



## NOVA SCOTIA BARRISTERS' SOCIETY

### Policy relating to the Issuing of Permits pursuant to Regulation 6.2.10

#### 1.1 Discretion of the Executive Director

1.1.1 The Executive Director has discretion to issue permits to visiting lawyers who:

- (a) do not qualify under subregulation 6.2.5(a) – (f) to practise law in Nova Scotia without a permit; or
- (b) establish an economic nexus in Nova Scotia. [See Subregulation 6.2.13.]

#### Application Procedure

1.1.2 Visiting lawyers must complete the prescribed application form, and submit the appropriate fee.

#### Decision of Executive Director

1.1.3 If it is consistent with the public interest, the Executive Director may:

- (a) issue a permit to the applicant subject to such conditions as the Executive Director considers appropriate; or
- (b) deny the application.

#### Internal Review

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

#### 2.1 Duration of Permit

2.1.1 Subject to paragraphs 2.1.2 and 3.2.4, the permit will be valid for one year from the date it is issued and will allow the visiting lawyer to carry on the practice of law in Nova Scotia for up to and including one hundred days in that year.

#### Permit Ceases to be Valid

2.1.2 The permit will be invalid if the visiting lawyer:

- (a) is not entitled to practise law in a home jurisdiction;
- (b) fails to maintain his or her liability insurance; or
- (c) is suspended or disbarred in any jurisdiction.

#### 3.1 Common Reasons for Request

3.1.1 While lawyers request permits for various reasons, two of the most common involve lawyers who are exempt from carrying insurance in their home jurisdiction, but who are not so exempt pursuant to the Nova Scotia Barristers' Society's Regulations, and lawyers who move to Nova Scotia to accept employment, and wish to begin practising prior to their call to the Bar.

#### 3.2 Requirement for Insurance

**3.2.1** Pursuant to subregulation 6.2.5(b), one of the conditions which a visiting lawyer must meet in order to practise temporarily in Nova Scotia is that the lawyer must carry liability insurance, similar to that provided by the Lawyers' Insurance Association of Nova Scotia, that extends to the lawyer's temporary practise in Nova Scotia, unless the lawyer is exempted under subregulation 4.1.8.

### **Applications Received from Insurance-Exempt Lawyers**

**3.2.2** The Society exempts lawyers listed in Regulation 4.1.8 from maintaining professional liability insurance. The Society receives permit applications from lawyers who are exempt from professional liability insurance or defalcation coverage or both in their home jurisdictions who wish to practise temporarily in Nova Scotia, but who would not be so exempted were they members of the Nova Scotia Barristers' Society. Despite the exemption granted in the home jurisdiction, these applicants are required to obtain insurance, if it is possible to do so.

### **Discretion of the Executive Director**

**3.2.3** If a lawyer who is exempt from insurance in their home jurisdiction **cannot** obtain insurance, the Executive Director may exercise the discretion to issue a permit when there is no or minimal risk to the public with respect to the issue of insurance coverage. For example, in some jurisdictions, corporate counsel are not entitled to be insured under their law society's insurance program, but are insured by their company under its general insurance. The Executive Director may issue a permit following receipt of a release and indemnification agreement from the lawyer's employer, confirming the employer will cover the applicant in the event of a loss. The following is an example of a form of release and indemnification that has been accepted by the Society:

#### **RELEASE**

1. [Employer] wishes to have [lawyer] employed by [employer] as corporate counsel in Nova Scotia,
2. **IN CONSIDERATION** of the Nova Scotia Barristers' Society waiving the requirements of Regulation 6.2.5(b) and (c) as they pertain to acting as corporate counsel for [employer] in Nova Scotia, [employer] releases the Nova Scotia Barristers' Society and its administrators and assigns from all manner of actions, causes of action, damages or claims which may arise as a result of any activities in the Province of Nova Scotia by [lawyer] employed by [employer].

DATED at \* this \* day of \*, 20\*.

### **Permits invalid if Purpose Disregarded**

**3.2.4** If the Executive Director exercises discretion to approve a permit pursuant to paragraph 3.2.3, the lawyer would be required to maintain their current employment. Should the lawyer leave their current employ, the permit would no longer be valid as the required insurance would no longer be available.

## **3.3 Economic Nexus**

**3.3.1** The Executive Director may also exercise discretion to issue a permit in the event a lawyer establishes an economic nexus in Nova Scotia: the lawyer accepts a job in Nova Scotia, moves here, and wants to practise prior to their call to the Bar. In this case, the permit is a bridging provision until the lawyer's admission.

#### **4.1 Restrictions on Visiting Lawyer**

**4.1.1** If a lawyer receives a permit pursuant to subregulation 6.2.10, the lawyer is considered a visiting lawyer, and may not advertise themselves, be included on letterhead, or otherwise hold themselves out as willing or qualified to practise law in Nova Scotia, except as a visiting lawyer.

#### **Communications**

**4.1.2** Any and all communications (business cards, letterhead, marketing efforts) used in respect of the provision of legal services in or with respect to the jurisdiction of Nova Scotia must conform to this requirement. This could be accomplished by noting in all communications the law societies of which the person is a member and using language such as "entitled to practise in Nova Scotia on a temporary basis".

#### **5.1 Temporary Practice by a Member of a Reciprocating Jurisdiction**

**5.1.1** The *Policy relating to Temporary Practice by a Member of a Reciprocating Jurisdiction* also applies to a lawyer practicing pursuant to a permit.

*Approved by the Credentials Committee – February 19, 2010*

*Revised by the Credentials Committee – March 26, 2020*