

A. Purpose

1. *The Legal Aid Act, SS 1983, cL-9.1* (the “**Act**”) requires the Commission to establish and maintain a panel of solicitors for the purposes of the provision of legal services.
2. The Commission may designate any solicitor who wishes to provide legal services under the Act as a member of the panel subject to any terms and conditions that may be prescribed by the Commission.
3. The purpose of this Private Bar Appointment Policy is to prescribe the terms and conditions upon which a solicitor may be designated a private bar member of the panel.

B. Application

1. Any solicitor wishing to be designated a private bar member of the panel shall apply to the Commission by completing the prescribed form (Schedule E) and providing the required documents, returning them to the Commission, Head Office.

C. Eligibility

1. In order to be designated a private bar member of the panel, a solicitor must:
 - a. Be authorized to engage in the practice of law in Saskatchewan;
 - b. Provide certificate(s) of standing from any law society or all law societies in which he / she is a current member and former law societies if requested, which is / are satisfactory to the Commission in its sole discretion;
 - c. Have suitable office facilities within the province of Saskatchewan to meet with clients and practice law;
 - d. Have an acceptable privacy policy and procedures, and
 - e. Agree to abide by the terms and conditions of the within Private Bar Appointment Policy.

D. Terms and Conditions

1. Any solicitor designated to be a private bar member of the panel agrees to the following terms and conditions, to apply during and after designation:
 - a. A solicitor designated to be a private bar member of the panel shall withdraw from the panel upon accepting any term or type of employment with the Commission;
 - b. The Commission reserves the right and sole discretion to designate a solicitor to be a private bar member of the panel only in the following ways: for a specific

- period of time, or specific file, or on certain terms and conditions, (upon the conclusion of which the solicitor may reapply);
- c. The Commission reserves the right to suspend or revoke appointments to provide legal services to a solicitor designated to be a private bar member of the panel and, without limitation, the solicitor may not be eligible to receive or keep appointments to provide legal services, without limitation, if the solicitor:
 - i. Has a public appointment in provincial government or federal government;
 - ii. Is in a legal conflict of interest with the Commission;
 - iii. Has criminal charges laid against him or her;
 - iv. Is temporarily or medically unable to practice law;
 - v. Is under practice trusteeship, or practice management, or personal, financial or competency supervision, directed by any law society;
 - vi. Is under investigation by any law society, or
 - vii. Is on LAS-mandated probation or expectations.
 - d. Acceptance of a designation to be a member of the private bar panel signifies the solicitor's unconditional agreement that:
 - i. The Commission is not bound to provide any minimum of, or any, appointments to provide legal services to the solicitor and that distribution of appointments to solicitors is generally based on the best interests of clients and the Commission's assessments of its strategic and operational requirements;
 - ii. Certain circumstances constitute just cause under *The Legal Aid Act*, Section 16(1) and may result in a solicitor's name being removed from the panel, including, without limitation, if the solicitor:
 - A. is not authorized to engage in the practice of law in Saskatchewan;
 - B. repeatedly refuses to accept appointments to provide legal services or repeatedly returns appointments;
 - C. fails to regularly and promptly respond to Commission communications;
 - D. fails to adhere to the Commission's Code of Conduct;
 - E. fails to comply with the Commission's policies and procedures;
 - F. fails to regularly and promptly respond to client communications;
 - G. fails to provide an acceptable quality of service;
 - H. fails to comply with the Commission's billing practices and policies;
 - I. is not regularly and actively engaged in the practice of family or criminal law;

- J. is found guilty of professional misconduct or conduct unbecoming;
- K. is convicted of a criminal offence;
- L. is medically unable to practice law permanently or for an indefinite period of time, or
- M. is deceased.

E. Maintenance of the Panel

1. The Commission will periodically update the panel lists and request confirmation that the solicitor wishes to remain on the panel, via completing Schedule E and returning it to Saskatchewan Legal Aid Commission, Head Office.

F. Change to Appointments

1. A solicitor appointed to act for a client may withdraw their services with respect to a particular client by notifying the Commission of their intention to do so.
2. Any change of the solicitor of record, from the one named in the letter of appointment, must be approved by the Chief Executive Officer or their designate.

G. Authorization of Appointments

1. Private bar appointments may be authorized where:
 - a. A conflict of interest may exist such as in any of the following circumstances:
 - i. where an area office is already acting for a co-accused or a party who takes a position adverse to the interest of the client;
 - ii. where an area office is already acting for a co-accused on a matter and where the client is at the same time subject to cross examination in another matter;
 - iii. where a Commission employee may be faced with the use of information against a client who has revealed that information in confidence to a Commission employee.
 - b. It may be impossible or improper to act for a client such as in the following circumstances:
 - i. where an appropriate level of expertise is unavailable at the area office;
 - ii. where assigned commitments of Commission staff to make attendance upon a matter, at short notice, impossible;
 - iii. where, as a result of the failure of a client to cooperate with or to instruct counsel, the Commission staff feel unable to act, with resulting consequences if the client were to be convicted, or
 - iv. where it is more economical in terms of travel time and costs.
 - c. In civil matters referred to the Commission from another legal aid plan in Canada, where the Commission determines that a private bar appointment is required.
 - d. In other exceptional circumstances, in the discretion of the Chief Executive Officer or their designate.

