

LexisNexis® Reference Card: Legal Profession



Extracted from:

[Halsbury's® Laws of Canada – Legal Profession \(2013 Reissue\)](#)

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▼**HLP-1**▼ **Barristers and solicitors.** Canadian common-law jurisdictions never adopted the bifurcated structure that distinguishes between barristers and solicitors.¹ Legislation governing the legal profession in every province and territory stipulates that each member of the legal profession is entitled to practice as both a barrister and a solicitor.²

Advocates and notaries in Québec. The legal profession in Québec is divided into advocates and notaries. Advocates are the equivalent of barristers and solicitors in other provinces and are given exclusive right of audience in superior courts and certain administrative tribunals. Notaries are a separate and distinct branch of the legal profession in Québec regulated by their own professional body, the Ordre professionnel des notaires du Québec.³

Power of notaries. Notaries act as public officers and legal advisors. They have the power to preside over the execution of legal acts, conserve them under a serial number in their notarial records and issue authentic copies or extracts from them; they have the exclusive power with respect to the execution of immovable hypothecs, hypothecs securing the payment of bonds or other titles of indebtedness, marriage and civil union contracts, and contracts of gifts; and they may solemnize marriages and civil unions, as well as preside over the dissolution of civil unions by notarised joint declaration. Unlike notaries in other civil law jurisdictions, Québec notaries cannot receive acts that would then be enforceable without court action.

Notes

1. The current division of the legal profession in England and Wales into barristers and solicitors dates from 1873. Prior to that, the two branches were subject to further divisions.

2. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 102(1), (2)
(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 19(1)
(MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 1, "lawyer"
(NB) *Law Society Act, 1996*, S.N.B. 1996, c. 89, s. 28(1)(e)
(NL) *Law Society Act, 1999*, S.N.L. 1999, c. L-91, s. 33(2)
(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 2(z)
(ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 1, "licensees", "person who is authorized to practice law in Ontario" and Law Society of Upper Canada, By-Law 4, s. 2
(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 21
(QC) *An Act respecting the Barreau du Québec*, CQLR, c. B-1, s. 1
(SK) *Legal Profession Act, 1990*, S.S. 1990-91, c. L-10.1, s. 87
(NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 63
(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 63
(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 99.
3. See (QC) *Notaries Act*, CQLR, c. N-3.

2. Self-regulation

(1) Constitutional Considerations

▼**HLP-2**▼ **Exclusive provincial power.** Legislative responsibility for the governance of the legal profession in Canada is vested in the provinces.¹ Each province and territory has exercised this power and enacted legislation governing the legal profession.

Note

1. (CAN) *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, s. 92(13). See *Krieger v. Law Society of Alberta*, [2002] S.C.J. No. 45, [2002] 3 S.C.R. 372 at 390 (S.C.C.).

(2) Independence and Self-governance of the Profession

▼**HLP-3**▼ **Independent bar.** The legal profession is autonomous in the sense that it is not an organ of the state.¹ To protect its independence, the legal profession has been allowed to regulate itself.²

Self-governing profession. Each province and territory has established a governing body for the legal profession in that jurisdiction, typically referred to as a law society.³ Members are granted a monopoly over the provision of a wide range of legal services.⁴ They have also been given the exclusive power to regulate and supervise the legal profession as delegated by the relevant province or territory.⁵

Main object of the law-governing body. The paramount function of the governing body is the protection of the public through the supervision of the practice of legal profession.⁶ Consequently, where the interests of the profession in general or the interests of individual practitioners conflict with the public interest the latter must take precedence.⁷

Limited immunity of the governing body. While provincial legislation in a number of jurisdictions provides that the object or duty of the respective society is to uphold the public interest in the administration of justice,⁸ many of these Acts also include specific statutory immunity provisions insulating the society from liability where it has acted in good faith.⁹ The Supreme Court of Canada has further held that a law society does not generally owe a private law duty of care to a member of the public where the society exercises discretion inconsistent with a private law duty of care.¹⁰ Such a duty of care, however, might arise where a member of the public directly informs the governing body about the conduct of one of its members and, in certain circumstances, might even arise where a client has not directly informed the governing body about a member's alleged misconduct.¹¹

