

Application for Exemption from the Requirement to Pay the Annual Fee and to File the Annual Report on the Basis of Incapacity Under s. 37 of the *Law Society Act* and By-Laws 5 and 8 – Lawyer

About Exemption from the Annual Fee and the Annual Report Filing on the Basis of Incapacity

Licensees who meet the definition of incapacity within the meaning of s. 37 of the *Law Society Act* may apply to the Law Society of Ontario (Law Society) for an exemption from paying annual fees and filing an annual report. Applicants are encouraged to review the Information s. 37 of the *Law Society Act* and By-Laws 5 and 8 for information about this exemption.

The Law Society may not be able to approve your application if you:

- a) are suspended; or
- b) are the subject of a complaint, audit, investigation, search or seizure by the Law Society; or
- c) are a party to a proceeding under Part II of the *Law Society Act*; or
- d) have not paid all outstanding fees that have accrued, including the current year; or
- e) have not filed all Annual Reports, including the current filing year.

If your application is approved and you later wish to return to an active Law Society status, you may be required to submit medical documentation that demonstrates that you have regained capacity.

Required Documents

1. Complete application form

The Law Society of Ontario (Law Society) may investigate or verify any information supplied in this application and may require further information from you before the application is approved. **Omissions or inaccuracies in responses may delay processing.**

If the space provided for any answer is insufficient, include a separate sheet that is signed and dated by the applicant and include it with the application.

2. Letter from Qualified Medical Practitioner

Please review the Information for Applicants Applying for Exemption on the Basis of Incapacity document at the end of this application. Please provide the sample medical letter to the medical practitioner who is providing the letter in support of your application.

3. A. Proof of trust/mixed trust/estate accounts closure (Part C)

This requirement applies to sole practitioners engaged in the practice of law in Ontario during the last 3 years.

OR

B. Proof of no signing authority over all trust/mixed trust/estate accounts (Part C)

This requirement applies to partners, associates, and employees engaged in the practice of law in Ontario during the last 3 years.

If this requirement applies to you, please provide letter from the signing partner or your bank.

4. Location of active and/or closed files, wills, powers of attorney, corporate seals and corporate minute books (Part E)

This requirement applies to all licensees who engaged in the practice of law in Ontario.

5. Outstanding Annual Report Filing(s)

Licensees must complete all outstanding Annual Report Filing(s) through their account on the Law Society Portal before the application may be approved unless they are over the age of 65 and have been expressly exempted on application to the Law Society.

Questions?

Please direct questions about this application to **By-Law Administration Services** by calling 416-947-3315 or 1-800-668-7380 and asking to be transferred, or emailing bylawadmin@lso.ca.

Mailing Address

Email or mail applications and supporting documents to:

bylawadmin@lso.ca

Law Society of Ontario
By-Law Administration Services
Osgoode Hall, 130 Queen Street West
Toronto, Ontario M5H 2N6



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Part A – Applicant's Information

1. Personal Information

First Name:

Middle Name:

Last Name:

Law Society Number:

Date of Birth (dd/mm/yyyy):

2. Home Contact Information

Home Address (street, unit, city, province, postal code):

Telephone/Mobile:

Email:

3. Business Contact Information

Business/Employer Name and Address (street, unit, city, province, postal code):

Telephone/Mobile:

Fax:

Email:

By-Law 8 requires licensees to notify the Law Society immediately after any change in contact information. Please use the Law Society Portal at <https://portal.lso.ca> for updates.

Part B – Practice History

To be completed by all licensees

Select **ONE** response (**A or B**):

- A. I stopped practising law as an Ontario lawyer on the following date (dd/mm/yyyy):

OR

- B. I never practised law as an Ontario lawyer.

Part C – Trust Monies and Property

Select **ONE** response (**A, B or C**) that is most appropriate with respect to your practice as an Ontario lawyer:

- A. I practised law in Ontario as a **Sole Practitioner** within the last three years **AND** (select **ONE** response – i), ii) or iii)):
- i) I have accounted for and/or distributed all money and property held in trust (for which I was responsible), including money and property held for estates, to the person(s) entitled to it or to a lawyer entitled to practise law in Ontario.

NOTE: Provide written confirmation from your bank that all open trust/mixed trust/estate accounts have been closed.

