

## FREQUENTLY ASKED QUESTIONS – MOBILITY

These FAQs are intended to provide you with an overview to the provisions respecting mobility. The questions and answers are intended as a guide, only. Lawyers seeking to exercise temporary or permanent mobility in Saskatchewan should read the applicable Rules 195 - 207. In the event of any discrepancy between these FAQs and the provisions of the Rules, the Rules apply.

### 1. WHAT IS MEANT BY INTER-PROVINCIAL MOBILITY?

Inter-provincial mobility is the term used to describe the manner in which:

- a lawyer called to the Bar in one Canadian province or territory can provide legal services *temporarily* in or with respect to the law of another province or territory; and
- a lawyer called to the Bar in one province or territory may be called to the Bar of another province or territory.

In Saskatchewan, the Rules addressing *temporary* mobility are based upon Agreements negotiated among members of the Federation of Law Societies of Canada to which the Law Society of Saskatchewan is a signatory. These agreements are:

- the Inter-Jurisdictional Practice Protocol (signed 1994);
- the National Mobility Agreement (signed December, 2002).

In Saskatchewan, the requirements respecting permanent mobility are based upon “transfer” rules that have been approved over the years and the provisions in the National Mobility Agreement referred to above.

**NOTE:**

*Lawyers from provinces or territories outside of Saskatchewan who are interested in temporary or permanent mobility should familiarize themselves with the applicable Rules.*

*Lawyers from Saskatchewan who seek to exercise mobility elsewhere in the country should consult the Law Society in the jurisdiction in which they wish to exercise temporary or permanent mobility. The requirements to which they will be subject will depend upon whether the jurisdiction in question is a signatory to the National Mobility Agreement and has implemented Rules under that Agreement (see below).*

## 2. WHAT RULES GOVERN ADMISSION AND MOBILITY IN SASKATCHEWAN?

The main mobility provisions are contained in:

- Rules 195 – 207 (interjurisdictional practice); and
- Rules 170 and 171 (transfer).

## 3. HOW DO I KNOW WHICH RULES APPLY TO ME?

The National Mobility Agreement will apply only to lawyers who are “entitled to practise law” in a jurisdiction that has signed the National Mobility Agreement **and** adopted regulatory provisions giving effect to the requirements of the Agreement. The following jurisdictions **have signed** the National Mobility Agreement:

British Columbia  
 Alberta  
 Saskatchewan  
 Manitoba  
 Ontario  
 Quebec  
 Nova Scotia  
 Newfoundland

The following jurisdictions **have not signed** the National Mobility Agreement:

New Brunswick  
 Nunavut  
 The Northwest Territories  
 Prince Edward Island  
 The Yukon

**Effective July 1<sup>st</sup>, 2003, British Columbia, Saskatchewan, Alberta, Manitoba, Nova Scotia and Ontario have adopted the necessary regulatory requirements to implement the agreement.**

It is important to remember that the National Mobility Agreement is a **reciprocal** agreement. In other words, both a jurisdiction to which the lawyer is a member authorized (entitled) to practise and the jurisdiction in which the lawyer wishes to exercise temporary or permanent mobility must both have signed **and** implemented the Agreement. Otherwise, the lawyer will be subject to the same requirements for mobility as those from non-signatory, non-reciprocating jurisdictions.

For lawyers who are not authorized (entitled) to practise law in jurisdictions that have signed and implemented the National Mobility Agreement, but are entitled to practise in jurisdictions that have signed and implemented the 1994 Inter-Jurisdictional Practise Protocol (IJPP), the IJPP will continue to apply with respect to temporary mobility. With respect to permanent transfer, these lawyers must comply with the relevant jurisdiction's transfer provisions for non-signatory jurisdictions.

Lawyers from jurisdictions that have not implemented either the IJPP or the National Mobility Agreement should inquire from the relevant Law Society whether any other rules or by-laws are in place to address their situation.

