

1950

c 200 Law Society Act

Ontario

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CHAPTER 200

The Law Society Act

1. In this Act, "Society" means The Law Society of Upper Canada. R.S.O. 1937, c. 221, s. 1. Interpretation.

2. The treasurer and benchers of the Society, and their successors, shall be a body corporate and politic by the name of "The Law Society of Upper Canada", and may purchase, acquire, take by gift, bequest, donation or otherwise, for the purposes of the Society but for no other purpose, and may sell, mortgage, lease or dispose of any real or personal property. R.S.O. 1937, c. 221, s. 2. Name.

3. The judges of the Supreme Court shall be visitors of the Society. R.S.O. 1937, c. 221, s. 3. Visitors.

4. Members of the Bar of Ontario and persons admitted to the Society as students-at-law shall be members of the Society. R.S.O. 1937, c. 221, s. 4. Members.

5. The following, if and while continuing members of the Bar of Ontario, shall *ex officio* be benchers of the Society: *Ex officio*
benchers.

1. The Minister of Justice and the Solicitor-General of Canada.
2. The Attorney-General for Ontario, and every person who has held that office.
3. Every person who has for seven consecutive years held the office of treasurer of the Society.
4. Every person who has been elected a bencher at four quinquennial elections.
5. Every retired judge of the Supreme Court of Canada or of the Exchequer Court of Canada who was at the time of his appointment a member of the Bar of Ontario.
6. Every retired judge of the Supreme Court of Ontario. R.S.O. 1937, c. 221, s. 5; 1944, c. 30, s. 1 (1); 1950, c. 79, s. 11.

Elective benchers.

6. The benchers, exclusive of the *ex officio* members, shall be 30 in number and shall be elected from the members of the Bar as hereinafter provided. R.S.O. 1937, c. 221, s. 6.

Appointment of scrutineers.

7.—(1) The benchers shall, during the month of February next preceding an election, appoint, with their assent, two members of the Bar, who, with the treasurer, shall act as scrutineers at the election, and who shall not be eligible for election to the office of bencher, and a third person, who shall be a member of the Bar and not a candidate, and assist the treasurer and act for him in his absence, in counting the votes.

Temporary vacancies.

(2) The treasurer may fill any vacancy in the office of scrutineer, and if he sees fit may appoint temporarily any qualified person to act as substitute for any scrutineer or other person appointed during the absence of such person. R.S.O. 1937, c. 221, s. 7.

Election, when to be held.

8.—(1) An election shall be held on the first Thursday after the second Wednesday in April of every fifth year after 1941; but if the scrutineers are unable to complete the scrutiny upon such day, the same shall be continued from day to day until the election is declared.

Absence of scrutineer.

(2) If any scrutineer is absent during the scrutiny, the others may proceed therewith. R.S.O. 1937, c. 221, s. 8.

Who may vote and for whom.

9. Every person who is a member of the Bar in good standing and not in arrear for fees to the Society shall be an elector qualified to vote for 30 persons for benchers pursuant to this Act. R.S.O. 1937, c. 221, s. 9.

List of voters.

10.—(1) The secretary shall, in the month of January, previous to the time for holding an election, make out and sign an alphabetical list of the members of the Bar who are entitled to vote at the election.

Complaints or errors in the list.

(2) The list may be examined by any member of the Bar at all reasonable times at the office of the secretary, and if, within 15 days after the last day of January, a member of the Bar complains to the secretary, in writing, of the improper omission or insertion of any name in the list, the secretary shall forthwith examine into the complaint and rectify any error.

Appeal to scrutineers.

(3) If any person is dissatisfied with the decision of the secretary, he may appeal to the scrutineers; whose decision

shall be final, and the list shall remain or be altered in accordance with their decision, and the list as it stands on the 5th day of March shall be signed by the secretary and scrutineers and shall be the settled list of persons entitled to vote at the election.

(4) The secretary shall add to the list the names of all persons called to the Bar after the last day of January and before the day fixed for the receipt of nomination papers, and no alteration shall be made in the list except as provided in this section. R.S.O. 1937, c. 221, s. 10. Adding persons called to the Bar in term preceding.

11. No person shall be eligible as a benchers at any election who is not qualified to vote at the election. R.S.O. 1937, c. 221, s. 11. Qualifications of benchers.

