

July 24, 2023

## CONSULTATION DRAFT

### AN ACT TO AMEND THE LEGAL PROFESSION ACT (NO. 2)

BILL NO.

2023

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BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. **The heading immediately before section 1 of the *Legal Profession Act R.S.P.E.I. 1988, Cap. L-6.1*, is amended by the deletion of the words “PART I” and the substitution of the words “PART 1”.**
2. **Clause 1(e) of the Act is amended by the deletion of the words “Part VI” and the substitution of the words “Part 6”.**
3. **The heading immediately after section 1 of the Act is amended by the deletion of the words “PART II” and the substitution of the words “PART 2”.**
4. **Subsection 9(4) of the Act is amended by the deletion of the word “thereof” and the substitution of the words “of the meeting”.**
5. **Subsection 10(2) of the Act is amended by the deletion of the words “him or her” and the substitution of the words “the individual”.**
6. **The heading immediately after section 14 of the Act is amended by the deletion of the words “PART III” and the substitution of the words “PART 3”.**
7. **Section 15 of the Act is amended**
  - (a) **by the repeal of clause (a); and**
  - (b) **in clause (d), by the deletion of the words “the Act” and the substitution of the words “this Act”.**
8. (1) **Subsection 17(1) of the Act is amended by the deletion of the words “his or her” and the substitution of the words “the applicant’s”.**

**(2) Subsection 17(2) of the Act is repealed and the following substituted:**

**Administration of oaths**

- (2) The judge shall, upon receipt of a certificate from the secretary-treasurer stating that the applicant has complied with this Act and that the applicant's application for membership has been accepted, administer the following oath to the applicant:

I, [name] swear [or affirm] that as a barrister, solicitor and attorney, I shall to the best of my knowledge and ability, conduct all matters and proceedings faithfully, honestly and with integrity. I shall support the Rule of Law and uphold and seek to improve the administration of justice. I shall abide by the ethical standards and rules governing the practice of law in Prince Edward Island.

**9. Subsection 18(4) of the Act is amended by the deletion of the word "thereof" and the substitution of the words "of the admission and registration".**

**10. (1) Subsection 19(3) of the Act is amended by the deletion of the words "his or her" and the substitution of the words "the individual's".**

**(2) Subsections 19(5) and (6) of the Act are amended by the deletion of the words "his or her" and the substitution of the words "the clerk's".**

**11. (1) Subsection 21(2) of the Act is amended**

**(a) in clause (a),**

**(i) by the deletion of the words "his employment" and the substitution of the words "the person's employment", and**

**(ii) by the deletion of the words "his or her employer" and the substitution of the words "the person's employer"; and**

**(b) in clause (c), by the deletion of the words "Labour Arbitration Board" and the substitution of the words "labour arbitration board".**

**(2) Subsection 21(6) of the Act is amended by the deletion of the words "has in his or her employ" and the substitution of the word "employs".**

**(3) Subsection 21(7) of the Act is amended by the deletion of the words "he or she" and the substitution of the words "the individual".**

**12. Subsection 26(7) of the Act is amended by the deletion of the words "his or her" and the substitution of the words "the member's".**

**13. Subsection 27(1) of the Act is amended by the deletion of the words "A member who is of the age of 65 years or more and has ceased to be engaged in the practice of law" and the substitution of the words "A member who has ceased to be engaged in the practice of law".**

14. **Subsection 28(3) of the Act is amended by the deletion of the words “his or her membership shall be suspended on the expiry thereof” and the substitution of the words “the member’s membership shall be suspended on the expiry of the ten days”.**
15. **Subsection 31(3) of the Act is amended by the deletion of the words “his or her” and the substitution of the words “the individual’s”.**
16. **Subsection 32(1) of the Act is amended by the deletion of the words “his or her” and the substitution of the words “the member’s”.**
17. **Section 33 of the Act is amended by the deletion of the words “his or her” and the substitution of the words “the member’s”.**
18. **Clause 36(a) of the Act is amended by the deletion of the words “his or her” and the substitution of the words “the member’s”.**
19. **The heading immediately after section 36 of the Act is amended by the deletion of the words “PART III.1” and the substitution of the words “PART 3.1”.**
20. **Section 36.3 of the Act is amended by the deletion of the word “therein”.**
21. **The heading immediately after section 36.6 of the Act is amended by the deletion of the words “PART IV” and the substitution of the words “PART 4”.**
22. **Subsection 38(9) of the Act is amended**
  - (a) **in clause (e), by the deletion of the word “thereof” and the substitution of the words “of the council or committee”; and**
  - (b) **in clause (f), by the deletion of the word “thereof” and the substitution of the words “of the Supreme Court”.**
23. **Section 39 of the Act is amended by the deletion of the words “his or her” and the substitution of the words “the member’s”.**
24. **Section 40 of the Act is amended**
  - (a) **by the deletion of the words “an articulated clerk should have his or her enrollment as an articulated clerk set aside” and the substitution of the words “an articulated clerk’s enrollment as an articulated clerk should be set aside”; and**
  - (b) **by the deletion of the words “his or her” and the substitution of the words “the clerk’s”.**

