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## **LICENSING**

## **PART I**

### **CLASSES OF LICENCE**

#### **LICENCE TO PRACTISE LAW**

##### **Classes of licence**

1. (1) There shall be the following classes of licence to practise law in Ontario as a barrister and solicitor:
  1. Class L1.
  2. Class L2.
  3. Class L3.

##### **Transition**

##### **Interpretation**

- (2) In subsections (3) and (4),

“member” means a member as defined in section 1 of the Act as it read immediately before May 1, 2007;

“temporary member” means a person admitted as a temporary member of the Society under section 28.1 of the Act as it read immediately before May 1, 2007.

##### **Member other than temporary member**

- (3) Every person who is a member, other than a temporary member, immediately before May 1, 2007 is deemed, on May 1, 2007, to hold a Class L1 licence.

##### **Temporary member**

- (4) Every person who is a temporary member immediately before May 1, 2007 is deemed, on May 1, 2007, to hold a Class L2 licence.

##### **Scope of activities**

### **Class L1**

2. (1) Subject to any terms, conditions, limitations or restrictions imposed on the class of licence or on the licensee and subject to any order made under the Act, a licensee who holds a Class L1 licence is entitled to practise law in Ontario as a barrister and solicitor.

### **Class L2**

- (2) Subject to any terms, conditions, limitations or restrictions imposed on the class of licence or on the licensee and subject to any order made under the Act, a licensee who holds a Class L2 licence is entitled to practise law in Ontario as a barrister and solicitor in the employ of the Attorney General for Ontario or, if appointed under the *Crown Attorneys Act*, as a Crown Attorney or as an assistant Crown Attorney.

### **Class L3**

- (3) Subject to any terms, conditions, limitations or restrictions imposed on the class of licence or on the licensee and subject to any order made under the Act, a licensee who holds a Class L3 licence is authorized to do any of the following:

1. Give a person advice with respect to,
  - i. the laws of Quebec,
  - ii. the laws of Canada, and
  - iii. public international law.
2. Select, draft, complete or revise a document for use in a proceeding with respect to matters concerning the laws of Canada.
3. Represent a person in a proceeding before an adjudicative body with respect to matters concerning the laws of Canada.

### **Terms, etc.: Class L1 licence**

#### **Application of section**

3. (1) This section applies to licensees who hold a Class L1 licence.

#### **Over 65 years**

- (2) A licensee who is granted an exemption from payment of the annual fee by meeting the requirements described in subsection 4 (1) of By-Law 5 [Annual Fee] is subject to the following terms, conditions, limitations and restrictions:

1. The licensee is restricted to practising law in Ontario as a barrister and solicitor on a *pro bono* basis through,
  - i. a program registered with Pro Bono Law Ontario, or
  - ii. a clinic, within the meaning of the *Legal Aid Services Act, 1998*, funded by Legal Aid Ontario, that is approved by Pro Bono Law Ontario.

### **Incapacity**

(3) A licensee who is granted an exemption from payment of the annual fee by meeting the requirements described in subsection 4 (2) of By-Law 5 [Annual Fee] is subject to the following terms, conditions, limitations and restrictions:

1. The licensee is prohibited from practising law in Ontario as a barrister and solicitor.

### **Exempt from payment of insurance premium levies**

(4) A licensee who is required to pay the annual fee, or who would be required to pay the annual fee but for being granted an exemption from payment of the annual fee on the grounds that he or she has been entitled to practise law in Ontario as a barrister and solicitor for a period of fifty years, and who is exempt from the payment of insurance premium levies is subject to the following terms, conditions, limitations and restrictions:

1. The licensee is prohibited from practising law in Ontario as a barrister and solicitor through a sole proprietorship, a partnership, a professional corporation or any arrangement that permits two or more licensees to share all or certain common expenses but to practise law as independent practitioners other than on a *pro bono* basis,
  - i. for or on behalf of non-profit organizations, or
  - ii. through a program registered with Pro Bono Law Ontario.

### **Authorized to practise law outside Ontario**

(5) A licensee who is authorized to practise law in a province or territory of Canada outside Ontario is subject to any term, condition, limitation or restriction imposed on the licensee's authority to practise law in that province or territory.

### **Duration of terms, etc.**

(6) A term, condition, limitation or restriction imposed on a licensee under this section remains in effect until it is cancelled under section 4.

**Cancellation of terms, etc.**

4. (1) A licensee who is subject to terms, conditions, limitations and restrictions under section 3 may apply to the Society to have the terms, conditions, limitations and restrictions cancelled and the Society may,
- (a) cancel the terms, conditions, limitations and restrictions;
  - (b) require the licensee to complete education and obtain experience that the Society determines is necessary to ensure that the licensee has the skills necessary to practise law in Ontario as a barrister and solicitor without any terms, conditions, limitations and restrictions, and, if the licensee completes the education and obtains the experience, cancel the terms, conditions, limitations and restrictions; or
  - (c) cancel the terms, conditions, limitations and restrictions subject to the following terms, conditions, limitations and restrictions:
    - (i) the licensee must practise law only,
      - (A) as an employee of a person approved by the Society,
      - (B) as an employee or partner, and under the supervision, of a licensee who holds a Class L1 licence who is approved by the Society, or
      - (C) under the supervision of a licensee who holds a Class L1 licence who is approved by the Society,
    - (ii) the licensee must, within a time specified by the Society, complete education and obtain experience that the Society determines is necessary to ensure that the licensee has the skills necessary to practise law in Ontario as a barrister and solicitor without any terms, conditions, limitations and restrictions.

**Breach of terms, etc. imposed under subs. (1)**

(2) If a licensee fails to comply with a term, condition, limitation or restriction imposed on the licensee under clause (1) (c), the cancellation of terms, conditions, limitations and restrictions under clause (1) (c) is deemed thereafter to be void.

**Information to be provided by licensee**

(3) A licensee shall provide to the Society all documents and information, as may be required by the Society, relating to this section.

### **Terms, etc.: Class L3 licence**

4.1 A licensee who holds a Class L3 licence is subject to the following terms, conditions, limitations and restrictions:

1. The licensee is subject to any term, condition, limitation or restriction imposed on the licensee's authority to practise law in Quebec.
2. The licensee is prohibited from practising law in Ontario as a barrister and solicitor if the licensee is prohibited from practising law in Quebec.
3. The licensee is prohibited from practising law in Ontario as a barrister and solicitor if the licensee does not maintain the full mandatory professional liability insurance coverage required by the Barreau du Québec.

## LICENCE TO PROVIDE LEGAL SERVICES

### **Classes of licence**

5. There shall be the following classes of licence to provide legal services in Ontario:

1. Class P1.

### **Scope of activities**

#### **Class P1**

### **Interpretation**

6. (1) In this section, unless the context requires otherwise,

“amendment day” means the day sections 316 and 317.1 of An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts come into force;

“claim” means a claim for statutory accident benefits within the meaning of the *Insurance Act*, excluding a claim of an individual who has or appears to have a catastrophic impairment within the meaning of the Statutory Accident Benefits Schedule;

“party” means a party to a proceeding;

“proceeding” means a proceeding or intended proceeding,

- (a) in the Small Claims Court,
- (b) in the Ontario Court of Justice under the *Provincial Offences Act*,
- (c) in a summary conviction court under the Criminal Code (Canada),
  - (i) in respect of an offence where under the Criminal Code (Canada) immediately before the amendment day an accused was permitted to appear or examine or cross-examine witnesses by agent, or
  - (ii) in respect of an offence under subsection 320.13 (1), subsection 320.16 (1), section 320.17 or subsection 320.18 (1) of the Criminal Code (Canada),
- (d) before a tribunal established under an Act of the Legislature of Ontario or under an Act of Parliament, or
- (e) before a person dealing with a claim or a matter related to a claim, including a mediator, a person performing an evaluation, an arbitrator or the Director acting under section 280, 280.1, 282 or 283 or 284, respectively, of the *Insurance Act*;

“Statutory Accident Benefits Schedule” means the Statutory Accident Benefits Schedule within the meaning of the *Insurance Act*.

### **Activities authorized**

(2) Subject to any terms, conditions, limitations or restrictions imposed on the class of licence or on the licensee and subject to any order made under the Act, a licensee who holds a Class P1 licence is authorized to do any of the following:

1. Give a party advice on his, her or its legal interests, rights or responsibilities with respect to a proceeding or the subject matter of a proceeding.
2. Represent a party before,
  - i. in the case of a proceeding in the Small Claims Court, before the Small Claims Court,
  - ii. in the case of a proceeding under the *Provincial Offences Act*, before the Ontario Court of Justice,

- iii in the case of a proceeding under the *Criminal Code*, before a summary conviction court,
  - iv. in the case of a proceeding before a tribunal established under an Act of the Legislature of Ontario or under an Act of Parliament, before the tribunal, and
  - v. in the case of a proceeding before a person dealing with a claim or a matter related to a claim, before the person.
3. Anything mentioned in subsection 1 (7) of the Act, provided the activity is required by the rules of procedure governing a proceeding.
  4. Select, draft, complete or revise, or assist in the selection, drafting, completion or revision of, a document for use in a proceeding.
  5. Negotiate a party's legal interests, rights or responsibilities with respect to a proceeding or the subject matter of a proceeding.
  6. Select, draft, complete or revise, or assist in the selection, drafting, completion or revision of, a document that affects a party's legal interests, rights or responsibilities with respect to a proceeding or the subject matter of a proceeding.

