



LAW SOCIETY OF PRINCE EDWARD ISLAND

ARTICLING CHECKLIST

APPROVED - DECEMBER, 2007

To the Principal and the Articled Clerk

Where circumstances do not permit completing a requirement/requirements in conjunction with an active file, it is acceptable for the Articled Clerk to work from or use a precedent file or a hypothetical fact situation for purposes of meeting the requirements set out hereunder.

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PROFESSIONAL CONDUCT

MANDATORY

***Please note that Articled Clerks are subject to the Code of Professional Conduct and this section must be completed at the commencement of the articling period.**

Integrity

- 1. Has the clerk reviewed the Rules relating to Integrity? _____
- 2. Is the clerk aware of the potential consequences of dishonorable or questionable conduct? _____
- 3. Can the clerk name examples of conduct that would infringe the Rule? _____

Competence and Quality of Service

- 1. Has the clerk reviewed the Rules relating to Competence? _____
- 2. Does the clerk understand the distinction between the ethical duty and the civil standard of care owed to a client? _____
- 3. Can the clerk name some examples of conduct that does not meet the quality of service required under the Rule? _____
- 4. Is the clerk aware of the consequences of incompetence? _____

Advising Clients

- 1. Has the clerk reviewed the Rules about Advising Clients? _____
- 2. Can the clerk describe the scope of advice that should be provided to a client? _____
- 3. Is the clerk aware of the lawyer’s duty to give advice where there has been an error or omission on the part of the lawyer? _____
- 4. Discuss the duty relating to Independent Legal Advice? _____

Confidential Information

- 1. Has the clerk reviewed the Rules about Confidential Information? _____
- 2. Is the clerk aware of when a lawyer may disclose confidential information? _____

- 3. Is the clerk aware of the lawyer’s duties with regard to confidential information and how long the duty lasts? _____

Impartiality and Conflict of Interest Between Clients

- 1. Has the clerk reviewed the Rules about Conflicts of Interest? _____
- 2. Can the clerk give examples of a conflict of interest between clients? _____

Conflict of Interest Between Lawyer and Client

- 1. How does this Rule differ from the Rule relating to conflicts between clients? _____
- 2. Can the clerk advise as to when a person is considered a client? _____

Outside Interests and Practice of Law

- 1. Has the clerk reviewed the Rules about Outside Interests? _____
- 2. Define an outside interest for the purposes of this Rule? _____
- 3. Describe some specific requirements to allow involvement in an outside interest while practicing law? _____

Preservation of Clients’ Property

- 1. Has the clerk reviewed the Rule relating to Clients’ property? _____
- 2. Describe the lawyer’s duty in relation to the property of a client? _____
- 3. What are the minimum standards to be applied by a lawyer in relation to the property of a client? _____
- 4. Discuss the issue of privilege and how that relates to a client’s property? _____

The Lawyer as Advocate

- 1. Has the clerk reviewed the Rule relating to lawyer as advocate? _____
- 2. Can the clerk name some examples of prohibited conduct in the courtroom or before a Tribunal? _____
- 3. Can the clerk describe some issues facing the Lawyer who becomes a witness? _____

