



THE INSTITUTE OF LAW CLERKS OF ONTARIO

BY-LAW NO. 16

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BY-LAW NO. 16

*being a By-Law relating generally
to the transaction of the affairs of*

THE INSTITUTE OF LAW CLERKS OF ONTARIO

BE IT AND IT IS HEREBY ENACTED as a by-law of THE INSTITUTE OF LAW CLERKS OF ONTARIO (hereinafter referred to as the “Institute”) as follows:

PART 1 CODE OF ETHICS

1.1 CODE OF ETHICS

- (a) The duties performed by the Law Clerk shall at all times be subject to the supervision of that person’s Principal. The Law Clerk shall at no time represent himself or herself to a client as a Barrister and Solicitor. The Law Clerk shall not counsel or give legal advice to a client without the authority of the Principal.
- (b) The Law Clerk must discharge his or her duty to the Principal and to the client of the Principal with honesty and integrity.
- (c) The Law Clerk should serve the Principal in a conscientious, diligent and efficient manner and should provide a quality of service at least equal to that which Barristers and Solicitors generally would expect of a competent Law Clerk.
- (d) The Law Clerk has a duty to hold in strict confidence all information acquired in the course of the professional relationship concerning the business and affairs of the Principal and the Principal’s clients and the Law Clerk should not divulge any such information unless expressly authorized by the Principal or required by law to do so.
- (e) The Law Clerk owes a duty to the Principal to observe all relevant rules and laws regarding the preservation and safekeeping of the property of the client entrusted to the Principal.
- (f) The Law Clerk should assist in maintaining the integrity of the Legal Profession and should participate in its activities within the limits imposed by The Law Society of Upper Canada or other governing body.
- (g) The Law Clerk’s conduct toward the Principal and other lawyers shall be characterized by courtesy and good faith.

- (h) The Law Clerk shall observe the rules of conduct set out in this Code of Ethics in the spirit as well as in the letter.
- (i) Any business cards used by the Law Clerk shall include the name of the Law Clerk's employer and specify the occupation of the Law Clerk or such other description as shall from time to time be approved by the Institute and/or The Law Society of Upper Canada.

PART 2 HEAD OFFICE

2.1 HEAD OFFICE

The head office of the Institute shall be in the City of Toronto, in the Province of Ontario and at such place therein as the board of directors may from time to time by resolution determine.

PART 3 CORPORATE SEAL

3.1 SEAL

The seal, an impression whereof is stamped in the margin hereof, shall be the corporate seal of the Institute.

PART 4 DEFINITIONS AND INTERPRETATION

4.1 DEFINITIONS

In the by-laws of the Institute:

“Act” means the *Corporations Act (Ontario)* as from time to time amended and every statute that may be substituted therefor and, in the case of such substitution, any reference in the by-laws of the Institute to provisions of the Act shall be read as references to the substituted provisions therefor in the new statute or statutes.

“Branch” or “Branches” means respectively a branch or branches of the Institute formed under the powers contained in and in accordance with the provisions of the by-laws of the Institute.

“in writing” and “written” includes printing, lithography and typewriting and all other modes of representing or reproducing words in visible form.

“Law Clerk” means a person, qualified through education, training, or work experience, who is employed or retained by a Lawyer, law office, governmental agency, or other entity in a capacity or function which involves the performance, under the ultimate direction and guidance of a Lawyer, or duties of an administrative or managerial nature, and/or of specifically-delegated substantive legal work which requires a sufficient knowledge of legal concepts that in the absence of a law clerk the Lawyer would perform.

“Lawyer” is an individual who is qualified to practise the profession of law in a Province or Territory of Canada and whose qualifications have not been revoked or suspended.

“Letters Patent” means the letters patent dated May 10, 1968 incorporating the Institute as from time to time amended and supplemented by supplementary letters patent.

“Principal” means the Lawyer, Lawyers or the firm of Lawyers employing or supervising members of the Institute whose duties are performed under such supervision.

“Qualifying Employment” means being engaged in the performance of the duties of a Law Clerk in Ontario on a full time basis. For the purposes of such qualification, “Ontario” shall include, in the case of a Law Clerk employed or retained by Parliament or a federal court or the Government of Canada (including any of its corporations or agencies), all of the National Capital Region as defined or prescribed by the laws of Canada.

“Regulations” means the Regulations made under the Act as from time to time amended and every regulation that may be substituted therefor and, in the case of such substitution, any references in the by-laws of the Institute to provisions of the Regulations shall be read as references to the substituted provisions therefor in the new regulations.

4.2 INTERPRETATION

This by-law shall be, unless the context otherwise requires, construed and interpreted in accordance with the following:

- (a) save as aforesaid, words and expressions defined in the Act or the Regulations have the same meanings when used herein;
- (b) words importing persons include individuals, corporations, partnerships, trusts and unincorporated organizations; and
- (c) the headings used in the by-laws are inserted for reference purposes only and are not to be considered or taken into account in construing the terms and provisions thereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions.

PART 5 LETTERS PATENT

5.1 LETTERS PATENT

If any provision contained in the by-laws is inconsistent with the Letters Patent, the provisions contained in the Letters Patent shall prevail.

PART 6 MEMBERSHIP

6.1 COMPOSITION OF MEMBERSHIP

- (a) The Institute shall consist of an unlimited number of members;
- (b) Membership shall not be transferable;
- (c) There shall be eight (8) classes of membership in the Institute, namely:
 - (i) Student;
 - (ii) Ordinary;
 - (iii) Associate;
 - (iv) Fellow;
 - (v) Retired;
 - (vi) Extra-provincial;
 - (vii) Honorary; and
 - (viii) Ex-officio;
- (d) Those persons admitted to the Institute as Student, Ordinary, Associate, Fellow or Extra-provincial Members shall be bound by the Code of Ethics as set out in Section 1.1 of this by-law.

