



NOVA SCOTIA BARRISTERS' SOCIETY

**POLICY RELATING TO TEMPORARY PRACTICE BY MEMBER OF A
RECIPROCATING JURISDICTION (REGULATION 6.3)**

1.1 Temporary Practice Allowed

1.1.1 A member of the Bar of a reciprocating jurisdiction may carry on the practice of law in Nova Scotia for a maximum of one hundred days during a twelve month period without applying for a permit, and for such additional time as the Executive Director may permit, provided he or she meets the requirements of Regulation 6.3. During this period of time, the lawyer will be considered a visiting lawyer.

Eligibility Requirements

1.1.2 The visiting lawyer meets the requirements for temporary practice if he or she:

- a) is entitled to practice law in another province in Canada;
- b) carries liability insurance that is reasonably comparable in coverage and amount to that provided by the Lawyers' Insurance Association of Nova Scotia, and that will extend to his or her temporary practice in Nova Scotia, unless the visiting lawyer is exempt from mandatory liability coverage pursuant to Regulation 4.1.8;
- c) has defalcation coverage from a governing body that extends to his or her practice in Nova Scotia;
- d) is not subject to practice or membership conditions or restrictions in any jurisdiction arising from discipline, competency, or capacity proceedings;
- e) is not subject to criminal or disciplinary proceedings in any jurisdiction;
- f) does not have a disciplinary record in any jurisdiction; and
- g) has not established an economic nexus within Nova Scotia.

Economic Nexus

1.1.3 Subregulation 6.3.2 sets out how an economic nexus is established:

6.3.2 For the purpose of this regulation, an economic nexus is established by actions inconsistent with the temporary basis for providing legal services, including but not limited to any of the following in the province:

- a) providing legal services beyond one hundred (100) days or such longer period allowed by the Executive Director,
- b) opening an office from which legal services are offered or provided to the public,
- c) becoming resident,
- d) opening or operating a trust account, or accepting trust funds, except as permitted under subregulation 6.3.8(f), and
- e) holding oneself out or allowing oneself to be held out as willing or qualified to practise law in the province, except as a visiting lawyer.

Eligibility Requirements not met

1.1.4 If the visiting lawyer does not qualify to act as a visiting lawyer pursuant to Regulation 6.3, the lawyer may apply for an Executive Director's permit. (*See Policy relating to the Issuing of Permits pursuant to Regulation 6.3.4.*)

2.1 Obligations of Visiting Lawyer

2.1.1 A visiting lawyer must:

- a) submit to the jurisdiction of the Nova Scotia Barristers' Society and comply with the *Legal Profession Act*, the Regulations made pursuant to the Act, and all ethical guidelines and rules governing lawyers in the Province of Nova Scotia, including the *Legal Ethics and Professional Conduct Handbook*;
- b) record and verify the number of days on which he or she carries on the practice of law in Nova Scotia;

- c) provide evidence of compliance with the Regulations, as required;
- d) not maintain a trust account in Nova Scotia;
- e) not receive money or property in trust, except in compliance with subregulation 6.3.8(f);
- f) if charged with an offence under a federal statute, as soon as practicable, give written notice to the Executive Director of the particulars of the charge, the disposition of the charge, and any agreement arising out of the charge; and
- g) notify the Executive Director and cease practice immediately if he or she:
 - (i) is not entitled to practice law in the home jurisdiction;
 - (ii) fails to maintain liability insurance as required; or
 - (iii) is suspended or disbarred in any jurisdiction.

Requirements

2.1.2 Pursuant to Regulation 6.3.9, if required by the Executive Director, the visiting lawyer must account for and verify the number of days he or she has practised law in Nova Scotia, and must verify compliance with the Act and Regulations. The visiting lawyer will have twenty days to respond to this request, unless a written extension is granted by the Executive Director.

Requirements Not Met

2.1.3 If the visiting lawyer fails or refuses to comply in a timely manner with the Executive Director's request, pursuant to Regulation 6.3.10, the visiting lawyer is prohibited from practising in Nova Scotia, and the visiting lawyer's home jurisdiction will be notified by the Executive Director.

Application for Restoration

2.1.4 If a visiting lawyer is prohibited from practising in Nova Scotia under Regulation 6.3.10, the lawyer may apply to the Executive Director for restoration of rights to temporary practice. The Executive Director may grant the application, subject to any conditions.

Internal Review Process

2.1.5 If the Executive Director denies the application for restoration or approves it with conditions, the Executive Director will provide the applicant with a written decision with reasons and inform the applicant of the internal review process.

3.1 Exception - Member of Canadian Forces

3.1.1 A lawyer who is entitled to practise law in another Canadian jurisdiction and who is a member of the Canadian Forces may carry on the practice of law in Nova Scotia on behalf of the Office of the Judge Advocate General (JAG), and does not establish an economic nexus with the Province when practising exclusively for or on behalf of the JAG Office.

4.1 Economic Nexus Not Established

4.1.1 A visiting lawyer does not establish an economic nexus with Nova Scotia if he or she is practising law in or from a local office of the visiting lawyer's law firm, or from an office that is affiliated with the visiting lawyer's law firm.

5.1 When Practice is not considered to be the Practice of Law in Nova Scotia

5.1.1 A visiting lawyer is deemed not to be carrying on the practice of law in Nova Scotia when the lawyer is preparing for, appearing before, or otherwise furthering the matter giving rise to an appearance before:

- a) the Supreme Court of Canada;
- b) Federal Court of Canada;
- c) Tax Court of Canada;
- d) Federal Administrative Tribunals;
- e) Service Tribunals under the *National Defence Act*; and
- f) Court Martial Appeal Court of Canada.