

An Act to amend the Law Society Act and the Solicitors Act

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Law Society Act

1. (1) Subsection 1 (1) of the Law Society Act is amended by adding the following definition:

“Appeal Division” means the Law Society Appeal Division continued under Part II; (“Section d’appel”)

(2) The definition of “Appeal Panel” in subsection 1 (1) of the Act is repealed.

(3) The definition of “elected bencher” in subsection 1 (1) of the Act is amended by striking out “or (6)” at the end.

(4) Subsection 1 (1) of the Act is amended by adding the following definition:

“Hearing Division” means the Law Society Hearing Division continued under Part II; (“Section de première instance”)

(5) The definition of “Hearing Panel” in subsection 1 (1) of the Act is repealed.

(6) Subsection 1 (1) of the Act is amended by adding the following definition:

“Tribunal” means the Law Society Tribunal established under Part II. (“Tribunal”)

2. Subsections 1.1 (4), (5), (6), (7) and (11) of the Act are repealed.

3. (1) Subsection 16 (1) of the Act is amended by striking out “Two” at the beginning and substituting “Five”.

(2) Subsections 16 (5), (6) and (7) of the Act are repealed.

(3) Section 16 of the Act is amended by adding the following subsections:

Transition

(5) If subsection 3 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force after the conclusion of the election under subsection 25.1 (4) that the by-laws require to be held in 2014, and before an election under subsection (1) in that year,

(a) an election under subsection (1) shall not be held in that year; and

(b) the five members of the Committee elected under subsection 25.1 (4) shall be deemed to have been elected as benchers under subsection (1) in that year.

Same

(6) If subsection 3 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force after the conclusion of both the election under subsection 25.1 (4) and the election under subsection (1) that the by-laws require to be held in 2014,

(a) the terms of the persons elected as benchers under subsection (1) expire on the day subsection 3 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force; and

(b) the five members of the Committee elected under subsection 25.1 (4) shall hold office as benchers as if they had been elected under subsection (1), until the next election under subsection (1).

Same

(7) At any time during which subsection (5) or (6) applies, subsection (3) does not apply, and any vacancy filled for the purposes of subsection 25.1 (11) also applies for the purpose of filling vacancies in the offices of persons who are benchers under clause (5) (b) or (6) (b).

(4) Subsections 16 (5), (6) and (7) of the Act, as enacted by subsection (3), are repealed.

4. (1) Clause 25.1 (3) (a) of the Act is repealed and the following substituted:

(a) five shall be the five elected benchers licensed to provide legal services in Ontario;

(2) Subsections 25.1 (4) and (5) of the Act are repealed.

(3) Subsection 25.1 (8) of the Act is repealed and the following substituted:

Ceasing to be a member of Committee

(8) A person referred to in clause (3) (a) ceases to be a member of the Committee if the person ceases to be an elected bencher licensed to provide legal services in Ontario.

(4) Section 25.1 of the Act is amended by adding the following subsections:

Transition

(11) Despite clause (3) (a), persons who, on the day subsection 4 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force, are members of the Committee under that clause as it read immediately before that day, continue to hold office until the first election of benchers under subsection 16 (1) that is held after 2014.

Same

(12) This section, as it read immediately before the day subsection 4 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force, continues to apply with respect to the members of the Committee referred to in subsection (11), until they cease to hold office under that subsection.

(5) Subsections 25.1 (11) and (12) of the Act, as enacted by subsection (4), are repealed.

5. Section 25.2 of the Act is repealed.

6. Subsection 27 (4) of the Act is repealed and the following substituted:

Refusal

(4) An application for a licence may be refused only after a hearing by the Hearing Division, on referral of the matter by the Society to the Tribunal.

7. (1) Subsection 31 (2) of the Act is amended by striking out “subsection (3)” and substituting “subsections (2.1) and (3)”.

(2) Section 31 of the Act is amended by adding the following subsection:

Refusal

(2.1) An application to restore the licence of a person whose licence is in abeyance may be refused only after a hearing by the Hearing Division, on referral of the matter by the Society to the Tribunal.

(3) Subsection 31 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Same

(3) The Hearing Division may refuse to restore the licence of a person whose licence is in abeyance if the Division finds that the person was removed or resigned from an office described in subsection (1) because of,

.
(4) Subsection 31 (4) of the Act is repealed and the following substituted:

Parties

(4) The parties to a hearing under subsection (2.1) are the person whose licence is in abeyance, the Society and any other person added as a party by the Hearing Division.