4. Discuss the differences between the duties of a Prosecutor and the duties of a Defence counsel? _____

5. Discuss the guidelines respecting communication with witnesses who are giving evidence? _____

The Lawyer in Public Office

1. Has the clerk reviewed the rule relating to Public Office? _____

2. Can the clerk describe some of the conflict of interest issues facing a lawyer in public office? _____

Fees

1. Has the clerk reviewed the Rule relating to fees? _____

2. Can the clerk name some factors to consider in a fair and reasonable fee? _____

Withdrawal

1. Has the clerk reviewed the Rule relating to withdrawal? _____

2. Can the clerk state when a lawyer has an obligation to withdraw? _____

3. Can the clerk describe the duties of a lawyer after withdrawal? _____

4. Discuss the issue of withdrawal for non-payment of fees. _____

The Lawyer and the Administration of Justice

1. Has the clerk reviewed the Rule relating to the Administration of Justice? _____

2. Discuss the lawyer's responsibilities in the administration of justice. _____

3. Name some guidelines regarding public comment upon proceedings before a Tribunal. _____

Advertising, Solicitation and Making Legal Services Available

1. Has the clerk reviewed the Rule relating to advertising etc? _____

2. Discuss a lawyer's duty in assisting a person to find a lawyer? _____

3. Discuss some issues relating to advertisement of lawyer's services. _____

Responsibility to the Profession Generally

- 1. Discuss the lawyer’s obligations to the Profession. _____

Responsibility to Lawyers Individually

- 1. Discuss the concept of “sharp practice”. _____
- 2. Describe the lawyer’s duty in relation to undertakings. _____

Practice by Unauthorized Persons

- 1. Discuss the issues facing the lawyer in supervision of employees and legal assistants. _____

Public Appearances and Public Statements by Lawyers

- 1. Discuss the standards of conduct to be exercised by a lawyer when making public statements. _____
- 2. Discuss the issues facing a lawyer in contact with the media. _____

Avoiding Questionable Conduct

- 1. Describe the lawyer’s obligation to un-represented persons. _____
- 2. Discuss the issues facing a lawyer or Judge who retires from public service. _____

DATE COMPLETED: _____

THE OFFICE

Reviewed the following issues at the commencement of the articling period _____

1. Principal, Partners and Associates

- (a) Does the clerk have a general understanding of his or her responsibilities and assignments?
- (b) Does the clerk know to whom to take work and to whom to report?
- (c) Does the clerk have an understanding as to
 - whom to consult about current work?
 - when to see him, her or them?
 - on what matters the clerk is to consult them?
- (d) Is it understood that some person or persons (the principal or others) are available for consultation as to
 - ethical issues?
 - personal problems?
 - the general state and progress of the clerk's education?
 - when and on what matters they are to be consulted?
- (e) Is there some system for the periodic review and evaluation of the clerk's work?

2. Office Personnel

- (a) Has the clerk met all the support staff, and does he/she have a clear understanding of their individual responsibilities and functions?
- (b) Has the clerk clearly understood how (with respect to each department or task to be assigned) he or she is to work with secretarial and other staff?
- (c) Is there an office manager that the clerk can check office procedure with?
- (d) Is there an accountant or accounting department, and does the clerk fully understand how to report time and other records or information?

3. Office Procedure

(a) Files, time records, and billings

Files:

- (i) Does the clerk know when, how, by what form (name and number) files are opened?
- (ii) Does the clerk know and observe the procedures of the firm to avoid possible conflicts of interest when new files are opened?
- (iii) Does the clerk know how to close a file?
- (iv) Does the clerk know where closed files are kept?
- (v) Does the clerk understand and observe the firm's practices with respect to the location, tracing, return and indexing of files?

(b) Time Records:

Does the clerk keep time records, and, with respect thereto, follow the firm's practice with respect to form, detail, file reference, and reporting?

(c) Billing Procedure:

- (i) Is the clerk aware of the firm's practice with respect to billing procedure -
 - frequency?
 - who does it?
 - method of charging?
 - how assigned or credited within firm's records of members' performance?
 - receipting fee payments?
- (ii) Is the clerk fully aware of the provisions in the *Legal Profession Act* and its Regulations with respect to trust accounts, and, generally, of the methods followed by your firm to maintain accounts accordingly?

ADMINISTRATIVE LAW

1. Be familiar with and attend at an administrative hearing which may include any of the following:
 - (a) the Island Regulatory and Appeals Commission-Appeals Tribunal;
 - (b) an Arbitration hearing;
 - (c) other administrative hearing such as Labour Relations Board, Worker's Compensation Board, Worker's Compensation Appeal Board, Rentalsman Hearing, Liquor Control Commission, Professional Disciplinary Hearing, etc.
-