#### **4. HOW CAN I EXERCISE TEMPORARY MOBILITY IN SASKATCHEWAN?**

Rules 195 – 207 provide for the “occasional practice of law” in Saskatchewan. These Rules set out the provisions for temporary mobility with or without a permit.

If you are professional liability insurance coverage and defalcation coverage in accordance with the requirements set out in Rule 197(3), you may practise law without the permission of the Law Society of Saskatchewan on an occasional basis **if** you:

- (a) are authorized to practise law in a province or territory of Canada outside of Saskatchewan;
- (b) are not the subject of a criminal proceeding in a province or territory of Canada;
- (c) are not the subject of a conduct, capacity or competence proceeding in a province or territory of Canada;
- (d) are not the subject, and have no record, of any order made against you by a tribunal of the governing body of the legal profession in each province and territory of Canada of which you are or were a member that revoked your membership, disbarred you or permitted you to resign;
- (e) are not the subject of, and have no record, of any order made against you by a tribunal of the governing body of the legal profession in each province and territory of Canada of which you are a member suspending or limiting your rights and privileges (other than for failure to pay fees or levies to the governing body), for insolvency or bankruptcy or any administrative matter;
- (f) have and have had no terms, conditions, limitations or restrictions imposed on your authorization to practise law in each province and territory of Canada in which you are authorized to practise law; and

- (g) do not establish an economic nexus with Saskatchewan (see below).

If you are ineligible for mobility without prior permission, you must apply for a permit to practise law on an occasional basis in Saskatchewan in accordance with Rule 201. If permission is granted, the Society may impose such terms and conditions as it considers appropriate. Currently, there is no fee for such an application.

## **5. WHAT DOES “ENTITLED TO PRACTISE LAW” MEAN?**

Some of the provinces and territories will use the term “entitled to practise law”. Others use “authorized to practise”.

In both cases, this means that as a prerequisite to being eligible to practise law occasionally in Saskatchewan or to transferring permanently to Saskatchewan (see below) within the National Mobility Agreement, you must first meet the requirements imposed by your own Law Society for its members to be entitled or authorized to practise law.

So, for example, if you are required to have insurance in your home province in order to be considered entitled to practise, and you do not currently have it, you are not authorized to practise law in Saskatchewan on an occasional basis and you are not eligible to transfer under Rule 205.

If you wish to take advantage of Rule 205(2), you must become authorized (entitled) to practise.

So, for example: if you have Nova Scotia non-practising status in Nova Scotia and wish to transfer to the Law Society of Saskatchewan, you must be reinstated to practising insured status in Nova Scotia.

## **6. IF I AM ELIGIBLE FOR MOBILITY, IS THERE ANY LIMITATION ON THIS ELIGIBILITY?**

You may practise law on an occasional basis for not more than 100 days in a calendar year. “Day” is defined to include any part of day. The onus is on you to keep a record of the days on which you practise law on an occasional basis in or with respect to the law of Saskatchewan. The Law Society of Saskatchewan may require you to provide proof of compliance with the Rule, including proof of the number of days on which you have practised law on an occasional basis in Saskatchewan.

## 7. IS IT POSSIBLE TO EXTEND THE 100 DAYS?

Yes, with the permission of the Law Society. You must apply for an extension to the Law Society, before the end of the 100 days.

## 8. WHEN DO I BEGIN COUNTING THE 100 DAYS IN 2003?

You would begin counting on the first day you begin practising law on an occasional basis in Saskatchewan under Rule 197.

## 9. WHAT CONSTITUTES THE PRACTICE OF LAW?

*The Legal Profession Act, 1990* defines the practice of law in part as to:

30(1)(b) advise, do or perform any work or service for fee or reward, either directly or indirectly, in matters pertaining to the law of Saskatchewan or of any jurisdiction outside Saskatchewan

You will be considered to be practising law in Saskatchewan if:

- (a) you perform professional services for others as a barrister or solicitor with respect to, or relying on, the laws of Saskatchewan or the laws of Canada applicable to Saskatchewan; or
- (b) you give legal advice with respect to the laws of Saskatchewan or the laws of Canada applicable to Saskatchewan.