8. Subsection 34 (1) of the Act is repealed and the following substituted:

Conduct application

(1) With the authorization of the Proceedings Authorization Committee, the Society may apply to the Tribunal for a determination by the Hearing Division of whether a licensee has contravened section 33.

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

Capacity application

(1) With the authorization of the Proceedings Authorization Committee, the Society may apply to the Tribunal for a determination by the Hearing Division of whether a licensee is or has been incapacitated.

10. Subsection 43 (1) of the Act is repealed and the following substituted:

Professional competence application

(1) With the authorization of the Proceedings Authorization Committee, the Society may apply to the Tribunal for a determination by the Hearing Division of whether a licensee is failing or has failed to meet standards of professional competence.

11. Section 45 of the Act is repealed and the following substituted:

Suspension for failure to comply with order

Application

45. (1) The Society may apply to the Tribunal for a determination by the Hearing Division of whether a licensee has failed to comply with an order under this Part.

Parties

(2) The parties to the application are the Society, the licensee who is the subject of the application, and any other person added as a party by the Hearing Division.

Suspension order

(3) If the Hearing Division determines that a licensee has failed to comply with an order under this Part, the Division may suspend the licensee's licence,

(a) for a definite period;

(b) until terms and conditions specified by the Hearing Division are met to the satisfaction of the Society; or

(c) for a definite period and, after that, until terms and conditions specified by the Hearing Division are met to the satisfaction of the Society.

12. The Act is amended by adding the following section:

Suspension for failure to comply with costs order

45.1 (1) A licensee's licence is suspended if the licensee is ordered to pay costs under section 49.28 and he or she fails to comply by the deadline for payment provided for under the order or the by-laws, as the case may be.

Non-application

(2) Subsection (1) does not apply unless the time for appealing the costs order has expired or, if an appeal of the costs order is commenced, unless the appeal is finally disposed of.

Start of suspension

(3) A suspension under subsection (1) begins on the following date:

1. If no appeal of the costs order is commenced, the later of the day after the time for commencing an appeal expires and the day after the deadline for payment.

2. If an appeal of the costs order is commenced and is finally disposed of, the day after the deadline for payment provided for on appeal or under the by-laws, as the case may be.

Notice

(4) The Society shall give notice of a suspension under subsection (1) to the licensee, and shall specify in the notice the date on which the suspension began.

Length of suspension

(5) A suspension under subsection (1) remains in effect until the licensee pays, to the satisfaction of the Society,

(a) the costs owing; and

(b) any other amount owed by the licensee to the Society under this Act.

Costs payable by instalment

(6) If costs are payable by instalment, a reference in this section to a deadline for payment of costs shall be read as a reference to a deadline for payment of any instalment of the costs.

13. Subsection 46 (4) of the Act is amended by striking out “to the Hearing Panel” and substituting “to the Tribunal”.

14. (1) Section 49.8 of the Act is amended by adding the following subsection:

Disclosure by other person, body

(1.1) The Society or the Complaints Resolution Commissioner, as the case may be, may receive from any person or body information or documents in relation to a review under section 42, an audit under section 49.2, or an investigation under section 49.3 or 49.15, even if the information or documents are privileged or confidential.

(2) Subsection 49.8 (2) of the Act is amended by adding “and information or documents described in subsection (1.1)” after “section 42, 49.2, 49.3 or 49.15”.

(3) Subsection 49.8 (2.1) of the Act is repealed.

(4) Subsection 49.8 (3) of the Act is repealed and the following substituted:

Privilege preserved for other purposes

(3) Subsections (1), (1.1) and (2) do not negate or constitute a waiver of any privilege and, even though information or documents that are privileged must be disclosed under subsection (1) or may be received under subsection (1.1), and are admissible in a proceeding under subsection (2), the privilege continues for all other purposes.

15. The Act is amended by adding the following sections:

Law Society Tribunal

Law Society Tribunal

49.20.1 (1) The Law Society Tribunal is established under the name Law Society Tribunal in English and Tribunal du Barreau in French.

Divisions

(2) The Tribunal shall consist of two divisions, the Law Society Hearing Division and the Law Society Appeal Division.

