**LAW SOCIETY OF PRINCE EDWARD ISLAND**

**Policy on Readmission Following Disbarment (Regulation 53)**

**1 Purpose**

**1.1** The purpose of this Policy on Readmission Following Disbarment (Regulation 53) (“Policy”) is to outline the requirements, procedures, and expectations of previous members of the Society who have been disbarred and wish to be readmitted as members of the Law Society of Prince Edward Island (“the Society”).

**1.2** This Policy should be read in tandem with the *Legal Profession Act* (“*Act”)* and Regulations made pursuant to the *Act*. If there is a conflict between the Policy and the provisions of the *Act* and/or Regulations made pursuant to the *Act*, the provision of the *Act* and Regulations prevail.

**2 Decision-Making Process**

**2.1** The Secretary-Treasurer is responsible for making all determinations regarding applications submitted under this Policy, except where:

* The Regulations require referral to Council; or
* The Secretary-Treasurer, in their sole discretion, determines that such referral is necessary.

**2.2** In every instance, all decisions will adhere to the guidelines and procedures set forth in the Society’s *Policy on Decision-Making in the Public Interest*, ensuring decisions are made in the public interest and in full compliance with the *Act*, its Regulations, and the Society’s mandate.

**3 Striking from the Roll**

**3.1** A member is struck from the Roll of the Law Society of Prince Edward Island when the Society finds that the person was guilty of such unprofessional conduct that a person is deemed not fit to remain on the Rolls of the Society. It is the extreme penalty.

**4 The Application**

**4.1** Pursuant to Regulation 53(1), a person who has been disbarred from the Society may apply to be readmitted to membership in the Society.

**5 Restoration Exceptional**

**5.1** It is the position of the Society that disbarment is to be regarded as essentially permanent in nature, and that restoration will only be recommended in exceptional circumstances and upon special grounds, where a former member has shown by a long course of conduct that they are a person to be trusted and is in every way fit for and possessive of the requisite qualifications and good character to be a member of the Society.

**6 Burden of Proof and Evidential Standard**

**6.1** The applicant bears the burden of proof and must satisfy the Secretary-Treasurer, Council, and/or the Credentials Committee on clear, cogent, and convincing evidence that:

1. special circumstances exist that justify readmission, and
2. there is no reasonable probability of the former member offending in the future.

# 7 Matters for Consideration

# 7.1 Unless the former member makes out a case of very special circumstances and shows that they have in all other respects fulfilled the requirements for readmission, the Committee will be reluctant to recommend that former member’s restoration to the rolls. When assessing the application, the following considerations are relevant:

# Character of Charges – the character of the charges upon which the former member was disbarred;

# Circumstances of the Offence – the circumstances under which the offence was committed, including but not limited to the applicant’s age at the time of the misconduct, the frequency of the misconduct and any factors underlying the misconduct;

# Monetary Restitution – In cases where the offence was that the former member had misappropriated or converted money or property, it will be made a prime prerequisite to readmission that complete restitution be made;

# Period of Time since Disbarment – whether a sufficient period has elapsed from disbarment to the time when the disbarred member makes an application for readmission as the former member must demonstrate by a long course of conduct that he or she is trustworthy;

# Absence from Practice – evidence that the former member has strictly refrained from engaging in the practice of law since disbarment;

# Character Evidence – The former member must establish that his/her conduct and character are unimpeached and unimpeachable, which can be established to a degree by the evidence of trustworthy persons, especially members of the profession and persons with whom the former member has been associated during that person's disbarment, and may include evidence of the applicant’s positive social contributions since the offence;

# Evidence that the former member has:

# expressed both a sincere admission of guilt and genuine remorse, or

# if the former member sincerely believes he or she was not guilty, shown that the issue of his or her guilt is sufficiently removed from his or her current circumstances so as to be nearly moot;

# Evidence of Rehabilitation;

# Evidence that it is extremely unlikely the former member will commit misconduct if readmitted; and

# Evidence that the former member has remained current in the law through participating in continuing professional development, or has a plan acceptable to the society that will permit the former member to be sufficiently current in the law prior to readmission.