This means that you could be practising law in Saskatchewan whether or not you are physically in Saskatchewan. For example, if you are giving legal advice with respect to the laws of Saskatchewan on the telephone, by e-mail or through correspondence from a province outside of Saskatchewan, you are considered to be practising law in Saskatchewan. **You must therefore keep track of all of these activities.**

Lawyers who practise law on an occasional basis for a single employer (corporate counsel) will also be considered to be practising law for the purposes of Rule 197.

You will not be considered to practising law in Saskatchewan for the purposes of the Mobility Rules if you perform professional services or give advice solely on the law of another province.

In addition, you will not be required to include in your calculation of the 100 days any time spent practising law as a counsel in a proceeding in:

- (a) the Supreme Court of Canada;

- (b) the Federal Court of Canada;
- (c) the Tax Court of Canada;
- (d) a tribunal established under an Act of Parliament;
- (e) a service tribunal within the meaning of the National Defence Act (Canada); or
- (f) the Court Martial Appeal Court of Canada.

Time spent preparing for the appearance or otherwise furthering the matter will also not be required to be counted.

Check the definition carefully to determine whether your activities come within its scope. If you come within the definition, you are subject to Rule 197.

## **10. WHAT DOES IT MEAN TO ESTABLISH AN ECONOMIC NEXUS WITHIN SASKATCHEWAN?**

An economic nexus with Saskatchewan is established when, if while practising law on an occasional basis in Saskatchewan, you do something that is inconsistent with practising law only on an occasional basis. If this kind of connection is established, you must cease practicing law immediately, but may apply to transfer to Saskatchewan.

You would establish an economic nexus with Saskatchewan if you:

- practise law in Saskatchewan for more than the maximum number of days permitted under Rule 197;
- open an office in Saskatchewan from which to practise law;
- open or operate a trust account at a financial institution located in Saskatchewan;
- receive money in trust for client, other than as set out in Rule 200;
- hold yourself out as willing to accept new clients in Saskatchewan, except as a visiting lawyer;
- become resident in Saskatchewan;
- act in any manner inconsistent with practising law in Saskatchewan only on an occasional basis.

**11. WHAT HAPPENS IF I ESTABLISH AN ECONOMIC NEXUS WITH SASKATCHEWAN?**

You are no longer eligible to practise law on an occasional basis in Saskatchewan and must cease doing so immediately. You may, however, apply to become a member of the Law Society of Saskatchewan (Rules 170 and 171).

**12. I AM A PARTNER (EMPLOYEE, ASSOCIATE) IN A LAW FIRM WITH OFFICES THROUGHOUT THE COUNTRY. DO I ESTABLISH AN ECONOMIC NEXUS WITH SASKATCHEWAN BY PRACTISING LAW FROM OUR SASKATCHEWAN OFFICE?**

The Rules provide that you do not establish an economic nexus by reason only that you practise law from an office that is affiliated with a law office in a province or territory of Canada in which you are authorized to practise law.

**13. WHILE I AM PRACTISING LAW IN SASKATCHEWAN ON AN OCCASIONAL BASIS, CAN I RECEIVE MONEY IN TRUST FOR A CLIENT?**

If you are permitted to practise law in Saskatchewan on an occasional basis under Rule 197, you may receive money in trust for a client provided that you pay the money into a trust account at a financial institution located in the province or territory in which you are authorized to practise law or you pay the money into a trust account that is kept in the name of and operated by a member of the Law Society of Saskatchewan in accordance with Rule 200 and the money is handled only by that member in accordance with the Rule.

**14. ARE THERE RESTRICTIONS ON ADVERTISING WHEN I AM PRACTISING LAW ON AN OCCASIONAL BASIS?**

Yes. You must not hold yourself out to be qualified or willing to practise law in Saskatchewan, except as a visiting lawyer on an occasional basis. Any communications or marketing efforts must conform to this restriction. You can comply with this by clearly identifying the governing body(ies) in which you are authorized to practise law.