Composition

(3) The Tribunal shall consist of,

- (a) the chair of the Tribunal;
- (b) the members of the Hearing Division;
- (c) the members of the Appeal Division; and
- (d) any temporary members of the Hearing Division or Appeal Division.

Cessation of membership

(4) A person who ceases to be a member or temporary member of the Hearing Division or Appeal Division, as the case may be, ceases to be a member of the Tribunal.

Chair

Appointment

49.20.2 (1) Convocation shall appoint as chair of the Tribunal a person who is licensed to practise law in Ontario as a barrister and solicitor and who meets the requirements set out in the by-laws.

Bencher not eligible

(2) A person is not eligible to be appointed as chair of the Tribunal if he or she is a bencher.

Term of office

(3) Subject to subsections (4) and (5), an appointment as chair of the Tribunal shall be for a term of four years.

Cessation of eligibility

(4) A person ceases to be a chair of the Tribunal if he or she ceases to meet the eligibility requirements in subsections (1) and (2).

Appointment at pleasure

(5) A person appointed as chair of the Tribunal holds office at the pleasure of Convocation.

Reappointment

(6) A person appointed as chair of the Tribunal is eligible for reappointment for such term, not exceeding four years, as Convocation may fix, if he or she meets the eligibility requirements in subsections (1) and (2).

16. (1) Sections 49.21 and 49.22 of the Act are repealed and the following substituted:

Hearing Division

Hearing Division

49.21 (1) The Law Society Hearing Panel is continued as a division of the Tribunal under the name Law Society Hearing Division in English and Section de première instance du Barreau in French.

Composition

(2) The Hearing Division shall consist of,

(a) the chair of the Tribunal; and

(b) at least three persons appointed by Convocation,

(i) at least one of whom shall be a person who is not a licensee, and

(ii) at least one of whom shall be an elected bencher.

Eligibility for appointment

(3) A person is not eligible to be appointed to the Hearing Division unless he or she meets the requirements set out in the by-laws and is,

(a) a bencher;

(b) a licensee; or

(c) a person approved by the Attorney General for Ontario.

Term of office

(4) Subject to subsections (5) and (6), an appointment as a member of the Hearing Division shall be for such term, not exceeding four years, as Convocation may fix.

Cessation of eligibility

(5) A person appointed to the Hearing Division ceases to be a member of the Division if he or she ceases to meet the eligibility requirements in subsection (3).

Appointment at pleasure

(6) A person appointed as a member of the Hearing Division holds office at the pleasure of Convocation.

Reappointment

(7) A person appointed as a member of the Hearing Division is eligible for reappointment if he or she meets the eligibility requirements in subsection (3).

Transition

(8) The appointments of those persons who are members of the Law Society Hearing Panel immediately before the day subsection 16 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force expire on that day.

Same

(9) Every proceeding that is before the Law Society Hearing Panel immediately before the day subsection 16 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force becomes on that day a proceeding before the Hearing Division.

Same

(10) Despite subsection (8), a person whose appointment expires under that subsection and who is not appointed as a member of the Hearing Division under this section may act as a member of the Hearing Division with respect to any proceeding before the Hearing Division that was commenced before the expiry.

Chair

49.22 (1) The person who is the chair of the Tribunal shall also be the chair of the Hearing Division.

Transition

(2) The appointment of the person who is the chair of the Law Society Hearing Panel immediately before the day subsection 16 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force expires on that day.

Vice-chair

49.22.1 (1) Convocation shall appoint a vice-chair of the Hearing Division.

Eligibility for appointment

(2) A person is not eligible to be appointed as vice-chair of the Hearing Division unless he or she meets the requirements set out in the by-laws and is an elected bencher member of the Hearing Division.

Term of office

(3) Subject to subsections (4) and (5), an appointment as vice-chair of the Hearing Division shall be for such term, not exceeding two years, as Convocation may fix.

Cessation of eligibility

(4) A person ceases to be the vice-chair of the Hearing Division if he or she ceases to meet the eligibility requirements in subsection (2).

Appointment at pleasure

(5) A person appointed as vice-chair of the Hearing Division holds office at the pleasure of Convocation.

Reappointment

(6) A person appointed as vice-chair of the Hearing Division is eligible for reappointment if he or she meets the eligibility requirements in subsection (2).