12. At all elections retiring benchers shall be eligible for re-election. R.S.O. 1937, c. 221, s. 12. Retiring benchers eligible.

13.—(1) No person shall be elected as a benchers unless he has been nominated as hereinafter mentioned, and every vote cast for any person not so nominated shall be void. Nomination required.

(2) The nomination shall be in writing by a nomination paper, which shall be signed by at least 10 of the persons entitled to vote at the election. Nomination paper.

(3) The nomination paper shall be delivered at the office of the secretary or sent by mail to him, so as to be received during the first 15 days of the month of March of the year in which the election is to take place, and if not so delivered or received shall be invalid and shall not be acted upon. Delivery.

(4) The secretary shall, within the first four days after the last day for the receipt of nomination papers, mail a notice in writing to each nominee informing him of his nomination, but the failure to mail a notice or the non-receipt thereof by the nominee shall not invalidate the election. Notice to nominee.

(5) Any person who is nominated may refuse to become a candidate, and he shall be deemed not to have been so nominated and his name shall not be included in the list of candidates if he notifies the secretary in writing of his refusal within four days after the mailing of a notice to him. Declining nomination.

(6) If the number of persons who remain as candidates is not greater than the number of benchers to be elected, they shall be elected benchers. R.S.O. 1937, c. 221, s. 13. Election by acclamation.

Proceedings
in case
of poll.

14. In case a poll is necessary the secretary shall forthwith, after the time for receiving notice of refusal to be a candidate has expired, send to each member of the Bar, whose name is on the list of persons entitled to vote, if his residence is known to the secretary, one copy of the form of voting paper with a list of the candidates which shall indicate by asterisks and a footnote those whose term of office as benchers is about to expire. R.S.O. 1937, c. 221, s. 14.

When vot-
ing papers
to be
delivered.

15. The votes shall be given by closed voting papers (Form 1) delivered at the office of the secretary or sent by mail to him so as to be received thereat not later than the second Wednesday of April of the year of the election. R.S.O. 1937, c. 221, s. 15.

Counting
the votes.

16. Beginning on the first Thursday after the second Wednesday of April and proceeding continuously thereafter, except on holidays, the voting papers shall be opened by the secretary in the presence of the treasurer or the person appointed to assist him, and of the scrutineers who shall scrutinize and count the votes and keep a record thereof in a book to be provided by the Society. R.S.O. 1937, c. 221, s. 16.

Void vote.

17. A vote cast for any person who is not upon the list of candidates or who is ineligible to be a bencher or who is a bencher *ex officio* shall be null and void, and the election shall be declared as if such vote had not been cast. R.S.O. 1937, c. 221, s. 17.

Voting for
more than
30 members.

18. In the event of a voter placing more than 30 names on his voting paper, the first 30 only shall be counted notwithstanding that any of the 30 persons so named may be ineligible for election or is not a candidate or is an *ex officio* bencher. R.S.O. 1937, c. 221, s. 18.

Equality of
votes.

19. If an equality of votes between two or more persons leaves the election of one or more benchers undecided, the scrutineers shall forthwith put into a ballot box a number of papers with the names of the candidates having such equality of votes written thereon, one for each candidate, and the secretary shall draw by chance from the ballot box, in the presence of the scrutineers, one or more of such papers sufficient to make up the required number, and the persons whose names are upon the papers so drawn shall be declared to have been elected as benchers. R.S.O. 1937, c. 221, s. 19.

Who to be
declared
elected.

20.—(1) The thirty persons who have the highest number of votes shall be declared by the secretary to have been elected as benchers for the ensuing term of five years.

(2) If among the thirty persons who have the highest number of votes there is any bencher who by virtue of such election becomes *ex officio* a bencher, the scrutineers shall so report and, subject to section 17, the thirty other persons having the highest number of votes shall be declared to have been elected as benchers for the ensuing term of five years. R.S.O. 1937, c. 221, s. 20.

Where
ex officio
bencher is
elected.

21. Any person entitled to vote at any such election shall be entitled to be present at the counting of the votes. R.S.O. 1937, c. 221, s. 21.

Who may
be present at
the counting
of votes.