CIVIL PROCEDURE

1. Draft a Statement of Claim
 - (a) Contract _____
 - (b) Negligence _____
2. Issue a Statement of Claim and attend to the requirements of service _____
3. Be familiar with how to accept service of a Statement of Claim _____
4. Draft and enter a Notice of Intent to Defend and Statement of Defence (and Counterclaim, if applicable) _____
5. Draft a
 - (a) Cross-Claim _____
 - (b) Third Party Claim _____
6. Assist in the preparation of an Affidavit of Documents and become familiar with the Solicitor's Requirement _____
7. Attend at an interview with a witness _____
8. Assist in the preparation for an Examination for Discovery _____
9. Attend an Examination for Discovery _____
10. Prepare a summary of an Examination for Discovery or pleadings _____
11. Prepare a Pre-Trial Conference Memorandum _____
12. Attend a Pre-Trial Conference _____
13. (a) Draft a Motion and prepare a Motion Record and Factum
Or
Draft and prepare a Notice of Application and Application Record and Factum _____
- (b) Draft an Affidavit for the Motion or Application _____
- (c) Draft an Order _____
- (d) Attend a contested Motion or Application _____

14. Prepare an Offer to Settle _____
15. Attend a Judicial Review Application or Appeal in the Court of Appeal _____
16. Prepare a Release to be executed by a Plaintiff when an action is settled and a Memorandum of Settlement to be executed by either a Plaintiff or Defendant _____
17. Small Claims Matter
 - (a) Interview and advise a client regarding a Small Claims Court claim _____
 - (b) Draft either a Notice of Claim or a Dispute Note _____
 - (c) Prepare for and attend at a Small Claims Pretrial and Trial _____
18. Prepare a Note of Default Judgment, Minute of Judgment, Requisition for Default Judgment and Judgment, and attend at the Prothonotary's Office/ Sheriff's Office to file the Default Judgment and Writ of Execution _____
19. Debtor/Creditor
 - (a) Prepare and file a Mechanics' Lien _____
 - (b) Prepare materials to commence an action to enforce a Mechanics' Lien _____
 - (c) Prepare a collection letter on behalf of a client or the firm _____
 - (d) Prepare a Statement of Claim (Debt Recovery) _____
20. Review Rules of Civil Procedure, Forms & Practice Notes _____

CORPORATE AND COMMERCIAL LAW

Incorporation

1. Assist with or take the following steps in connection with the incorporation and organization of a company under the Canada Business Corporations Act (Canada) and the Companies Act (P.E.I.):
 - (a) Obtain approval for the corporate name with the appropriate government department or prepare legal opinion re use of proposed name. _____
 - (b) Draft application for letters patent/articles of incorporation _____
 - (c) Draft organizing by-laws and resolutions (including borrowing and banking documents) _____
 - (d) Draft shareholders' resolutions _____
 - (e) Prepare common share certificate _____
 - (f) Prepare the minute book, including registers of directors, officers, shareholders and transfers _____
 - (g) Consider registrations that might be required under other statutes _____
 - (h) Draft report to client _____

Arrangements Among Shareholders

2. (a) Draft a shareholders' agreement, including provisions dealing with:
 - (i) control of the company; and _____
 - (ii) events giving rise to a sale of shares such as first rights of refusal, buy-sells, puts, calls _____

Purchase and Sale of a Business

3. (a) Where possible, attend negotiations between solicitor and client resulting in offer to purchase or sell a business _____
- (b) Consider the tax and commercial advantages and disadvantages of purchasing (or selling) shares rather than assets _____
- (c) Consider alternate forms of business arrangements _____
- (d) Become familiar with considerations involved in the purchase and sale of a business _____
- (e) Draft agreement of purchase and sale of shares _____

- (f) Draft agreement of purchase and sale of assets _____
- (g) Conduct searches under:
 - Personal Property Security Act _____
 - Bankruptcy Act (Canada) _____
 - Bank Act (Canada) _____
 - Registry Act _____
 - Revenue Tax Act _____
 - Workers' Compensation Act _____
 - Employment Standards Act _____
 - Income Tax Act (Canada) _____
 - Excise Tax Act (Canada) _____
 - Municipal By-Laws for Zoning etc. _____
- (h) Check Judgments/Executions _____
- (i) Assist with the corporate steps necessary to carry through a transaction for the purchase or sale of a business _____
- (j) Review and become familiar with section 69 of the *Companies Act*. _____

