



NOVA SCOTIA BARRISTERS' SOCIETY

Operational Policy No.

NAME OF POLICY			
DEPARTMENT			
Approved by DATE	Effective DATE	Reviewed	Revised

MANDATORY CONTINUING PROFESSIONAL DEVELOPMENT

Policy regarding the Granting of Waivers (Extensions and Exemptions) to a Member's Continuing Professional Development requirement

Preamble

The purpose of continuing professional development ("CPD") is to preserve and enhance a lawyer's skills and knowledge. Pursuant to Regulation 8.3, each Member of the Society in the Practising Lawyer category ("Member") is required to prepare and implement a written plan, and to participate in a minimum of twelve hours of continuing professional development, in each reporting year. The purpose of this policy is to set out criteria and considerations to assist the Executive Director when making decisions on requests for waivers (i.e., extensions or exemptions) to a Member's mandatory continuing professional development requirement.

1. Granting of Waivers to complete Mandatory CPD Requirement

1.1 Regulation 8.3.9 grants discretion to the Executive Director to waive a Member's requirement to complete CPD if it is in the public interest:

Waiver

8.3.9 The Executive Director may, on receipt of the prescribed form, waive the requirements of this Regulation if, in the opinion of the Executive Director, such waiver is in the public interest.

1.2 In most instances, if a waiver is granted, the Member will be granted an extension to the deadline to complete the requirement. Occasionally, the grant of waiver may result in an exemption for the reporting year.

1.3 Subject to paragraph 1.6, if a Member is engaging in the practice of law, the Member is required to meet their professional obligations pursuant to Regulation 8.3.

- 1.4 A Member may not request, and a waiver will not be granted, on the basis that the lawyer is too busy to meet their professional obligations.
- 1.5 If a Member has practising status, but is not engaging in the practice of law, the Member may request a waiver from the requirements under Regulation 8.3.
- 1.6 The Executive Director may exercise discretion to waive the requirements for a Member engaging in the practice of law, if appropriate in the particular circumstances of the reporting year (June 1 – May 31). Such decisions will be made on a case-by-case basis. (Example: A Member may request and receive a waiver while on maternity leave. If the leave occurs from June 1 – April 30, and the Member returns to work on May 1, she would be engaging in the practice of law for one month at the conclusion of that CPD reporting year. For practical reasons, the Executive Director may exercise discretion to include the month of May in the period of waiver.)

2. Extension to Complete CPD

- 2.1 If a Member requests an extension, the Director, Education & Credentials will review the request on a case-by-case basis, taking into consideration the following:
 - a. reason for the request (e.g.: sick leave, parental leave, sabbatical, other);
 - b. length of absence from practice;
 - c. dates and reasons for prior extensions;
 - d. explanation why Member is unable to complete preparation of the plan or the mandatory hours by the deadline.
- 2.2 If a Member requests an extension, following review of the application, Society staff may contact the Member to discuss whether a change of category may be appropriate.
- 2.3 Following review of the request, the Director, Education & Credentials shall:
 - a. grant the extension as requested,
 - b. grant the extension with modifications,
 - c. grant the extension with conditions, or
 - d. deny the request.
- 2.4 If a Member is granted an extension for the current reporting year, the extension does not extend the deadline for the following reporting year. The Member is expected to meet their professional obligations for the following reporting year in accordance with Regulation 8.3.6.

3. Exemption from Completion of CPD

- 3.1 In exceptional circumstances, Members who wish to retain practising status, but are unable to fulfill the CPD requirements may qualify for an exemption.

- 3.2** Requests for exemptions will be reviewed on a case-by-case basis, taking into consideration the following:
- a. reason for the request (e.g.: sick leave, parental leave, sabattical, other);
 - b. length of absence from practice;
 - c. explanation why member is unable to complete preparation of the plan or the mandatory hours during the reporting year;
 - d. practise history;
 - e. dates and reasons for prior exemptions; and
 - f. discipline history.
- 3.3** If a Member is in the process of changing membership category to Non-Practising, Retired, or Life Member, and does not carry on the practice of law, the Director, Education & Credentials may grant the exemption to allow the Member to complete the change of status.
- 3.4** If a Member requests an exemption, following review of the application, Society staff may contact the Member to discuss whether a change of category may be appropriate.
- 3.5** If a Member requests and receives an exemption for three consecutive years, at the conclusion of the three years, the Member will be suspended.
- 3.6** At any time following the suspension, if a Member advises the Executive Director that they wish to engage again in the practice of law, the Executive Director shall be guided by public interest considerations when deciding if conditions to confirm competence should be attached to the Member's return to practice. Such situations, and conditions imposed, if any, will be determined on a case-by-case basis, and will take into account factors such as the following:
- a. the Member's overall practice experience prior to the absence from practice;
 - b. the length of absence from practice;
 - c. what the Member has been doing during the absence from practice;
 - d. whether the Member has been engaged in activities that would be equivalent to the practice of law;
 - e. whether the Member has kept their legal knowledge current;
 - f. what the Member intends to do when they return to practice.

Approved by the Credentials Committee – April 27, 2017