



NOVA SCOTIA BARRISTERS' SOCIETY

Policy on Waiver of Five-Year Eligibility Requirement to be Principal

Preamble

The Regulations made pursuant to the *Legal Profession Act* require a principal to have held practicing membership for the five years immediately preceding the application to be a principal, unless the applicant applies for and is granted an exemption by the Executive Director. The rationale for the five year rule is to ensure that a principal has had opportunity to develop sufficient skills, knowledge, and experience to be a mentor to an articulated clerk.

Waiver of Five Year Eligibility Requirement

1.1 Applicant to Request Exemption

1.1.1 An applicant to be a principal may request an exemption from the Executive Director from the requirement to have held practising membership in the Nova Scotia Barristers' Society for the five years *immediately preceding* the application to be a principal.

Public Interest Consideration

1.1.2 If an applicant requests an exemption pursuant to Regulation 3.5.2(a), the Executive Director will consider each request on a case by case basis, and will consider whether or not the applicant has had sufficient opportunity to develop the skills, knowledge, and experience required of a principal, thus satisfying public interest considerations. The following are common examples of circumstance in which a variance may be given by the Executive Director:

- (a) *Applicants with interruption in requirement due to parental or other leave* - Applicant has practised for five or more years, but has not held practising membership for the full five years immediately preceding the application. For example, a lawyer may change to non-practicing membership during a parental leave and thus, interrupt the five years consecutive practice. If the lawyer otherwise practiced for at least five years, and would lose eligibility to act as principal only because the five years was not consecutive due to a parental leave, this may be a situation in which the Executive Director would exercise discretion to grant an exemption.
- (b) *Transfer Applicants* - Applicant transferred to Nova Scotia within the last five years, and thus has not held practicing membership with the Nova Scotia Barristers' Society for the five years immediately preceding the principal's application. Despite this, applicant has been in practice for five or more years

when experience in the original jurisdiction is considered. Had the applicant been a member in Nova Scotia throughout his or her career, the applicant would have qualified as a principal. This may be a situation where the Executive Director would exercise discretion to grant an exemption.

- (c) *Applicants one month short of five year requirement* – If an applicant is one month or less from the five year requirement, the Executive Director may consider the applicant's practice experience when determining if the five-year requirement may be waived. For example, applicant's five-year anniversary of call to the bar occurs one week after the date the applicant wishes to begin acting as principal to an articled clerk. This may be a situation where the Executive Director would exercise discretion to grant an exemption.

Approved by the Credentials Committee – May 26, 2016