Acting vice-chair of Appeal Division

(7) The chair of the Tribunal may assign the vice-chair of the Hearing Division to act as vice-chair of the Appeal Division for the period specified by the chair and subject to such conditions or restrictions as the chair may specify.

Transition

(8) The appointment of the person who is the vice-chair of the Law Society Hearing Panel immediately before the day subsection 16 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force expires on that day.

(2) Subsections 49.21 (8) and (9) of the Act, as re-enacted by subsection (1), and subsection 49.21 (10) of the Act, as enacted by subsection (1), are repealed.

(3) Subsection 49.22 (2) of the Act, as re-enacted by subsection (1), is repealed.

(4) Subsection 49.22.1 (8) of the Act, as enacted by subsection (1), is repealed.

17. Subsection 49.23 (1) of the Act is repealed and the following substituted:

Hearings

(1) An application to the Tribunal under this Part shall be determined after a hearing by the Hearing Division.

18. Subsection 49.24.1 (2) of the Act is amended by striking out the portion before clause (a) and substituting:

Eligibility for appointment

(2) The chair or vice-chair shall not appoint a person as a temporary member of the Hearing Division under subsection (1) unless the person meets the requirements set out in the by-laws and is,

.

19. Section 49.28 of the Act is amended by adding the following subsections:

Where deadline unspecified

(3) If an order for costs under subsection (1) does not specify or otherwise provide for a deadline for paying the costs, the costs are payable by the deadline provided for by the by-laws.

Extension

(4) A deadline for paying costs may be extended in accordance with the by-laws if,

(a) the order for the costs so provides; or

(b) the deadline is set by by-law under subsection (3).

20. (1) Sections 49.29 and 49.30 of the Act are repealed and the following substituted:

Appeal Division

Appeal Division

49.29 (1) The Law Society Appeal Panel is continued as a division of the Tribunal under the name Law Society Appeal Division in English and Section d'appel du Barreau in French.

Composition

- (2) The Appeal Division shall consist of,
 - (a) the chair of the Tribunal; and
 - (b) at least five persons appointed by Convocation,
 - (i) at least one of whom shall be a person who is not a licensee, and
 - (ii) at least one of whom shall be an elected bencher.

Eligibility for appointment

(3) A person is not eligible to be appointed to the Appeal Division unless he or she meets the requirements set out in the by-laws and is,

- (a) a bencher;
- (b) a licensee; or
- (c) a person approved by the Attorney General for Ontario.

Term of office

(4) Subject to subsections (5) and (6), an appointment as a member of the Appeal Division shall be for such term, not exceeding four years, as Convocation may fix.

Cessation of eligibility

(5) A person appointed to the Appeal Division ceases to be a member of the Division if he or she ceases to meet the eligibility requirements in subsection (3).

Appointment at pleasure

(6) A person appointed as a member of the Appeal Division holds office at the pleasure of Convocation.

Reappointment

(7) A person appointed as a member of the Appeal Division is eligible for reappointment if he or she meets the eligibility requirements in subsection (3).

Transition

(8) The appointments of those persons who are members of the Law Society Appeal Panel immediately before the day subsection 20 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force expire on that day.

Same

(9) Every proceeding that is before the Law Society Appeal Panel immediately before the day subsection 20 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force becomes on that day a proceeding before the Appeal Division.

Same

(10) Despite subsection (8), a person whose appointment expires under that subsection and who is not appointed as a member of the Appeal Division under this section may act as a member of the Appeal Division with respect to any proceeding before the Appeal Division that was commenced before the expiry.

Chair

49.30 (1) The person who is the chair of the Tribunal shall also be the chair of the Appeal Division.

Transition

(2) The appointment of the person who is the chair of the Law Society Appeal Panel immediately before the day subsection 20 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force expires on that day.

Vice-chair

49.30.1 (1) Convocation shall appoint a vice-chair of the Appeal Division.

Eligibility for appointment

(2) A person is not eligible to be appointed as vice-chair of the Appeal Division unless he or she meets the requirements set out in the by-laws and is an elected bencher member of the Appeal Division.

Term of office

(3) Subject to subsections (4) and (5), an appointment as vice-chair of the Appeal Division shall be for such term, not exceeding two years, as Convocation may fix.

Cessation of eligibility

(4) A person ceases to be the vice-chair of the Appeal Division if he or she ceases to meet the eligibility requirements in subsection (2).

