



Plain Language Summary for Bill 82: Legal Profession Act

The Government of the Northwest Territories' (GNWT) Department of Justice is proposing to repeal and replace the existing *Legal Profession Act* with a new, more modern Act.

The existing *Legal Profession Act* was passed in 1976 and established the Law Society of the Northwest Territories as the body which regulates lawyers in the Northwest Territories. In 2018, a Revision Committee was established by the Executive of the Law Society of the Northwest Territories to consult on and recommend changes to the Act, as it has not been extensively reviewed since it was first enacted. Portions of the existing Act have been found to be obsolete, key issues related to the regulation of lawyers are not addressed, and overall, the Act requires modernization.

After an extensive review and consultation process, the Law Society developed a Discussion Paper which has informed Bill XX: *Legal Profession Act*. The Law Society consulted with:

- members of the Law Society of the Northwest Territories;
- standing committees of the Law Society;
- other Law Societies in Canada;
- Federation of Law Societies of Canada;
- Canadian Bar Association - Northwest Territories Branch;
- Canadian Lawyers' Insurance Association;
- Government of the Northwest Territories;
- Northwest Territories Law Foundation; and
- Law Society of Alberta Practice Advisor.

The proposed new Act will address contemporary developments in the legal profession in a manner similar to other Canadian jurisdictions. In addition to addressing errors, inconsistencies, and improving the overall clarity of the Act, the proposed changes to the Act can be divided into the following general categories:

1. Purposes and Administration of the Law Society
 - The new Act will more clearly specify the Mandate and Mission of the Law Society and enable it to act in the interest of its members and the public.
2. Membership and Enrolment
 - The new Act will replace use of the term "member" with "registrant", to reflect the roll of the Law Society as a regulator in the public interest, and will clarify the meaning of the term "registrant" to ensure it accurately captures all different classes of practitioners regulated by the Law Society.

3. Definition of the “Practice of Law”

- The new Act will change the definition of the “practice of law” from a definition to a substantive provision so that the “practice of law” can be sufficiently broad yet also set out a list of activities that are not the “practice of law”.

4. Conduct of Members

- The new Act will modernize and expand the tools available for dealing with lawyer competence and conduct, including alternative dispute resolution and diversion. It will also clarify the role of complainants in the process.

5. Special Fund

- The current Act deals with the Assurance Fund, which is established to compensate members of the public who may have lost money or other property which they entrusted to a lawyer, because the lawyer misappropriated or wrongfully converted that money or other property. The new Act will redefine this as the Special Fund, allow for expenses related to the fund to be charged against the Special Fund by the Law Society, establish a limitation period for a member of the public to claim compensation under the Fund, and allow the Law Society to pursue claims against lawyers for amounts paid from the Fund.

6. Trust Accounts and Custodianship

- The new Act will provide the Law Society with the ability to appoint interim custodians to protect the property held by, and the law practice of, a Law Society registrant.

7. Other Matters

- The proposed new Act will expand on existing liability protections. For example, volunteers acting in good faith for the Law Society will be protected. The new Act will also address disclosure and safe-guarding of solicitor-client privilege and use of specific titles by qualified and authorized registrants. The Act will address violations under the Act and associated fines and imprisonment, as well as other obligations related to financial inspections, reviews and audits of lawyers.

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