### **Terms, etc.**

#### **Over 65 years**

6.1 (1) A licensee who is granted an exemption from payment of the annual fee by meeting the requirements described in subsection 4 (1.1) of By-Law 5 [Annual Fee] is prohibited from providing legal services in Ontario.

#### **Incapacity**

(2) A licensee who is granted an exemption from payment of the annual fee by meeting the requirements described in subsection 4 (2) of By-Law 5 [Annual Fee] is prohibited from providing legal services in Ontario.

#### **Duration of terms, etc.**

(3) A term, condition, limitation or restriction imposed on a licensee under this section remains in effect until it is cancelled under section 6.2.

#### **Cancellation of terms, etc.**



6.2 A licensee who is subject to a term, condition, limitation or restriction under section 6.1 may apply to the Society to have the term, condition, limitation or restriction cancelled and the Society may cancel the term, condition, limitation or restriction.

## PART II

### ISSUANCE OF LICENCE

#### INTERPRETATION

##### **Interpretation**

7. In this Part,

“accredited law school” means a law school in Canada that is accredited by the Society;

“accredited program” means a legal services program in Ontario approved by the Minister of Training, Colleges and Universities that is accredited by the Society;

“integrated law degree” means a bachelor of laws or juris doctor degree the conferral of which requires the successful completion of instruction and training in the practical skills and task competencies that the Society has determined are necessary for a Class L1 licence which instruction and training have been approved by the Society in advance of their delivery;

“law practice program” means a program approved by the Society in advance of its delivery that consists of a course component and a work placement component that provide instruction and training in the practical skills and task competencies that the Society has determined are necessary for a Class L1 licence;

“licensing cycle” means,

- (a) for a person registering with the Society to be eligible to take a licensing examination or to enter into experiential training that is a requirement for a Class L1 licence, a period running from May 1 in a year to April 30 in the following year; and
- (b) for a person registering with the Society to be eligible to take a licensing examination that is a requirement for a Class P1 licence, a period running from June 1 in a year to May 31 in the following year.

## GENERAL REQUIREMENTS

### **Requirements for issuance of any licence**

8. (1) The following are the requirements for the issuance of any licence under the Act:
  1. The applicant must submit to the Society a completed application, for the class of licence for which application is made, in a form provided by the Society.
  2. The applicant must pay the applicable fees, including the applicable application fee.
  3. The applicant must be of good character.
  4. The applicant must take the applicable oath.
  5. The applicant must provide to the Society all documents and information, as may be required by the Society, relating to any licensing requirement.

### **Time for submitting application**

(1.1) An application for a licence shall be submitted contemporaneously with the applicant's registration form under section 18.

### **Submitting another application after one is deemed abandoned**

(1.2) If an application for a licence is deemed to have been abandoned by the applicant under clause (4) (b), another application for a licence may not be submitted until after one year after the date on which the previous application was deemed to have been abandoned and may only be submitted if a material change in circumstances is demonstrated to the Society.

### **Submitting another application after licence surrendered in certain circumstances**

(1.3) A licensee, who applied to surrender his or her licence while a subject of an audit, investigation, search or seizure by the Society or a party to a proceeding under Part II of the Act and whose application was accepted by the Society pursuant to subsection 26 (3) of this By-Law, may not submit a fresh application for a licence until after,

- (a) five years after the date on which the Society accepted his or her application to surrender his or her previous licence;
- (b) payment of all costs awarded to the Society against the licensee under the Act;  
and

- (c) payment to the Society for the Compensation Fund an amount equal to the total amount of grants made from the Fund as a result of dishonesty on the part of the licensee.

### **Misrepresentations**

(2) An applicant who makes any false or misleading representation or declaration on or in connection with an application for a licence, by commission or omission, is deemed thereafter not to meet, and not to have met, the requirements for the issuance of any licence under the Act.

### **Documents and information re good character requirement**

- (3) An applicant shall provide to the Society,
  - (a) at the time she or he submits her or his completed application, all documents and information specified by the Society on the application form relating to the requirement that the applicant be of good character; and
  - (b) by the time specified by the Society, all additional documents and information specified by the Society relating to the requirement that the applicant be of good character.

### **Failure to do something: abandonment of application**

- (4) An applicant's application for a licence is deemed to have been abandoned by the applicant if the applicant,
  - (a) fails to do anything required to be done under subsection (3), under paragraph 2 of subsection 9 (1), under paragraph 2 of subsection 13 (1), under subclause 13 (2) (b) (iii), subclause 13 (2) (c) (iii) or subclause 13 (2) (d) (iii) or under subsection 15 (2.2) within the time specified for the thing to be done; or
  - (b) takes the same licensing examination three, or if entitled four, times and fails to successfully complete the licensing examination.

## LICENCE TO PRACTISE LAW

### **Requirements for issuance of Class L1 licence**

- 9. (1) The following are the requirements for the issuance of a Class L1 licence:
  - 1. The applicant must have one of the following:

- i. A bachelor of laws or juris doctor degree from a law school in Canada that was, at the time the applicant graduated from the law school, an accredited law school.
  - ii. A certificate of qualification issued by the National Committee on Accreditation appointed by the Federation of Law Societies of Canada and the Council of Law Deans.
2. The applicant must have successfully completed the applicable licensing examination or examinations set by the Society by not later than two years after the end of the licensing cycle into which the applicant was registered.
3. The applicant other than the applicant described in paragraph 4 must have,
  - i. experiential training by successfully completing,
    - A. service under articles of clerkship for a period of time, not to exceed ten months, as determined by the Society and all other requirements, as determined by the Society, that must be completed during the time of service under articles of clerkship, or
    - B. the law practice program, and
  - ii. if the experiential training mentioned in subparagraph i was completed more than three years prior to the application for licensing, successfully completed the additional education and obtained the additional experience that the Society determines is necessary to ensure that the applicant is familiar with current law and practice.
4. An applicant who is exempt from the requirements mentioned in paragraph 3 because of clause (3)(e) must have successfully completed a professional conduct course conducted by the Society.

### **Exemption from degree or certificate requirement**

(1.1) An applicant is exempt from the requirement mentioned in paragraph 1 of subsection (1) if,

- (a) the applicant is a dean of an accredited law school and has entered upon the second consecutive year in that position; or
- (b) the applicant is a full-time member of the faculty of an accredited law school and has entered upon the third consecutive year in that position.

### **Exemption from examination requirement**

(2) An applicant is exempt from the requirement mentioned in paragraph 2 of subsection (1) if,

- (a) the applicant,
  - (i) is authorized to practise law in a province or territory of Canada outside Ontario where the governing body of the legal profession would authorize a licensee holding a Class L1 licence to practise law in that province or territory without requiring the licensee to successfully complete an examination,
  - (ii) reviews the materials that the Society, acting reasonably, determines are necessary to ensure that the applicant is familiar with current law and practice in Ontario, and
  - (iii) certifies that he or she has reviewed and understands the materials mentioned in sub-clause (ii), in a form provided by the Society;
- (b) the applicant is a dean of an accredited law school and has entered upon the second consecutive year in that position;
- (c) the applicant is a full-time member of the faculty of an accredited law school and has entered upon the third consecutive year in that position; or
- (d) the applicant was previously licensed to practise law in Ontario as a barrister and solicitor.

### **Exemption from experiential training requirement**

(3) An applicant is exempt from the requirements mentioned in paragraph 3 of subsection (1) if,

- (a) the applicant is authorized to practise law in a province or territory of Canada outside Ontario;
- (b) the applicant is a dean of an accredited law school and has entered upon the second consecutive year in that position;
- (c) the applicant is a full-time member of the faculty of an accredited law school and has entered upon the third consecutive year in that position;

- (d) the applicant was previously licensed to practise law in Ontario as a barrister and solicitor;
- (e) the applicant has practised law in a common law jurisdiction outside Canada for a minimum of ten months and the Society reasonably believes such practice compares to the requirements in paragraph 3; or
- (f) the applicant has an integrated law degree.

### **Requirements for issuance of Class L2 licence**

10. The following are the requirements for the issuance of a Class L2 licence:

- 1. The applicant must be authorized to practise law outside Ontario
- 2. The Attorney General for Ontario must request the Society to issue the licence to the applicant.

### **Requirements for issuance of Class L3 licence**

10.0.01 The following are the requirements for the issuance of a Class L3 licence:

- 1. The applicant must be a member of the Barreau du Québec, other than a member who qualified for membership under the Entente entre le Québec et la France en matière de reconnaissance mutuelle des qualifications professionnelles.
- 2. The applicant must be authorized to practise law in Quebec.