Appointment at pleasure

(5) A person appointed as vice-chair of the Appeal Division holds office at the pleasure of Convocation.

Reappointment

(6) A person appointed as vice-chair of the Appeal Division is eligible for reappointment if he or she meets the eligibility requirements in subsection (2).

Acting vice-chair of Hearing Division

(7) The chair of the Tribunal may assign the vice-chair of the Appeal Division to act as vice-chair of the Hearing Division for the period specified by the chair and subject to such conditions or restrictions as the chair may specify.

Transition

(8) The appointment of the person who is the vice-chair of the Law Society Appeal Panel immediately before the day subsection 20 (1) of the Modernizing Regulation of the Legal Profession Act, 2013 comes into force expires on that day.

(2) Subsections 49.29 (8) and (9) of the Act, as re-enacted by subsection (1), and subsection 49.29 (10) of the Act, as enacted by subsection (1), are repealed.

(3) Subsection 49.30 (2) of the Act, as re-enacted by subsection (1), is repealed.

(4) Subsection 49.30.1 (8) of the Act, as enacted by subsection (1), is repealed.

21. Clause 49.35 (2) (a) of the Act is amended by striking out “the Hearing Panel or person appealed from” at the end and substituting “the Hearing Division or person who made the order or decision appealed from”.

22. (1) Subsection 49.42 (1) of the Act is repealed and the following substituted:

Variation or discharge of previous order

Fresh evidence, material change

(1) If an order made under this Act suspended a licensee's licence or restricted the manner in which a licensee may practise law or provide legal services, the licensee may apply to the Tribunal for an order of the Hearing Division discharging or varying the order to suspend or restrict on the basis of fresh evidence or a material change in circumstances.

(2) Subsection 49.42 (3) of the Act is repealed and the following substituted:

Discharge from bankruptcy

(3) If an order made under section 46 suspended a licensee's licence, the licensee may apply to the Tribunal for an order of the Hearing Division discharging or varying the order to suspend on the basis that the licensee has been discharged from bankruptcy.

23. Subsection 49.43 (1) of the Act is amended by striking out "may apply to the Hearing Panel for a determination" in the portion before clause (a) and substituting "may apply to the Tribunal for a determination by the Hearing Division".

24. (1) Subsection 62 (0.1) of the Act is amended by adding the following paragraph:

45. specifying a deadline for the purposes of subsection 49.28 (3), and providing for a process to extend a deadline for paying costs in the circumstances described in subsection 49.28 (4) and specifying that extended deadline;

(2) Subsection 62 (0.1) of the Act is amended by adding the following paragraphs:

46. providing for additional powers, duties and functions of the Tribunal, its chair and its members;

46.1 setting out eligibility requirements for the purposes of subsections 49.20.2 (1), 49.21 (3), 49.22.1 (2), 49.24.1 (2), 49.29 (3) and 49.30.1 (2);

46.2 governing the conduct of members of the Hearing Division and members of the Appeal Division who are assigned to hear and determine matters, including providing for a code of professional conduct for such members and providing for the code's enforcement, and governing the evaluation of such members;

(3) Paragraph 52 of subsection 62 (0.1) of the Act is repealed.

(4) Subparagraph 10.1 ii of subsection 62 (1) of the Act is repealed.

25. Sections 63.0.1 and 63.1 of the Act are repealed.

26. Each of the provisions of the Act listed in Column A of the Table to this section is amended in the manner specified for the provision in Column B of the Table.

Table

Column A

Column B

Provision

Amendments

27 (5)

Strike out “Panel” at the end and substitute “Division”.

31 (5)

Strike out “Panel” and substitute “Division”.

34 (2)

Strike out “Panel” at the end and substitute “Division”.

35 (1)

Strike out “Panel” wherever it appears in the portion before paragraph 1 and substitute in each case “Division”.

Subparagraph 3 ii of subsection 35 (1)

Strike out “Panel” and substitute “Division”.

Subparagraph 3 iii of subsection 35 (1)

Strike out “Panel” and substitute “Division”.

Paragraph 14 of subsection 35 (1)

Strike out “Panel” and substitute “Division”.

Paragraph 21 of subsection 35 (1)

Strike out “Panel” and substitute “Division”.

35 (3)

Strike out “Panel” and substitute “Division”.

36 (1)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

36 (2)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

37 (3)

Strike out “Panel” and substitute “Division”.