- e. In cases described above, the legal aid area office director is designated to formally appoint a solicitor on the panel to represent a client using such processes prescribed in this document.

H. Tariff of Fees

1. The Commission establishes, after consultation with the Law Society of Saskatchewan, a tariff of fees pursuant to which private bar solicitors will receive remuneration for their services.
2. The tariff is intended to reflect fees that would customarily be paid by a client of modest means.
3. Where a solicitor is appointed pursuant to the statute to the panel, the solicitor is deemed to be retained by the Commission and will receive remuneration in accordance with the established tariff of fees.
4. The tariff of fees and disbursements in Schedules “A” and “B” are the fees and disbursements authorized by the Commission.
5. In circumstances of sections G.1, G.2, and G.3 outlined above, the tariff is based on a minimum fee or subject to certain maximums. In situations in G.4 above, the tariff may be based on an hourly fee, a flat fee or such other fees as the circumstances require.
6. The Commission is GST/HST exempt and therefore any fees and disbursements should not have the GST/HST applied. Our GST exemption certificate number is #R107864258 and the exemption certificate is indicated below:

“The property and/or services mentioned in this order are being purchased by The Saskatchewan Legal Aid commission with Crown funds and therefore are not subject to the Goods and Services Tax or Harmonized Sales Tax.”
7. Legal services under The Legal Aid Act are not subject to the Provincial Sales Tax (PST).

I. Submission and Payment of Accounts

1. Submission of Accounts
 - a. A solicitor who has provided services pursuant to an appointment and has completed such services or who has ceased to act shall submit the following within six (6) months of the last service date:
 - i. Prescribed Legal Aid Account Schedule “C” Form completed in full, with signature, which includes:
 1. Report of Solicitor – General, Certificate of Remuneration, date, signature (Section A)
 2. Present Status of Work, (Section B)
 3. Account Summary (Section C)
 4. Report of Solicitor – Legal Services Rendered (Section D)

5. Charges/Work Performed and Outcome(s), (Section E)

6. Absence Fees and Disbursement Summary (Section F)

ii. Invoice

iii. if applicable, to receive compensation to the maximum amounts established within the tariff, the following additional information must be provided:

iv. Fees: detail itemizing each and every service rendered, showing the date and time involved in rendering the service and a summary of fees

v. Absence Fees

vi. any written authorization received for expenditures

vii. such other supporting material as required

b. Interim accounts will be accepted in the following circumstances:

i. following a written request from the appointed solicitor and approval of the Chief Executive Officer or their designate, whereby a significant part of a criminal or family law proceeding is completed, or

ii. following a request from the Chief Executive Officer or their designate.

2. Payment of Accounts

a. Each account submitted shall be examined, settled, and approved for payment in accordance with this policy statement;

b. The Chief Executive Officer or their designate may disallow fees, in whole or in part, where, in their opinion:

i. proceedings were unreasonably taken or prolonged;

ii. not calculated to advance the interest of the client;

iii. incurred through negligence, or

iv. preparation or court fees were unreasonable in their nature, scope or time expended;

c. The Chief Executive Officer or their designate may require justification from a solicitor of items included in their account;

d. When the account has been settled, payment will be made to the firm of the solicitor who rendered the account, showing the disposition of the items, and

e. For accounts submitted more than six (6) months after the last service date, an administrative fee may be assessed and deducted from accounts paid. The administrative fee will be 25% of the taxed amount before disbursements, with a minimum fee of \$25.00 and a maximum of \$500.00. This decision may be the subject of a complaint to the Discretion Committee.

3. Complaints about Payment of Accounts

a. A Discretion Committee on the payment of accounts consists of a lawyer member of the Commission and a lay member of the Commission. The Chief Executive Officer acts as secretary to the Committee.

- b. A solicitor who is dissatisfied with the payment of their account may complain to the Discretion Committee with respect to:
 - i. Interpretation of the tariff to an account;
 - ii. Application of the tariff to an account, or
 - iii. Apply to the Discretion Committee for payment of a fee or sum in excess of the tariff fees, showing extremely exceptional circumstances, having regard to the nature of the offence charged, the complexity of the case, the result obtained.
- c. The decision of the Discretion Committee is final.

N.B. Errors and omissions are excluded and pending rectification the meaning of the remaining portion of the relevant and related text shall apply as intended.