**15. HOW WILL THIRD PARTIES KNOW I HAVE THE RIGHT TO PRACTISE LAW ON AN OCCASIONAL BASIS IN SASKATCHEWAN WITHOUT A PERMIT?**

A National Database will be in operation that allows Law Societies to determine whether a lawyer is eligible to practise law in Saskatchewan on an occasional basis without a permit. A third party wishing to make inquiries about a lawyer can contact the Law Society of Saskatchewan.

**16. WHILE I AM PRACTISING LAW IN SASKATCHEWAN ON AN OCCASIONAL BASIS, AM I SUBJECT TO *THE LEGAL PROFESSION ACT, 1990*?**

*The Legal Profession Act, 1990*, the Rules and *The Code of Professional Conduct* apply to you with necessary modifications.

**17. WHILE I AM PRACTISING LAW IN SASKATCHEWAN ON AN OCCASIONAL BASIS, CAN I COMMISSION AFFIDAVITS?**

No. *The Commission for Oaths Act* provides that barristers and solicitors entitled to practise law in Saskatchewan are commissioners for taking affidavits by virtue of a subsisting annual certificate from the Law Society of Saskatchewan. A lawyer practising law on an occasional basis would not meet the necessary definition.

The *Notaries Public Act* sets out the basis upon which a person may become a notary in the province of Saskatchewan. Barristers and solicitors who have a subsisting annual certificate from the Law Society of Saskatchewan are notaries by virtue of their office.

**18. WHILE I AM PRACTISING LAW IN SASKATCHEWAN ON AN OCCASIONAL BASIS, AM I AUTHORIZED TO GIVE AN UNDERTAKING TO A SASKATCHEWAN LAWYER?**

Yes, in accordance with *The Code of Professional Conduct*.

**19. IF AN ALLEGATION OF MISCONDUCT OR INCOMPETENCE OR INCAPACITY IS MADE AGAINST ME WITH RESPECT TO MY PRACTICE OF LAW IN SASKATCHEWAN ON AN OCCASIONAL BASIS, WHAT LAW SOCIETY GOVERNS THE MATTER?**

The Law Society of the governing body in which you are authorized to practise law will usually take carriage of the matter, in consultation with and with the cooperation of the Law Society of Saskatchewan. The Law Society of Saskatchewan may take carriage if the Law Society in which you are authorized to practise law agrees. The primary considerations in making such a decision will be public interest, convenience and cost.

**20. HOW CAN I EXERCISE PERMANENT MOBILITY IN SASKATCHEWAN?**

Rules 170 and 171 govern permanent mobility or transfer to the Law Society of Saskatchewan. If you are entitled or authorized to practise law in a province or territory of Canada outside of Saskatchewan and a Law Society in a province or territory in which you are entitled to authorized to practise law has signed the National Mobility Agreement and implemented its provisions, Rule 205 may apply to you.

**21. WHAT DO I HAVE TO DO TO TRANSFER UNDER RULE 205?**

You must first be authorized/entitled to practise law in accordance with the definition given to that term by the Law Society from which you are making the application to transfer. For more discussion of this, see question #5 above.

If you are not so authorized or entitled to practise law, you must:

- (a) take steps to become authorized or entitled; and
- (b) apply to transfer pursuant to Rule 171.

To be called to the Bar and admitted and enrolled as a solicitor under Rule 171 and Rule 205, you must:

- (a) be authorized to practise law in a province or territory of Canada outside Saskatchewan;
- (b) have fulfilled the requirements of *The Legal Profession Act, 1990* for admission to membership in the Society;

- (c) have a bachelors degree in law from a common law school in Canada or have a certificate of qualification from the National Committee on Accreditation; and
- (d) have certified that you have reviewed and understand the materials that the Law Society requires you to review.

## **22. HOW SOON CAN I APPLY UNDER RULE 205? WHAT IS THE PROCESS?**

The Mobility Rules came into effect July 1<sup>st</sup>, 2003. The transfer guide is available on our website.