6.2 STUDENT MEMBERS

- (a) A person may be admitted as a Student Member of the Institute if that person:
 - (i) has attained the age of eighteen (18) years;
 - (ii) is enrolled in a law clerk certificate/diploma course or the equivalent thereof offered by an Ontario educational institution approved by the board of directors from time to time, or is enrolled in a course in

preparation for the Associate's examination or examinations provided from time to time by the board of directors, at the time of seeking admission as a Student Member; and

- (iii) is not in Qualifying Employment at the time of seeking admission as a Student Member.
- (b) As soon as a Student Member obtains Qualifying Employment that person shall apply forthwith for admission as an Ordinary Member.

6.3 ORDINARY MEMBERS

A person may be admitted as an Ordinary Member of the Institute if that person:

- (a) is in Qualifying Employment at the time of seeking admission as an Ordinary Member; and
- (b) has attained the age of eighteen (18) years.

6.4 ASSOCIATE MEMBERS

- (a) A person may be admitted as an Associate Member of the Institute if that person:
 - (i) is in Qualifying Employment at the time he or she seeks such admission as an Associate Member;
 - (ii) has been in Qualifying Employment for a period of not less than three (3) consecutive years prior to the date of seeking such admission, provided not less than one (1) of such years shall have been in the Province of Ontario;
 - (iii) has attained the age of twenty-one (21) years;
 - (iv) has passed the Associate's examination or examinations provided for from time to time by the board of directors or has been granted a law clerk certificate/diploma or the equivalent thereof by an Ontario educational institution approved by the board of directors from time to time; and
 - (v) has satisfied all of the requirements which may be set from time to time by the board of directors in respect of fitness for enrolment as an Associate Member of the Institute.
- (b) Notwithstanding the provisions of subsection (a) hereof, an applicant may be admitted as an Associate Member of the Institute upon such terms and conditions as to qualification and examination or exemption therefrom as the board of directors in its absolute discretion may deem fit in any case where the board of directors is, in its absolute discretion, satisfied that the applicant:

- (i) is in Qualifying Employment at the time of seeking admission as and Associate Member; and
 - (ii) has been admitted by examination as an Associate Member of the “Institute of Legal Executives of the United Kingdom” or has qualified by a comparable examination in any other Common Law jurisdiction.
- (c) The board of directors shall issue to every Associate Member of the Institute an Associate’s certificate, in such form as may from time to time be prescribed by the board of directors, certifying that person as an Associate Member of the Institute.

6.5 FELLOW MEMBERS

- (a) A person may be admitted as a Fellow Member of the Institute if that person:
- (i) is in Qualifying Employment at the time of seeking admission as a Fellow Member;
 - (ii) has been in Qualifying Employment for a period of not less than seven (7) consecutive years prior to the date of seeking such admission, providing not less than one (1) of such years shall have been in the Province of Ontario;
 - (iii) has been admitted as an Associate Member of the Institute and has passed the Fellow’s examination or examinations provided for from time to time by the board of directors;
 - (iv) has attained the age of twenty-five (25) years; and
 - (v) has satisfied all the requirements, which may be set from time to time by the board of directors in respect of fitness for enrolment as a Fellow of the Institute.
- (b) Fellow Members of the Institute shall be entitled to describe themselves as “**Legal Executives**” and to use after their respective names the distinguishing letters “**F.Inst.L.C.O.**” (representing the words “Fellow of the Institute of Law Clerks of Ontario”).
- (c) The board of directors shall issue to every Fellow Member a certificate in such form as may from time to time be prescribed by the board of directors, certifying that such person is a Fellow Member of the Institute.
- (d) Notwithstanding the provisions of subsection 6.5 (a)(ii) to (v) hereof inclusive, an applicant may be admitted as a Fellow Member of the Institute upon such terms and conditions as to qualifications and examination or exemption therefrom as the board of directors in its absolute discretion may deem fit in any case where the board of directors is, in its absolute discretion, satisfied that the applicant:

- (i) is a resident of the Province of Ontario and is in Qualifying Employment at the time of seeking admission as a Fellow Member; and
- (ii) has been admitted by examination as a “Fellow” of the Institute of Legal Executives of the United Kingdom or has qualified by a comparable examination in any other Common Law jurisdiction.

6.6 RETIRED MEMBERS

Notwithstanding section 10.1(f) hereof, the membership of an Ordinary, Associate, or Fellow Member may, on retirement, be continued by the board of directors by way of resolution passed by a majority of the directors present at a meeting of the board of directors duly called to consider the question. Retired Members shall retain all privileges pertaining to the class of membership occupied on the date of the continuation of membership.

6.7 EXTRA-PROVINCIAL MEMBERS

A person may be admitted as an Extra-provincial Member of the Institute if that person:

- (a) is employed or retained in Canada excluding the Province of Ontario in the performance of the duties of a Law Clerk at the time of seeking admission as an Extra-provincial Member; and
- (b) has attained the age of eighteen (18) years.

6.8 HONORARY MEMBERS

The board of directors in its discretion may appoint, as Honorary Members of the Institute, those who by their contribution to the development or welfare of Law Clerks, directly or indirectly, are considered worthy of recognition for such service. An Honorary Member shall be appointed only by the unanimous vote of all members of the board of directors present at the meeting of the board of directors at which the name of the candidate is proposed for honorary membership and provided notice of the intention to propose such candidate shall have been given with notice of the meeting. Honorary members shall not be required to pay any membership fees.

6.9 EX-OFFICIO MEMBERS

The person from time to time occupying the office of Secretary of the Law Society of Upper Canada shall become an Ex-Officio Member of the Institute immediately upon assuming that office without further application or acceptance by the board of directors and such person shall automatically cease to be an Ex-Officio Member of the Institute upon ceasing to hold the said office.

**PART 7
APPLICATION FOR MEMBERSHIP**

7.1 APPLICATION FOR MEMBERSHIP

Every application for membership in the Institute as a Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member of the Institute shall be made in such form as may from time to time be prescribed by the board of directors.