Notes

1. *Finney v. Barreau du Québec*, [2004] S.C.J. No. 31, [2004] 2 S.C.R. 17 at 21 (S.C.C.); *Canada (Attorney General) v. Law Society of British Columbia*, [1982] S.C.J. No. 70, [1982] 2 S.C.R. 307 (S.C.C.).
2. *Finney v. Barreau du Québec*, [2004] S.C.J. No. 31, [2004] 2 S.C.R. 17 at 21 (S.C.C.).
3. But the provincial or territorial legislative power to grant a monopoly over legal services is not absolute: see *Law Society of British Columbia v. Mangat*, [2001] S.C.J. No. 66, [2001] 3 S.C.R. 113 (S.C.C.) (paramountcy doctrine permits the federal government to allow non-lawyers to represent clients before federal boards).
4. The governing body in each jurisdiction is established as follows:

The Law Society of Alberta is established pursuant to the (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 2

The Law Society of British Columbia is established pursuant to the (BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 2

The Law Society of Manitoba is established pursuant to the (MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 2(1)

The Law Society of New Brunswick is established pursuant to the (NB) *Law Society Act, 1996*, S.N.B. 1996, c. 89, s. 3(1)

The Law Society of Newfoundland & Labrador is established pursuant to the (NL) *Law Society Act, 1999*, S.N.L. 1999, c. L-91, s. 3

The Nova Scotia Barristers' Society is established pursuant to the (NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 3(1). The Society may also be referred to as "Le Barreau de la Nouvelle-Écosse", s. 3(4)

The Law Society of Upper Canada is established pursuant to

the (ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 2(1)

The Law Society of Prince Edward Island is established pursuant to the (PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 2

The Barreau du Québec is established pursuant to (QC) *An Act respecting the Barreau du Québec*, CQLR, c. B-1, s. 3 and the (QC) *Professional Code*, CQLR, c. C-26, a statute applicable generally to all professional orders in Québec

The Law Society of Saskatchewan is established pursuant to the (SK) *Legal Profession Act*, 1990, S.S. 1990-91, c. L-10.1, s. 3(1)

The Law Society of the Northwest Territories is established pursuant to the (NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 2(1)

The Law Society of Nunavut is established pursuant to the (NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 2(1)

The Law Society of Yukon is established pursuant to the (YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 2(1).

5. See *Finney v. Barreau du Québec*, [2004] S.C.J. No. 31, [2004] 2 S.C.R. 17 at 30 (S.C.C.).

(AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 7(1)

(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 3

(MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 3(2)(b)

(NB) *Law Society Act, 1996*, S.N.B. 1996, c. 89, s. 5(e)

(NL) *Law Society Act, 1999*, S.N.L. 1999, c. L-9.1, s. 18(1.1)

(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 4(2)(c)

Law Society of Upper Canada, By-Law 11

(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 4(d)

(QC) *Professional Code*, CQLR, c. C-26, s. 23

(SK) *Legal Profession Act, 1990*, S.S. 1990-91, c. L-10.1, s. 3.1(b)

(NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 8(1)

(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 8(1)

(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 6(1).

6. See, e.g., *Law Society of New Brunswick v. Ryan*, [2003] S.C.J. No. 17, [2003] 1 S.C.R. 247 at 263 (S.C.C.), specifically addressing the Law Society of New Brunswick.
7. *Swain v. Law Society*, [1983] 1 A.C. 598 at 608, [1982] 2 All E.R. 827 at 830 (H.L.).
8. See, for example,
- (BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 3
- (MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 3(1)
- (NB) *Law Society Act, 1996*, S.N.B. 1996, c. 89, s. 5(a)
- (NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 4(1)
- (ON) *Law Society Act*, R.S.O. 1990, c. L.8, ss. 3, 4.2
- (PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 4(a)
- (SK) *Legal Profession Act, 1990*, S.S. 1990-91, c. L-10.1, s. 3.1(a).
9. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 115
- (BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 56
- (MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 60
- (NB) *Law Society Act, 1996*, S.N.B. 1996, c. 89, s. 110
- (NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 81
- (ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 9
- (PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 10
- (SK) *Legal Profession Act, 1990*, S.S. 1990-91, c. L-10.1, s. 86
- (NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 73
- (NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 73.
10. *Edwards v. Law Society of Upper Canada*, [2001] S.C.J. No. 77, [2001] 3 S.C.R. 562 at para. 14 (S.C.C.):
Decisions made by the Law Society require the exercise of legislatively delegated discretion and involve pursuing a