22. If from any cause an election provided for by this Act is not held as hereinbefore provided, the benchers in convocation shall make provision for holding the same and fix the dates for the nomination and the other proceedings for taking, counting and recording the votes thereat and declaring the result thereof, and such proceedings shall, so far as practicable, be conformable with those provided by this Act. R.S.O. 1937, c. 221, s. 22.

When
election not
held at
proper time.

23. Upon the completion of the scrutiny and counting of the votes the secretary shall forthwith declare the result of the election as certified by the scrutineers and report the same to the Society, and shall cause the names of the persons elected to be published in the next issue of *The Ontario Gazette*. R.S.O. 1937, c. 221, s. 23.

Declaration
of result.

24. The benchers may make such regulations as they consider expedient, not contrary to this Act, for regulating the procedure under the preceding sections, and for the remuneration of the scrutineers. R.S.O. 1937, c. 221, s. 24.

Regulations
for elections
and remun-
eration to
scrutineers.

25. Until all petitions in respect of the election have been decided the voting papers relating to the election shall not be destroyed, but together with all other papers in connection with the election, shall be retained by the secretary. R.S.O. 1937, c. 221, s. 25.

Preservation
of voting
papers.

26. No person shall sign the name of any other person to a voting paper, or alter, or add to, or falsify, or fill up any blank in a voting paper signed by another person, or deliver or cause to be delivered, or send or cause to be sent, by post or otherwise, to the secretary, a false voting paper or a voting paper which has been added to, or falsified or in which a blank has been filled up after the same was signed. R.S.O. 1937, c. 221, s. 26.

False
voting.

Absence of
secretary.

27. If the office of secretary is vacant or if the secretary is unable from any cause to act at or in connection with an election, the treasurer shall appoint under his hand some other person to act as secretary *pro tempore*, and the person so appointed shall perform all the duties of the secretary as prescribed by this Act. R.S.O. 1937, c. 221, s. 27.

Term of
office of
benchers.

28. The elected benchers shall take office at the first meeting following their election, and, subject to this Act, shall hold office until their successors are elected. R.S.O. 1937, c. 221, s. 28.

Vacation of
seat for non-
attendance.

29.—(1) The seat of a bencher, other than an *ex officio* bencher, who has failed to attend the meetings of the benchers for nine consecutive meetings shall at the expiration of that period *ipso facto* become vacant.

Suspension
of certain
ex officio
benchers for
non-payment
of fees.

(2) The right of any bencher who is *ex officio* by reason of having been elected at four quinquennial elections, to sit and vote at meetings of the benchers, shall be suspended if and while he is in default in payment of any fees to the Society. R.S.O. 1937, c. 221, s. 29.

Committee
on election
petitions.

30. The benchers may appoint a committee to inquire with respect to the due election of any bencher whose election may be petitioned against by any member of the Bar who voted at the election, and, after such inquiry, to report such bencher as duly or not duly elected or qualified according to the fact, and, if necessary, to report the name of the candidate having the highest number of votes next after the candidate declared elected who had the lowest number of votes, in lieu of the person reported not duly elected or qualified, and, on the confirmation of the report by the benchers, other than persons petitioned against, present at any meeting called for that purpose, the person so reported in lieu of the person petitioned against shall be deemed to be the duly elected and qualified bencher. R.S.O. 1937, c. 221, s. 30.

Time for
filing election
petition.

31.—(1) A petition shall not be entertained unless it is filed with the secretary before the 10th day of May next succeeding the election, and contains a statement of the grounds on which the election is disputed, nor unless a copy thereof is served upon the bencher whose election is disputed before the 15th day of May, and no ground not mentioned in the petition shall be entertained on the hearing thereof.

Hearing
petitions.

(2) The benchers, or the committee appointed for that purpose, shall before the last day of such month, appoint a day for the hearing of the petition and give notice of such

day to the petitioner and to the person whose election is disputed, and all such petitions shall be finally disposed of within one month from the date of filing. R.S.O. 1937, c. 221, s. 31.