Upon receipt of the completed application form and fees, you should contact Saskatchewan Legal Education Society Inc. for the reading material and the prescribed form to certify once you complete the review of the materials. The Law Society will then process your application form. Applications must be approved by the Admissions & Education Committee of the Benchers.

## **23. WHAT IS THE NATURE OF THE READING MATERIALS?**

The reading materials are being adapted from the Bar Admission Course materials and will include readings on substantive law, professional responsibility and practise management.

## **24. IF I BECOME A MEMBER OF THE LAW SOCIETY OF SASKATCHEWAN AND INTEND TO RESIDE AND PRACTISE IN SASKATCHEWAN BUT WILL REMAIN A PRACTISING MEMBER OF THE LAW SOCIETY IN ANOTHER JURISDICTION, AM I REQUIRED TO HAVE INSURANCE IN BOTH?**

You may apply for exemption from the insurance requirements in the other jurisdiction provided that you are resident in Saskatchewan and maintain full mandatory professional liability insurance coverage here that is reasonably comparable in coverage and limits to that required of lawyers there.

## National Mobility and Inter-Jurisdictional Practice Rules

### Definitions

195. In these Rules, unless the context indicates otherwise,
- “**day**” means any calendar day or part of a calendar day in which a lawyer provides legal services;
- “**discipline**” includes a finding by a governing body of any of the following:
- (a) professional misconduct;
  - (b) incompetence;
  - (c) conduct unbecoming a lawyer;
  - (d) lack of capacity to engage in the practice of law;
  - (e) any other breach of a lawyer’s professional responsibilities;
- “**disciplinary record**” includes any of the following, unless reversed on appeal or review:
- (a) any action taken by a governing body as a result of discipline;
  - (b) disbarment;
  - (c) a lawyer’s resignation or otherwise ceasing to be a member of a governing body as a result of or in the face of disciplinary proceedings;
  - (d) restrictions or limits on a lawyer’s entitlement to practise, other than those imposed as a result of failure to pay fees to a governing body, insolvency or bankruptcy or other administrative matter;
  - (e) any interim suspension or restriction or limits on a lawyer’s entitlement to practise imposed pending the outcome of a disciplinary hearing;
- “**entitled to practise law**” means allowed, under all of the legislation and regulation of a home jurisdiction, to engage in the practice of law in the home jurisdiction;
- “**Executive Director**” includes a person designated by the Executive Director to perform any of the duties assigned to the Executive Director in these Rules;
- “**governing body**” means the Law Society or Barristers’ Society in a Canadian common law jurisdiction, and the Barreau du Québec;
- “**home governing body**” means any or all of the governing bodies of the legal profession in Canada of which a lawyer is a member, and “**home jurisdiction**” has a corresponding meaning;
- “**lawyer**” means a member of a governing body;
- “**legal matter**” includes any activity or transaction that constitutes the practice of law and any other activity or transaction conducted by members in this Province in the course of practising law, whether or not persons other than lawyers are legally capable of conducting it;
- “**liability insurance**” means compulsory professional liability errors and omissions insurance required by a governing body;
- “**National Mobility Agreement**” means the 2002 National Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;
- “**National Registry**” means the National Registry of Practising Lawyers established under the National Mobility Agreement;
- “**NMA governing body**” means a governing body that has:
- (a) signed the National Mobility Agreement; and
  - (b) adopted regulatory provisions giving effect to the requirements of the National Mobility Agreement;
- “**Non-reciprocating governing body**” means a governing body that is neither an NMA governing body, nor a Protocol governing body;
- “**permit**” means an inter-jurisdictional practice permit issued under Rule 198;
- “**Protocol**” means the Inter-Jurisdictional Practice Protocol of the Federation of Law Societies of Canada signed February 18, 1994 in Jasper, Alberta
- “**Protocol governing body**” means a governing body that has:

- (a) signed the Protocol;
  - (b) adopted regulatory provisions giving effect to the requirements of the Protocol; and
  - (c) not signed the National Mobility Agreement.
- “provide legal services”** means to engage in the practice of law
- (a) physically in Saskatchewan, except with respect to the law of a home jurisdiction, or
  - (b) with respect to the law of Saskatchewan, physically in any jurisdiction, and includes to provide legal services respecting federal jurisdiction in Saskatchewan;