**7.2 DISCRETION OF BOARD OF DIRECTORS
IN MEMBERSHIP APPLICATIONS**

- (a) The board of directors shall decide whether any applicant for enrolment as a Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member of the Institute has or has not fulfilled all the conditions specified in the by-laws of the Institute which are applicable in each case.
- (b) The board of directors may in its absolute discretion refuse to enrol as a Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member any person notwithstanding that such person has fulfilled all the conditions specified in the by-laws of the Institute which are applicable in each case.
- (c) If the membership of a Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member has ceased by reason of non-payment of membership fees or otherwise, the former member may upon such terms and conditions as the board of directors in its absolute discretion deems fit be reinstated in such class of membership (no greater than that previously held) and upon payment of such membership fees as the board of directors shall by resolution specify. Notice in writing of the decision of the board of directors shall be forthwith sent to the person affected thereby.

**PART 8
MEMBERSHIP FEES**

8.1 MEMBERSHIP FEES

- (a) The board of directors may from time to time fix and vary the membership fees payable on enrolment as a Student, Ordinary, Associate, Fellow, Extra-provincial or Retired of the Institute and the annual membership fees payable by any Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member respectively.
- (b) The membership fees payable by any Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member of the Institute are payable on the date of admission to the Institute and thereafter on or before the membership renewal date in each calendar year as fixed by the board of directors from time to time.

- (c) Members shall be notified in writing of the membership fees at any time payable by them and, if any are not paid within one (1) calendar month of the date of mailing or Notice of admission to the Institute or within one (1) calendar month of the membership renewal date, as the case may be, the members in default shall thereupon automatically cease to be members of the Institute.
- (d) Honorary Members and the Ex-Officio Member of the Institute shall not be required to pay membership fees.

PART 9 RESIGNATION OF MEMBERS

9.1 RESIGNATION OF MEMBERS

Any Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member may resign by resignation in writing which shall be effective upon delivery to the office of the Institute of such notice of resignation. In the case of resignation and where fees are payable for membership, a member shall remain liable for payment of any assessment or other sum levied or which may become payable to the Institute with reference to any period prior to delivery of such resignation.

PART 10 CESSATION OR TERMINATION OF MEMBERSHIP

10.1 CESSATION OR TERMINATION OF MEMBERSHIP

A Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member shall forthwith cease to be such a member of the Institute upon the happening of any of the following events:

- (a) if a member resigns by notice in writing to the Institute and upon delivery of such resignation;
- (b) upon death;
- (c) if a member becomes incapable by reason of mental disorder of managing and administering such member's property and affairs;
- (d) if a receiving order is made against a member or that member makes any arrangement or composition with creditors under the provisions of the Bankruptcy Act (Canada);
- (e) if a member fails for a period of one (1) calendar month to pay any membership fee as hereinbefore provided;

- (f) if a member ceases to be in Qualifying Employment for a period in excess of two (2) years, except as otherwise provided herein;
- (g) if a member fails to obtain Qualifying Employment as provided herein;
- (h) notwithstanding the provisions of sub-section (f) hereof, no membership shall cease solely due to illness of a member provided medical evidence of such illness is supplied to the satisfaction of the board of directors; and
- (i) notwithstanding the provisions of sub-section (f) hereof, any Student, Ordinary, Associate, Fellow, or Retired Member leaving the Province of Ontario may retain membership provided that the member maintains a continuity of employment as a Law Clerk and complies with all other provisions of the by-laws of the Institute in force from time to time.

PART 11 PENALTIES

11.1 PENALTIES

- (a) If any Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member of the Institute:
 - (i) is in contravention of the Code of Ethics and, in the opinion of not less than three-quarters (3/4) of the directors present at a meeting of the board of directors duly called to consider the question, is guilty of conduct unbecoming a Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member of the Institute, or
 - (ii) wilfully commits any breach of the by-laws of the Institute;

the member shall be notified in writing that such membership may be suspended for a period of time or terminated.
- (b) Where such a notice is issued, the board of directors may, by a resolution passed by a majority of not less than three-quarters (3/4) of those voting thereon at another meeting specially convened with notice of the matter to be dealt with, suspend or terminate the membership of the said member accordingly; provided, however, that the said member shall first have an opportunity of being heard in person and/or by counsel by the board of directors; and provided further that, if in the opinion of the board of directors, the said member shall have been guilty of conduct not sufficiently serious to be visited with suspension or termination, the said member may be fined, reprimanded or admonished.
- (c) (i) Notice of such meeting shall be given to such Student, Ordinary, Associate, Fellow, Extra-provincial or Retired Member of the Institute not less than ten (10) days prior to the date of the meeting.

- (ii) Such member shall be given an opportunity to be heard in person and/or by counsel at such meeting.
- (iii) The decision of the board of directors shall be forthwith transmitted in writing to the person affected thereby.
- (d) Any such suspension, termination, fine, reprimand or admonishment may at any time be revoked or modified by the board of directors on and subject to such terms and conditions as the board of directors shall think fit, by a resolution passed by a majority of not less than three-quarters (3/4) of those voting thereon at a meeting specially convened with notice of the matter to be dealt with.

PART 12 EXAMINATIONS

12.1 EXAMINATIONS

The board of directors shall from time to time as it deems necessary hold or cause to be held on its behalf examinations of all persons seeking to become Associate and Fellow Members of the Institute. The board of directors shall conduct such examinations in such subjects and in any manner as it may from time to time in its discretion deem fit and for that purpose may appoint examiners who shall hold office subject to such conditions and shall receive such remuneration and expenses as the board of directors may in its discretion determine.

PART 13 DISCIPLINARY COMMITTEE

13.1 DISCIPLINARY COMMITTEE

- (a) Upon a written complaint being filed with the board of directors, the said board may by resolution provide for the establishment of a committee of not less than four (4) members of the board of directors, to be called the "Disciplinary Committee", and for the granting to such Disciplinary Committee the full power to consider and determine the matter set out in the said complaint.
- (b) If the member whose conduct is the subject of such complaint fails to appear, either in person or by counsel, in answer to a written notice given to the said member advising of a meeting convened by the Disciplinary Committee for the purpose of considering the said complaint, the hearing may be conducted in that member's absence.
- (c) The Disciplinary Committee may adjourn any hearing at any time and from time to time.
- (d) At the said hearing, the Disciplinary Committee shall hear evidence of witnesses and receive any additional evidence and statements which it deems necessary and

may require the attendance before it of any member of the Institute and the production of any documents relevant to the issue.