32. The petitioner shall deposit with the secretary \$100 Deposit for costs. to meet any costs which the benchers petitioned against may in the opinion of the committee before which the petition is heard be put to; and the committee shall have power in the event of such petition being dismissed to award such a sum to be paid to the benchers petitioned against as in their opinion is just and shall have power in their discretion, in the event of it being decided that such benchers were not duly elected or qualified, to award costs to the petitioner, and the costs so awarded shall be recoverable in any court of competent jurisdiction. R.S.O. 1937, c. 221, s. 32.

33.—(1) The benchers shall, at their first meeting after the election, elect one of their number as treasurer, who shall be the president of the Society, and shall hold office until the appointment of his successor, and the election of treasurer shall take place in each year thereafter at such time as may be appointed by the rules of the Society. Election of treasurer.

(2) The retiring treasurer shall be eligible for re-election. Retiring treasurer eligible. R.S.O. 1937, c. 221, s. 33.

34. In case of failure to elect the requisite number of duly qualified benchers under this Act, or in case of any vacancy owing to the death or resignation of any benchers, or to any other cause, the remaining benchers shall, at the next regular meeting or at a meeting specially called for the purpose, supply the deficiency in the number of benchers, or fill the vacancy by electing any person or persons duly qualified under this Act, and the person or persons so elected shall hold office until the next quinquennial election. Vacancies among benchers, how filled. R.S.O. 1937, c. 221, s. 34.

35. The benchers may make rules for the government of the Society, and other purposes connected therewith. Power to make rules. R.S.O. 1937, c. 221, s. 35.

36. The benchers may by rule fix or change the dates for the doing of any act, or the giving of any notice which by this Act is to be done or given in or with reference to any term, but no such rule shall have the effect of prolonging the term of office of any elected benchers. Changing dates for doing acts or giving notices. R.S.O. 1937, c. 221, s. 36.

37. On the hearing of an election petition or upon any inquiry by a committee the benchers or committee shall have power to examine witnesses under oath, and a summons under Power to summon and examine witnesses.

the hand of the treasurer, or under the hands of three benchers, for the attendance of a witness shall have all the force of a subpoena, and any witness not attending in obedience thereto shall be liable to attachment in the Supreme Court. R.S.O. 1937, c. 221, s. 37.

Appoint-
ment of
officers.

38. The benchers may appoint such officers and servants as they may deem necessary for the purposes of the Society. R.S.O. 1937, c. 221, s. 38.

Appoint-
ment of
examiners.

39. The benchers may appoint examiners to conduct the examination of students-at-law and of persons applying to be called to the Bar or to be admitted as solicitors. R.S.O. 1937, c. 221, s. 39.

Legal
education.

40. The benchers may make rules for the improvement of legal education including the establishment and maintenance of a law school; appoint a dean and lecturers with salaries; impose fees and prescribe rules for the attendance of students and others at lectures and for examinations thereon, but not so as to reduce the number of years prescribed by statute for call to the Bar or admission as solicitor, and may establish scholarships and prizes. R.S.O. 1937, c. 221, s. 40.

Call to
the Bar.

41.—(1) The benchers may make such rules as they consider necessary for conducting the examination of persons applying to be called to the Bar and may call and admit to the practice of the law as a barrister any person duly qualified to be so called and admitted according to the provisions of law and the rules of the Society.

Admission
of women.

(2) The benchers may make rules providing for the admission of women to practise as barristers and solicitors. R.S.O. 1937, c. 221, s. 41.

Rules for
examination
of candidates
for admission
as solicitors.

42.—(1) The benchers may make such rules as they consider necessary for conducting the examination of persons applying to be admitted as solicitors, touching the articles and service, and the certificates required to be produced by them before their admission, and as to the fitness and capacity of such persons to act as solicitors.

Suspending
decision.

(2) Where it appears to the benchers expedient for purposes of further inquiry or investigation, they may suspend, for a period not exceeding 12 months, their final decision in respect to granting or refusing a certificate. R.S.O. 1937, c. 221, s. 42.