25a

**“resident”** has the meaning respecting a province or territory that it has with respect to Canada in the *Income Tax Act* (Canada);

**“visiting lawyer”** means a lawyer who is entitled to practise law in a Canadian jurisdiction other than Saskatchewan.

### **Application and interpretation**

- 196.** (1) These Rules:
- (a) are intended to implement the provisions of the Protocol and National Mobility Agreement, and
  - (b) apply to a visiting lawyer, provided that the visiting lawyer is entitled to practise law in the jurisdiction of a Protocol governing body or an NMA governing body of which the visiting lawyer is a member.
- (2) Unless it is inconsistent with the provisions of these Rules, the existing Rules made pursuant to the Inter-jurisdictional Practice Protocol apply to temporary mobility under these Rules.
- (3) Notwithstanding these Rules, a member of the Canadian Forces who is entitled to practise law in a home jurisdiction in which he or she is a member of the governing body
- (a) may provide legal services for or on behalf of the Office of the Judge Advocate General without a permit, and
  - (b) does not establish an economic nexus with Saskatchewan under Rule 202, provided that he or she provides legal services exclusively for or on behalf of the Office of the Judge Advocate General.

### **Temporary Mobility under National Mobility Agreement and Interjurisdictional Practice Protocol**

- 197.** (1) A visiting lawyer who qualifies under subrule (3) may provide legal services without a permit:
- (a) for a maximum of 100 days in any calendar year if he or she is a member of NMA governing body; or
  - (b) for no more than 10 legal matters and not more than 20 days in total during any 12 month period if the visiting lawyer is a member of a Protocol governing body;
- (2) On application of a visiting lawyer who otherwise qualifies under subrule (3), the Executive Director may, subject to any conditions and restrictions the Executive Director considers appropriate, allow the visiting lawyer to provide legal services without a permit beyond the time limit set in subrule (1).
- (3) Subject to subrule (4), to qualify to provide legal services on a temporary basis under subrule (1) or (2), a visiting lawyer must at all times:
- (a) be entitled to practise law in a home jurisdiction;

- (b) carry liability insurance that
    - (i) is reasonably comparable in coverage and limits to that required under Rule 605, and
    - (ii) extends to the lawyer's temporary practice in Saskatchewan;
  - (c) have defalcation compensation coverage from a governing body that extends to the lawyer's practice in Saskatchewan;
  - (d) not be subject to conditions of or restrictions on the lawyer's practice or membership in the governing body in any jurisdiction imposed as a result of or in connection with proceedings related to discipline, competency or capacity;
  - (e) not be the subject of criminal or disciplinary proceedings in any jurisdiction;
  - (f) have no disciplinary record in any jurisdiction; and
  - (g) not have or establish an economic nexus with Saskatchewan, as defined in Rule 202.
- (4) The requirement in subrule (3)(b) does not apply to a visiting lawyer who is exempt from compulsory liability insurance under Rule 605(4) with respect to legal services to be provided in Saskatchewan.

25b

#### **Responsibilities of visiting lawyer**

- 198.** (1) The Act, these Rules and the Code of *Professional Conduct* apply to and bind a visiting lawyer providing legal services.
- (2) It is the responsibility of a visiting lawyer providing legal services to
- (a) record and verify the number of days in which he or she provides legal services, and
  - (b) prove that he or she has complied with these Rules.

#### **Federal jurisdiction**

- 199.** (1) As an exception to the requirements of Rule 197, a visiting lawyer who is not disqualified under Rule 202 may appear before any of the following tribunals in Saskatchewan without a permit:
- (i) the Supreme Court of Canada;
  - (ii) the Federal Court of Canada;
  - (iii) the Tax Court of Canada;
  - (iv) a federal administrative tribunal;
  - (v) service tribunals as defined in the National Defence Act;
  - (vi) the Court Martial Appeal Court of Canada.
- (2) Subrule (1) applies when a visiting lawyer is preparing for an appearance allowed under that subrule and otherwise furthering the matter giving rise to the appearance.