### **Forfeiture of Class P1**

10.01. If an applicant for a Class L1 licence holds a Class P1 licence, the Class P1 licence is forfeited to the Society at the time the class L1 licence is issued.

## LICENCE TO PROVIDE LEGAL SERVICES

### **Requirement for issuance of Class P1 licence: not otherwise licensed**

10.1 It is a requirement for the issuance of a Class P1 licence that an applicant not already hold a licence to provide the legal services that a licensee who holds a Class P1 licence is authorized to provide.

### **Requirements for issuance of Class P1 licence: application received prior to November 1, 2007**

11. (1) The following are the requirements for the issuance of a Class P1 licence for an applicant who applies for the licence prior to November 1, 2007:

1. The applicant must have done any one of the following:
  - i. Provided legal services, that a licensee who holds a Class P1 licence is authorized to provide, on a full-time basis for a total of three years in the five years prior to May 1, 2007.
  - ii. Obtained education, in a legal services program in Ontario, that the Society determines is equivalent to at least nine courses in a legal services program in Ontario approved by the Minister of Training, Colleges and Universities and provided legal services, that a licensee who holds a Class P1 licence is authorized to provide, in the five years prior to May 1, 2007, that include ten instances of representing a party before the Small Claims Court, before the Ontario Court of Justice, before a summary conviction court, before a tribunal established under an Act of the Legislature of Ontario or under an Act of Parliament or before a person dealing with a claim, within the meaning of section 6, or a matter related to a claim when the Small Claims Court, the Ontario Court of Justice, the summary conviction court the tribunal or the person was hearing the merits of a proceeding.
  - iii. Graduated, within the three years prior to the application for licensing, from a legal services program in Ontario that, at the time the applicant graduated, was approved by the Minister of Training, Colleges and Universities and that included,
    - A. 18 courses, the majority of which provided instruction on legal services that a licensee who holds a Class P1 licence is authorized to provide and one of which was a course on professional responsibility and ethics, and
    - B. a field placement of a least 120 hours.
2. The applicant must have successfully completed the applicable licensing examination or examinations set by the Society.
3. The applicant must provide written confirmation from two persons, from a list of persons and in a form provided by the Society, verifying that the applicant has met the experience requirement mentioned in paragraph 1.

**Interpretation: “full-time basis”**

(2) For the purposes of this section, an applicant provides legal services on a full-time basis if the applicant provides legal services, on the average, 30 hours per week.

**Requirements for issuance of Class P1 licence: application received after October 31, 2007 and prior to July 1, 2010**

12. (1) The following are the requirements for the issuance of a Class P1 licence for an applicant who applies for the licence after October 31, 2007 and prior to July 1, 2010:

1. The applicant must have graduated, within the three years prior to the application, from a legal services program in Ontario that, at the time the applicant graduated, was approved by the Minister of Training, Colleges and Universities and that included,
  - i. 18 courses, the majority of which provided instruction on legal services that a licensee who holds a Class P1 licence is authorized to provide and one of which was a course on professional responsibility and ethics, and
  - ii. a field placement of at least 120 hours.
2. The applicant must have successfully completed the applicable licensing examination or examinations set by the Society.

**Exemption from education requirement**

(2) An applicant is exempt from the requirement mentioned in paragraph 1 of subsection (1) if,

- (a) for an aggregate of at least 3 years, the applicant has exercised the powers and performed the duties of a justice of the peace in Ontario on a full-time basis; or
- (b) the applicant was previously licensed to provide legal services in Ontario and applied for that licence prior to November 1, 2007.

**Exemption from examination requirement**

3. An applicant is exempt from the requirement mentioned in paragraph 2 of subsection (1) if the applicant was previously licensed to provide legal services in Ontario.

**Requirements for issuance of Class P1 licence: application received after June 30, 2010**



13. (1) The following are the requirements for the issuance of a Class P1 licence for an applicant who applies for the licence after June 30, 2010:

1. The applicant must have graduated from a legal services program in Ontario that was, at the time the applicant graduated from the program, an accredited program.
2. The applicant must have successfully completed the applicable licensing examination or examinations set by the Society by not later than two years after the end of the licensing cycle into which the applicant was registered.

### **Exemption from education requirement**

(2) An applicant is exempt from the requirement mentioned in paragraph 1 of subsection (1) if,

- (a) for an aggregate of at least 3 years, the applicant has exercised the powers and performed the duties of a justice of the peace in Ontario on a full-time basis; or
- (b) the applicant is mentioned in subsection (4) and,
  - (i) has provided legal services, that a licensee who holds a Class P1 licence is authorized to provide, on a full-time basis for a total of three years in the five years immediately prior to her or his application for a Class P1 licence,
  - (ii) has provided written confirmation from two persons, from a list of persons and in a form provided by the Society, verifying that the applicant meets the requirement mentioned in subclause (i), and
  - (iii) has successfully completed a professional conduct and advocacy course conducted by the Society by not later than two years after the end of the licensing cycle into which the applicant was registered;
- (c) the applicant is a member in good standing of the Human Resources Professionals Association of Ontario, the Ontario Professional Planners Institute, the Board of Canadian Registered Safety Professionals or the Appraisal Institute of Canada and,
  - (i) has been a member in good standing of the organization for a total of three years in the five years immediately prior to her or his application for a Class P1 licence,

- (ii) has carried on the profession or occupation represented by the organization, including engaging in activities related to the provision of legal services that a licensee who holds a Class P1 licence is authorized to provide, on a full-time basis for a total of three years in the five years immediately prior to her or his application for a Class P1 licence, and
  - (iii) has successfully completed a professional conduct and advocacy course conducted by the Society by not later than two years after the end of the licensing cycle into which the applicant was registered;
- (d) the applicant is registered and in good standing as a collector under the Collection Agencies Act and,
- (i) has been registered and in good standing as a collector under the Collection Agencies Act for a total of three years in the five years immediately prior to her or his application for a Class P1 licence,
  - (ii) has acted as a collector, including engaging in activities related to the provision of legal services that a licensee who holds a Class P1 licence is authorized to provide, on a full-time basis for a total of three years in the five years immediately prior to her or his application for a Class P1 licence, and
  - (iii) has successfully completed a professional conduct and advocacy course conducted by the Society by not later than two years after the end of the licensing cycle into which the applicant was registered;
- (e) the applicant was previously licensed to provide legal services in Ontario and applied for that licence prior to July 1, 2010;
- (f) for an aggregate of at least 5 years, the applicant has, on a full-time basis, exercised the powers and performed the duties of a member of one or more of the following entities:
- (i) Agriculture, Food and Rural Affairs Appeal Tribunal,
  - (ii) Animal Care Review Board,
  - (iii) Assessment Review Board,
  - (iv) Board of negotiation continued under subsection 27 (1) of the *Expropriations Act*,

- (v) Board of negotiation established under subsection 172 (5) of the *Environmental Protection Act*,
- (vi) Building Code Commission,
- (vii) Child and Family Services Review Board,
- (viii) Chiropody Review Committee,
- (ix) Consent and Capacity Board,
- (x) Conservation Review Board,
- (xi) Criminal Injuries Compensation Board,
- (xii) Crown Employees Grievance Settlement Board,
- (xiii) Custody Review Board,
- (xiv) Dentistry Review Committee,
- (xv) Environmental Review Tribunal,
- (xvi) Fire Safety Commission,
- (xvii) Health Professions Appeal and Review Board,
- (xviii) Health Services Appeal and Review Board,
- (xix) Human Rights Tribunal of Ontario,
- (xx) Landlord and Tenant Board,
- (xxi) Licence Appeal Tribunal,
- (xxii) Medical Eligibility Committee formed under subsection 7 (1) of the *Health Insurance Act*,
- (xxiii) Normal Farm Practices Protection Board,
- (xxiv) Ontario Civilian Police Commission,
- (xxv) Ontario Labour Relations Board,

- (xxvi) Ontario Municipal Board,
  - (xxvii) Ontario Parole Board,
  - (xxviii) Ontario Review Board,
  - (xxix) Ontario Special Education Tribunal (English),
  - (xxx) Ontario Special Education Tribunal (French),
  - (xxxi) Optometry Review Committee,
  - (xxxii) Pay Equity Hearings Tribunal,
  - (xxxiii) Physician Payment Review Board,
  - (xxxiv) Public Service Grievance Board,
  - (xxxv) Social Benefits Tribunal,
  - (xxxvi) Workplace Safety and Insurance Appeals Tribunal; or
- (g) for an aggregate of at least 5 years, the applicant has, on a full-time basis, exercised the powers and performed the duties of an Appeals Resolution Officer at the Workplace Safety and Insurance Board.

**Interpretation: “full-time basis”**

(2.1) For the purposes of subsection (2), except clauses (2) (f) and (g), engaging in an activity or acting in a particular capacity on a full-time basis means engaging in an activity or acting in a particular capacity, on the average, 30 hours per week.

**Exemption from examination requirement**

(3) An applicant is exempt from the requirement mentioned in paragraph 2 of subsection (1) if the applicant was previously licensed to provide legal services in Ontario.

