



NOVA SCOTIA BARRISTERS' SOCIETY

## **POLICY ON APPLICATIONS FOR TRANSFER FROM ANOTHER CANADIAN JURISDICTION**

### **1.1 Application for Transfer**

**1.1.1** Applicants for transfer are governed by Regulation 6.2.

#### **Eligibility Requirements**

**1.1.2** Regulation 6.2.2 sets out the eligibility requirements:

##### **Eligibility**

**6.2.2** To be eligible to be a practising lawyer an applicant must:

- a) have a law degree,
- b) be a lawyer in a jurisdiction, other than the Province, in which the legal profession is regulated,
- c) be of good character,
- d) be a fit and proper person to be a lawyer
- e) be competent to carry on the practice of law in the Province;
- f) be lawfully entitled to be employed in Canada.

#### **Application Requirements**

**1.1.3** Regulation 6.2.3 sets out the application requirements:

##### **Content of Application**

**6.2.3** An application under this regulation, accompanied by the prescribed fee, shall be in a prescribed form and shall provide:

- a) contact information,
- b) the professional history,
- c) information confirming good character,
- d) information confirming fitness,
- e) unless the applicant is entitled to practise law in a reciprocating jurisdiction, information confirming competence,
- f) a certificate of standing from each law society in which the applicant is or has been a member,
- g) information about any outstanding complaint pending in a jurisdiction other than the Province in which the applicant has practised,
- h) confirmation the applicant has a law degree, and
- i) such other information as may be required by the Executive Director or the Committee.

#### **No Greater Rights**

**1.1.4** A transfer applicant, or a lawyer called to the Bar on transfer, has no greater rights as a member of the Nova Scotia Barristers' Society than:

- a) he or she has as a member of the governing body of his or her home jurisdiction;
- b) any other member of the Nova Scotia Barristers' Society in similar circumstances.

### **2.1 Options of the Executive Director**

#### **2.1.1 Good Character or Fitness**

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

## **Approval of Application**

**2.1.2** The Executive Director may approve a transfer application, with or without terms, and stipulate the effective date, if it is consistent with the public interest.

## **Terms of Approval**

**2.1.3** 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 practicing lawyer, who is acceptable to the Executive Director, and who qualifies to act as a principal;
- b) that the applicant satisfy the Executive Director of his or her character and fitness for admission as a lawyer; and
- c) that the applicant complete other requirements of the Executive Director.

## **Supervision by Practising Lawyer**

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

## **Requirement to enroll as Articled Clerk for supervisory period if no insurance available**

**2.1.5** If an applicant from another Canadian jurisdiction is required to work under supervision as a term of transfer, but does not have professional liability insurance and defalcation coverage and cannot obtain insurance satisfactory to the Executive Director, pursuant to Regulation 6.2.7(c) the applicant will be enrolled as an articled clerk.<sup>1</sup>

## **Requirements of Articled Clerks**

**2.1.6** As the reason applicants referenced in paragraph 2.1.5 are being enrolled as articled clerks is to meet insurance requirements, if it is in the public interest, pursuant to Regulation 3.4.1, the Executive Director may vary the requirements otherwise expected of an articled clerk by waiving one or more of the requirements for admission.<sup>2</sup>

## **Bar Examination**

**2.1.7** The Executive Director may not require a transfer applicant from a reciprocating jurisdiction who is eligible for mobility under the National Mobility Agreement to write and pass the bar examination; however, any transfer applicant who is not required to pass the bar examination must certify review and comprehension of materials specified by the Executive Director, prior to the call to the Bar.

## **Denial of Application**

**2.1.8** The Executive Director may deny an application for any reason, except for reasons of good character or fitness, which shall go to the Credentials Committee.

## **Application Denied or Approved with Terms**

**2.1.9** 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.

## **3.1 Referral to Credentials Committee**

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<sup>1</sup> Lawyers in Nova Scotia are insured through CLIA (Canadian Lawyers Insurance Association). It is CLIA policy that only lawyers called to the Bar in a Canadian province or articled clerks are eligible for insurance. This is CLIA policy, not the policy of the Nova Scotia Barristers' Society. To avoid erecting a barrier to licencing while regulating in the public interest, the Executive Director will enroll applicants in this situation as articled clerks. This will allow the applicants the opportunity to work and complete the supervision requirement while ensuring the availability of insurance necessary for public protection.

<sup>2</sup> Among other requirements, articled clerks are required to article for 12 months and must complete the Bar Admission Course, including the bar exam, the Skills Course and any required seminars. By way of example, if it is felt that the public interest would be served by requiring an applicant to pass the bar examination and work under supervision for six months, pursuant to Regulation 3.4.1, the Executive Director could shorten the articling period to six months and eliminate the requirement that the applicant attend the Skills Course and seminars.

**3.1.1** The Executive Director must refer to the Credentials Committee any application for transfer raising an issue of good character or fitness.

**Options for the Committee**

**3.1.2** 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, and stipulate the effective date of enrolment; or
- c) deny the application.

**Review of Committee's Decision**

**3.1.3** 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.

**4.1 Eligible for Call to the Bar**

**4.1.1** An applicant who has completed all requirements under Regulation 6.2 is eligible to be called to the Bar.

**Notification on Approval**

**4.1.2** Upon approval of an application on transfer, the Executive Director will notify the applicant and advise of the date for the call to the Bar, and will amend the Nova Scotia Barristers' Society records to reflect the approval and call date.

*Approved by the Credentials Committee - April 23, 2010*