OR

- ii) I have **not** accounted for and/or distributed all money and property held in trust for which I was responsible. **Provide an explanation in Part J.**

OR

- iii) I have **not** been responsible for any money or property held in trust.

- B. I practised law in Ontario as a **Partner/Associate/Employee/Counsel** within the last three years.

NOTE: Provide a letter from the firm's managing partner confirming that you no longer have signing authority over all trust/mixed trust/estate accounts.

- C. I have never engaged in the private practice of law as an Ontario lawyer, or I have not been in private practice within the last three years.

Part D – Client Files, Documents and Property

Select **ONE** response (**A, B, C or D**) that is most appropriate with respect to your practice as an Ontario lawyer:

- A.** I have disposed of client files or arrangements have been made to the satisfaction of my clients to have their files, documents and/or property returned to them.
- B.** I have transferred all client files, documents and/or property with the client's authorization to a lawyer entitled to practise law. **Provide details in Part E.**
- C.** I have not disposed of client files or made arrangements to have all client files, documents and/or property returned to them to their satisfaction. **Provide an explanation in Part J.**
- D.** I have not been responsible for any client matters, files, documents and/or property.

Part E – Client Property and File Information

I have transferred and disposed of my electronic and/or hard copy client files, documents and property as follows:

Active Files

Transferred to and/or location stored (Name, Address)

Contact Name:

Telephone:

Closed Files

Transferred to and/or location stored (Name, Address)

Contact Name:

Telephone:

Wills

Transferred to and/or location stored (Name, Address)

Contact Name:

Telephone:

Powers of Attorney

Transferred to and/or location stored (Name, Address)

Contact Name:

Telephone:

Corporate Minute Books

Transferred to and/or location stored (Name, Address)

Contact Name:

Telephone:

Corporate Seals

Transferred to and/or location stored (Name, Address)

Contact Name:

Telephone:

Part F – By-Law Compliance

Answer **ALL** of the following questions:

- a) I confirm that I have completed and filed the Annual Report to the last filing due date required of me.
- Yes No
- b) I have complied with my Continuing Professional Development (CPD) obligations.
- Yes No N/A
- c) I confirm that my law practice and any trust account(s) I have operated have been wound up, or that I no longer have signing authority over any of my firm's trust/mixed trust/estate accounts.
- Yes No N/A
- d) I confirm that I have completed all forms required to be completed by the Law Foundation of Ontario with respect to the closure of my trust account(s), if applicable.
- Yes No N/A
- e) I currently provide pro bono legal services through a Pro Bono Law Ontario sponsored program.
- Yes No
- If "Yes", should you wish to continue providing pro bono legal services once exempt, you must also complete the Emeritus application.
- f) I confirm that I have paid all outstanding LAWPRO fees, premiums, deductibles, and levies or have completed the required exemption forms.
- Yes No N/A
- g) I confirm that I have completed and filed all LAWPRO filings to the last filing due date required of me.
- Yes No N/A

Part G – Estates and Powers of Attorney

Answer **ALL** of the following questions:

- a) I am currently an estate trustee or a trustee of an *inter vivos* trust in Ontario.
- Yes No

b) I currently act as an attorney under a power of attorney for property given by a client or former client in Ontario.

Yes No

c) I act in these capacities for **related persons*** only.

Yes No N/A

d) If you answered “Yes” to a) and/or b) and “No” to c), please provide the names of the Estates and/or the individuals for whom you act as an attorney:

NOTE: While you are an estate trustee and/or power of attorney for non-related persons, you must:

- continue to file the Annual Report
- file the appropriate exemption forms annually with LAWPRO to confirm your continuing status as exempt from payment of insurance premium levies
- continue to be subject to the Spot Audit Program

* **Related persons**, as used in this application, has the same meaning as in section 251 of the *Income Tax Act*.

Part H – Regulatory/Claims

Answer **ALL** of the following questions. If you answer “Yes” to any question below provide an explanation in **Part J – Specifics**.

1. Are you aware of a professional liability insurance claim or any other claim against you in either your professional capacity or with respect to your practice?

Yes No

2. Are you the subject of an audit, investigation and/or search or seizure by the Law Society?

Yes No

3. Are you a party to a proceeding under Part II or section 33 of the *Law Society Act*?

Yes No

Part I – Professional Corporations

To be completed by all applicants

Are you now, or have you within the last 12 months, been a shareholder, director or officer of a professional corporation or practised law through a professional corporation?