- (e) The Disciplinary Committee may accept the statutory declaration of any person and the facts stated in it, as prima facie evidence and may request any witness to make a statutory declaration of such evidence as true.
- (f) After the said hearing, the decision of the Disciplinary Committee and any order pursuant thereto shall be prepared in writing by the chairman of the said Committee and shall be delivered, within fourteen (14) days from the date of the said decision, to the board of directors for confirmation.
- (g) The board of directors shall consider the decision of the Disciplinary Committee and any order made thereunder, and if deemed advisable, confirm such decision and order and so notify in writing the member whose conduct was the subject of the said complaint, within fourteen (14) days of such confirmation.

PART 14 BRANCHES

14.1 BRANCHES

The board of directors may, when it appears desirable, from time to time establish and constitute Branches of the Institute. Every Branch shall be established and constituted by an instrument in writing under the corporate seal of the Institute and, subject to any requirement or qualifications or restrictions set out in such instrument in writing, every Branch shall have power to adopt Branch rules embracing and affecting the qualifications for membership, membership fees, procedure and the like and to operate through a management committee in such manner as it thinks fit; provided that no Branch rules shall conflict with the provisions of the by-laws of the Institute and no person shall be admitted as a member of any Branch who is not a Student, Ordinary, Associate, Fellow, or Retired Member of the Institute.

14.2 BRANCH MEMBERS

No Student, Ordinary, Associate, Fellow, or Retired Member of the Institute shall be obliged to become a member of any Branch.

14.3 BRANCH MEMBERS APPLICATIONS

Any Student, Ordinary, Associate, Fellow, or Retired Member of the Institute may apply for membership to the Branch established in the area in which that member is engaged in business or resides or, if there is no such Branch, then of any Branch selected by that member. Every such application shall be made in writing to the management committee of the Branch concerned and, upon that application being approved by such management committee, such Student, Ordinary, Associate, Fellow or Retired Member of the Institute shall thereupon become a member of such Branch.

14.4 BRANCH MEMBERS FEES

Every Student, Ordinary, Associate, Fellow, or Retired Member who becomes a member of a Branch shall thereupon become bound to pay to such Branch such annual membership fee (in addition to the membership fee payable under the by-laws of the Institute) as shall from time to time be fixed by the management committee of such Branch. All membership fees to Branches shall be paid at the time, in the manner and subject to the condition provided for by the rules of the Branches for the time being in force. No Branch shall levy an annual membership fee exceeding an amount fixed by the board of directors from time to time without:

- (a) first obtaining the approval of not less than three-quarters (3/4) of its members voting thereon at a meeting specially convened for that purpose; and
- (b) obtaining the approval of the board of directors.

14.5 FAILURE TO PAY BRANCH FEES

The management committee of any Branch shall be entitled at any time to terminate the Branch membership of any member of such Branch who has failed for a period of one (1) month to pay any annual membership fee payable to such Branch.

14.6 CESSATION OF BRANCH MEMBERSHIP

Any Student, Ordinary, Associate, Fellow, or Retired Member who ceases to be a Student, Ordinary, Associate, Fellow, or Retired Member of the Institute shall, ipso facto, cease to be a member of any Branch.

PART 15 DISSOLUTION OF BRANCHES

15.1 DISSOLUTION OF BRANCHES

Upon the request in writing of the Management Committee of a Branch filed with the board of directors or at the discretion of the board, the board may by resolution authorize the dissolution of that Branch. Upon the passage of such resolution, the Management Committee of the Branch shall immediately transmit and deliver to the Treasurer of the Institute all books and records of the Branch including payment of any funds remaining in the possession and control of the said Branch and the Branch shall thereupon be deemed to be dissolved.

PART 16 ANNUAL AND OTHER MEETINGS OF MEMBERS

16.1 ANNUAL AND OTHER MEETINGS OF MEMBERS

The Institute shall in each year hold a general meeting as its annual general meeting in addition to any other general meetings in that year and not more than fifteen (15) months shall

elapse between the date of one annual general meeting of the Institute and that of the next. The annual general meeting shall be held on such date in each year and at such place and time on such date as the board of directors shall determine.

16.2 SPECIAL MEETINGS

The board of directors may at any time call a special general meeting.

16.3 BUSINESS TO BE TRANSACTED

At every annual general meeting, in addition to any other business that may be transacted, the report of the directors, the financial statements and the report of the auditors shall be presented and a board of directors elected and auditors appointed for the ensuing year and the board of directors shall be authorized to fix the remuneration of the auditors.

PART 17 MEMBERS' MEETINGS

17.1 RIGHT TO VOTE

Each Associate, Fellow, Retired Associate and Retired Fellow Member shall at all meetings be entitled to one vote and may vote by proxy. The holder of a proxy need not be a member but before voting shall produce and deposit with the Secretary the proxy in writing. No member shall be entitled either in person or by proxy to vote at meetings of the Institute unless that member has paid all dues and fees, if any, then payable.

17.2 MAJORITY

At all meeting of members, every question shall be decided by a majority of the votes of the members present in person or represented by proxy unless otherwise required by the by-laws of the Institute and/or the Act.

17.3 CHAIRMAN

The President or, in the absence of the President, the Vice-President shall preside as the chair at any meeting of members but, if there is no President or Vice-President or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the members present shall choose a person, who is a director and who is an Associate or Fellow Member, from among their number to be the chair.

17.4 SHOW OF HANDS AND POLLS

Every question at a meeting of members shall be decided in the first instance by a show of hands unless a poll be demanded by any person present having voting rights. Upon a show of hands, every person present having voting rights shall have one vote, and unless a poll be demanded a declaration by the chair that a resolution or motion has been carried or not carried and any entry to that effect in the minutes of the Institute shall be admissible in evidence as

prima facie proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution or motion. The demand for a poll may be withdrawn but, if a poll be demanded and not withdrawn, the question shall be decided by a majority of votes given by the members present in person or represented by proxy, and such poll shall be taken in such manner as the chair shall direct and the result of such poll shall be deemed to be the decision of the Institute in general meeting upon the matter in question.

