

1967 Bill 27

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Fifth Session, 15th Legislature, 15 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

**BILL 27**

**An Act to amend The Legal Profession Act, 1966**

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THE ATTORNEY GENERAL

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First Reading .....

Second Reading .....

Third Reading .....

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# BILL 27

1967

An Act to amend The Legal Profession Act, 1966

(Assented to \_\_\_\_\_, 1967)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Legal Profession Act, 1966* is hereby amended.

2. Section 6, subsection (2) is amended by striking out clause (e) and by substituting the following:

- (e) providing for the reinstatement
  - (i) of members and students-at-law under suspension,
  - (ii) of former members whose names have been struck off the roll, and
  - (iii) of former students-at-law whose articles have been terminatedpursuant to section 32 or section 33 or pursuant to orders of the Benchers under Part 3, as the case may be, and prescribing the terms and conditions upon which reinstatement may be granted,

3. Section 46 is struck out and the following section is substituted:

**46.** The Benchers shall appoint from among their members a Discipline Committee and shall designate for it a chairman and one or more vice-chairmen.

4. Section 47 is amended by striking out clause (a) and by substituting the following:

- (a) providing for the making of preliminary investigations into any matter regarding the conduct of a member or a student-at-law, whether a complaint is made or not,

5. Section 48 is amended by adding the following subsection:

(3) A person making a preliminary investigation into a matter concerning the conduct of a member may investi-

## Explanatory Notes

**1.** This Bill amends chapter 46 of the Statutes of Alberta, 1966.

**2.** Section 6, subsection (2), clause (e) presently reads:

(2) Without restricting the generality of subsection (1), the Benchers may make rules

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(e) providing for the reinstatement of former members and of members and students-at-law under suspension pursuant to orders of the Benchers under Part 3, and prescribing the terms and conditions upon which reinstatement may be granted,

**3.** Section 46 presently provides that the Discipline Committee consists of all the Benchers.

**4.** Section 47, clause (a) presently reads:

47. The Benchers may make rules

(a) providing for the making of preliminary investigations into complaints regarding the conduct of members or students-at-law by the chairman or vice-chairman of the Discipline Committee, the Secretary or the Society's solicitor,

This amendment will enable a preliminary investigation to be made without a formal complaint having to be made.

**5.** Self-explanatory.

gate any other matter regarding the conduct of the member concerned that arises in the course of the investigation.

**6.** Sections 49, 50 and 51 are struck out and the following sections are substituted:

**49.** The chairman or a vice-chairman of the Discipline Committee shall review any matter regarding the conduct of a member of the Society brought to his attention by the Secretary or otherwise, whether a complaint is made or not, and shall either

- (a) direct that no further action be taken if he is of the opinion that the matter concerning the member's conduct does not constitute conduct unbecoming a barrister and solicitor, or
- (b) direct that a preliminary investigation be held regarding the matter, or
- (c) direct that the matter be dealt with by an investigating committee.

**50.** Upon the conclusion of a preliminary investigation, the chairman or a vice-chairman of the Discipline Committee shall either

- (a) direct that no further action be taken if he is of the opinion that the matter concerning the member's conduct does not constitute conduct unbecoming a barrister and solicitor, or
- (b) direct that the matter be dealt with by an investigating committee.

**51.** Where a matter regarding the conduct of a member is brought to the attention of the chairman or vice-chairman of the Discipline Committee as a result of a complaint and where the chairman or a vice-chairman of the Discipline Committee directs pursuant to section 49 or 50 that no further action be taken with respect to the matter, the complainant may appeal his direction to the Benchers who, in either or both cases may make any direction regarding it that the chairman could have made under those sections.

**7.** Section 52 is amended by striking out subsection (1) and by substituting the following:

**52.** (1) Where the chairman or a vice-chairman of the Discipline Committee directs that a matter regarding the conduct of a member is to be dealt with by an investigating committee under this Part, he shall

- (a) direct the Secretary to lay a charge of conduct unbecoming a barrister and solicitor against the member concerned containing particulars of the unbecoming conduct, and
- (b) appoint an investigating committee to conduct an investigation regarding the charge.

**6.** Sections 49, 50 and 51 are revised to conform to the change to section 47 by removing the references to complaints.

**7.** A reference to a complaint is removed.

**8.** Section 91 is amended by renumbering the section as subsection (1) and by adding the following subsection:

(2) A prosecution under this section may be commenced within two years after the commission of the offence, but not thereafter.

**9.** This Act comes into force on the day upon which it is assented to.

**8. This new provision is equivalent to section 75, subsection (2) of the previous Act which was inadvertently omitted from the new Act in 1966.**