Financial Arrangements

- 4. (a) Be familiar with, and participate in, the filing of a general security agreement under the PPSA _____
- (b) Draft a real property mortgage and attend to its registration _____
- (c) Prepare a corporate borrowing resolution _____

CRIMINAL PROCEDURE

MANDATORY

- 1. Attend a docket day in Provincial Court. _____
- 2. Attend a criminal trial. _____
- 3. Attend a Preliminary Hearing. _____
- 4. Consider the implications of an election re: indictable charges _____

ESTATE PLANNING

1. Attend initial consultation with client at which instructions for a Will, Power of Attorney and Health Care Directive are given _____
2. Draft a
(a) Will; _____
(b) General Power of Attorney; and _____
(c) Health Care Directive _____
3. Attend at first interview with personal representative of a testator to assemble all information re assets and business interests of the deceased _____
4. (a) Prepare application for letters probate; or _____
(b) Prepare application for letters of administration _____
5. Draft releases by beneficiaries for executor _____

FAMILY LAW

Separation Agreements

1. (a) Attend at conference when client is taking advice and giving instructions on the terms for a proposed separation agreement _____
- (b) Consider income tax implications to husband and wife entering into a separation agreement _____
- (c) Draft a separation agreement _____
- (c) Attend with counsel on review and execution of separation agreement _____

Family Litigation

2. (a) Draft claims under the *Family Law Act* for:
 - (i) division of property _____
 - (ii) exclusive possession of family home _____
 - (iii) support _____
- (b) Prepare appropriate financial statements _____
- (c) Draft claim under *Custody, Jurisdiction and Enforcement Act* for custody _____
- (d) Draft orders under above-noted Acts for a motion for interim relief or trial _____
- (e) Attend a Pre-Trial Conference _____
- (f) Prepare an application to vary maintenance payments _____
- (g) Calculate child support pursuant to the Child Support Guidelines _____

Divorce

3. (a) Attend at conference for taking instructions from either the husband or the wife on the facts to allege in a Petition for Divorce, including corollary relief _____

- (b) Consider how a solicitor should carry out the duty imposed in Section 9 of the *Divorce Act* _____
- (c) Prepare Petition for Divorce and letter to Director of Child Welfare _____
- (d) Draft affidavit and judgment for obtaining uncontested divorce judgment _____
- (e) Attend with counsel on a motion for interim relief _____
- (f) Be familiar with an application for interim relief _____

Maintenance Enforcement

- 4. (a) Become familiar with workings of Maintenance Enforcement Office _____

Pensions

- 5. (a) Review legislation relating to pension division
 - (i) federal legislation _____
 - (ii) provincial legislation _____
- (b) Review provisions of the Canada Pension Plan regarding division of CPP Credits _____

REAL ESTATE

Purchases and Sales

- 1.(a) Draft an Agreement of Purchase and Sale _____
- (b) Review the terms of an Agreement of Purchase and Sale and consult with client:
- (i) on behalf of purchaser _____
- (ii) on behalf of vendor _____
- (c) Search a title and generally know the basic procedures under the Prince Edward Island Registry system _____
- (d) Examine a survey and plot plan to ascertain whether building and zoning by-laws are complied with, and to ensure description of property agrees with survey _____
- (e) Draft documents, including
- (i) agreement of purchase and sale _____
- (ii) deed and legal description _____
- (ii) mortgage _____
- (iii) satisfaction of mortgage _____
- (iv) right-of-way agreement _____
- (v) boundary line agreement _____
- (f) Draft other documents for closing, including
- (i) statement of adjustments _____
- (ii) directions _____
- (iii) undertakings _____
- (iv) mortgage payout statement _____
- (g) Requisitions on title _____
- (i) prepare requisitions on title _____
- (ii) reply to requisitions on title _____
- (h) Close transaction, including subsearch if applicable, and attend to the registration of documents in the Registry Office _____
- (i) Draft reporting letter _____
- (i) for purchaser, including Certificate _____
- (ii) for vendor _____
- (iii) for mortgagee _____
- (j) Draft 'Conflict of Interest' Letter _____