17.5 CHAIR CASTING VOTE

In case of an equality of votes at any general meeting, whether upon a show of hands or at a poll, the chair shall be entitled to a second or casting vote.

17.6 QUORUM

A quorum for the transaction of business at any meeting of members shall consist of not less than fifteen (15) members, who must be Associate or Fellow Members or Retired Associate or Retired Fellow Members, present in person or represented by proxy; provided that in no case can any meeting be held unless there are two (2) voting members present in person.

17.7 ADJOURNMENTS

Any general meeting of the Institute may be adjourned at any time and from time to time and such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place. No notice shall be required of any such adjournment. Such adjournment may be made notwithstanding that no quorum is present.

17.8 PROXIES

An instrument appointing a proxy may be in the following form or in any other form which is approved by resolution of the board of directors from time to time and which complies with the requirements of the Act:

“The undersigned member of The Institute of Law Clerks of Ontario hereby appoints *****, or failing that person *****, as the proxy of the undersigned to vote and act for and on behalf of the undersigned at the *** meeting of the members of the Institute to be held on the *** day of ***, 20**, and at any adjournment or adjournments thereof in the same manner, to the same extent and with the same power as if the undersigned were present at the said meeting or such adjournment or adjournments.

DATED this *** day of ***, 20**.

”
Signature of Member
Name of Member

The form of proxy must be signed and dated by the member and ceases to be valid one (1) year from its date. The proxy shall be delivered to the Secretary of the Institute, at such address as may be given by notice from time to time, not less than forty-eight (48) hours prior to the meeting for which such proxy is given and for the purpose of this section “delivery” shall be interpreted as by:

- (i) personal delivery, inclusive of delivery by courier;
- (ii) mailing by prepaid ordinary mail postmarked not less than 72 hours prior to the meeting; or
- (iii) facsimile bearing date and time of origin not less than 48 hours prior to the meeting.

A proxy may be revoked by instrument in writing signed and dated by the member and deposited with the Secretary of the Institute at any time up to and including the last business day preceding the day of the meeting at which the proxy is to be used or with the chair of such meeting on the day of the meeting.

PART 18 NOTICE

18.1 NOTICE

Notice of every meeting of members shall be given to all members of the Institute, and to the auditors for the time being of the Institute. For an annual general meeting, such notice shall be given not less than twenty-one (21) days prior to the date fixed for the holding of such meeting and for any other meeting of members such notice shall be given not less than ten (10) days before the date fixed for the holding of such meeting. Each notice of any meeting of

members shall specify the place, the day and the hour of the meeting and the general nature of the business to be dealt with at the meeting.

Each notice of any meeting of members shall be sent to each person entitled thereto to the last address of that person as shown on the books or in the Registers of the Institute; provided that any meeting of members may be held at any time and place without such notice if all the members of the Institute are present thereat or represented by proxy duly appointed or if all the members entitled to notice of the meeting have waived in writing the notice, and at such meeting any business may be transacted which the Institute at annual general meetings or special general meetings may transact.

18.2 NOTICE OF BRANCH RESOLUTIONS

- (a) Subject to the provisions of the Act, it shall be the duty of the Institute on the requisition in writing of the management committee of a Branch of the Institute and at the expense of such Branch, to give to all members of the Institute entitled to receive notice of any special general meeting of the Institute, notice of any resolution which may properly be moved and is intended to be moved at that meeting by a member or members of such Branch.
- (b) All expenses relating to the giving of such notice shall be borne by the Branch submitting the requisition, unless the board of directors otherwise resolves.

18.3 OMISSIONS AND ERRORS

The accidental omission to give notice, or the failure by any person entitled thereto to receive notice thereof, shall not invalidate the proceedings at any general meeting.

PART 19 BOARD OF DIRECTORS

19.1 COMPOSITION OF BOARD OF DIRECTORS

The affairs of the Institute shall be controlled and managed by a board of directors composed of eleven (11) members of the Institute of whom;

- (a) not more than two (2) may be Ordinary Members; and
- (b) the remainder shall be Fellow and/or Associate Members of the Institute.

Any increase or decrease in the number of directors shall be approved by special resolution of the members.

19.2 QUALIFICATIONS

No person shall be qualified for election or appointment as a director if that person;

- (a) is not a qualified member of the Institute;

- (b) is not eighteen (18) or more years of age; or
- (c) is an undischarged bankrupt or a mentally incompetent person.

19.3 NOMINATION OF DIRECTORS

Subject to Section 19.2 the persons qualified for election shall be those nominated as provided in Section 19.5. The directors shall be elected by the members in general meeting and the election shall be by ballot or in such other manner as the by-laws of the Institute prescribe.

19.4 ROTATING BOARD – ELECTION AND TERM

The directors elected at an annual general meeting shall take office at the end of that annual meeting and shall serve for a term of three (3) years or until their successors are elected or appointed. Subject to the Letters Patent and the Act, the directors shall be elected and shall retire in rotation. At each annual meeting, directors shall be elected to fill the positions of those directors whose term of office has expired and each director so elected shall hold office until the third annual meeting after such election.

Retiring directors shall be eligible for re-election to the board if otherwise qualified and retiring directors shall continue in office until their successors shall have been duly elected or appointed.

19.5 NOMINATIONS COMMITTEE

The board of directors shall, in each year, appoint a Nominations Committee composed of three (3) Associate and/or Fellow Members who are not members of the board of directors. The Nominations Committee shall in accordance with the policies and procedures established by the board:

- (a) recruit and approve nominees for election to the board of directors at the annual general meeting; and
- (b) report to the board as requested from time to time.

19.6 DUTIES

The board of directors shall administer the affairs of the Institute in all things and make or cause to be made for the Institute in its name any kind of contract which the Institute may lawfully enter into and, save as hereafter provided, generally may exercise all such powers and do all such acts and things as the Institute is by its charter and otherwise authorized to exercise and do.