myriad of objectives consistent with public rather than private law duties.

See also *Ruby Lake Country Developments Ltd. v. Kennedy*, [2010] B.C.J. No. 2657 (B.C.S.C.), where the British Columbia Supreme Court held that the relationship between the Law Society and lawyers was not such that the Law Society or the Attorney General could or should be held vicariously liable for the tortious acts of a lawyer.

But in *Finney v. Barreau du Québec*, [2004] S.C.J. No. 31, [2004] 2 S.C.R. 17 (S.C.C.), the Barreau du Québec was held to have breached its duty to investigate complaints brought in good faith and the Supreme Court of Canada explicitly stated that the law in common-law jurisdictions is at least as demanding on this point.

See also *Halsbury's Laws of Canada: Negligence 2011 Reissue*, ▼HNE-126▼ (*Public Authorities).

11. See *755165 Ontario Inc. v. Parsons*, [2006] N.J. No. 224, 273 D.L.R. (4th) 11 (N.L.T.D.), leave to appeal refused [2006] N.J. No. 294, 273 D.L.R. (4th) 1 (N.L.C.A.).

(3) Governing Body

(a) Role

▼HLP-4▼ **Powers of the governing body.** Each province and territory has enacted legislation which imposes an obligation on the law society to regulate its members. Each law society is given the power to make rules and by-laws for:

1. prescribing the qualifications, course and manner of study and examinations of students at law and the requirements preliminary to their admission as barristers and solicitors;
2. regulating the admission and enrolment of barristers and solicitors;
3. reviewing and handling complaints against lawyers;
4. disciplining and reinstating lawyers;
5. monitoring and prescribing procedures respecting the handling of trust accounts;
6. maintaining systems of insurance and prescribing mandatory insurance obligations on lawyers; and
7. maintaining law libraries and legal education programs.

(b) Incorporation

▼HLP-5▼ **Corporate status of the governing body.** Each law society is incorporated, and therefore enjoys all of the powers, rights and benefits enjoyed by a corporation. Accordingly, law societies have legal personalities, which enable them to borrow money and own their own property, and make them capable of suing or being sued by others.¹

Note

1. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 3

(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 2(2)

(MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 2(2)

(NB) *Law Society Act, 1996*, S.N.B. 1996, c. 89, s. 3(1).

(NL) *Law Society Act, 1999*, S.N.L. 1999, c. L-9.1, s. 5

(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 3(2)

(ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 5

(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 5(1)

(QC) *Professional Code*, CQLR, c. C-26, s. 6

(SK) *Legal Profession Act, 1990*, S.S. 1990-91, c. L-10.1, s. 3(2)

(NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 7(a)

(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 7(a)

(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, 5(a).

(c) Administration

▼HLP-6▼ **Administrative structure.** The administrative hierarchy of the law society varies from province to province. In most jurisdictions the head of the law society is the president, elected by the benchers. The president is responsible for the general direction of the society's affairs and often acts as an ex officio member of most committees. Typically, law societies elect other prescribed officers who may assume the powers and responsibilities of the president in the latter's absence. Most law societies also have at least two other officers: a secretary and a treasurer, both of whom are usually appointed.¹