# 8 Procedure for Application

# 8.1 A written application for readmission should be directed to the Secretary-Treasurer together with the prescribed fee.

# 9 Content of Application

# The content of the application is prescribed by Regulation 53(2):

# *An application under this section shall be in the prescribed form, accompanied by the prescribed fee, and shall provide a) contact information, b) professional history, c) information confirming good character, d) information confirming fitness, e) information confirming competence to practice law, f) if the member is or has been a member of a law society in a foreign jurisdiction, certificates of standing from each jurisdiction, g) such other information that may be required by the Secretary-Treasurer or Council.*

# To meet the requirements of Regulation 53(2)(c) and (g), the application must be accompanied by:

# A statutory declaration addressing the following:

# the character, conduct, habits of life, particulars of employment, and means of livelihood of the applicant since they were struck from the Roll;

# the applicant’s present financial position;

# that restitution of property and payment of all money, if any has been misappropriated or converted by the applicant, has been made, or the reason why such restitution or payment has not been made;

# that the applicant has paid to the Society any money paid out of the Society’s Reimbursement Fund in respect of any misappropriation or conversion by the applicant;

# the source from which and manner in which money was obtained to make payment;

# particulars of all other matters, if any, which to the applicant’s knowledge may be the subject matter of a current complaint to the Society, if the applicant were a member;

# that the applicant has not, since disbarment, offended any provisions of the *Act*.

# Written statements by at least two persons who have had direct personal association with the applicant in their business or employment during the period since she/he was struck from the Roll and expressing their opinion that the applicant is fit and possesses the requisite good character to engage in the practice of law, and an outline of the basis for that opinion; and

# an acknowledgement by the applicant that the applicant understands that the Committee will consider the applicant’s character and fitness, along with the applicant’s competence in light of the length of absence from practice and that if readmitted, terms and conditions may apply.

# 10 Proof of Fitness Required – Medical Evidence

# 10. 1 If the striking from the Roll was attributable partly or wholly, directly or indirectly, to sickness, physical or mental disability, or substance abuse that inferred with the applicant’s practice, the applicant must provide information confirming fitness in the form of a certificate of a duly qualified medical practitioner and, where appropriate, of the applicant’s counsellor or psychologist, confirming that the applicant no longer suffers from such sickness or disability or has the condition under control.

# 11 Good Character and/or Fitness Evidence

# 11. 1 The Secretary-Treasurer or Council may obtain additional information regarding the applicant’s good character and/or fitness from the applicant or any other person.

# 12 Authority of Secretary Treasurer

# 12.1 The Secretary-Treasurer may approve the application unless the Secretary-Treasurer is required to refer the application to Council per Regulation 53(5).

# 13 Consideration of the Application

# 13. 1 The Secretary-Treasurer or Council will evaluate the application considering the public interest and may require the applicant to submit additional information.

# 13. 2 Where there are issues about the applicant’s character or fitness, the applicant may be subject to a Credentials Inquiry.

# 13. 3 Decisions under Regulation 53 will be pursuant to section 2 of this Policy.

# 14 Public Notice of Application

# 14. 1 Pursuant to Regulation 53(3), the Secretary-Treasurer may provide public notice of the application:

*If an applicant under this section was disbarred or permitted to resign from the Society, the Secretary-Treasurer may:*

1. *Cause notice of the application to be published in a newspaper published in the province, or*
2. *Advise the members of the Society of the application, or*
3. *Invite submissions to the Society respecting the application.*

# 15 Call to the Bar Required

# 15. 1 Pursuant to Regulation 53(9), upon approval of an application for readmission, the applicant must be called to the Bar.

# 16 Period of Supervision

# 16.1 During any required period of supervision, the applicant is considered a practicing lawyer and must be fully insured and pay the fees of a practicing lawyer.

# 17 Roll of Members

# 17.1 Upon readmission to the Society, a memorandum of readmission shall be entered in the Roll of the Society.

# *Approved by Council – MM/DD, 2025*