Carriage of Transaction

- 2. (a) Under supervision, carry through a real estate transaction from beginning to end, on behalf of
 - (i) a purchaser _____
 - (ii) a vendor _____

Title Insurance

- 3. (a) Understand the difference between a Solicitor’s Certificate of Title and Title Insurance _____
- (b) Review a Title Insurance Policy _____

IRAC

- 4. Obtain approval required under the *Lands Protection Act* _____

Semi-Detached

- 5. Be familiar with basic terminology, common elements, common expenses, party-wall agreements when dealing with semi-detached property. _____

Mobile Homes

- 6. Review Agreement of Purchase and Sale _____
- 7. Consider additional searches and items to be checked when purchasing mobile home (i.e. PPSA searches) _____

Independent Legal Advice

- 8. Attend an ILA consultation _____
- 9. Review ILA Checklist provided by CLIA _____

STATUTES & REGULATIONS

There are a number of statutes & accompanying regulations that the articulated clerk should review and have a general knowledge of the contents thereof, as follows:

- | | |
|---|--|
| <input type="checkbox"/> <i>Adoption Act</i> | <input type="checkbox"/> <i>Judgment and Execution Act</i> |
| <input type="checkbox"/> <i>Adult Protection Act</i> | <input type="checkbox"/> <i>Judicial Review Act</i> |
| <input type="checkbox"/> <i>Affidavits Act</i> | <input type="checkbox"/> <i>Labour Act</i> |
| <input type="checkbox"/> <i>Appeals Act</i> | <input type="checkbox"/> <i>Landlord and Tenant Act</i> |
| <input type="checkbox"/> <i>Arbitration Act</i> | <input type="checkbox"/> <i>Lands Protection Act</i> |
| <input type="checkbox"/> <i>Business Practices Act</i> | <input type="checkbox"/> <i>Legal Professions Act</i> |
| <input type="checkbox"/> <i>Change of Name Act</i> | <input type="checkbox"/> <i>Licensing Act</i> |
| <input type="checkbox"/> <i>Charlottetown Area Municipalities Act</i> | <input type="checkbox"/> <i>Limited Partnership Act</i> |
| <input type="checkbox"/> <i>Child Protection Act</i> | <input type="checkbox"/> <i>Maintenance Enforcement Act</i> |
| <input type="checkbox"/> <i>Child Status Act</i> | <input type="checkbox"/> <i>Mechanics' Lien Act</i> |
| <input type="checkbox"/> <i>City of Summerside Act</i> | <input type="checkbox"/> <i>Medical Act</i> |
| <input type="checkbox"/> <i>Companies Act</i> | <input type="checkbox"/> <i>Mental Health Act</i> |
| <input type="checkbox"/> <i>Condominium Act</i> | <input type="checkbox"/> <i>Municipalities Act</i> |
| <input type="checkbox"/> <i>Consent to Treatment and Health Care Directives Act</i> | <input type="checkbox"/> <i>Occupiers' Liability Act</i> |
| <input type="checkbox"/> <i>Consumer Protection Act</i> | <input type="checkbox"/> <i>Partnership Act</i> |
| <input type="checkbox"/> <i>Consumer Reporting Act</i> | <input type="checkbox"/> <i>Personal Property Securities Act</i> |
| <input type="checkbox"/> <i>Contributory Negligence Act</i> | <input type="checkbox"/> <i>Planning Act</i> |
| <input type="checkbox"/> <i>Crown Proceedings Act</i> | <input type="checkbox"/> <i>Powers of Attorney Act</i> |
| <input type="checkbox"/> <i>Custody, Jurisdiction & Enforcement Act</i> | <input type="checkbox"/> <i>Probate Act</i> |
| <input type="checkbox"/> <i>Dependents of a Deceased Person's Relief Act</i> | <input type="checkbox"/> <i>Public Trustee Act</i> |
| <input type="checkbox"/> <i>Defamation Act</i> | <input type="checkbox"/> <i>Quieting Titles Act</i> |
| <input type="checkbox"/> <i>Direct Sellers Act</i> | <input type="checkbox"/> <i>Real Property Act</i> |
