

*LAW SOCIETY ACT, 1999*

**PART IV  
LAW FOUNDATION**

**Foundation established**

**64.** The "Law Foundation of Newfoundland and Labrador ", called the "foundation", is continued as a corporation.

[2004 c48 s25](#)

**Composition of board**

- 65.** (1) The foundation shall be administered by a board of governors, called the "board".
- (2) The board shall consist of
- (a) the Minister of Justice or his or her appointee;
  - (b) a person who is not a member or a bencher, who shall be appointed by the Minister of Justice;  
and
  - (c) 5 members in good standing who shall be appointed by the benchers.
- (3) The benchers shall by their instrument of appointment designate one of the persons appointed under paragraph (2)(c) to be chair of the board.
- (4) The maximum term of office of a governor shall be 4 years commencing at the date this Act comes into force.
- (5) A governor is eligible for reappointment after the expiry of his or her term of office.
- (6) Where a governor holds office for a period of 8 consecutive years, the governor stops being eligible for appointment until the expiration of 12 months from the years in which he or she last held office.
- (7) Where a vacancy occurs on the board, the vacancy shall be filled by another appointment from the party that made the original appointment.
- (8) Four governors constitute a quorum of the board.
- (9) An act of the board is not invalid because of a defect occurring in the appointment of its governors.

[1999 cL-9.1 s65](#)

### **Vacating office**

- 66.** (1) A governor shall vacate office when he or she
- (a) has completed his or her term;
  - (b) ceases holding the qualifications necessary for the appointment;
  - (c) becomes bankrupt;
  - (d) is convicted of a criminal offence;
  - (e) is unable to act; or
  - (f) has joined the executive committee of the benchers.
- (2) A governor may resign from the board upon giving one month's notice to the board of his or her intention to do so, and the resignation takes effect upon the expiration of the notice or upon its earlier acceptance by the board.

[1999 cL-9.1 s66; 2004 c48 s26](#)

### **Objects and powers of board**

- 67.** (1) The objects of the foundation are to establish and maintain from the revenues derived under section 69 a fund, to be known as the "foundation fund", to be used for the following purposes:
- (a) legal education and legal research;
  - (b) law reform;
  - (c) assistance in funding the Newfoundland and Labrador Legal Aid Commission as established under the *Legal Aid Act*;
  - (d) the establishment, operation and maintenance of a legal referral service for the residents of the province;
  - (e) the establishment, operation and maintenance of law libraries; and
  - (f) the provision of scholarships for studies in matters relevant to law.
- (2) The board shall transfer 2/3 of the net revenue received in each calendar year directly to the Newfoundland and Labrador Legal Aid Commission.
- (3) In order to further its objects the foundation may, as ancillary or incidental to its objects, do the things that it considers calculated to further the objects of the foundation and it may borrow, raise and secure the payment of money upon the credit of the foundation as the board thinks appropriate and may for that purpose issue notes, bonds, debentures or other evidences of indebtedness.

[1999 cL-9.1 s67; 2001 cN-3.1 s2](#)

### **Liability for trust money**

**68.** A member, student or professional law corporation is not liable, by virtue of the relation between the member, student or professional law corporation and a client or the relation between the member, student or professional law corporation as trustee and a beneficiary, to account to a client or beneficiary for interest received by the member, student or professional law corporation on money

- (a) deposited in a bank, trust company or other depository approved by the board; and
- (b) deposited with other money received or held for or on account of his or her clients generally.

[2005 c20 s12](#)

### **Duty to maintain trust account**

**69.** (1) A member or a professional law corporation shall maintain a regular interest-bearing trust account in a chartered bank, a trust company or other depository approved by the board, into which the member or corporation shall deposit all money received or held by the member or corporation for or on account of clients upon trust.

(2) A member or professional law corporation who is credited by a bank, trust company or other depository approved by the board with interest on money received or held for, or on account of, clients generally holds that interest in trust for the foundation and shall remit it to the foundation in accordance with the by-laws of the foundation.

[1999 cL-9.1 s69; 2005 c20 s13](#)

### **Saving**

**70.** Nothing in sections 68 and 69 or in the by-laws of the foundation

- (a) affects a written arrangement, whenever made, between a member or professional law corporation and a client respecting the application of the client's money or the interest on it; or
- (b) applies to money deposited in a separate account for a client at interest that is, and is intended to remain, the property of the client.

[1999 cL-9.1 s70; 2005 c20 s14](#)

### **Unclaimed trust funds**

**70.1** (1) A member or professional law corporation who has held money in trust on behalf of a person whom the member or professional law corporation has been unable to locate for 2 years or more, shall pay the money to the society.

(2) Where a member or professional law corporation has paid money to the society under subsection (1), the liability of the member or professional law corporation to pay that money to the person on whose behalf the member or professional law corporation previously held it or to that person's legal representative, is extinguished.

(3) The society shall hold in trust any money paid to it under subsection (1).

- (4) The society is entitled to retain, for its purposes, interest on any money held by it under subsection (3).
- (5) A person or the legal representative of a person who, but for subsections (1) and (2), could have claimed money held in trust by a member or professional law corporation, may claim the money from the society and, on being satisfied that the person is entitled to it, the society shall pay the money to the person.
- (6) A claim against the society under subsection (5) is not enforceable after the expiration of 10 years after the money is received by the society under subsection (1) and, after expiration of the 10 year period, the society shall pay the money, excluding any interest retained under subsection (4) to the foundation for its purposes.
- (7) The society shall, for the purpose of public notice, publish in Part I of the *Gazette* the available identifying information regarding the unclaimed trust funds at the end of the 9th year after the money is received by the society before taking the action referred to in subsection (6).
- (8) Where a claim is made under subsection (5) and the society is not satisfied that the person is entitled to the money, that person or the legal representative of that person may apply to the Trial Division for a review of the decision of the society and the court may, where it is satisfied that the person is entitled to the money, allow the claim.

[2004 c48 s27; 2005 c20 s15](#)

### **By-laws**

**71.** The board may make by-laws for matters related to the affairs, property and purposes of the foundation and, in particular, may make by-laws respecting

- (a) the number and designation of officers of the foundation;
- (b) the resignation or removal from office of officers of the foundation;
- (c) the number and designations of employees of the foundation other than officers, and their terms and conditions of employment;
- (d) the remuneration of officers and employees of the foundation;
- (e) the operation of the foundation fund;
- (f) the deposit and remission of funds under section 69; and
- (g) the terms, conditions and limitations upon which funds may be used for the purpose of the foundation.

[1999 cL-9.1 s71](#)