25. The heading immediately after section 43 of the Act is amended by the deletion of the words “PART V” and the substitution of the words “PART 5”.
26. (1) Subsection 44(1) of the Act is amended by the deletion of the words “his or her” and the substitution of the words “the member’s”.
- (2) Subsection 44(4) of the Act is amended
- (a) in clause (a), by the deletion of the word “therein” and the substitution of the words “in the account”; and
  - (b) by renumbering clause (d) to clause (c).
- (3) Subsection 44(5) of the Act is amended
- (a) by the deletion of the words “his or her” and the substitution of the words “the member’s”; and
  - (b) by the deletion of the word “herein” and the substitution of the words “in this subsection”.
- (4) Subsection 44(6) of the Act is amended by the deletion of the word “thereto” and the substitution of the words “to that enforcement”.
27. Clause 46(2)(a) of the Act is amended
- (a) by the deletion of the words “his or her” and the substitution of the words “the member’s”; and
  - (b) by the deletion of the word “thereon” and the substitution of the words “on the client’s money”.
28. The heading immediately after section 47 of the Act is amended by the deletion of the words “PART VI” and the substitution of the words “PART 6”.
29. Subsection 48(6) of the Act is amended by the deletion of the words “he or she” and the substitution of the words “the person”.
30. The heading immediately after section 48.1 of the Act is amended by the deletion of the words “PART VII” and the substitution of the words “PART 7”.
31. (1) Subsection 49(2) of the Act is repealed and the following substituted:
- Board of governors**
- (2) The Foundation shall be administered by a board of governors consisting of the following seven directors:

- (a) the Minister of Justice and Public Safety and Attorney General or the Minister's appointee;
  - (b) one person, not a member of the society, representing the public at large, appointed by the Lieutenant Governor in Council for a term of up to three years; and
  - (c) five members of the society appointed by the council.
- (2) **Subsection 49(6) of the Act is amended by the deletion of the words “he or she” and the substitution of the words “the person”.**
- (3) **Subsection 49(7) of the Act is amended by the deletion of the words “three members” and the substitution of the words “five members”.**
- (4) **Subsection 49(8) of the Act is amended by the deletion of the words “he or she” and the substitution of the words “that person”.**
- 32. Subsection 50(1) of the Act is amended**
- (a) **in the words preceding clause (a), by the deletion of the word “thereof” and the substitution of the words “of the fund”; and**
  - (b) **by the repeal of clauses (b) to (d) and the substitution of the following:**
    - (b) the editing and printing of decisions of the Court of Appeal, Supreme Court and Provincial Court of Prince Edward Island; and
    - (c) the promotion of legal aid.
- 33. Clauses 51(1)(d) and (e) of the Act are amended by the deletion of the word “thereto” and the substitution of the words “to them”.**
- 34. The heading immediately before section 54 and section 54 of the Act are repealed.**
- 35. The heading immediately before section 55 of the Act is amended by the deletion of the words “PART X – MISCELLANEOUS AND GENERAL” and the substitution of the words “PART 9 - GENERAL”.**
- 36. Subsection 55(1) of the Act is amended**
- (a) **in clause (e) by the deletion of the word “thereat” and the substitution of the words “in examinations”;**
  - (b) **in clause (r),**
    - (i) **by the deletion of the words “and without limiting the generality thereof” and the substitution of the words “including but not limited to”, and**
    - (ii) **in subclause (iii), by the deletion of the word “thereof” and the substitution of the words “of members”;**

- (c) **by the repeal of clauses (s) and (t);**
- (d) **in clause (u) by the deletion of the word “thereto” and the substitution of the words “to it”; and**
- (e) **in clause (z) by the deletion of the word “therewith” and the substitution of the words “with them”.**

**37. Section 56 of the Act is amended by the deletion of the words “he is guilty” and the substitution of the words “that person is guilty”.**

**38. (1) Subsection 57(1) of the Act is repealed and the following substituted:**

**57. Recovery of fees, etc.**

- (1) All fees, fines and assessments owing by a member to the Society, including any amounts ordered to be paid pursuant to section 38, may be recovered, notwithstanding that, after they became due,
  - (a) the person may have resigned;
  - (b) the person’s membership may have been cancelled; or
  - (c) the person otherwise ceased to be a member.

