

Practice Advisory on Changes to the *Legal Profession Act* Regulations

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Law firms and real estate practitioners should be aware of the new obligations created by amendments to the Regulations made pursuant to the *Legal Profession Act*, S.N.S. 2004, c. 28 and approved by Council on April 24, 2009. Enforcement of these regulations will begin September 15, 2009.

All lawyers should be aware of the changes to Regulations

- 4.5.4 (Client ID)
- 4.7.1 (fees)
- 4.7.13 (fees)

also approved by Council on April 24, 2009, which took effect on that date.

Updated regulations can be found at <http://www.nsbs.org/documents/general/CURRENTREGS.pdf>

For real estate lawyers the new obligations created include the obligation to maintain foundation documents, even when a lawyer leaves a firm, or a firm is dissolved. Foundation documents include more than the abstract.

The definition of foundation documents, certificate of legal effect and opinion of title are defined in Part 1 of the regulations. See:

- 1.1.1. (da)** certificate of legal effect
- 1.1.1 (ma)** definition of foundation documents
- 1.1.1. (ua)** opinion of title defined

Some of the other changes impacting law firms and real estate practitioners are noted and/or summarized below:

Part 5

Content of Application (change of category)

5.5.2 (iii)

5. 8.2 c (iii)

A practising lawyer applying to change category, must if applicable, confirm that all foundation documents required to be kept pursuant to Part 8 of the Regulations have been transferred in accordance with that part.

Part 7

Law Firms, LLP's , Law Corporations, Firm Names and Advertising

7.2.1 (a)

7.2.1 (f)

A law firm must now also have a designated practising lawyer to receive communications regarding an LRA Audit under part 13 of the *Legal Profession Act*.

A law firm must now maintain foundation documents for firm real estate practitioners, unless this obligation is transferred in accordance with Part 8 of the regulations.

Part 8

Standards

Regulation **8.2.3** has been deleted

Regulations **8.2.3.1-8.2.3.4** have been added.

These regulations deal with requirements of law firms and lawyers to keep foundation documents unless relieved of this obligation.

Part 9

Professional Responsibility

9.2.1.2

If the Executive Director receives a report from an LRA Auditor under Part 13 of these regulations which relates to the lack of co-operation of an eligible lawyer, in addition to exercising any other power provided for in this Part, the Executive Director may determine that a practicing lawyer, whose conduct is the subject of the report, is no longer "eligible" within the meaning of Part 13 of these regulations and give notice to that person of this determination.

Part 13

Real Estate Practice –Interpretation

See the following new regulations which relate to eligible lawyers and the *Land Registration Act* and the LRA Audit process.

13.1.1

13.2

13.2.1

13.2.2

13.2.3

13.3

13.3.1

13.3.2

13.3.3

13.3.4

13.3.5

13.3.6

13.3.7

13.3.8

Read the changes to all the parts of the Regulations carefully. I recommend that you also circulate this notice to all real estate lawyers and paralegals in your firm, as well as anyone else involved in the file. I also recommend that you:

- decide now, who from the firm will be the lawyer designated to receive communication regarding a LRA Audit under Part 13 of the *Legal Profession Act*
- consider adding compliance with the Regulations to your opening and closing checklists

- consider offering an in-house education session on the Regulations, so that all who should be aware of the changes, are in fact aware of them, and complying with them by the September 15, 2009 enforcement date

If you have any questions on this, or any other risk or practice related matter, do not hesitate to contact me, Deborah E. Gillis, Q.C., Risk and Practice Management Advisor, Lawyers' Insurance Association of Nova Scotia at 423-1300 ext. 345 or at dgillis@lians.ca