- 43.** The benchers may make rules and regulations, not contrary to law, and dispense therewith from time to time to meet the special circumstances of any special case respecting,
- (a) the admission of students-at-law, the periods and conditions of study, the call or admission of barristers to practise the law, and all other matters relating to the discipline and honour of the Bar; Rules and regulations to meet special circumstances. Admission of students and call of barristers.
 - (b) the service of students-at-law, the period and conditions of such service, and the admission of solicitors to practise in the courts, and all other matters relating to the discipline and conduct of solicitors and students; R.S.O. 1937, c. 221, s. 43. Articled clerks and admission of solicitors.
 - (c) the opening and keeping by barristers and solicitors of accounts for clients' money at banks, Province of Ontario Savings Offices or other institutions authorized to receive deposits; Accounts for clients' money.
 - (d) the keeping by barristers and solicitors of accounts and records containing proper particulars and information as to moneys received, held, or paid by them for or on account of clients; Particulars as to money received.
 - (e) inquiries or investigations by the benchers or a committee of their number or any other persons for the purpose of ascertaining whether the rules and regulations of the Society are being complied with; Inquiries; investigations.
 - (f) the effect of non-observance of any of the rules or regulations passed under clauses *c*, *d* and *e* and in what cases such non-observance by any barrister or solicitor shall amount to professional misconduct; and Non-observance of rules.
 - (g) the payment to the Society by any barrister or solicitor of the cost of any inspection or audit of his books and accounts in the event that the rules and regulations of the Society in relation thereto, or in relation to the opening and keeping of accounts for clients' moneys at banks, Province of Ontario Savings Offices or other institutions authorized to receive deposits, have not been complied with. 1939, c. 24, s. 1. Cost of inspection or audit.

44.—(1) Where a barrister, solicitor or student-at-law is found by the benchers, after due inquiry by a committee of their number or otherwise, guilty of professional misconduct, or of conduct unbecoming a barrister, solicitor or student-at-law, the benchers may disbar any such barrister, or suspend him from practising as a barrister for such time as they may deem proper; may resolve that any such solicitor is unworthy Powers of benchers to suspend, disbar or expel in case of misconduct.

to practise as a solicitor or that he should be suspended from practising for a period to be named in the resolution; may expel from the Society, and the membership thereof, such student and strike his name from the books of the Society; or may refuse either absolutely or for a limited period to admit such student to the usual examinations, or to grant him the certificate of fitness necessary to enable him to be admitted to practice. R.S.O. 1937, c. 221, s. 44.

Expenses of investigations.

(2) In addition to or as an alternative for any other penalty, a barrister or solicitor who is found guilty of professional misconduct or conduct unbecoming a barrister or solicitor under this section may be ordered by the benchers to pay the expense, or part of the expense, incurred by the Society in the investigation of any charge or charges in respect of which he has been found guilty and any sum or sums so ordered to be paid may be recovered by the Society by order of the Supreme Court, to be made on summary application. 1939, c. 24, s. 2.

Power of benchers to suspend.

45.—(1) Where a barrister or solicitor has been declared certified or found to be mentally incompetent or mentally ill pursuant to the relevant statutes in that behalf, or has failed to pay any fee payable by him to the Society within one year of the date prescribed for the payment thereof, the benchers may, in the case of a barrister, suspend him from practising as a barrister for such time as they may deem proper and may, in the case of a solicitor, resolve that he should be suspended from practising for a period to be named in the resolution.

Application for reinstatement.

(2) Where a barrister or solicitor has been suspended from practising under this section, he may, upon payment of all fees and penalties owing by him to the Society, apply to be reinstated as a barrister or solicitor or both, as the case may be.

Termination of suspension.

(3) Upon every application made under subsection 2 the benchers may terminate the suspension of such barrister or resolve that the suspension of such solicitor should be terminated on such terms and conditions as they deem proper.

Resolution to be communicated to registrar.

(4) A copy of every resolution passed under this section shall be communicated to the Registrar of the Supreme Court, and upon compliance with the terms or conditions of any resolution passed under subsection 3 by the barrister or solicitor named therein, the secretary and the Registrar of the Supreme Court shall do such acts as are necessary to terminate such suspension. 1940, c. 13, s. 1.

46. Upon a barrister being disbarred, all his rights and privileges as a barrister shall thenceforth cease and determine, or, in case he is suspended, he shall, during the period of his suspension, possess no rights or privileges as a barrister, and notice of his being disbarred or suspended shall forthwith be given by the secretary to the Registrar of the Supreme Court. R.S.O. 1937, c. 221, s. 45.

Barrister's
privileges
to cease
when he is
disbarred.