Notes

1. *Law Society of Alberta, The Rules of the Law Society of Alberta*, r. 6(a), which states that the Executive Director is the Chief Executive Officer of the Law Society
- (BC) *Legal Profession Act*, S.B.C. 1998, c. 9, ss. 4-5 and *Law Society of British Columbia, Law Society Rules*, r. 1-8(1)
- (MB) *Legal Profession Act*, C.C.S.M. c. L107, ss. 11-13
- (NB) *Law Society Act, 1996*, S.N.B. 1996, c. 89, s. 14
- (NL) *Law Society Act, 1999*, S.N.L. 1999, c. L-9.1, s. 20
- (NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 8
- (ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 7 (in Ontario, the Treasurer is the President and Head of the Society)
- (PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 34(1)(b)
- (I) (the President is appointed by the Lieutenant-Governor in Council)
- (QC) *Professional Code*, CQLR, c. C-26, ss. 10-12, 31 (the Bâtonnier of the Province of Québec is the head of the Bar)
- (SK) *Legal Profession Act, 1990*, S.S. 1990-91, c. L-10.1, s. 5 and *Law Society of Saskatchewan, Rules of the Law Society of Saskatchewan*, r. 9(1)
- (NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 6
- (NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 6
- (YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 10.

▼HLP-7▼ **Benchers.** Although law societies have the duty to regulate their members, in reality they act through smaller bodies of lawyers known as benchers¹ who are given the statutory power to govern and administer the affairs of their law

societies.² Some benchers are elected pursuant to the applicable statute and some are appointed by virtue of the office they hold or have held.

Lay benchers. With the exception of Québec, all of the provinces provide for the appointment of a specified number of lay persons as benchers.³ They are appointed by the government or by other benchers. Their role is to provide useful insight into the public interest, which the law societies are obliged to protect.

Delegation to committees. In general, benchers are permitted to delegate many of their powers to committees of benchers.⁴ Although the names of these committees vary between jurisdictions, benchers have generally established committees to deal with the following issues:

1. finance and administration;
2. legal education;
3. admissions and membership;
4. discipline;
5. professional standards and conduct;
6. ethics;
7. libraries;
8. unauthorized practice;
9. insurance and loss prevention;
10. legislation and policy; and
11. gender equity.⁵

Notes

1. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 5(1)
(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, ss. 4-5
(MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 4(1)
(NB) *Law Society Act*, 1996, S.N.B. 1996, c. 89, s. 6, where the corresponding body is called "Council"
(NL) *Law Society Act*, 1999, S.N.L. 1999, c. L-91, s. 6
(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 6(1), where the corresponding body is called "Council"
(ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 10
(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 6(1), where the corresponding body is called "Council"
(QC) *Professional Code*, CQLR, c. C-26, s. 10(3), (4), where the corresponding body is called "General Council"
(SK) *Legal Profession Act*, 1990, S.S. 1990-91, c. L-10.1, s. 6
(NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 3(1), where the corresponding body is referred to as the "Executive"
(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 3(1), where the corresponding body is referred to as the "Executive"
(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 4(1), where the corresponding body is referred to as the "Executive".

In Nova Scotia and Prince Edward Island, the corresponding body is called the Council; in Québec, the General Council; and in Yukon and the Northwest Territories, the Executive. The governing legislation in these provinces and territories does not refer to the concept of benchers, but the powers

and duties of the councils and executives are substantially equal to those of the benchers in the other provinces. For convenience, unless otherwise specified, these bodies are referred to in the generic as "benchers".

2. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 6
(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 4(2)-(5)
(MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 4(2), (5)
(NB) *Law Society Act*, 1996, S.N.B. 1996, c. 89, s. 16
(NL) *Law Society Act*, 1999, S.N.L. 1999, c. L-91, s. 18
(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 6
(ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 12(4)
(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 6(2)
(QC) *An Act respecting the Barreau du Québec*, CQLR, c. B-1, s. 10(2)
(SK) *Legal Profession Act*, 1990, S.S. 1990-91, c. L-10.1, s. 6(1)
(NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 7
(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 7
(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 5.
3. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 11
(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 5(2)
(MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 7
(NB) *Law Society Act*, 1996, S.N.B. 1996, c. 89, ss. 6(b), 12(1)
(NL) *Law Society Act*, 1999, S.N.L. 1999, c. L-91, s. 8(1)
(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 7(1)(e)
(ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 23
(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 7(1)(c)
(SK) *Legal Profession Act*, 1990, S.S. 1990-91, c. L-10.1, s. 6(3)
(NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 3(2)(a)
(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 3(2)(a)
(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 4(1)(b).
4. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, ss. 24-26; *Law Society of Alberta, The Rules of the Law Society of Alberta*, r. 24
(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 9
(MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 16; *Law Society of Manitoba, Rules of the Law Society of Manitoba*, r. 2-63(2)
(NB) *Law Society Act*, 1996, S.N.B. 1996, c. 89, s. 16(2)(a)
(NL) *Law Society Act*, 1999, S.N.L. 1999, c. L-91, s. 18(2)(d)
(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 12
(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 8(1)(d)
(QC) *An Act respecting the Barreau du Québec*, CQLR, c. B-1, s. 38(d) (the Bâtonnier of the Province of Québec is the head of the Bar)
(SK) *Legal Profession Act*, 1990, S.S. 1990-91, c. L-10.1, s. 10(a)
(NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 7(f)
(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 7(f)
(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 5(f).
5. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 51(1); *Law Society of Alberta, The Rules of the Law Society of Alberta*, r. 26, 29-31, 35, 170
(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, ss. 9(1), 10(1); *Law Society of British Columbia, Law Society Rules*, r. 1-39(1)
(MB) *Legal Profession Act*, C.C.S.M. c. L107, ss. 66, 70; *Law Society of Manitoba, Rules of the Law Society of Manitoba*, rr. 2-50, 2-63(3), 2-64
(NB) *Law Society Act*, 1996, S.N.B. 1996, c. 89, ss. 23, 44, 49, 55
(NL) *Law Society Act*, 1999, S.N.L. 1999, c. L-91, ss. 23(1), 35, 42
(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, ss. 34, 34A, 41
(ON) *Law Society Act*, R.S.O. 1990, c. L.8, ss. 25.1, 49.20, 59.2
(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 7(8)
(QC) *Professional Code*, CQLR, c. C-26, ss. 19, 45(1)
(SK) *Legal Profession Act*, 1990, S.S. 1990-91, c. L-10.1, ss. 34.3,

35, 35.1, 36, 47 49; *Law Society of Saskatchewan, Rules of the Law Society of Saskatchewan*, r. 110

(NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, ss. 23, 24.4(6), 24.5(6), 24.8(4)

(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 23, 24.4(6), 24.5(6), 24.8(4)

(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, ss. 25, 31.

(d) Qualifications

▼HLP-8▼ **Governing body regulates admission to legal practice.** One of the hallmarks of a profession is that the conditions of entrance and the qualifications necessary to practise are determined by its controlling body.¹ To this end, law societies have allocated large percentages of their annual budgets to establish and develop admission qualifications and continuing education programs. These are designed to ensure that lawyers are admitted with the necessary knowledge base and that they keep pace with changes in the law. Both sets of qualifications are essential to practise law in Canada. Education and admissions committees of the law societies continually evaluate the qualifications for admission of law students and lawyers into the profession and impose continuing education requirements on those already admitted.

Notes

1. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 37(1)
(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, s. 19(1)
(MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 17(5)
(NB) *Law Society Act*, 1996, S.N.B. 1996, c. 89, ss. 27, 28
(NL) *Law Society Act*, 1999, S.N.L. 1999, c. L-91, s. 29
(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 16(2)
(ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 27
(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, ss. 15, 16
(QC) *Professional Code*, CQLR, c. C-26, s. 94(h)
(SK) *Legal Profession Act*, 1990, S.S. 1990-91, c. L-10.1, s. 24
(NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 16
(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 16
(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 20.

(e) Discipline

▼HLP-9▼ **Codes of conduct.** Professional standards are also governed by the law societies of each province. The main instruments utilized are the codes of conduct in each jurisdiction.¹ Although many law societies have adopted the model code developed by the Canadian Bar Association,² all law societies annually review, modernize and update their respective codes to ensure that the standards imposed on the profession are reflective of the values and needs of the profession it serves and the society at large. Codes of conduct generally contain broad statements of principle, followed by a collection of more specific examples of conduct contemplated by the principle.

