

Tab 3

Report to Convocation May 26, 2022

Strategic Planning and Advisory Committee

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Joseph Groia
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Purpose of Report: Decision

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Law Society
of Ontario

Barreau
de l'Ontario

Tab 3.1

Strategic Planning and Advisory Committee

By-Law 3 Amendments – Convocation Procedural Reforms

May 26, 2022

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Motion

That on the recommendation of the Strategic Planning and Advisory Committee, Convocation make amendments to By-Law 3, set out in the motion at Tab 3.1.1, to implement procedural reforms respecting motions at Convocation.

Executive Summary

Good corporate governance requires that governance processes and procedures be reviewed from time to time to ensure that they are appropriate for the objectives they support, proportionate to the achievement of the objectives and are transparent and effective. This is also consistent with the Treasurer's and CEO's focus on improved efficiency and modernization.

A review of the some current procedures for Convocation related to notices of motions and motions to amend suggests that there are improvements that can be made to make the use of these important governance tools more effective. The Committee is recommending that Convocation make changes to By-Law 3 related to the form of a notice of motion and the nature of amendments to motions.

The track changes version of By-Law 3 at **Tab 3.1.2** shows the changes that are recommended.

Background

Over the course of three meetings, the Committee discussed the issues in this report and agreed to recommend to Convocation amendments to By-Law 3. These improvements are aimed at making use of motions, an important governance tool, more effective. They are also consistent with the Treasurer's and CEO's focus on improved efficiency, modernization and governance effectiveness.

The amendments provide for the nature of permissible amendments to motions made at Convocation and that a notice of motion state the proposed motion for debate without preamble or recitals.

By-Law 3 amendments respecting these changes appear in track changes format at **Tab 3.1.2**.

The Amendments

With respect to **motions to amend**, for transparency in Convocation’s process and to create awareness around common practice, the Committee recommends that the By-Law be amended to elaborate on the nature of permissible amendments to motions made at Convocation. The By-Law is silent on the nature of amendments, other than that they are permitted.¹

With reference to commentary in Robert’s Rules of Order ² as an example of how amendments should be conceived, and to reflect Convocation’s common practice, the amendments to the By-Law provide that an amendment to a motion is not to alter the substance of a motion and is to be germane to the subject of the main motion. As an example, the rules of procedure for the Law Society’s annual general meeting in By-Law 2 provide as follows:

Permitted amendments

19. (1) A motion made at a meeting may be amended by,

- (a) adding or deleting words;
- (b) varying minor details; or
- (c) rephrasing sentences.

Amendment not to alter substance of motion

(2) An amendment to a motion shall not alter the substance of the motion.

To maintain certainty and consistency between Law Society by-laws, similar wording is now included in a new definition of “motion to amend.” in s. 74(1) of By-Law 3.

With respect to **substantive motions** that benchers may submit under s. 93(1)1. of By-Law 3³, new s. 74(1.1) provides that no substantive motion, which includes one included in a notice of motion under s. 93, shall include a preamble or recitals.

¹ Section 95(3): A motion to amend may be made at any time after a main motion is moved and seconded, but before it has been voted on, at Convocation, provided that no other motion to amend is before Convocation at the time.

² Robert’s Rules are routinely consulted by Treasurers, when required, as an authoritative source on procedural matters. On amendments to motions, Robert’s Rules provide that “An amendment must always be *germane* – that is, closely related to or having bearing on the subject of the motion to be amended. This means that no new subject can be introduced under the pretext of being an amendment.”

³ Notice required

93. (1) Notice is required for the following motions:

1. A substantive motion, other than a substantive motion contained in the report of a standing or other

By-Law 3 defines a substantive motion as a motion that is a self-contained proposal capable of expressing a decision of the benchers present at Convocation concerning a matter of import to the Society. Including preambles or recitals in a notice of motion is not in keeping with the nature of a motion as described in By-Law 3.

Convocation procedures give benchers who bring a motion on notice the opportunity to speak to the motion, provide reasons and factual basis for the motion and invite support for the motion at Convocation. It is appropriate that this should be part of the process for oral debate on motions made at Convocation rather than in a preamble or recitals, the content of which may contain opinion rather than facts. Using this form of notice – without recitals or preamble - emphasizes that the substantive debate is for the meeting so that benchers can hear and respond to the moving party's presentation, ask questions and provide views in the course of debate and discussion.

committee.

2. A motion to resume debating and to put to a vote a substantive motion which was tabled.

Method of giving notice

(2) Notice of a motion shall be given in writing by the bencher intending to make the motion by delivering a copy of the text of the motion, signed by the bencher intending to make the motion and the bencher intending to second the motion, to the secretary at least twenty days before the day fixed for Convocation at which the bencher intends to make the motion.