**Application of clause (2) (b)**

(4) Clause (2) (b) applies to an applicant who engages in any one of the following activities and who, on November 1, 2007, was engaging in any one of the following activities:

1. Providing legal services without a licence under paragraph 1 of subsection 30 (1).
2. Providing legal services without a licence under paragraph 2 of subsection 30 (1) as an individual employed by a clinic, within the meaning of the Legal Aid Services Act, 1998, that is funded by Legal Aid Ontario.
3. Providing legal services without a licence under paragraph 4 of subsection 30 (1).
4. Providing legal services without a licence under section 31.
5. Providing legal services without a licence under section 32.

#### **Application of clauses 2 (b), (c) and (d)**

(5) Clauses 2 (b), (c) and (d) apply only to an applicant who submits to the Society a completed application for a Class P1 licence on or before September 30, 2011.

### LICENSING EXAMINATIONS

#### **General requirements**

14. (1) A person who meets the following requirements is entitled to take a licensing examination set by the Society:
  1. The person must be registered with the Society.
    - 1.1 The person must not have taken the same licensing examination more than twice in the licensing cycle into which the person was registered.
  2. The person must submit to the Society a completed examination application, for the examination that the person wishes to take, in a form provided by the Society, prior to the day of the examination, by the time specified by the Society.
  3. The person must pay the applicable examination fee, prior to the day of the examination, by the time specified by the Society.
  4. The person must provide to the Society all documents and information, as may be required by the Society, relating to any requirement for taking an examination.
  5. The person must not be ineligible to take the examination under this By-Law.

#### **Entitlement to take licensing examination if same taken more than twice**

(1.1) A person who meets the requirements set out in paragraphs 1, 2, 3, 4 and 5 of subsection (1) but does not meet the requirement set out in paragraph 1.1 of subsection (1) is entitled to take a licensing examination set by the Society if the person,

- (a) has not taken the same licensing examination more than three times in the licensing cycle into which the person was registered; and
- (b) satisfies the Society that there exist extraordinary circumstances that would affect or could be expected to affect the person's ability to successfully complete the licensing examination.

### **Misrepresentations**

(2) A person who makes any false or misleading representation or declaration on or in connection with an examination application, by commission or omission, is deemed thereafter not to meet, and not to have met, the requirements for taking a licensing examination and, subject to subsection (3), the successful completion of any licensing examination taken by the person is deemed thereafter to be void.

### **Deferred voiding of examination result**

(3) Where the false or misleading representation mentioned in subsection (2) relates to meeting the requirement of paragraph 1 of subsection 9 (1) or paragraph 1 of subsection 13 (1) and was made by the person in good faith, the person is deemed not to meet, and not to have met, the requirements for taking a licensing examination, and the successful completion of any licensing examination taken by the person is deemed to be void, if the person does not meet the requirement of paragraph 1 of subsection 9 (1) or paragraph 1 of subsection 13 (1), as the case may be, by the end of the licensing cycle in which the person registered with the Society to be eligible to take the applicable licensing examination.

### **Licensing examination for Class L1 licence**

15. (1) A person who meets the requirement of paragraph 1 of subsection 9 (1) is entitled to take a licensing examination that is a requirement for the issuance of a Class L1 licence.

### **Licensing examination for Class P1 licence**

(2) A person is entitled to take a licensing examination that is a requirement for a Class P1 licence if,

- (a) in the case of an applicant who applies for a Class P1 licence prior to November 1, 2007, the person meets the requirements of paragraphs 1 and 3 of subsection 11 (1);

- (b) in the case of an applicant who applies for a Class P1 after October 31, 2007 and prior to July 1, 2010, the person meets the requirement of paragraph 1 of section 12; and
- (c) in the case of an applicant who applies for a Class P1 licence after June 30, 2010,
  - (i) the person meets the requirement of paragraph 1 of subsection 13 (1), or
  - (ii) the person is exempt from the requirement of paragraph 1 of subsection 13 (1) under clause 13 (2) (b), 13 (2) (c) or 13 (2) (d).

### **Licensing examination for Class P1 licence: permission to take examination**

(2.1) Despite subclause (2) (c) (ii), an applicant mentioned in that subclause is not entitled to take a licensing examination that is a requirement for a Class P1 licence until after she or he has provided to the Society all documents and information, as may be required by the Society, relating to the requirement that an applicant for a Class P1 licence be of good character and the Society has notified the applicant that she or he is permitted to take the licensing examination.

### **Time requirement for successfully completing licensing examination**

(2.2) Despite paragraph 2 of subsection 13 (1), an applicant who is permitted under subsection (2.1) to take a licensing examination that is a requirement for a Class P1 licence shall successfully complete the licensing examination by not later than the later of,

- (a) two years after the end of the licensing cycle into which the applicant was registered; and
- (b) 12 months after the date on which the Society notifies the applicant that she or he is permitted to take the licensing examination.

### **Failing licensing examination**

(3) A person who qualified to take a licensing examination that is a requirement for a Class P1 licence by meeting the requirement of subparagraph i or ii of paragraph 1 of subsection 11 (1) and failed the examination on three occasions may no longer qualify to take the examination by meeting the requirement of subparagraph i or ii of paragraph 1 of subsection 11 (1).

## EXPERIENTIAL TRAINING

### Requirements

16. A person who meets the following requirements is entitled to enter into experiential training through service under articles of clerkship or the law practice program:
1. The person must be registered with the Society.
  2. The person must meet the requirement of paragraph 1 of subsection 9 (1).
  3. The person must provide to the Society all documents and information, as may be required by the Society, relating to any requirement for entering into service under articles of clerkship or the law practice program.
  4. The person must pay the applicable fees by the time specified by the Society.

### Student

17. (1) A person who has entered into service under articles of clerkship or the law practice program is a student.

### Application of Act, *etc.* to students

- (2) The following apply, with necessary modifications, to a student:
1. The following sections of the Act:
    - i. Sections 33 to 40.
    - ii. Section 45.
    - iii. Section 49.3.
    - iv. Sections 49.8 to 49.13.
    - v. Sections 49.20 to 49.43.
  2. Ontario Regulation 167/07, made under the Act.
  3. Sections 2 and 3 of By-Law 8 [Reporting and Filing Requirements].
  4. Parts I, II, III and VI of By-Law 11 [Regulation of Conduct, Capacity and Professional Competence].



5. The rules of practice and procedure.

## PROFESSIONAL CONDUCT AND ADVOCACY COURSE

### Requirements

17.1 (1) A person who meets the following requirements is entitled to take the professional conduct and advocacy course conducted by the Society the successful completion of which is a requirement for an exemption under clause 13 (2) (b), (c) or (d) from the requirement mentioned in paragraph 1 of subsection 13 (1):

1. The person must be registered with the Society.
2. The person must pay the applicable fees by the time specified by the Society.
3. The person must provide to the Society all documents and information, as may be required by the Society, relating to the taking of the course by the time specified by the Society.

## REGISTRATION

### General requirements

18. (1) A person who meets the following requirements is entitled to be registered with the Society:
  1. The person must submit to the Society a completed registration form, as provided by the Society.
  2. The person must pay the applicable registration fee.
  3. The person must provide to the Society all documents and information, as may be required by the Society, relating to any registration requirement.

### Registration after application for licence deemed abandoned

(1.1) Despite subsection (1), a person whose registration is cancelled because the person's application for a licence is deemed to have been abandoned by the person under clause 8 (4) (b) is not entitled to be registered with the Society again until the time when the person may submit another application for a licence under subsection 8 (1.2).

## **Misrepresentations**

(2) A person who makes any false or misleading representation or declaration on or in connection with registration, by commission or omission, is deemed thereafter not to meet, and not to have met, the requirements for registration, the person's registration is deemed thereafter to be void, the successful completion of any licensing examination taken by the person is deemed thereafter to be void, the successful completion of any professional conduct course conducted by the Society taken by the person is deemed thereafter to be void and any service under articles of clerkship is deemed thereafter to be void.

## **Registration into licensing cycle**

19. A person who registers with the Society shall be registered into a specific licensing cycle.

## **Cancellation of registration**

19.1 A person's registration with the Society is cancelled if the person's application for a licence is deemed to have been abandoned by the person under subsection 8 (4).

## **Availability of name of registrant to public**

20. The Society may make available for public inspection the names of its registrants at a given point in time.

## **OATH**

### **Required oath: licence to practise law in Ontario as a barrister and solicitor**

21. (1) The required oath for an applicant for the issuance of a licence to practise law in Ontario as a barrister and solicitor is as follows:

I accept the honour and privilege, duty and responsibility of practising law as a barrister and solicitor in the Province of Ontario. I shall protect and defend the rights and interests of such persons as may employ me. I shall conduct all cases faithfully and to the best of my ability. I shall neglect no one's interest and shall faithfully serve and diligently represent the best interests of my client. I shall not refuse causes of complaint reasonably founded, nor shall I promote suits upon frivolous pretences. I shall not pervert the law to favour or prejudice any one, but in all things I shall conduct myself honestly and with integrity and civility. I shall seek to ensure access to justice and access to legal services. I shall seek to improve the administration of justice. I shall champion the rule of law and safeguard the rights and freedoms of all persons. I shall

strictly observe and uphold the ethical standards that govern my profession. All this I do swear or affirm to observe and perform to the best of my knowledge and ability.

