) prescribing the terms and conditions on which approval for admission as members or as students-at-law may be given, and the manner of proof of those terms and conditions;
 - (a.1) creating a category of membership with a limited scope of practice, including
 - (i) defining the scope of practice,
 - (ii) providing for members of that category of membership to be known and designated under a designation other than that provided under section 63, and
 - (iii) providing for different rules under this subsection for that category of membership;
 - (b) prescribing and establishing a bar admission course, the contents of the course and fees for enrollment in the course for persons required to pass a bar admission examination;
 - (c) establishing a bar admission examination or a special examination or both, and respecting the contents of those examinations;
 - (d) fixing the admission fees and the annual and other fees payable to the Society by members and students-at-law;
 - (d.1) fixing a levy to be paid by members of the Society for the purpose of funding the Nunavut Law Foundation established under section 50, and exempting a category of members from paying the levy;
 - (d.2) respecting annual registration documents and other administrative documents that must be submitted to the Society by its members;
 - (d.3) respecting mandatory continuing legal education, including
 - (i) setting the number of hours of continuing legal education members of the Society must complete annually, including by area of study, and
 - (ii) exempting a category of members of the Society from completing, either completely or in part, the required annual number of hours of continuing legal education;

(e) providing that a member is suspended, with or without notice or investigation, on contravening a rule respecting

- (i) payment of fees, levies or other monies due to the Society, or
- (ii) submission of administrative documents;

(e.1) providing that a member is suspended, with notice, on contravening a rule respecting mandatory continuing legal education;

(f) providing for the reinstatement of

- (i) members and students-at-law under suspension,
- (ii) former members whose names have been struck from the Roll, and
- (iii) former students-at-law whose articles have been terminated under this Act, and prescribing the terms and conditions on which reinstatement may be granted;

(g) providing for the election to become an inactive member, for reinstatement of inactive members as active members and prescribing the terms and conditions on which reinstatement may be granted;

(h) requiring members to open and maintain trust accounts for clients' money at a bank, treasury branch, credit union or trust company;

(i) prescribing the manner of keeping the books, ledgers, journals, records and accounts required under section 43, requiring the furnishing of evidence that those books, ledgers, journals, records and accounts are being kept and maintained and providing for their inspection from time to time by the auditors or agents of the Society;

(j) requiring a member to pay to the Society the cost of an inspection or audit of books and accounts of the member where the rules have not been complied with;

When rule effective

(2) Subject to subsection (5), a rule shall have effect only until the end of the next annual meeting of the Society unless before that time the rule is confirmed by resolution of the Society.

PART VI
ACCOUNTS, AUDITS AND FINANCIAL INSPECTIONS

Accounts

Definitions

42 In this Part,

“**client**” means a person or body of persons on whose behalf a member receives money in connection with his or her practice; (*client*)

“**clients’ trust account**” means the account referred to in section 44; (*compte en fiducie des clients*)

“**member**” includes a firm of members; (*membre*)

“**money**” includes currency, government or bank notes, cheques, drafts and post office, express or bank money orders. (*sommes d’argent*)

S.Nu. 2017,c.27,s.10.1.

Audits and Financial Inspections

Audit

47 The chairperson of the Discipline Committee may, where he or she considers it advisable, order an audit by a person entitled to engage in public practice under the *Chartered Professional Accountants Act* of the books, ledgers, journals, records and accounts of a member and the member shall, without delay, make them fully available for examination by the accountant.

S.N.W.T. 1998,c.21,s.11(3); S.Nu.
2018,c.15,s.98(2).

Suspension

48.1(1) The Executive may suspend a member who does not comply with the requirements of this Part from the practice of law until the member has complied fully with the requirements of this Act or the directions of the Executive.

Notification of Clerk

(2) The Secretary shall notify the Clerk of the Nunavut Court of Justice of a suspension made under subsection (1).

S.N.W.T. 1988,c.40(Supp.),s.17; S.Nu.
2004,c.9, s.2(1).

PART VIII PROFESSIONAL
LIABILITY CLAIMS

Definitions

59 In this Part,

“deductible amount” means,

- (a) with reference to the Fund, the amount, if any, prescribed by the rules as the amount to be deducted from any claim paid from the Fund, and
- (b) with reference to a group contract the amount, if any, specified in the contract as the amount that the insurer is entitled to deduct from the amount of any claim for which the insurer is liable under the contract; (*franchise*)

“Fund” means the Professional Liability Claims Fund; (*Fonds*)

“group contract” means a group insurance contract entered into under subsection 61(1); (*contrat collectif*)

“professional liability claim” means a claim against a member for an amount of money that the member is legally obligated to pay as damages arising out of the performance of professional services for another person in the member’s capacity as a barrister and solicitor and caused by the member or any other person for whose acts the member is legally liable. (*réclamation*)

Professional Liability Claims Fund

60(1) The Executive may by resolution create and maintain a fund called the Professional Liability Claims Fund.