Notes

1. Law Society of Alberta, *Code of Conduct*
Law Society of British Columbia, *Code of Professional Conduct*
Law Society of Manitoba, *Code of Professional Conduct*
Law Society of New Brunswick, *Code of Professional Conduct*
Law Society of Newfoundland & Labrador, *Code of Professional Conduct*
Nova Scotia Barristers' Society, *Code of Professional Conduct*
Law Society of Upper Canada, *Rules of Professional Conduct*
(QC) Code of ethics of advocates, CQLR, c. B-1, r. 3; (QC) Code of ethics of notaries, CQLR, c. N-3, r. 2
Law Society of Saskatchewan, *Code of Professional Conduct*
Law Society of Yukon, *Yukon Code of Professional Conduct*.
2. Canadian Bar Association, *Code of Professional Conduct*. The law societies of New Brunswick, Northwest Territories, Nunavut and Prince Edward Island have adopted this code as their own Code of Professional Conduct. New Brunswick and Prince Edward Island have also adopted additional provisions.

▼HLP-10▼ **Standard of conduct.** Law societies use their respective codes of conduct to evaluate and police the conduct of their members. Questionable conduct in disciplinary matters is described in most provinces as “conduct unbecoming”, a term which, although not specifically defined in all of the legal profession statutes, is generally concerned with behaviour that:¹

1. is incompatible with the best interests of the public or of the members of the society; or
2. tends to harm the standing of the legal profession generally.

Ontario distinguishes between “professional misconduct” and “conduct unbecoming a licensee”;² the former is misconduct arising in the practice of law, whereas the latter involves conduct (often criminal conduct) arising outside the practice of law that brings discredit upon the profession.

Notes

1. (AB) *Legal Profession Act*, R.S.A. 2000, c. L-8, s. 49(1)
(BC) *Legal Profession Act*, S.B.C. 1998, c. 9, ss. 1, 36, 38
(MB) *Legal Profession Act*, C.C.S.M. c. L107, s. 63
(NB) *Law Society Act*, 1996, S.N.B. 1996, c. 89, s. 38
(NL) *Law Society Act*, 1999, S.N.L. 1999, c. L-91, s. 29
(NS) *Legal Profession Act*, S.N.S. 2004, c. 28, s. 33
(ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 33
(PE) *Legal Profession Act*, R.S.P.E.I. 1988, c. L-6.1, s. 37(1)
(QC) *Professional Code*, CQLR, c. C-26, s. 59.2; (QC) *An Act respecting the Barreau du Québec*, CQLR, c. B-1, s. 122
(SK) *Legal Profession Act*, 1990, S.S. 1990-91, c. L-10.1, ss. 2(1), 40 (see *McLean v. Law Society of Saskatchewan*, [2012] S.J. No. 40, 2012 SKCA 7 (Sask. C.A.), leave to appeal refused [2012] S.C.C.A. No. 130 (S.C.C.))

- (NT) *Legal Profession Act*, R.S.N.W.T. 1988, c. L-2, s. 22
(NU) *Legal Profession Act*, R.S.N.W.T. (Nu.) 1988, c. L-2, s. 22
(YT) *Legal Profession Act*, R.S.Y. 2002, c. 134, s. 24(2).
2. (ON) *Law Society Act*, R.S.O. 1990, c. L.8, s. 33.

Supplemental Readings**Legal Profession**

[Canadian Legal Practice – A Guide for the 21st Century](#) (Dodek)

[Introduction to Legal Ethics](#) (Cockfield)

[Understanding Lawyers' Ethics in Canada](#) (Woolley)

[Lawyers' Ethics and Professional Regulation, 2nd Edition](#) (Woolley, Cotter, Devlin and Law)

General

[Legal Problem Solving – Reasoning, Research & Writing, 6th Edition and The Ultimate Guide to Canadian Legal Research](#) (Fitzgerald)

[Legal Writing and Research Manual, 7th Edition, Student Edition](#) (Whitehead and Matthewman)