**Required oath: licence to provide legal services in Ontario**

(2) The required oath for an applicant for the issuance of a licence to provide legal services in Ontario is as follows:

I accept the honour and privilege, duty and responsibility of providing legal services as a paralegal in the Province of Ontario. I shall protect and defend the rights and interests of such persons as may employ me. I shall conduct all cases faithfully and to the best of my ability. I shall neglect no one's interest and shall faithfully serve and diligently represent the best interests of my client. I shall not refuse causes of complaint reasonably founded, nor shall I promote suits upon frivolous pretences. I shall not pervert the law to favour or prejudice any one, but in all things I shall conduct myself honestly and with integrity and civility. I shall seek to ensure access to justice and access to legal services. I shall seek to improve the administration of justice. I shall champion the rule of law and safeguard the rights and freedoms of all persons. I shall strictly observe and uphold the ethical standards that govern my profession. All this I do swear or affirm to observe and perform to the best of my knowledge and ability.

**Optional oath: oath of allegiance**

22. An applicant for the issuance of a licence to practise law in Ontario as a barrister and solicitor or a licence to provide legal services in Ontario may take the following oath:

I swear or affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (or the reigning sovereign for the time being), Her heirs and successors according to law.

**PART III**

**SURRENDER OF LICENCE**

**Procedure for surrendering licence**

23. (1) Subject to section 25, a licensee who wishes to surrender his or her licence shall apply in writing to the Society to do so.

**Statutory declaration or affidavit**

- (2) An application under subsection (1) shall be accompanied by a statutory declaration or, if the applicant is not a resident of Canada, an affidavit, setting forth,
- (a) the applicant's age, the date on which the applicant was issued his or her licence, the applicant's place of residence, the applicant's business address, if any, the number of years, if any, that the applicant has practised law in Ontario or provided legal services in Ontario and the reasons why the applicant wishes to surrender his or her licence;
  - (b) that all money or property held in trust for which the applicant was responsible has been accounted for and paid over or distributed to the persons entitled thereto, or, alternatively, that the applicant has not been responsible for any money or property held in trust;
  - (c) that all clients' matters have been completed and disposed of or that arrangements have been made to the clients' satisfaction to have their papers returned to them or turned over to some other appropriate licensee or, alternatively, that the applicant,
    - (i) has not practised law in Ontario as a barrister and solicitor or has not provided legal services in Ontario, or
    - (ii) has practised law in Ontario as a barrister and solicitor or has provided legal services in Ontario, but only in circumstances in which he or she is permitted under the Act to do so without a licence;
  - (d) that the applicant is not aware of any claim against him or her in his or her professional capacity, or in respect of his or her practice of law in Ontario or provision of legal services in Ontario; and
  - (e) such additional information or explanation as may be relevant by way of amplification of the foregoing.

### **Agreed statement of facts**

(3) An application under subsection (1) that is submitted by a licensee who is the subject of an audit, investigation, search or seizure by the Society or who is a party to a proceeding under Part II of the Act shall, in addition to the statutory declaration or affidavit mentioned in subsection (2), be accompanied by a statement of facts that was agreed to by the Society specifically for the purposes of an application under subsection (1) and that was agreed to by the Society not more than thirty days prior to the day on which the application is submitted under subsection (1).

### **Publication of notice of intention to surrender licence**

24. (1) Subject to subsection (2), a licensee who wishes to surrender his or her licence shall, at least thirty days before the day on which he or she applies to the Society under subsection 23 (1), publish in the Ontario Reports a notice of intention to surrender a licence.

#### **Exemption from requirement to publish notice**

(2) Upon the written application of the licensee, the Society may exempt the licensee from the requirement to publish a notice of intention to surrender a licence.

#### **Notice of Intention to Surrender Licence**

(3) The notice of intention to surrender a licence which the licensee is required to publish under subsection (1) shall be in Form 4A [Notice of Intention to Surrender Licence].

#### **Proof of publication of notice of intention to surrender licence**

(4) Unless the licensee is exempted from the requirement to publish a notice of intention to surrender a licence, an application under subsection 23 (1) shall be accompanied by proof of publication, in accordance with subsection (1), of a notice of intention to surrender a licence.

#### **Application by licensee's representative**

25. (1) The Society may permit any person on behalf of the licensee to make an application under subsection 23 (1) if the Society is satisfied that the licensee for any reason is unable to make the application himself or herself.

#### **Application of subss. 23 (2) and (3) and ss. 24, 26 and 27**

(2) Subsections 23 (2) and (3) and sections 24, 26 and 27 apply, with necessary modifications, to an application made under subsection 23 (1) by a person on behalf of the licensee.

#### **Society to consider application**

26. (1) The Society shall consider every application made under subsection 23 (1) in respect of which the requirements set out in subsections 23 (2), 23 (3) and 24 (4) have been complied with, and the Society may consider an application made under subsection 23 (1) in respect of which any or all of the requirements set out in subsection 23 (2) and 24 (4) have not been complied with, and,

(a) Subject to subsection (3), the Society shall accept an application if it is satisfied,

- (i) that all money or property held in trust for which the applicant was responsible have been accounted for and paid over or distributed to the persons entitled thereto, or, alternatively, that the applicant has not been responsible for any money or property held in trust,
  - (ii) that all clients' matters have been completed and disposed of or that arrangements have been made to the clients' satisfaction to have their papers returned to them or turned over to some other appropriate licensee or, alternatively, that the applicant,
    - 1. has not practised law in Ontario as a barrister and solicitor or has not provided legal services in Ontario, or
    - 2. has practised law in Ontario as a barrister and solicitor or has provided legal services in Ontario, but only in circumstances in which he or she is permitted under the Act to do so without a licence;
  - (iii) that there are no claims against the applicant in his or her professional capacity or in respect of his or her practice of law in Ontario or provision of legal services in Ontario,
  - (iv) that, if the applicant has practised law in Ontario, the applicant has paid all insurance premium levies which he or she is required to pay and has filed all certificates, reports and other documents which he or she is required to file under any policy for indemnity for professional liability;
  - (v) that the applicant is no longer the subject of or has fully complied with all terms and conditions of any order made under Part II of the Act, any order made under Part II of the Act as it was before May 1, 2007, any order, other than an order cancelling membership, made under section 34 of the Act as that section read before February 1, 1999 and any order made under section 35 or 36 of the Act as those sections read before February 1, 1999; and
  - (vi) that the applicant if not exempted from the requirement to publish a notice of intention to surrender a licence has complied with subsection 24(1); or
- (b) subject to subsection (2), the Society shall reject an application if it is not satisfied of a matter mentioned in clause (a).

### **Acceptance of application**

(2) Subject to subsection (3), the Society may accept an application if it is not satisfied of the matter mentioned in subclause (1) (a) (iv) or (v) but is satisfied of the matters mentioned in subclauses (1) (a) (i), (ii), (iii) and (vi).

#### **Acceptance of application in certain cases**

(3) The Society shall only accept an application that is submitted by a licensee who is the subject of an audit, investigation, search or seizure by the Society or who is a party to a proceeding under Part II of the Act if it determines that it would not be contrary to the public interest to do so.

#### **Documents, explanations, releases, etc.**

(4) For the purposes of assisting the Society to consider the application, the applicant shall,

- (a) provide to the Society such documents and explanations as the Society may require; and
- (b) provide to the insurer of the Society's insurance plan such releases, directions and consent as may be required to permit the insurer to make available to the Society information relating to the payment by the applicant of insurance premium levies and the filing by the applicant of any certificate, report or other document required under any policy for indemnity for professional liability.

#### **Rejection of application**

27. If the Society rejects an application under clause 26 (1) (b), the Society may specify terms and conditions to be complied with by the applicant as a condition of his or her application being accepted, and if the applicant complies with the terms and conditions to the satisfaction of the Society, the Society shall accept the application.

### **PART IV**

#### **NOT PRACTISING LAW OR PROVIDING LEGAL SERVICES**

##### **Not practising law or providing legal services**

28. For the purposes of this Act, the following persons shall be deemed not to be practising law or providing legal services:

##### **Aboriginal Courtwork Program**

1. A person who delivers courtworker services to Aboriginal people through an Aboriginal delivery agency that has contracted with the Government of Ontario or the Government of Canada to deliver courtworker services as part of the Aboriginal Courtwork Program.

### **Other profession or occupation**

2. A person whose profession or occupation is not the provision of legal services or the practice of law, who acts in the normal course of carrying on that profession or occupation, excluding representing a person in a proceeding before an adjudicative body.

### **Committee of adjustment**

3. A person whose profession or occupation is not the provision of legal services or the practice of law, who, on behalf of another person, participates in hearings before a committee of adjustment constituted under section 44 of the Planning Act.