Rules

(2) The Executive may make rules

- (a) specifying the purposes mentioned in subsection (3) for which the Fund may be used;
- (b) respecting the administration of the Fund;
- (c) providing for the levying on active members of an annual assessment of the amount that may be fixed by the Executive from time to time for the purpose of maintaining and augmenting the Fund;
 - (c.1) providing for the levying on active members that may be specified by the Executive of additional annual assessments in amounts that may be fixed by the Executive, based on the paid claims record of those members;
- (d) providing for the exemption of active members from the payment of annual assessments referred to in paragraphs (c) and (c.1), and from entitlement to indemnification from the Fund or under a group contract, as the case may be, and the conditions on which the exemptions may be made; and
- (e) governing the payment and recovery of the whole or part of any deductible amounts under section 62.

Uses of Fund

(3) Subject to and in accordance with the rules, the Fund may be used for any of the following purposes, whichever the rules specify:

- (a) the indemnification by the Society in whole or in part, at the discretion of the Executive, of members liable to pay assessments referred to in paragraph (2)(c) in respect of professional liability claims made against them;
- (b) the payment in whole or in part of deductible amounts under subsection 62(1);
- (c) the payment of premiums payable by the Society under a group contract;
- (d) the payment of premiums or other costs payable by the Society under a contract entered into under subsection (5);
- (e) the payment of expenses incurred in connection with audits, investigations of claims against the Fund and hearings pertaining to claims against the Fund.

Rules respecting indemnification of members

(4) Where the rules specify that the Fund may be used for the purpose referred to in paragraph (3)(a), the Executive may make rules

- (a) prescribing the deductible amount and the maximum amount that may be paid from the Fund in respect of any professional liability claim;
- (b) prescribing the conditions to be met before a claim may be paid from the Fund;
- (c) prescribing classes of professional liability claims in respect of which no payment or partial payment only shall be made from the Fund; and
- (d) providing for any matter or procedure in connection with the filing, settling, administration and payment of claims made against the Fund.

RULES OF THE LAW SOCIETY OF NUNAVUT
(Current to: November 22, 2022)

SPOT AUDITS

Assistance of forensic auditor for audit under s. 47 of Act

90.1. (1) The chairperson of the Discipline Committee may obtain the assistance of a forensic auditor or other expert for an audit under section 47 of the Act and where such assistance is obtained, the member shall, without delay, make his or her books of account fully available for examination by the forensic auditor or other expert.

(2) The Executive may suspend a member who does not comply with subsection (1) from the practice of law until the member has fully complied.

Audit under s. 47 of Act

91. (1) Where an accountant does an audit under section 47 of the Act and finds that
(a) sections 43, 44, 45 and 48 of the Act and sections 81 to 90 of these rules have been complied with, the accountant shall furnish the Secretary and the member concerned with a certificate to that effect;

(b) sections 43, 44, 45 or 48 of the Act or sections 81 to 90 of these rules have not been complied with, the accountant shall furnish the Secretary and the member concerned with a report specifying the breach and, when the member has or has had insufficient money on deposit in a clients' trust account to meet all liabilities as recorded in the member's trust ledger, the report must state the period during which there was insufficient money in the clients' trust account.

(2) The Executive shall review every report made under paragraph (1)(b) and may, where the Executive considers it appropriate, forward the report to the chairperson of the Discipline Committee.

(3) A report forwarded to the chairperson under subsection (2) is deemed to be a complaint concerning the member and Part III applies, with such modifications as the circumstances require, to the complaint.

Cost of audit under s. 47 of Act

92. (1) Subject to subsection (2) and subsection 47 of the Act, where the books and accounts of a member have been audited under section 47 of the Act, the Executive may order that the cost of the audit be paid from the Assurance Fund.

(2) Where the books and accounts of a member have been audited under section 47 of the Act and an accountant provides a report to the Secretary under paragraph 91(1)(b), the chairperson of the Discipline Committee may order that the cost of the audit be paid by the member.

(3) Where a member fails to comply with an order made under subsection (2) within 30 days after the day the order was made, the member is, without further notice, automatically suspended from membership.

[92(1) amended, 2016/11/7]