| <input type="checkbox"/> <i>Divorce Act (Canada)</i> | <input type="checkbox"/> <i>Real Property Tax Act</i> |
| <input type="checkbox"/> <i>Employment Standards Act</i> | <input type="checkbox"/> <i>Real Property Transfer Tax Act</i> |
| <input type="checkbox"/> <i>Environmental Protection Act</i> | <input type="checkbox"/> <i>Registry Act</i> |
| <input type="checkbox"/> <i>Evidence Act</i> | <input type="checkbox"/> <i>Rental of Residential Property Act</i> |
| <input type="checkbox"/> <i>Extra-Provincial Corporations Reg. Act</i> | <input type="checkbox"/> <i>Revenue Tax Act</i> |
| <input type="checkbox"/> <i>Family Law Act</i> | <input type="checkbox"/> <i>Sale of Goods Act</i> |
| <input type="checkbox"/> <i>Fatal Accidents Act</i> | <input type="checkbox"/> <i>Securities Act</i> |
| <input type="checkbox"/> <i>Frauds on Creditors Act</i> | <input type="checkbox"/> <i>Statute of Frauds</i> |
| <input type="checkbox"/> <i>Garnishee Act</i> | <input type="checkbox"/> <i>Statute of Limitations</i> |
| <input type="checkbox"/> <i>Garage Keepers Lien Act</i> | <input type="checkbox"/> <i>Summary Proceedings Act</i> |
| <input type="checkbox"/> <i>Human Rights Act</i> | <input type="checkbox"/> <i>Supreme Court Act</i> |
| <input type="checkbox"/> <i>Highway Traffic Act</i> | <input type="checkbox"/> <i>Survival of Actions Act</i> |
| <input type="checkbox"/> <i>Insurance Act</i> | <input type="checkbox"/> <i>Trustee Act</i> |
| <input type="checkbox"/> <i>Interjurisdictional Support Orders Act</i> | <input type="checkbox"/> <i>Unconscionable Transactions Relief Act</i> |
| <input type="checkbox"/> <i>Interpretation Act</i> | <input type="checkbox"/> <i>Vendors and Purchasers Act</i> |
| <input type="checkbox"/> <i>Island Regulatory and Appeals Commission Act</i> | <input type="checkbox"/> <i>Victims of Crime Act</i> |
| | <input type="checkbox"/> <i>Victims of Family Violence Act</i> |
| | <input type="checkbox"/> <i>Warehousemen's Lien Act</i> |
| <input type="checkbox"/> <i>Investigation of Titles Act</i> | |

CERTIFICATION BY PRINCIPAL AND CLERK

The attached certificate **MUST** be completed by the articled clerk's principal and the clerk, and forwarded to the Law Society with the clerk's petition for admission to the bar.

The purpose of this certificate is to make certain that the principal and clerk review regularly the education process of the clerk to ensure that the clerk is exposed to a broad spectrum of the legal system on Prince Edward Island.

It is suggested that the principal and clerk review this checklist every three months to ensure that the mandatory requirements are being covered.

The section dealing with the office should be discussed with the clerk as soon as possible after admission as an articled clerk in order to permit the clerk to operate effectively within your firm.

CERTIFICATION BY PRINCIPAL AND CLERK

We certify that during the articling period we adhered to the Regulations governing articles and the Bar Admission Course, and the *Code of Professional Conduct*.

We further certify that this Articling Checklist has been reviewed periodically by us, and that the articulated clerk has fully completed each and every mandatory item as noted and checked herein.*

[Signature of Principal]

[Principal: Please print name]

[Date]

[Signature of Articled Clerk]

[Articled Clerk: Please print name]

[Date]

* Work completed by the clerk for the principal, while the clerk is working as a summer student, may be considered when completing this certificate