## **PART V**

### **PROVIDING LEGAL SERVICES WITHOUT A LICENCE**

#### **Interpretation**

29. In section 30,

“Canadian law student” means an individual who is enrolled in a degree program at a law school in Canada that is accredited by the Society;

“licensee firm” means a partnership or other association of licensees, a partnership or association mentioned in Part III of By-Law 7 [Business Entities] or a professional corporation.

“Ontario paralegal student” means an individual who is enrolled in a legal services program in Ontario approved by the Minister of Training, Colleges and Universities that is accredited by the Society.

#### **Providing Class P1 legal services without a licence**

30. The following may, without a licence, provide legal services in Ontario that a licensee who holds a Class P1 licence is authorized to provide:



### **In-house legal services provider**

1. An individual, other than a Canadian law student or an Ontario paralegal student, who,
  - i. is employed by a single employer that is not a licensee or a licensee firm,
  - ii. provides the legal services only for and on behalf of the employer, and
  - iii. does not provide any legal services to any person other than the employer.

### **Legal clinics**

2. An individual, other than a Canadian law student or an Ontario paralegal student, who,
  - i. is employed by a clinic, within the meaning of the *Legal Aid Services Act, 1998*, that is funded by Legal Aid Ontario,
  - ii. provides the legal services through the clinic to the community that the clinic serves and does not otherwise provide legal services, and
  - iii. has professional liability insurance coverage for the provision of the legal services in Ontario that is comparable in coverage and limits to professional liability insurance that is required of a licensee who holds a Class L1 licence.

### **Not-for-profit organizations**

3. An individual who,
  - i. is employed by a not-for-profit organization that is established for the purposes of providing the legal services and is funded by the Government of Ontario, the Government of Canada or a municipal government in Ontario,
  - ii. provides the legal services through the organization to the community that the organization serves and does not otherwise provide legal services, and
  - iii. has professional liability insurance coverage for the provision of the legal services in Ontario that is comparable in coverage and limits to professional liability insurance that is required of a licensee who holds a Class L1 licence.

### **Acting for friend or neighbour**

4. An individual,
  - i. whose profession or occupation is not and does not include the provision of legal services or the practice of law,
  - ii. who provides the legal services only for and on behalf of a friend or a neighbour,
  - iii. who provides the legal services in respect of not more than three matters per year, and
  - iv. who does not expect and does not receive any compensation, including a fee, gain or reward, direct or indirect, for the provision of the legal services.

### **Acting for family**

5. An individual,
  - i. whose profession or occupation is not and does not include the provision of legal services or the practice of law,
  - ii. who provides the legal services only for and on behalf of a related person, within the meaning of the *Income Tax Act* (Canada), and
  - iii. who does not expect and does not receive any compensation, including a fee, gain or reward, direct or indirect, for the provision of the legal services.

### **Member of Provincial Parliament**

6. An individual,
  - i. whose profession or occupation is not and does not include the provision of legal services or the practice of law,
  - ii. who is a member of Provincial Parliament or his or her designated staff, and
  - iii. who provides the legal services for and on behalf of a constituent of the member.

## **Other profession or occupation**

7. An individual,
  - i. whose profession or occupation is not the provision of legal services or the practice of law,
  - ii. who provides the legal services only occasionally,
  - iii. who provides the legal services as ancillary to the carrying on of her or his profession or occupation, and
  - iv. who is a member of the the Human Resources Professionals Association of Ontario in the Certified Human Resources Professional category.

## **Interpretation**

31. (1) In this section,

“employer” has the meaning given it in the *Workplace Safety and Insurance Act, 1997*;

“public servant” has the meaning given it in the *Public Service of Ontario Act, 2006*;

“survivor” has the meaning given it in the *Workplace Safety and Insurance Act, 1997*;

“worker” has the meaning given it in the *Workplace Safety and Insurance Act, 1997*.

## **Office of the Worker Adviser**

(2) An individual who is a public servant in the service of the Office of the Worker Adviser may, without a licence, provide the following legal services through the Office of the Worker Adviser:

1. Advise a worker, who is not a member of a trade union, or the worker’s survivors of her or his legal interests, rights and responsibilities under the *Workplace Safety and Insurance Act, 1997*.
2. Act on behalf of a worker, who is not a member of a trade union, or the worker’s survivors in connection with matters and proceedings before the Workplace Safety and Insurance Board or the Workplace Safety and Insurance Appeals Tribunal or related proceedings.

## **Office of the Employer Adviser**

(3) An individual who is a public servant in the service of the Office of the Employer Adviser may, without a licence, provide the following legal services through the Office of the Employer Adviser:

1. Advise an employer of her, his or its legal interests, rights and responsibilities under the *Workplace Safety and Insurance Act, 1997* or any predecessor legislation.
2. Act on behalf of an employer in connection with matters and proceedings before the Workplace Safety and Insurance Board or the Workplace Safety and Insurance Appeals Tribunal or related proceedings.

### **Interpretation**

32. (1) In this section,

“dependants” means each of the following persons who were wholly or partly dependent upon the earnings of a member of a trade union at the time of the member’s death or who, but for the member’s incapacity due to an accident, would have been so dependent:

1. Parent, stepparent or person who stood in the role of parent to the member.
2. Sibling or half-sibling.
3. Grandparent.
4. Grandchild;

“survivor” means a spouse, child or dependant of a deceased member of a trade union;

“workplace” means,

- (a) in the case of a former member of a trade union, a workplace of the former member when he or she was a member of the trade union; and
- (b) in the case of a survivor, a workplace of the deceased member when he or she was a member of the trade union.

### **Trade unions**

(2) An employee of a trade union, a volunteer representative of a trade union or an individual designated by the Ontario Federation of Labour may, without a licence, provide the

following legal services to the union, a member of the union, a former member of the union or a survivor:

1. Give the person advice on her, his or its legal interests, rights or responsibilities in connection with a workplace issue or dispute.
2. Act on behalf of the person in connection with a workplace issue or dispute or a related proceeding before an adjudicative body other than a federal or provincial court.
3. Despite paragraph 2, act on behalf of the person in enforcing benefits payable under a collective agreement before the Small Claims Court.

33. [Revoked.]

### **Provision of legal services by student**

34. A student may, without a licence, provide legal services in Ontario under the direct supervision of a licensee who holds a Class L1 licence who is approved by the Society while,
- (a) in service under articles of clerkship; or
  - (b) completing a work placement in the law practice program.

## **PART VI**

### **PRACTISING LAW WITHOUT A LICENCE**

#### **Practising law without a licence**

35. The following may, without a licence, practise law in Ontario:
1. An individual who,
    - i. is authorized under Part VII of this By-Law to practise law in Ontario, and
    - ii. practises law in Ontario in accordance and in compliance with Part VII of this By-Law.

2. An individual,
  - i. who is authorized to practise law in a jurisdiction outside Ontario, and
  - ii. whose practice of law in Ontario is limited to practising law as counsel to a party to a commercial arbitration that is conducted in Ontario and that is “international” within the meaning prescribed by the *International Commercial Arbitration Act*.

## PART VII

### INTER-PROVINCIAL PRACTICE OF LAW

#### GENERAL

#### **Insurance and defalcation coverage**

36. (1) No person shall practise law in Ontario under this Part unless the person,
- (a) has professional liability insurance for the person’s practice of law in Ontario which is reasonably comparable in coverage and limits to professional liability insurance that is required of a licensee who holds a Class L1 licence; and
  - (b) has coverage for defalcations, other than the National Excess Plan, which specifically extends to the person’s practice of law in Ontario and is at least equivalent to the coverage available to a licensee who holds a Class L1 licence.

#### **Insurance: exemption**

- (2) A person is exempt from the requirement contained in clause (1) (a) if the person meets any of the requirements for exemption from payment of insurance premium levies specified in By-Law 6 for licensees who hold a Class L1 licence.

#### **Interpretation: “National Excess Plan”**

- (3) In clause (1) (b), “National Excess Plan” means the plan established under the Inter-Jurisdictional Practice Protocol for the purpose of compensating any person who sustains a financial loss arising from the misappropriation of money or other property by a person authorized to practise law in any province or territory of Canada while the person is engaged in the inter-provincial practice of law.

### **Interpretation: “Inter-Jurisdictional Practice Protocol”**

(4) In subsection (3), “Inter-Jurisdictional Practice Protocol” means the agreement, as amended from time to time, entered into in and between 1994 and 1996 by the Society, the Law Society of British Columbia, The Law Society of Alberta, the Law Society of Saskatchewan, The Law Society of Manitoba, the Barreau du Québec, the Chambre des Notaires du Québec, The Law Society of New Brunswick, the Law Society of Prince Edward Island, the Nova Scotia Barristers Society and the Law Society of Newfoundland in respect of the inter-provincial practice of law.

