



NOVA SCOTIA BARRISTERS' SOCIETY

Policy relating to Temporary Practice by Member of a Reciprocating Jurisdiction (Regulation 6.2)

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 they meet the requirements of Regulation 6.2. 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 they:

- (a) are entitled to practice law in another province in Canada;
- (b) carry 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) have defalcation coverage from a governing body that extends to his or her practice in Nova Scotia;
- (d) are not subject to practice or membership conditions or restrictions in any jurisdiction arising from discipline, competency, or capacity proceedings;
- (e) are not subject to criminal or disciplinary proceedings in any jurisdiction;
- (f) do not have a disciplinary record in any jurisdiction; and
- (g) have not established an economic nexus within Nova Scotia.

Economic Nexus

1.1.3 Subregulation 6.2.13 sets out how an economic nexus is established:

6.2.13 In this Regulation, an economic nexus is established by actions inconsistent with temporary mobility to the Province, including but not limited to:

- (a) providing legal services beyond 100 days, or any longer period allowed under subregulation 6.2.10(a);
- (b) opening an office from which legal services are offered or provided to the public;
- (c) becoming resident in the Province;
- (d) opening or operating a trust account, or accepting trust funds, except as permitted under subregulation 6.2.8.

Eligibility Requirements not met

1.1.4 If the visiting lawyer does not qualify to act as a visiting lawyer pursuant to Regulation 6.2, the lawyer may apply for an Executive Director's permit. *(See Policy relating to the Issuing of Permits pursuant to Regulation 6.2.10.)*

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 *Code of Professional Conduct*;
- (b) record and verify the number of days on which they carry 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 6.2.8);
- (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 they:
 - (i) are not entitled to practice law in the home jurisdiction;
 - (ii) fail to maintain liability insurance as required; or
 - (iii) are suspended or disbarred in any jurisdiction.

Requirements

2.1.2 Pursuant to Regulation 6.2.2(c), if required by the Executive Director, the visiting lawyer must account for and verify the number of days they have 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 6.2.2(c), 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 6.2.3(a), 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 they are 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.

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