37 (4)

Strike out “Panel” and substitute “Division”.

37 (6)

Strike out “Panel” in the portion before clause (a) and substitute “Division”.

38 (2)

Strike out “Panel” at the end and substitute “Division”.

39 (1)

Strike out “Panel” and substitute “Division”.

39 (2)

Strike out “Panel” and substitute “Division”.

39 (6)

Strike out “Panel” and substitute “Division”.

39 (7)

Strike out “Panel” at the end and substitute “Division”.

40 (1)

Strike out “Panel” wherever it appears in the portion before paragraph 1 and substitute in each case “Division”.

Subparagraph 1 ii of subsection 40 (1)

Strike out “Panel” and substitute “Division”.

Subparagraph 1 iii of subsection 40 (1)

Strike out “Panel” and substitute “Division”.

Paragraph 6 of subsection 40 (1)

Strike out “Panel” and substitute “Division”.

40 (3)

Strike out “Panel” and substitute “Division”.

42 (6)

Strike out “Panel” and substitute “Division”.

42 (7)

Strike out “Panel” and substitute “Division”.

42 (8)

Strike out “Panel” and substitute “Division”.

43 (2)

Strike out “Panel” at the end and substitute “Division”.

44 (1)

Strike out “Panel” wherever it appears in the portion before paragraph 1 and substitute in each case “Division”.

Subparagraph 1 ii of subsection 44 (1)

Strike out “Panel” and substitute “Division”.

Subparagraph 1 iii of subsection 44 (1)

Strike out “Panel” and substitute “Division”.

Paragraph 10 of subsection 44 (1)

Strike out “Panel” and substitute “Division”.

44 (3)

Strike out “Panel” and substitute “Division”.

49.23 (2)

Strike out “Panel” and substitute “Division”.

49.23 (3)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.24 (1)

Strike out “Panel” and substitute “Division”.

49.24.1 (1)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.25

Strike out “Panel” and substitute “Division”.

49.26

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.27 (1)

Strike out “Panel” and substitute “Division”.

49.27 (2)

Strike out “Panel” and substitute “Division”.

49.28 (1)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.31 (1)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.31 (2)

Strike out “Panel” and substitute “Division”.

49.31 (3)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.32 (1)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.32 (2)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.32 (3)

Strike out “Panel” at the end and substitute “Division”.

49.35 (1)

Strike out “Panel” and substitute “Division”.

49.35 (2)

Strike out “Panel” in the portion before clause (a) and substitute “Division”.

49.35 (2) (b)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.36 (1)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.36 (2)

Strike out “Panel” and substitute “Division”.

49.37 (1)

Strike out “Panel” at the end and substitute “Division”.

49.37 (3)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

49.38

Strike out “Panel” wherever it appears in the portion before clause (a) and substitute in each case “Division”.

49.38 (a)

Strike out “Panel’s” and substitute “Division’s”, and strike out “Panel” and substitute “Division”.

49.42 (4)

Strike out “Panel” at the end and substitute “Division”.

49.43 (2)

Strike out “Panel” in the portion before clause (a) and substitute “Division”.

49.43 (2) (a)

In the French version, strike out “il” and substitute “elle”.

49.43 (2) (b)

In the French version, strike out “il” and substitute “elle”.

49.43 (3)

Strike out “Panel” at the end and substitute “Division”.

49.53

Strike out “Panel” wherever it appears and substitute in each case “Division”.

61.0.5 (2) (b) (ii)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

61.2 (1)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

61.2 (2) (g)

Strike out “Panel” and substitute “Division”.

Paragraph 14 of subsection 63 (1)

Strike out “Panel” wherever it appears and substitute in each case “Division”.

Solicitors Act

27. (1) Section 1 of the Solicitors Act is amended by striking out “If a person, unless a party to the proceeding, commences” at the beginning and substituting “Subject to subsection (2), if a person commences”.

(2) Section 1 of the Act is amended by adding the following subsection:

Exceptions

(2) Subsection (1) does not apply to a person who is,

(a) a party to the proceeding; or

(b) a person licensed under the Law Society Act to provide legal services in Ontario.

Commencement

28. (1) Subject to subsections (2), (3) and (4), this Act comes into force on the day it receives Royal Assent.