47. Where it has been resolved by the benchers that a solicitor is unworthy to practise, a copy of the resolution shall forthwith be communicated to the Registrar of the Supreme Court. R.S.O. 1937, c. 221, s. 46.

Resolution
of benchers.

48. Upon receipt of any notice under section 46 or 47 an order shall be drawn up by the Registrar of the Supreme Court without any formal motion striking such barrister or solicitor off the roll or suspending him, as may have been determined by the benchers, but any such order may be set aside or varied at any time by the court. R.S.O. 1937, c. 221, s. 47.

Suspending
or striking
off rolls.

49. Any powers which the visitors of the Society may have in matters of discipline are hereby vested in the benchers, and the powers conferred upon the benchers by sections 44 to 48 may be exercised by them without reference to or the concurrence of the visitors. R.S.O. 1937, c. 221, s. 48.

Powers of
visitors as
to discipline
vested in
the benchers.

50. The benchers may make regulations for promoting the efficiency of county law libraries, and may prescribe and enforce remedies for the violation thereof, and may by resolution of convocation cause to be dissolved any county law library association which neglects or refuses to comply with the regulations. R.S.O. 1937, c. 221, s. 49.

Rules as to
county law
libraries.

51. The benchers may establish a fund for the benefit of barristers or solicitors, their widows, orphans or dependants, to be called "The Law Benevolent Fund", and may make all necessary rules and regulations for the management and investment of the fund, and the terms of subscription and appropriation thereof, and the conditions under which the barristers or solicitors, their widows, orphans or dependants shall be entitled to share in such fund. R.S.O. 1937, c. 221, s. 50; 1944, c. 30, s. 2.

Law
Benevolent
Fund.

52.—(1) The benchers may appoint such person or persons, being members of the Society of the degree of barrister, as they may think proper to report and edit the decisions of the courts.

Appoint-
ment of law
reporters.

Tenure of office.

(2) Such person or persons shall hold office at the pleasure of the benchers, and shall be amenable to them in convocation for the correct and faithful discharge of their duties according to such regulations as the benchers may make in respect thereof.

Benchers to make regulations regarding the reports.

(3) The benchers shall make regulations for printing and publishing the reports of such decisions, and the distribution of the reports and the price and mode of issuing the same, and all such other regulations in respect thereto as they may at any time consider necessary, and any profits arising from the reports shall form part of the general funds of the Society.

Salaries of reporters.

(4) The benchers shall determine the salaries to be allowed for such reporting and editing and shall pay the same out of the general funds of the Society. R.S.O. 1937, c. 221, s. 51.

Appropriation of certain fees.

53. The fees payable by barristers on call to the Bar and annually, and by solicitors on admission, and for the annual certificate to practise, and by students on admission as such, and by them and others on examinations and attendance on lectures and readings, shall be paid into the general funds of the Society, and shall be such as the benchers may prescribe. R.S.O. 1937, c. 221, s. 52.

Power of benchers to fix limits of financial year.

54.—(1) The benchers may from time to time fix and adjust by rule the limits of the Society's financial year and shall cause the revenues and expenditures of the Society for each financial year as so fixed to be duly audited by an auditor appointed by the benchers to audit the accounts and report upon the finances of the Society.

Statement to be sent to members.

(2) The statement, together with the report of the auditor, shall be furnished annually, within three months after the close of the financial year, to every member of the Society entitled to vote at an election of benchers. R.S.O. 1937, c. 221, s. 53.

Remission of penalties.

55. The benchers may remit any fee or penalty, or any part thereof, that is payable to the Society. 1940, c. 13, s. 2.

FORM 1

(Section 15)

VOTING PAPER

Law Society Election, 19.....

The appointed scrutineers for this election are Mr. of
....., and Mr. of

I,, of the in the of
....., Barrister, do hereby declare—

- 1. That the signature hereto is in my proper handwriting.
- 2. That I vote for the following persons as Benchers of the Law Society:
A.B., of, in the of
C.D., of, in the of
etc. etc.

- 3. That I have signed no other voting paper at this election.
- 4. That this voting paper is signed on the day of the date thereof.

Witness my hand, this day of, 19.....

R.S.O. 1937, c. 221, Sched., Form 1.