**(2) Subsection 57(2) of the Act is amended**

- (a) **in the words immediately preceding clause (a), by the deletion of the word “thereof” and the substitution of the words “of them”; and**
- (b) **in clause (c), by the deletion of the word “thereof” and the substitution of the words “of any fee, fine or assessment”.**

## EXPLANATORY NOTES

**SECTION 1** amends the *Legal Profession Act* R.S.P.E.I. 1988, Cap. L-6.1, to change the heading “PART I” to “PART 1”. Headings throughout the Act are amended to change them from Roman numerals to standard Arabic numerals, for greater clarity.

**SECTION 2** amends clause 1(e) of the Act to change the reference to “Part VI” to “Part 6”.

**SECTION 3** amends the Act by changing the heading “PART II” to “PART 2”.

**SECTION 4** amends subsection 9(4) of the Act to update the terminology.

**SECTION 5** amends subsection 10(2) of the Act to replace gendered terminology.

**SECTION 6** amends the Act by changing the heading “PART III” to “PART 3”.

**SECTION 7** repeals clause 15(a) of the Act and also corrects a typographical error.

**SECTION 8** repeals subsection 17(2) of the Act and substitutes a new subsection (2) with modernized wording for the oath or affirmation of office for a member of the society. The section also corrects a gendered reference in subsection 17(1).

**SECTION 9** amends subsection 18(4) of the Act to update the terminology.

**SECTION 10** amends clauses 19(3), (5) and (6) of the Act to replace gendered references.

**SECTION 11** amends subsections 21(2), (6) and (7) of the Act to replace gendered references and subsection 21(2) of the Act to correct a reference to a labour arbitration board.

**SECTION 12** amends subsection 26(7) of the Act to replace a gendered reference.

**SECTION 13** amends subsection 27(1) of the Act to remove a requirement for a member to be 65 years of age or older to acquire the status of a retired member.

**SECTION 14** amends subsection 28(3) of the Act to update the terminology and replace a gendered reference.

**SECTION 15** amends subsection 31(3) of the Act to replace a gendered reference.

**SECTION 16** amends subsection 32(1) of the Act to replace a gendered reference.

**SECTION 17** amends section 33 of the Act to replace a gendered reference.

**SECTION 18** amends clause 36(a) of the Act to replace a gendered reference.

**SECTION 19** amends the Act by changing the heading “PART III.1” to “PART 3.1”.

**SECTION 20** amends section 36.3 of the Act by deleting the word “therein”.

**SECTION 21** amends the Act by changing the heading “PART IV” to “PART 4”.

**SECTION 22** amends subsection 38(9) of the Act to update and clarify the terminology.

**SECTION 23** amends section 39 of the Act to replace a gendered reference.

**SECTION 24** amends section 40 of the Act to replace gendered references.

**SECTION 25** amends the Act by changing the heading “PART V” to “PART 5”.

**SECTION 26** amends subsections 44(1) and (5) of the Act to replace gendered references and subsections 44(4) and (6) of the Act to update the terminology and correct a numbering error.

**SECTION 27** amends clause 46(2)(a) of the Act to replace a gendered reference and to update the terminology.

**SECTION 28** amends the Act by changing the heading “PART VI” to “PART 6”.

**SECTION 29** amends subsection 48(6) of the Act to replace a gendered reference.

**SECTION 30** amends the Act by changing the heading “PART VII” to “PART 7”.

**SECTION 31** repeals subsection 49(2) of the Act and substitutes a new subsection (2) to change the composition of the board of directors of the Law Foundation. The board will have seven directors, one of whom is a public member appointed by the Lieutenant Governor in Council for a term of up to three years. A quorum of the board is increased from three members to five members in subsection 49(7) of the Act. The section also replaces gendered references in subsections 49(6) and (8).

**SECTION 32** amends subsection 50(1) of the Act to update the terminology, and also repeals clauses 50(1)(b) to (d) and substitutes new clauses 50(1)(b) and (c). The purpose set out in the former clause 50(1)(d) no longer applies to the Foundation’s fund.

**SECTION 33** amends clauses 51(1)(d) and (e) to update the terminology.

**SECTION 34** amends the Act by repealing the heading immediately before section 54 and also repealing section 54, which required the society to “own, operate and maintain” law libraries.

**SECTION 35** amends the Act by changing the heading immediately before section 55 from “PART X – MISCELLANEOUS AND GENERAL” to “PART 9 – GENERAL”.

**SECTION 36** amends clauses 55(1)(e), (r) and (z) of the Act to update the terminology. The section also repeals clauses 55(1)(s) and (t). These clauses authorized the society to make regulations respecting law libraries, and are no longer needed in consequence of the repeal of section 54 of the Act.

**SECTION 37** amends section 56 of the Act to replace a gendered reference.

**SECTION 38** repeals subsection 57(1) of the Act and substitutes a new subsection (1) to update and clarify the terminology. The section also updates the terminology in subsection 57(2) of the Act.