Same

(2) Subsections 1 (1), (2), (4), (5) and (6), sections 6, 7, 8, 9, 10, 11, 13 and 15, subsection 16 (1), sections 17 and 18, subsection 20 (1), sections 21, 22 and 23, subsection 24 (2) and section 26 come into force three months after the day this Act receives Royal Assent.

Same

(3) Subsections 3 (1) and (3) and 4 (1), (2), (3) and (4) come into force on the later of April 7, 2014 and the day this Act receives Royal Assent.

Same

(4) Subsections 3 (4), 4 (5), 16 (2), (3) and (4), 20 (2), (3) and (4) and 24 (4) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

29. The short title of this Act is the Modernizing Regulation of the Legal Profession Act, 2013.

EXPLANATORY NOTE

This Explanatory Note was written as a reader's aid to Bill 111 and does not form part of the law. Bill 111 has been enacted as Chapter 17 of the Statutes of Ontario, 2013.

Law Society Act

The Bill makes various amendments to the Law Society Act.

The new section 49.20.1 of the Act establishes the Law Society Tribunal. By virtue of that section, and of amendments to sections 49.21 and 49.29 of the Act, the Law Society Hearing Panel and the Law Society Appeal Panel are continued as divisions of the Tribunal under the names Law Society Hearing Division and Law Society Appeal

Division. The chair of the Tribunal is the chair of both of the Divisions. She or he must be licensed to practise law in Ontario as a barrister and solicitor, meet requirements set out in the by-laws, and not be a bencher. The chair is appointed by Convocation; section 49.20.1 sets out certain terms of the appointment.

Related amendments include:

1. The need for vice-chairs and other members, including temporary members, of the Divisions to meet requirements set out in the by-laws before being eligible for appointment, and the related by-law making authority (subsections 49.21 (3), 49.22.1 (2), 49.24.1 (2), 49.29 (3) and 49.30.1 (2), and paragraph 46.1 of subsection 62 (0.1) of the Act).
2. The authority for Convocation to make by-laws governing the conduct and evaluation of members of the Hearing Division and of the Appeal Division (paragraph 46.2 of subsection 62 (0.1) of the Act).
3. Transition provisions setting out the effect of the amendments to the Act on the appointments of the existing members of the Hearing Panel and Appeal Panel, including their chairs and vice-chairs, on the day the amendments come into force (subsections 49.21 (8), (9) and (10), 49.22.1 (8), 49.29 (8), (9) and (10), and 49.30.1 (8) of the Act).
4. Amendments to or re-enactments of various provisions of the Act to provide that applications previously submitted, and matters previously referred, directly to the Hearing Panel will instead be submitted or referred to the Tribunal for consideration by the Hearing Division.
5. Consequential amendments to reflect the change from “Hearing Panel” and “Appeal Panel” to “Hearing Division” and “Appeal Division”.

The Act is also amended by adding section 45.1, which provides that a licensee’s licence is suspended if the licensee is ordered to pay costs under section 49.28 of the Act and fails to do so by the applicable deadline. Amendments to section 49.28 provide that if a deadline is not specified or provided for by the costs order, the deadline provided for by the by-laws applies (subsection 49.28 (3)). In certain circumstances, the deadline may be extended (subsection 49.28 (4)). The suspension remains in effect until the licensee pays the costs and any other amounts required under the Act to be paid (subsection 45.1 (3)). A related by-law making authority is added to the Act (paragraph 45 of subsection 62 (0.1)).

Section 49.8 of the Act is amended to state that privileged or confidential documents or information may be received by the Society or the Complaints Resolution Commissioner, as the case may be, in the context of specified processes. Such documents and information are admissible in specified proceedings under the Act. Neither of these things negates or constitutes a waiver of any privilege and the privilege continues for all other purposes.

Subsection 16 (1) of the Act is amended so that five, rather than two, persons licensed to provide legal services in Ontario shall be elected as benchers of the Law Society of Upper Canada. In addition, section 25.1 of the Act is amended so that these five persons are made members of the Paralegal Standing Committee.

Finally, various transition and other provisions that have become spent or obsolete over time are repealed.

Solicitors Act

Section 1 of the Solicitors Act is amended to provide that the restriction set out in that section on persons acting in an action or other proceeding without being a solicitor, which currently does not apply to parties to the proceeding, also does not apply to persons licensed under the Law Society Act to provide legal services in Ontario.