19.7 POWERS

Without in any way derogating from the foregoing, the board of directors is expressly empowered from time to time to purchase, lease or otherwise acquire, alienate, sell, exchange or otherwise dispose of shares, stocks, rights, warrants, options and other securities, lands, buildings

and other property moveable or immovable real or personal or any right or interest therein owned by the Institute for such consideration and upon such terms and conditions as it may deem advisable.

19.8 VACANCIES

The office of a director shall be automatically vacated upon the occurrence of any of the following events:

- (a) if the director ceases to be a member of the Institute;
- (b) if the director becomes bankrupt or suspends payment of personal debts generally or compounds with creditors or makes an authorized assignment or is declared insolvent;
- (c) if the director is found to be a mentally incompetent person or becomes of unsound mind;
- (d) if by notice in writing to the Institute the director resigns, which resignation shall be effective at the time it is received by the Institute or at the time specified in the notice, whichever is later;
- (e) if the director dies; or
- (f) if the director is removed from office by the members, in accordance with section 20.1(k).

As long as there is a quorum of directors in office, in the event of a vacancy arising in the board of directors the remaining directors may appoint a Fellow or Associate or Ordinary Member of the Institute as a director to hold office for the balance of the term, provided that no more than two (2) Ordinary Members shall be directors at any time. Whenever there is not a quorum of directors in office, the director or directors then in office shall forthwith call a meeting of the members of the Institute to fill the vacancies and, in default or if there are not directors then in office, the meeting may be called by any member of the Institute.

19.9 REMUNERATION

No member of the board of directors shall receive remuneration for acting as such but may be reimbursed for any expenses incurred in the conduct of the affairs of the Institute.

PART 20 QUORUM AND MEETINGS OF THE BOARD OF DIRECTORS

20.1 QUORUM AND MEETINGS OF BOARD OF DIRECTORS

- (a) A majority of the authorized number of directors shall form a quorum for the transaction of business at meetings of the board. The quorum may be changed by

special resolution pursuant to the Act but in no case shall a quorum be less than two-fifths (2/5) of the authorized number of directors.

- (b) Except as otherwise required by law, the board of directors may hold its meetings at such place or places as it may from time to time determine. No formal notice of any such meeting shall be necessary if all the directors are present or those absent have signified their consent to the meeting being held in their absence.
- (c) Meetings of the board of directors may be formally called by the President or the Vice-President or by the Secretary on the direction of the President or the Vice-President or by the Secretary on the direction in writing of a majority of the directors.
- (d) Notice of such meeting shall be delivered, telephoned or sent by facsimile or other form of electronic communication to each of the directors not less than forty-eight (48) hours before the meeting is to take place or shall be mailed to each of the directors not less than seventy-two (72) hours before the meeting is to take place. The statutory declaration of the Secretary or President that notice has been given pursuant to this by-law shall be sufficient and conclusive evidence of the giving of such notice. A director may in any manner and at any time (before or after the meeting to which such waiver relates) waive notice of a meeting of directors and attendance of a director at a meeting of directors shall constitute a waiver of notice of the meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business. Meetings of directors may be held at any time without notice if all the directors are present (except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called) or if all of the absent directors waive notice before or after the date of such meetings. The accidental omission to give notice of any meeting of directors to, or the non-receipt of any notice by any person, shall not invalidate any resolution passed or any proceedings taken at such meeting.
- (e) The board of directors may appoint a day or days in any month for regular meetings at an hour to be named and for such meetings no notice need be sent.
- (f) A meeting of the board of directors may also be held without notice immediately following the annual general meeting of the Institute provided for in this by-law for the purpose of the election or appointment of the officers of the Institute.
- (g) The directors may transact or consider any business, either special or general, at any meeting of the board of directors.
- (h) The President or, in the absence of the President, the Vice-President shall preside as the chair at a meeting of the board of directors but, if at a meeting neither or them is present within fifteen minutes after the time appointed for the holding of the meeting, the directors shall choose a Fellow or Associate member from their number to be the chair.

- (i) If all the directors present at or participating in the meeting consent, a director may participate in a meeting of the board of directors or of a committee of the board of directors by means of telephone or such other communications facilities as permit all persons participating in the meeting to communicate with each other simultaneously. A director participating in such a meeting by such means is deemed to be present at the meeting. Any such consent shall be effective whether given before or after the meeting to which it relates and may be given with respect to all meetings of the board of directors and of committees of the board of directors held while a director holds office.
- (j) Questions arising at any meeting of the board of directors shall be decided by a majority of votes. In case of an equality of votes, the chair in addition to the chair's original vote shall be entitled to a second vote or casting vote. All votes at any such meeting shall be by a show of hands unless a ballot is demanded. A declaration of the chair that a resolution has been carried and an entry to that effect in the minutes shall be admissible in evidence as prima facie proof of the fact without proof of the number or the proportion of the votes recorded in favour of or against such resolution.
- (k) A director may be removed from office before the expiration of such director's term of office by a resolution passed by at least two-thirds of the votes cast at a meeting of members, of which meeting notice specifying the intention to pass such resolution has been given. The members may, by a majority of votes cast at that meeting, elect any qualified person to replace that director for the remainder of the term of the director so removed.
- (l) A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors, is as valid as if it had been passed at a meeting of directors.
- (m) Any meeting of directors may, with the consent of the meeting, be adjourned from time to time by the Chair of the meeting to a fixed time and place. Notice of any adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting. Any adjourned meeting shall be duly constituted if held in accordance with the terms of the adjournment and a quorum is present thereat. The directors who formed a quorum at the original meeting are not required to form the quorum at the adjourned meeting. If there is no quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated forthwith after its adjournment.