Yes No

If yes, provide the name of the professional corporation:

Part J – Specifics

Part K – Applicant's Undertaking and Declaration

I undertake not to practise law in Ontario from the effective date of this application.

Should I wish to practise law in Ontario, I undertake to immediately notify the Law Society of my intention. I will provide the Law Society with all required information to change my status.

I understand that my obligation to pay the annual fee, if applicable, and submit the Annual Report will resume.

I declare that all information supplied by me with respect to this application, and in the documents provided in connection with this application, is true, complete, and accurate.

Signature of Applicant

Date

Signature of Witness

Name of Witness

Part L – Lawyers’ Professional Indemnity Company (Release)

I hereby authorize and direct LAWPRO to provide information to the Law Society of Ontario about any outstanding issues with respect to the status of payment of my premiums, levies, claims, deductibles and/or the status of my filings with LAWPRO in order that the Law Society may process my application for exemption from the requirements to pay the annual fee and submit the Annual Report (under By-Laws 5 and 8).

Signature of Applicant

Date

Name of Applicant



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Information for Applicants Applying for Exemption on the Basis of Incapacity

Applicants who are applying for an exemption from paying their annual fees and filing their annual reports on the basis of incapacity must submit a letter from a qualified medical practitioner (such as a medical doctor, nurse practitioner, psychologist, or registered social worker, etc.) stating that they are incapacitated within the meaning of subsection 37(1) of the *Law Society Act* and unable to practise law or provide legal services in the province of Ontario.

The *Law Society Act* provides the following definition of incapacity at section 37(1):

A licensee is incapacitated for the purposes of this Act if, by reason of physical or mental illness, other infirmity or addiction to or excessive use of alcohol or drugs, he or she is incapable of meeting any of his or her obligations as a licensee.

Applicants do not need to disclose their diagnosis, prognosis, or the details of their illness, infirmity, or addiction in their application or medical letter.

The Law Society requires the following information from the applicant's medical practitioner:

- Confirmation that the applicant has a physical or mental illness, other infirmity, or addiction to drugs or alcohol.
- The date upon which the applicant became incapacitated.
- Information about the applicant's restrictions and limitations (arising from the licensee's physical or mental illness, other infirmity, or addiction, which the medical practitioner need not disclose) that impact their ability to fulfill their obligations as a licensee.
- An explanation of the connection between the applicant's restrictions/limitations and their capability/incapability of meeting **any** of their obligations as a lawyer or paralegal.
- In the case where the application for exemption has been submitted many months after the commencement of the incapacitation, the medical practitioner should also explain the impact, if any, of the incapacity on the licensee's ability to submit the application sooner.

Please see sample medical letter on page 2.

Sample Medical Letter

The Law Society requires the following information from a medical practitioner when considering applications for exemption on the basis of incapacity:

[DATE]

To: LAW SOCIETY OF ONTARIO

Re: [PATIENT NAME] – Application to the Law Society of Ontario for an exemption from paying annual fees and filing annual reports on the basis of incapacity.

I am the treating **[physician/psychologist/social worker/etc.]** for **[PATIENT NAME]**.

I have read section 37 of the *Law Society Act*, which states:

37 (1) A licensee is incapacitated for the purposes of this Act if, by reason of physical or mental illness, other infirmity or addiction to or excessive use of alcohol or drugs, he or she is incapable of meeting any of his or her obligations as a licensee.

On **[date]**, **[PATIENT NAME]** was diagnosed with a(n) **[choose one or more, as applicable: physical or mental illness, other infirmity, or addiction]** that causes the following restrictions: **[fill in relevant restrictions that relate to the practice of law or provision of legal services]**. As a result of these restrictions, **[PATIENT NAME]** is unable to meet any of their obligations as a **[lawyer/paralegal]**.

[PATIENT NAME] has been incapacitated on an on-going basis since **[date]**.

[Name of Medical Practitioner]

[Professional Number]

Please note the Law Society does not require a diagnosis, prognosis, or specifics of treatment.

Applicants may wish to provide this sheet to their medical practitioner to assist with the completion of their medical letter.