### **Application of Act, etc.**

37. (1) The Act, the regulations, the by-laws, the rules of practice and procedure and the rules of professional conduct for licensees who hold a Class L1 licence apply, with necessary modifications, to a person who practises law in Ontario under this Part, other than a person who practises law in Ontario under this Part,

- (a) as a counsel in a proceeding in the Supreme Court of Canada, the Federal Court, the Federal Court of Appeal, the Tax Court of Canada, a tribunal established under an Act of Parliament, a service tribunal within the meaning of the *National Defence Act* (Canada) or the Court Martial Appeal Court of Canada; or
- (b) as counsel to a court or tribunal mentioned in clause (a).

### **Conflict**

(2) In the event of a conflict between the provisions of this Part and the provisions of any other by-law, the provisions of this Part prevail.

### **Proof of Compliance**

38. (1) A person who is not a licensee and who purports to practise law in Ontario under this Part shall, upon the request of the Society and by not later than the day specified by the Society, provide proof to the satisfaction of the Society that he or she is in compliance with this Part.

### **Deemed failure to comply**

(2) If the person fails to provide proof to the Society by the day specified by the Society, the person shall be deemed not to be in compliance with this Part.

### **Disclosure of information**

39. (1) If a licensee is the subject of an investigation or a proceeding at the instance of the governing body of the legal profession in a province or territory of Canada outside Ontario arising from the licensee's inter-provincial practice of law in the province or territory, the Society may, at the request of the governing body, provide to it such information in respect of the licensee as is reasonable for the Society to provide in the circumstances.

### **Same**

(2) The Society may provide to the governing body of the legal profession in a province or territory of Canada outside Ontario information in respect of a licensee necessary to permit the governing body to determine if the licensee qualifies to practise law on an occasional basis, or on more than an occasional but less than a regular basis, in the province or territory.

## **PRIOR PERMISSION TO PRACTISE LAW**

### **Application of section**

40. (1) This section applies to a person if the prior permission of the Society is required for the person to practise law in Ontario under a section in this Part.

### **Application for permission**

(2) A person who requires prior permission to practise law in Ontario under a section in this Part shall apply to the Society.

### **Application form and fee**

(3) An application under subsection (2) shall be contained in a form provided by the Society and shall be accompanied by payment of an application fee, if any.

### **Documents, explanations, releases, etc.**

(4) For the purposes of assisting the Society to consider an application under subsection (2), an applicant shall provide,

- (a) to the Society, such documents and explanations as may be required; and
- (b) to a person named by the Society, such releases, directions and consent as may be required to permit the person to make available to the Society such information as may be required.

### **Application to be considered by Society**



(5) Every application under subsection (2) shall be considered by the Society.

### **Decision on application**

(5.1) After considering an application under subsection (2), the Society shall determine, in accordance with the relevant section in this Part, that the applicant may practise law in Ontario or may not practise law in Ontario and so notify the applicant in writing.

### **Terms and conditions**

(6) Permission to practise law in Ontario under a section in this Part granted to a person by the Society may include such terms and conditions as the Society considers appropriate.

### **Application to committee of benchers**

(7) If the Society refuses to permit a person to practise law in Ontario under a section in this Part or includes terms and conditions in the permission, the person may apply to a committee of benchers appointed for the purpose by Convocation for a determination of whether the person may practise law in Ontario under the section or of whether the terms and conditions are appropriate.

### **Time for application**

(8) An application under subsection (7) shall be commenced by the applicant notifying the Society in writing of the application within thirty days after the day the applicant receives notice of the Society's refusal to permit the applicant to practise law in Ontario under a section in this Part.

### **Parties**

(9) The parties to an application under subsection (7) are the applicant and the Society.

### **Quorum**

(10) An application under subsection (7) shall be considered and determined by at least three members of the committee of benchers.

### **Procedure**

(11) The rules of practice and procedure apply, with necessary modifications, to the consideration by the committee of benchers of an application under subsection (7) as if the

consideration of the application were the hearing of an application for a licence under section 27 of the Act.

### **Same**

(12) Where the rules of practice and procedure are silent with respect to a matter of procedure, the *Statutory Powers Procedure Act* applies to the consideration by the committee of benchers of an application under subsection (7).

### **Decision on application**

(13) After considering an application under subsection (7), the committee of benchers shall determine, in accordance with the relevant section in this Part, that,

- (a) the applicant may practise law in Ontario or may not practise law in Ontario; or
- (b) the terms and conditions included by the Society in its permission to practise law in Ontario are or are not appropriate.

### **Terms and conditions**

(14) Permission to practise law in Ontario under a section in this Part granted to a person by the committee of benchers, or a decision with respect to the terms and conditions included by the Society in its permission to practise law in Ontario, may include such terms and conditions as the committee of benchers considers appropriate.

### **Decision final**

(15) The decision of the committee of benchers on an application under subsection (7) is final.

### **Duration of permission**

(16) Permission to practise law in Ontario under a section in this Part granted to a person remains in effect until December 31 of the year in which permission is granted, unless otherwise provided for in this Part.

### **Permission automatically withdrawn**

(17) Permission to practise law in Ontario under a section in this Part granted to a person is automatically withdrawn immediately the person,

- (a) does not meet the requirements, if any, for permission to practise law in Ontario under the section;

- (b) ceases to have authority to practise law in a province or territory of Canada outside Ontario on the basis of which authority the person was granted permission to practise law in Ontario under the section;
- (c) does not comply with clause 36 (1) (a);
- (d) is the subject of an order made against the person by any tribunal of the governing body of the legal profession in any province and territory of Canada in which the person is authorized to practise law,
  - (i) revoking the person's authorization to practise law, or
  - (ii) suspending the person's authorization to practise law; or
- (e) practises law in Ontario in contravention of this Part.

### **Permission withdrawn**

(17.1) Permission to practise law in Ontario under a section in this Part granted to a person may be withdrawn by the Society if the Society determines that continued permission to practise law in Ontario would be contrary to the public interest.

### **Application to committee of benchers**

(17.2) If the Society, under subsection (17.1) withdraws a person's permission to practise law in Ontario under a section in this Part, the person may apply to a committee of benchers appointed for the purpose by Convocation for a determination of whether the permission was properly withdrawn.

### **Application of provisions to application to committee**

(17.3) Subsections (8) to (15) apply, with necessary modifications, to an application under subsection (17.2).

### **Fee to practise law**

(18) A person permitted to practise law in Ontario under a section in this Part may be required to, and if required to shall, pay a fee, to practise law in Ontario.

TEMPORARY PRACTICE OF LAW: LAWYERS FROM BRITISH COLUMBIA,  
ALBERTA,

SASKATCHEWAN, MANITOBA, NEW BRUNSWICK, NOVA SCOTIA,  
NEWFOUNDLAND AND LABRADOR AND PRINCE EDWARD ISLAND

**Application of ss 42 to 45**

41. Sections 42 to 45 apply to a person if the person is authorized to practise law in any of the following provinces:

1. British Columbia.
2. Alberta.
3. Saskatchewan.
4. Manitoba.
5. New Brunswick.
6. Nova Scotia.
7. Newfoundland and Labrador.
8. Prince Edward Island.

**Definition: “day”**

42. (1) In this section and in sections 43 to 45, “day” means a calendar day or part of a calendar day.

**Interpretation: practice of law**

- (2) In this section and in sections 43 to 45.1, a person practises law in Ontario if the person,
- (a) performs professional services for others in the capacity of a barrister or solicitor;  
or
  - (b) gives legal advice to others with respect to the laws of Ontario, the laws of a province or territory of Canada in which the person is authorized to practise law, the laws of Canada or public international law.

**Interpretation: occasional practice of law**

(3) In sections 43 to 45, a person practises law in Ontario on an occasional basis if, during a calendar year, the person practises law in Ontario for not more than 100 days.

**Occasional practice of law: excluded activities**

(4) Any time spent practising law as a counsel in a proceeding in the Supreme Court of Canada, the Federal Court, the Federal Court of Appeal, the Tax Court of Canada, a tribunal established under an Act of Parliament, a service tribunal within the meaning of the *National Defence Act* (Canada) or the Court Martial Appeal Court of Canada shall not be included in calculating the maximum number of days a person is entitled to practise law in Ontario under subsection 43 (1) or permitted to practise law in Ontario under section 44.

**Interpretation: economic nexus**

(5) For the purposes of sections 43 and 45, subject to subsection (6), a person establishes an economic nexus with Ontario if the person,

- (a) practises law in Ontario for more than the maximum number of days the person is entitled to practise law in Ontario under section 43 or permitted to practise law in Ontario under section 44, if the person is not granted permission to practise law in Ontario under subsection 45 (1) or (2);
- (a.1) practises law in Ontario for more than the maximum number of days the person is permitted to practise law in Ontario under subsection 45 (1) or (2);
- (b) opens an office in Ontario from which to practise law;
- (c) opens or operates a trust account at a financial institution located in Ontario;
- (d) receives money in trust for a client other than as permitted under section 45.1;
- (e) becomes a resident in Ontario; or
- (f) acts in any other manner inconsistent with practising law in Ontario only on an occasional basis.

**Same**

(6) A person does not establish an economic nexus with Ontario only if the person practises law in Ontario from an office in Ontario that is affiliated with a law office in a province or territory of Canada outside Ontario in which the person is authorized to practise law.

