



NOVA SCOTIA BARRISTERS' SOCIETY

POLICY RELATING TO TEMPORARY PRACTICE IN NOVA SCOTIA BY A LAWYER FROM OUTSIDE CANADA (REGULATION 6.4)

1.1 Temporary Practice Allowed

1.1.1 Pursuant to Regulation 6.4.11, a lawyer from a foreign jurisdiction outside Canada may apply to the Executive Director using the prescribed form for a permit to practice law in Nova Scotia on a temporary basis.

Meaning of Temporary Practice

1.1.2 Temporary practice status is for the benefit of clients who require outside counsel for a particular matter. A Nova Scotia practising lawyer is, in fact, the lawyer of record in such matters. Accordingly, the applicant may not be held out to the public as willing or qualified to practise law in Nova Scotia.

2.1 General Eligibility Requirements

2.1.1 The applicant must meet the requirements for temporary practice provided as set out in Regulation 6.4.4:

- a) be entitled to practise law in a foreign jurisdiction;
- 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;
- c) have defalcation compensation coverage from a governing body that extends to his or her practice in Nova Scotia;
- d) not be subject to practice or membership conditions or restrictions in any jurisdiction arising from discipline proceedings;
- e) not be the subject of criminal or disciplinary proceedings in any jurisdiction;
- f) have no disciplinary record in any jurisdiction;
- g) pay the prescribed fee; and
- h) be competent to practise law which is specific to the jurisdiction which the lawyer intends to practise while in Nova Scotia.

Additional Eligibility Requirements

2.1.2 In addition to the general eligibility requirements, the Executive Director may require a lawyer from outside Canada to provide additional information necessary to ensure compliance with Regulation 6.4.12. The information required may include but is not limited to the following:

- a) an outline of the nature of the case for which the applicant wishes to appear, when the case is to be heard, and the reasons why the applicant has been retained;
- b) a written agreement from the jurisdictions in which the applicant is a member to enforce any disciplinary action and rulings imposed by the Nova Scotia Barristers' Society against the applicant, arising out of the applicant's work in Nova Scotia;
- c) a criminal record check, if the Certificate of Standing provided by the applicant's home jurisdiction does not provide this information;
- d) where necessary, receipt of a work authorization indicating that the applicant is lawfully entitled to be employed in Canada;
- e) a written undertaking from the Nova Scotia lawyer of record committing to be present in court or before the tribunal at all times during the proceedings or any matter incidental thereto;
- f) a letter from the Nova Scotia lawyer of record confirming that the client has been advised that the Nova Scotia Barristers' Society has not assessed the qualifications of the applicant and will not be held responsible in any way for the applicant's qualifications;

- g) a written undertaking from the applicant not to open or utilize a trust account on behalf of the applicant's clients in Nova Scotia; and
- h) a written undertaking that any trust funds generated in Nova Scotia as a result of litigation will be handled in accordance with the Regulations of the Nova Scotia Barristers' Society.

Confirmation of Insurance Coverage

2.1.3 Confirmation of liability insurance and defalcation compensation coverage, in a form acceptable to the Executive Director, must be provided.

3.1 Executive Director Permits

Executive Director Exemption

3.1.1 In exceptional circumstances and if consistent with the public interest, the Executive Director may waive or modify the requirements of Regulation 6.4.3, 6.4.4, 6.4.5 and 6.4.9.

Request for Waiver of Defalcation Coverage

3.1.2 If the applicant requests a waiver of the requirement for defalcation coverage, the applicant must provide written consent of the client and undertake not to hold any monies in trust:

- 3.1.3** If consistent with the public interest, the Executive Director may:
- a) approve the application and grant a permit to the applicant. The permit will stipulate the provisions of Regulation 6.4 that apply, the effective date and the termination date; or
 - b) deny the application.

Decision to deny the Application

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

4.1 Obligations of Visiting Lawyer

4.1.1 A visiting lawyer must:

- a) in writing submit to the jurisdiction of the Nova Scotia Barristers' Society and provide an undertaking to comply with, 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) provide evidence of compliance with the Regulations, on request of the Executive Director;
- c) not maintain a trust account in Nova Scotia;
- d) not receive money in trust, except in compliance with subregulation 6.4.9(d) and only if the Executive Director determines that it is in the public interest that s. 6.4.9(d) apply and that the applicant can receive monies in trust;
- e) not handle trust money or property, except in compliance with subregulation 6.4.9(e), whereby ensuring it is handled by a practising lawyer in accordance with the Society's requirements;
- f) not hold himself or herself out to the public as being willing or qualified to practise law in Nova Scotia;
- g) 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
- h) notify the Executive Director and cease practise immediately if he or she:
 - i. is not entitled to practice law in the home jurisdiction;
 - ii. fails to maintain liability insurance or defalcation coverage as required; or
 - iii. is suspended or disbarred in any jurisdiction.

Obligations of Visiting Lawyer when Consulting with Practising Lawyer

4.1.2 When the visiting lawyer is required to consult with a practising Nova Scotia lawyer, he or she must fully disclose all factual information necessary so that the Nova Scotia lawyer can fulfill his or her responsibilities under subregulation 6.4.3(b).

Obligation of Practising Lawyer Consulted

4.1.3 When a Nova Scotia lawyer is consulted pursuant to Regulation 6.4.3, his or her duty is twofold:

- a) to be substantially involved in all matters of law which are specific to Nova Scotia; and
- b) to ensure that the handling of any trust funds by the visiting lawyer is done in accordance with the Society's requirements.

Approved by the Credentials Committee - March 25, 2011