



NOVA SCOTIA BARRISTERS' SOCIETY

Reinstatement of Former Judges as Members of the Society Policy (Regulation 5.4)

1.1 The Application

1.1.1 Pursuant to Regulation 5.4, a person who has been appointed to a judicial office, but is no longer in that office, may apply to the Nova Scotia Barristers' Society to be reinstated to any category of membership except an articulated clerk.

Authority of Executive Director

1.1.2 The Executive Director may approve the application.

2.1 Consideration of the Application

2.1.1 The Executive Director will evaluate the application considering the public interest, and may require the applicant to submit additional information.

Good Character or Fitness

2.1.2 The Executive Director may obtain additional information regarding the applicant's good character or fitness from the applicant or any other person.

Remedial Requirements may be required to resume Practising Membership

2.1.3 An application from a former judge who wishes to resume practising membership that is received more than three years from the date of a judge's retirement or resignation will be reviewed by the Executive Director with a view to determining whether or not any remedial requirements, such as the Bar Admission Program, or a period of supervision, should be imposed. Consideration will be given to such factors¹ as:

- (a) the length of time since retirement or resignation;
- (b) what the applicant has been doing since retirement or resignation;
- (c) whether the applicant has been engaged in activities that would be equivalent to the practice of law;
- (d) whether the applicant has kept their legal knowledge current;
- (e) whether or not the applicant was in active practice prior to appointment to the Bench and for how long, and
- (f) whether or not the applicant was exposed to broad or restricted areas of law while serving on the Bench.

3.1 Options of the Executive Director

Approval of Application

3.1.2 The Executive Director may approve an application for reinstatement, with or without terms, and stipulate the effective date, if it is consistent with the public interest.

Terms of Approval – Decision of Executive Director

3.1.3 The Executive Director may include in the approval of the application the following terms:

- (a) that the applicant practice for a specified time under the supervision of a practising lawyer, who qualifies to act as a principal, in accordance with an education plan approved by the Executive Director;
- (b) that the applicant successfully complete all or a portion of the Bar Admission Program;
- (c) that the applicant satisfy the Executive Director of his or her fitness or competence for resumption of practice; and

¹ Many of these factors are the same as those considered in a change category upward application.

(d) that the applicant complete other requirements of the Executive Director.

Denial of Application

3.1.4 The Executive Director may deny an application where it is in the public interest to do so, except for reasons of good character or fitness, which application will go to the Credentials Committee.

Application Denied or Approved with Terms

3.1.5 If the Executive Director makes a decision denying the application or approving it with terms, the Executive Director will provide the applicant with written reasons and inform the applicant of the internal review process.

4.1 Referral to Credentials Committee

4.1.1 The Executive Director will refer to the Credentials Committee any application for reinstatement raising an issue of good character or fitness, or public interest issues.

Options for the Committee

4.1.2 After considering the application and all information provided by the Executive Director, the Committee may:

- (a) defer a decision and request the Executive Director obtain new information;
- (b) approve the application, with or without terms; or
- (c) deny the application.

Terms of Approval – Decision of Credentials Committee

4.1.3 The Credentials Committee may include in the approval of the application the following terms:

- (a) that the applicant practice for a specified time under the supervision of a practising lawyer, approved by the Committee, in accordance with an approved education plan;
- (b) that the applicant successfully complete all or a portion of the Bar Admission Program;
- (c) that the applicant satisfy the Committee of his or her fitness for admission to membership and resumption of practice; and
- (d) that the applicant complete other requirements of the Credentials Committee.

Review of Committee’s Decision

4.1.4 If the Committee’s decision denies the application, or approves the application with terms, the Committee will:

- (a) provide the applicant with written reasons, and
- (b) inform the applicant of the right to appeal to the Credentials Appeal Panel.

5.1 Fees

5.1.1 The applicant will be required to pay the appropriate fees upon reinstatement.

Period of Supervision

5.1.2 During any required period of supervision, the applicant is considered a practising lawyer and must be fully insured and pay the fees of a practising lawyer.

6.1 Ethical Obligations of Former Judges

6.1.1 When readmitted, former judges are required to adhere to the provisions of Chapter 6, Paragraph 6.07, of the *Code of Professional Conduct* (the “Code”) which states as follows:

6.07 A judge who returns to practice after retiring, resigning or being removed from the bench must not, for a period of three years, unless the Society approves on the basis of exceptional circumstances, appear as a lawyer before the court of which the former judge was a member or before any courts of inferior jurisdiction to that court or before any administrative board or tribunal over which that court exercised an appellate or judicial review jurisdiction in any province in which the judge exercised judicial functions.

Application to Credentials Committee

6.1.2 A former judge who wishes to request Society approval for court appearances in accordance with the *Code* paragraph 6.07 must apply to the Executive Director. The Executive Director will consider the application, and the *Code*, and make the decision in accordance with the public interest.

Approved by the Credentials Committee – May 24, 2013

Revised by the Credentials Committee – March 26, 2020