LAW SOCIETY OF ONTARIO

BY-LAWS MADE UNDER
SUBSECTIONS 62 (0.1) AND (1) OF THE LAW SOCIETY ACT

BY-LAW 3 [BENCHERS, CONVOCATION AND COMMITTEES]

MOTION TO BE MOVED AT THE MEETING OF CONVOCATION ON MAY 26, 2022

MOVED BY

SECONDED BY

THAT By-Law 3 [Benchers, Convocation and Committees], in force immediately before this motion is moved, be amended as follows:

1. Subsection 74 (1) of the English version of the By-Law is amended by adding the following:

“motion to amend” means a motion to amend another motion, without altering in any way the substance of that motion, by adding or deleting words, varying minor details or rephrasing sentences;

2. Subsection 74 (1) of the French version of the By-Law is amended by adding the following:

« motion portant amendement » Motion visant à amender une autre motion, sans en modifier en aucune façon la substance, par l’ajout ou la suppression de mots, la modification de détails mineurs ou la reformulation de phrases.

3. Section 74 of the English version of the By-Law is further amended by adding the following:

Substantive motion: no recitals or preambles

(1.1) No substantive motion shall be prefaced by recitals or preambles.

4. Section 74 of the French version of the By-Law is further amended by adding the following:

Motion de fond : pas d’attendus ni de préambules

(1.1) Aucune motion de fond n’est précédée d’attendus ou de préambules.

BY-LAW 3

Made: May 1, 2007
Amended: June 28, 2007
September 20, 2007
November 22, 2007
June 26, 2008
April 30, 2009
September 24, 2009
September 24, 2009 (editorial changes)
February 25, 2010
May 27, 2010
June 8, 2010 (editorial changes)
October 28, 2010
November 9, 2010 (editorial changes)
November 25, 2010
January 27, 2011
November 24, 2011
April 26, 2012
September 27, 2012
September 25, 2013
February 27, 2014
March 4, 2014
September 24, 2014
April 23, 2015
February 23, 2017
April 26, 2018
September 27, 2018
September 27, 2018 (editorial changes)
April 25, 2019
May 6, 2019 (editorial changes)
June 19, 2019 (editorial changes)
May 12, 2020
May 28, 2020
August 6, 2020
September 24, 2020
May 27, 2021
June 15, 2021 (editorial changes)
June 23, 2021
October 1, 2021
November 17, 2021 (editorial changes)
November 26, 2021

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PART V

CONVOCATION

INTERPRETATION

Definitions

74. (1) In this Part,

“main motion” means a motion which is the subject of an amendment contained in a motion to amend;

“motion to amend” means a motion to amend another motion, without altering in any way the substance of that motion, by adding or deleting words, varying minor details or rephrasing sentences.

“question of privilege” means a question about any right enjoyed at Convocation by the benchers present at Convocation collectively or by any bencher present at Convocation individually conferred by this Part or by practice, precedent, usage and custom;

“question of procedure” means a question about the procedure being followed at any time at Convocation;

“substantive motion” means a motion that is a self-contained proposal capable of expressing a decision of the benchers present at Convocation concerning a matter of import to the Society.

Substantive motion: no recitals or preambles

(1.1) No substantive motion shall be prefaced by recitals or preambles.

Interpretation: tabling a motion

(2) In this Part, “to table a motion” means to defer indefinitely debating the motion or putting the motion to a vote and “a motion which was tabled” has a corresponding meaning.

MEETINGS

Convocation conducted in accordance with Part

75. (1) Subject to subsection (2), Convocation shall be conducted in accordance with this Part.

Waiving compliance, etc.

(2) The Treasurer may waive compliance with any requirement, alter any requirement and abridge or extend any time period mentioned in this Part in respect of Convocation.

Matters of procedure not provided for

(3) Any matter of procedure not provided for in this Part shall be determined by the Treasurer.

Place of Convocation

76. (1) Subject to subsections (2) and (3), Convocation shall be held in Osgoode Hall.

Same

(2) The Treasurer may convene Convocation at any place.

RÈGLEMENT ADMINISTRATIF N° 3

LES CONSEILLERS, LE CONSEIL ET LES COMITÉS

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PARTIE V

LE CONSEIL

INTERPRÉTATION

Définitions

74. (1) Les définitions qui suivent s'appliquent à la présente partie.

« motion de fond » motion qui constitue une proposition autonome pouvant servir à exprimer une décision des conseillères et des conseillers présents à la réunion du conseil quant à une question d'importance pour le barreau.

« motion portant amendement » Motion visant à amender une autre motion, sans en modifier en aucune façon la substance, par l'ajout ou la suppression de mots, la modification de détails mineurs ou la reformulation de phrases.

« motion principale » Motion qui fait l'objet d'un amendement figurant dans une motion portant amendement.

« question de privilège » question concernant tout droit dont les conseillères et les conseillers présents à la réunion du conseil jouissent collectivement ou personnellement et qui leur est conféré par la présente partie ou par la pratique, les précédents, l'usage ou la coutume.

« question de procédure » question concernant la procédure à observer lors des réunions du conseil.

Motion de fond : pas d'attendus ni de préambules

(1.1) Aucune motion de fond n'est précédée d'attendus ou de préambules.

Interprétation: classement des motions

(2) dans la présente partie, « classer une motion » signifie remettre indéfiniment le débat ou le vote auquel elle peut donner lieu. L'expression « motion classée » a un sens correspondant.

LES RÉUNIONS

Conformité au présent règlement administratif

75. (1) Sous réserve du paragraphe (2), les réunions du Conseil sont conduites conformément à la présente partie.