PART 21 OFFICERS

21.1 OFFICERS

- (a) The officers of the Institute shall be a President, a Vice-President, a Secretary, a Treasurer, a Registrar and such other officers as the board of directors may determine by resolution from time to time including, in the case of the Secretary, Treasurer and Registrar, one or more assistants to such officers. The board of directors shall have the power to fix the remuneration of the officers other than the officers who are members of the board of directors and no approval of the members shall be required as to the remuneration as so fixed by the board of directors. The same person may hold more than one office.
- (b) The President, the Vice-President, the Secretary and the Treasurer shall be elected or appointed by the board of directors from among their number at the first meeting of the board of directors after the annual election of such board of directors in each year; provided that in default of such election or appointment the then incumbents, being members of the board of directors, shall hold office until their successors are elected or appointed.
- (c) In the event of a vacancy arising in the office of the President or Vice-President or Secretary or Treasurer prior to the annual election of the board of directors, a replacement may be elected or appointed by the board of directors to hold office for the remainder of the term of office.
- (d) The officers of the Institute other than the President, the Vice-President, the Secretary and the Treasurer need not be members of the board of directors but shall be members of the Institute. In the absence of a written agreement to the contrary, the employment of all such officers shall be settled from time to time by the board of directors.

21.2 PRESIDENT

- (a) The President of the Institute shall be an Associate or a Fellow Member of the Institute. The President, if in attendance, shall preside at all meetings of the Institute and of the board of directors. The President shall be an ex-officio member of all committees.
- (b) The President shall officially represent the Institute at all functions in which the Institute has an interest but may appoint an Associate or Fellow Member of the Institute to represent the Institute at such functions and an Associate or Fellow Member of the Institute so appointed may be designated by the President as an "Honorary Vice-President" for such purpose.
- (c) The President shall also be charged with the general management of the affairs and operations of the Institute, subject to the by-laws and the directions of the board of directors.

21.3 VICE-PRESIDENT

- (a) The Vice-President of the Institute shall be an Associate or Fellow Member of the Institute. During the absence or inability to act of the President, the President's duties may be performed and the President's powers may be exercised by the Vice-President. If the Vice-President exercises any such duty or power, the absence or inability of the President shall be presumed with reference thereto.
- (b) In the absence of the President from any meeting, the Vice-President shall preside and, in the absence of the President and the Vice-President, a chair shall be selected by the board of directors as provided for in sub-section 20.1(h) hereof.
- (c) The Vice-President shall also perform such duties and exercise such powers as the President may from time to time delegate to him or the board of directors may prescribe.

21.4 SECRETARY

The Secretary shall give or cause to be given all notices required to be given to any members of the Institute or of the board of directors or committees. The Secretary shall attend all meetings of the Institute and shall enter or cause to be entered in books kept for the purpose minutes of all proceedings at such meetings. The Secretary shall be the custodian of the Seal of the Institute and of its books, records and documents and shall perform such other duties as may from time to time be prescribed by the board of directors.

21.5 TREASURER

The Treasurer shall keep full and accurate books of account in which shall be recorded all receipts and disbursements of the Institute and, under the direction of the board of directors, shall control the deposit of money, the safekeeping of the securities and the disbursement of the funds of the Institute. The Treasurer shall render to the board of directors at the meetings thereof, or whenever required, an account of all such transactions as Treasurer and of the financial position of the Institute and shall perform such other duties as may from time to time be prescribed by the board of directors.

21.6 REGISTRAR

- (a) The Registrar shall keep a complete and accurate register of the Institute membership and of applicants thereof and record or cause to be recorded dates of:
 - (i) receipt of forms or applications for membership or renewal of membership;
 - (ii) approval or rejection of applications; and
 - (iii) receipt of payment of dues, and such other information as may be directed by the board of directors.

- (b) The Registrar shall report to the board of directors any violation by any person of the conditions of membership and the Code of Ethics of the Institute that shall be brought to the Registrar's attention through the keeping of such records or by other means.

21.7 OTHER OFFICERS

The duties of all other officers of the Institute shall be such as the terms of their engagement call for or the board of directors requires of them. Unless the board of directors otherwise directs, any of the powers and duties of any officer to whom an assistant may be appointed may be exercised and performed by such assistant to the extent directed by the officer or, in the case of the officer's absence or inability to act, by the board of directors.

21.8 REMOVAL OF OFFICERS

All officers, in the absence of agreement to the contrary, shall be subject to removal by resolution of the board at any time.

21.9 POWERS AND DUTIES

All officers shall sign such contracts, documents or instruments in writing as require their respective signatures and shall respectively have and perform all powers and duties incident to their respective offices and such other powers and duties respectively as may from time to time be assigned to them by the board, subject however to any special resolution of the Institute.

PART 22 COMMITTEES

22.1 COMMITTEES

The board of directors shall appoint or provide for the appointment of a chair and members to each Standing Committee of the board of directors (excluding the Nominations Committee and Disciplinary Committee) and shall from time to time establish such other committees or sub-committees as the board of directors deems necessary from time to time to carry out the programmes and operations of the Institute. The Standing Committees may include the following:

- By-Law and Constitution
- Conference
- Continuing Legal Education
- Education
- Finance
- Membership
- Policy and Planning
- Public Relations
- Publications and Newsletter

**PART 23
CONFLICT OF INTEREST**

23.1 CONFLICT OF INTEREST

A director who is in any way directly or indirectly interested in a contract or proposed contract shall make the disclosure required by the Act. Except as provided by the Act, no such director shall vote on any resolution to approve any such contract. In supplement of and not by way of limitation upon any rights conferred upon directors by section 71 of the Act and specifically subject to the provisions contained in that section, it is declared that no director shall be disqualified from office, or vacate the office, by reason of holding any office or place of profit under the Institute or under any corporation in which the Institute shall be a shareholder or by reason of being otherwise in any way directly or indirectly interested or contracting with the Institute as vendor, purchaser or otherwise or being concerned in any contract or arrangement made or proposed to be entered into with the Institute in which the director is in any way directly or indirectly interested either as vendor, purchaser or otherwise, nor shall any director be liable to account to the Institute or any of its members or creditors for any profit arising from any such office or place of profit. Subject to the provisions of section 71 of the Act, no contract or arrangement entered into by or on behalf of the Institute in which any director shall be in any way directly or indirectly interested shall be avoided or voidable and no director shall be liable to account to the Institute or any of its members or creditors for any profit realized by or from any such contract or arrangement by reason of any fiduciary relationship. The Chair of any meeting of the board or of any committee of the board shall request any member, who has declared an interest in any such contract or proposed contract, to be absent during the discussion of and the vote upon the matter and such event shall be recorded in the minutes.