**Occasional practice of law: prior permission not required**

43. (1) A person who is not a licensee may, without the prior permission of the Society, practise law in Ontario on an occasional basis if, and so long as, the person,
- (a) is authorized to practise law in a province named in section 41;
  - (b) is not the subject of a criminal proceeding in any jurisdiction;
  - (c) is not the subject of a conduct, capacity or competence proceeding in any jurisdiction;
  - (d) is not the subject of any order made against the person by a tribunal of the governing body of the legal profession in any jurisdiction in which the person is authorized to practise law that affects the person's authorization to practise law in the jurisdiction;
  - (e) has no record of any order having been made against the person by a tribunal of the governing body of the legal profession in any jurisdiction in which the person is or was authorized to practise law as a result of a conduct, capacity or competence proceeding, other than an order suspending or limiting the person's authorization to practise law for failure to pay fees or levies to the governing body, for insolvency or bankruptcy or for any administrative matter;
  - (f) has no terms, conditions, limitations or restrictions on the person's authorization to practise law in any jurisdiction in which the person is authorized to practise law; and
  - (g) does not establish an economic nexus with Ontario.

**Same**

- (2) A person who is not a licensee, if and so long as the person is authorized to practise law in a province mentioned in section 41 and does not establish an economic nexus with Ontario, may, without the prior permission of the Society, practise law in Ontario on an occasional basis,
- (a) as a counsel in a proceeding in the Supreme Court of Canada, the Federal Court, the Federal Court of Appeal, the Tax Court of Canada, a tribunal established under an Act of Parliament, a service tribunal within the meaning of the *National Defence Act* (Canada) or the Court Martial Appeal Court of Canada; or
  - (b) as counsel to a court or tribunal mentioned in clause (a).

**Occasional practice of law: prior permission required**

44. (1) A person who is not a licensee and who is not entitled to practise law in Ontario on an occasional basis under subsection 43 (1) may, with the prior permission of the Society, practise law in Ontario on an occasional basis.

### **Requirement for permission**

(2) Permission to practise law in Ontario on an occasional basis under this section shall not be granted if to grant permission to practise law in Ontario on an occasional basis would be contrary to the public interest.

### **Practising on more than an occasional basis**

45. (1) A person who is entitled under section 43 to practise law in Ontario on an occasional basis may, with the prior permission of the Society, practise law in Ontario on more than an occasional basis, as permitted by the Society, if, and so long as, the person meets the applicable requirements mentioned in section 43.

### **Same**

(2) A person who was permitted under section 44 to practise law in Ontario on an occasional basis may, with the prior permission of the Society, practise law in Ontario on more than an occasional basis, as permitted by the Society.

### **Practising on more than an occasional basis: economic nexus established**

(3) A person who was entitled to practise law in Ontario under section 43 or who was permitted to practise law in Ontario under section 44, subsection (1) or subsection (2), who has established an economic nexus with Ontario and who has applied for a licence to practise law in Ontario as a barrister and solicitor may, with the prior permission of the Society, practise law in Ontario, subject to subsections 40 (17) and (17.1), until the later of,

- (a) the date the person is granted a licence to practise law in Ontario as a barrister and solicitor; and
- (b) the effective date of the final decision and order, with respect to the individual's application for a licence to practise law in Ontario as a barrister and solicitor, of the Hearing Division or, if there is an appeal from the decision and order of the Hearing Division, of the Appeal Division.

### **Handling of money**

45.1 A person who is entitled to practise law in Ontario under section 43 or who is permitted to practise law in Ontario under section 44 or 45 may, in relation to the person's practice of law in Ontario, receive money in trust for a client provided that,

- (a) the person pays the money into a trust account at a financial institution located in a province mentioned in section 41 in which the person is authorized to practise law; or
- (b) the person pays the money into a trust account that is kept in the name of and operated by a licensee in accordance with By-Law 9 [Financial Transactions and Records] and the money is handled only by the licensee in accordance with ByLaw 9 [Financial Transactions and Records].

#### TEMPORARY PRACTICE OF LAW: LAWYERS FROM QUEBEC AND THE TERRITORIES OF CANADA

##### **Application of ss 47 to 50**

46. Sections 47 to 50 apply to a person if,

- (a) the person is authorized to practise law in Quebec by the Barreau du Québec; or
- (b) the person is authorized to practise law in any territory of Canada.

##### **Interpretation: practice of law**

47. (1) In this section and in sections 48 to 51, a person practises law in Ontario if the person,

- (a) performs professional services for others in the capacity of a barrister or solicitor; or
- (b) gives legal advice to others with respect to the laws of Ontario, the laws of a province or territory of Canada in which the person is authorized to practise law, the laws of Canada or public international law.

##### **Interpretation: occasional practice of law**

(2) In sections 48 and 49, a person practises law in Ontario on an occasional basis if, during a calendar year, the person practises law in Ontario in respect of not more than ten matters.

##### **Occasional practice of law: excluded activities**



(3) The practice of law in Ontario as a counsel in a proceeding in the Supreme Court of Canada, the Federal Court, the Federal Court of Appeal, the Tax Court of Canada, a tribunal established under an Act of Parliament, a service tribunal within the meaning of the *National Defence Act* (Canada) or the Court Martial Appeal Court of Canada shall not be included in calculating the ten matters mentioned in subsection (2) for the purposes of subsection 49 (1).

### **Occasional practice of law: prior permission not required**

48. A person who is not a licensee, if and so long as the person is authorized to practise law in a province or territory mentioned in section 46, may, without the prior permission of the Society, practise law in Ontario on an occasional basis,

- (a) as a counsel in a proceeding in the Supreme Court of Canada, the Federal Court, the Federal Court of Appeal, the Tax Court of Canada, a tribunal established under an Act of Parliament, a service tribunal within the meaning of the *National Defence Act* (Canada) or the Court Martial Appeal Court of Canada; or
- (b) as counsel to a court or tribunal mentioned in clause (a).

### **Occasional practice of law: prior permission required**

49. (1) A person who is not a licensee and who is not entitled to practise law in Ontario on an occasional basis under section 48 may, with the prior permission of the Society, practise law in Ontario on an occasional basis if the person,

- (a) is authorized to practise law in a province or territory mentioned in section 46;
- (b) is not the subject of any order made against the person by a tribunal of the governing body of the legal profession in each province and territory of Canada outside Ontario in which the person is authorized to practise law; and
- (c) has no terms, conditions, limitations or restrictions imposed on the person's authorization to practise law in each province and territory of Canada in which the person is authorized to practise law.

### **Additional requirement for permission**

(2) Despite subsection (1), permission to practise law in Ontario on an occasional basis under this section shall not be granted if to grant permission to practise law in Ontario on an occasional basis would be contrary to the public interest.

### **Law specific to Ontario: competence**

50. (1) A person who is entitled to practise law in Ontario under section 48 or who is permitted to practise law in Ontario under section 49 shall not practise law specific to Ontario unless the person is competent to practise law specific to Ontario.

**Interpretation: “law specific to Ontario”**

(2) In subsection (1), “law specific to Ontario” means any substantive or procedural law that applies specifically to Ontario.

**Handling of money**

51. A person who is entitled to practise law in Ontario under section 48 or who is permitted to practise law in Ontario under section 49 may, in relation to the person’s practice of law in Ontario, receive money in trust for a client provided that,

- (a) any money received is only on account of fees for services not yet rendered for the client and the person immediately pays the money into a trust account at a financial institution located in a province or territory mentioned in section 46 in which the person is authorized to practise law; or
- (b) the person pays the money into a trust account that is kept in the name of and operated by a licensee in accordance with By-Law 9 [Financial Transactions and Records] and the money is handled only by the licensee in accordance with ByLaw 9 [Financial Transactions and Records].

PRACTICE OF LAW IN ONTARIO BY NOTARIES FROM QUEBEC

**Permission to practise law in Ontario**

52. (1) A person who is not a licensee, who is a member of the Chambre des Notaires du Québec, who is authorized to practise the notarial profession in Quebec and who is of good character may, with the prior permission of the Society, do any of the following:

1. Give a person advice with respect to,
  - i. the laws of Quebec,
  - ii. the laws of Canada, and
  - iii. public international law.

2. Select, draft, complete or revise a document for use in a proceeding with respect to matters concerning the laws of Canada, if the laws of Canada expressly authorize the person to represent a party in the proceeding.
3. Represent a person in a proceeding before an adjudicative body with respect to matters concerning the laws of Canada, if the laws of Canada expressly authorize the person to represent a party in the proceeding.

**Interpretation: member of the Chambre des Notaires du Québec**

(2) For the purposes of subsection (1), a member of the Chambre des Notaires du Québec does not include a member who qualified for membership under the Entente entre le Québec et la France en matière de reconnaissance mutuelle des qualifications professionnelles.

**Additional requirement for permission**

(3) Despite subsection (1), permission to practise law in Ontario under this section shall not be granted if to grant permission to practise law in Ontario would be contrary to the public interest.