

Fighting fraud:

protect security of PSPs



PSPs – personal security packages – issued under a lawyer’s Teraview account – are key to accessing Ontario’s electronic registration (e-reg™) system. Their security is vital to the integrity of the e-reg system. Recognizing this, the Law Society in June 2002 approved additions to the *Rules of Professional Conduct* and new practice guidelines for the electronic registration of title documents.

Subrules 5.01(7) and (8) to rule 5.01, impose obligations on a lawyer regarding the use of PSPs issued under the lawyer’s Teraview account:

- Each user under a Teraview account, that is, each person in a law firm that accesses the e-reg system, must obtain a PSP (a personalized, specially encrypted diskette and corresponding pass phrase) to access the system.
- Subrule 5.01 (7) provides that a lawyer shall not permit others, including a non-lawyer employee, to use the lawyer’s personalized specially encrypted diskette and shall not disclose his or her personalized e-reg pass-phrase to others.
- Subrule 5.01(8) provides that when a lawyer has a non-lawyer employee who has a personalized, specially encrypted diskette and personalized e-reg pass-phrase to access the system, the lawyer shall ensure that the non-lawyer employee does not permit others to use the diskette and does not disclose his or her personalized e-reg pass-phrases to others.

These subrules aim at preserving the integrity and security of the e-reg system which is achieved, in part, through Teranet maintaining an audit trail of all transactions and the parties who performed them identified by the pass phrase used.

They also emphasize to lawyers the importance of maintaining and ensuring the security and the exclusively personal use of the lawyer’s PSP. The e-reg system permits only lawyers in good standing to make statements professing compliance with law without the registration of supporting documents.

Commentaries to subrules 5.01 (2) and (3) provide that a lawyer not delegate the signing for completeness of any document that requires compliance with law statements, and that a lawyer who approves the electronic registration of title documents by a non-lawyer is responsible for the content of any document that contains the electronic signature of the non-lawyer.

A commentary to subrule 6.03(8), the rule dealing with undertakings given by lawyers, provides that in real estate transactions using the system for the electronic registration of title documents, lawyers acting for the parties (with their consent) will sign and be bound by a Document Registration Agreement that will contain undertakings.

When entering into a Document Registration Agreement, a lawyer should have regard to and strictly comply with his or her obligations under subrule 6.03(8). This subrule provides that a lawyer shall not give an undertaking that cannot be fulfilled and shall fulfill every undertaking given.

For the full text of the Rules and commentaries, go to www.lsuc.on.ca/services/RulesProfCondpage_en.jsp

(e-reg is a registered trademark of Teraview Enterprises Inc.)