**PART 24
PROTECTION OF DIRECTORS AND OFFICERS**

24.1 PROTECTION OF DIRECTORS AND OFFICERS

Except as otherwise provided in the Act, no director or officer for the time being of the Institute shall be liable for the acts, receipts, neglects or defaults of any other director or officer or employee or for any loss, damage or expense happening to the Institute through the insufficiency or deficiency of title to any property acquired by the Institute or for or on behalf of the Institute or for the insufficiency or deficiency of any security in or upon which any of the moneys of or belonging to the Institute shall be placed out or invested or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation, including any person with whom any moneys, securities or effects shall be lodged or deposited, or for any loss, conversion, misapplication or misappropriation of or any damage resulting from any dealings with any moneys, securities or other assets belonging to the Institute or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of the director's or officer's respective office or trust or in relation thereto unless the same shall happen by or through the director's or officer's own wilful neglect or default or failure to act honestly and in good faith with a view to the best interests of the Institute, provided that nothing herein shall relieve any director or officer of any liability imposed by statute.

PART 25 INDEMNIFICATION

25.1 INDEMNIFICATION

The Institute shall indemnify and save harmless every director and officer of the Institute (including former directors and officers of the Institute), and their heirs, executors and administrators, and estate and effects, from and against:

- (a) all costs, charges and expenses whatsoever that he or she sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against that person, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by such person, in or about the execution of the duties of such person's office; and
- (b) all other costs, charges and expenses that he or she sustains or incurs in or about or in relation to the affairs of the Institute,

except such costs, charges or expenses as are occasioned by that person's own wilful neglect or default.

PART 26 GENERAL

26.1 INSURANCE

Subject to applicable law, the Institute may purchase and maintain insurance for the benefit of any director or officer of the Institute against any liabilities, costs, charges and expenses sustained or incurred by such director or officer in connection with the execution of the duties of that person's office, except where such liability, costs, charge and expense relate to such person's failure to act honestly and in good faith and in the best interests of the Institute.

26.2 FINANCE AND BANKING

- (a) The financial year of the Institute shall end on the 30th day of June in each year unless otherwise determined by the board of directors by resolution.
- (b) The Institute bank account shall be maintained at such chartered bank or trust company as the board of directors by resolution may designate and all banking business or any part thereof shall be transacted on the Institute's behalf by the President and any one the Secretary, Treasurer or such other person as the board of directors may from time to time authorize by resolution.

26.3 AUDITOR

Unless the Institute qualifies under the exemption in section 96.1 of the Act, the members shall at each annual meeting appoint an auditor to audit the accounts of the Institute for report to

the members at the next annual meeting. The auditor shall hold office until the next annual meeting, provided that the directors may fill any casual vacancy in the office of auditor. The remuneration of the auditor shall be fixed by the board. The said auditor shall be duly licensed under the laws of Ontario and shall not be a member of the board or an officer or employee of the Institute or a partner or employee of any such person.

26.4 BOOKS AND RECORDS

The directors shall see that all necessary books and records of the Institute required by the by-laws of the Institute or by any applicable statute or law are regularly and properly kept.

26.5 EXECUTION OF INSTRUMENTS

Deeds, transfers, assignments, contracts, obligations, and other instruments may be signed on behalf of the Institute by the President or the Vice President, together with any other director. In addition, the board of directors may at any time by resolution direct the manner in which and the person or persons by whom, any particular instrument, contract or obligation of the Institute may or shall be executed. Any person authorized to sign an instrument on behalf of the Institute may affix the corporate seal thereto.

26.6 NOTICE

Whenever under the provisions of the by-laws of the Institute, notice is required to be given to any person, such notice may be given either personally, by facsimile or e-mail or other means of electronic communication or by depositing same in a post office or a public letter box in a prepaid sealed envelope addressed to the recipient at the person's address as it is recorded on the books or in the Registers of the Institute. Any notice or other document so delivered shall be deemed to have been given when it is delivered personally or to the recorded address as aforesaid. A notice so sent by post shall be deemed to have been received on the third business day after the time of deposit in the post office or public letter box. A notice sent by any means of transmitted or recorded communication shall be deemed to have been given on the first business day after it is so sent.

26.7 REFERENCES

In all by-laws and resolutions of the Institute, where the context so requires, the singular shall include the plural and the plural the singular. Whenever reference is made to this by-law, all other by-laws or resolutions of the Institute to any statute or section thereof, such reference shall be deemed to extend and apply to any amendment to or re-enactment of such statute or section, as the case may be.

26.8 AMENDMENT

The provisions of the by-laws of the Institute not embodied in the Letters Patent may be repealed or amended by by-law enacted by a majority of the directors at a meeting of the board and sanctioned by at least two-thirds (2/3) of the members voting at a meeting duly called for the purpose of considering the said by-law.

**PART 27
REPEAL**

27.1 REPEAL

All previous by-laws of the Institute are hereby repealed upon the enactment of this by-law. Such repeal shall not affect the previous operation of any by-law or affect the validity of any act done or right or privilege, obligation or liability acquired or incurred under, or the validity of any contract or agreement made pursuant to, or the validity of any Letters Patent or predecessor charter documents of the Institute obtained pursuant to any such by-law prior to its repeal. All officers and persons acting under any by-law so repealed shall continue to act as if appointed under the provisions of this by-law and all resolutions of the members and of the board with continuing effect passed under any repealed by-law shall continue good and valid except to the extent inconsistent with this by-law and until amended or repealed.

WITNESS the corporate seal of the Institute.

ENACTED by the board this 7th day of April, 2004.

“Giselle Piper”

“Isabel Fernandes-Cunha”

President – Giselle Piper

Secretary - Isabel Fernandes-Cunha

CONFIRMED by the members on this 26th day of May, 2004.

“Isabel Fernandes-Cunha”

Secretary - Isabel Fernandes-Cunha