#### **Trust funds**

- 200.** A visiting lawyer must not maintain a trust account in Saskatchewan and must
- (a) promptly remit funds received in trust to the visiting lawyer's trust account in the home jurisdiction, or
  - (b) ensure that trust funds received are handled
    - (i) by a member of the Society entitled to practise law in Saskatchewan in a trust account controlled by that member of the Society, and
    - (ii) in accordance with the Act and these Rules.

### **Inter-jurisdictional practice permit**

- 201.** (1) A visiting lawyer who:
- (a) is not allowed to provide legal services without a permit under Rule 197;
  - (b) is a member of a non-reciprocating governing body; or
  - (c) is disqualified under Rule 202
- may apply for a permit.
- (2) A visiting lawyer applying under subrule (1) shall deliver to the Executive Director:
- (a) a completed permit application, including a written consent for the release of relevant information to the Society,
  - (b) any required permit fee or renewal fee,
  - (c) certificates of standing, dated not more than 30 days before the date of the application and in a form acceptable to the Society and issued by each governing body of which the visiting lawyer is a member,
  - (d) proof of professional liability insurance that
    - (i) is reasonably comparable in coverage and amount to that maintained by the Society in its compulsory program, and
    - (ii) extends to the visiting lawyer's practice in this Province, and
  - (e) proof that the visiting lawyer has defalcation coverage that
    - (i) is reasonably comparable in coverage and amount to that maintained by the Society, and
    - (ii) extends to the visiting lawyer's practice in Saskatchewan.
- (3) Paragraph (2)(b) does not apply to an application made by a visiting lawyer who is a member of a governing body in a jurisdiction in which:
- (a) the visiting lawyer is entitled to practise law, and
- 25c
- (b) the governing body does not charge members of the Society a fee for permission to practise law in the jurisdiction on an occasional basis.
- (4) On application under this Rule, the Executive Director may issue a permit, subject to any conditions and restrictions that the Executive Director considers appropriate if, in the discretion of the Executive Director, it is consistent with the public interest to do so.
- (5) A permit issued or renewed under this Rule:
- (a) subject to paragraph (c), is effective until one year from the date it was issued,
  - (b) allows a visiting lawyer to provide legal services for not more than 100 days in that year, and
  - (c) ceases to be valid if the holder of the permit
    - (i) ceases to be entitled to practise law in a home jurisdiction,
    - (ii) fails to maintain professional liability insurance as required under Rule 197(3)(b),
    - (iii) fails to maintain defalcation compensation coverage as required under Rule 197(3)(c), or
    - (iv) is suspended or disbarred in any jurisdiction;
  - (d) on application, the Executive Director may extend the authorization granted by the permit.

### **Disqualifications**

- 202.** (1) A visiting lawyer who has established an economic nexus with Saskatchewan is not permitted to provide legal services under these Rules.
- (2) For the purposes of this Rule, an economic nexus is established by actions inconsistent with a temporary basis for providing legal services, including but not limited to doing any of the following in Saskatchewan:

- (a) providing legal services beyond 100 days, or longer period allowed under Rule 197(2) or 201(4)(d);
  - (b) opening an office from which legal services are offered or provided to the public;
  - (c) becoming resident;
  - (d) opening or operating a trust account, or accepting trust funds, except as permitted under Rule 200;
  - (e) holding oneself out or allowing oneself to be held out as willing or qualified to practise law in Saskatchewan, except as a visiting lawyer.
- (3) A visiting lawyer who provides legal services in or from an office affiliated with the lawyer's law firm in his or her own home jurisdiction does not, for that reason alone, establish an economic nexus with Saskatchewan.
  - (4) A visiting lawyer who becomes disqualified under this Rule must cease providing legal services forthwith, but may apply under Rule 205 for call and admission or under Rule 201 for an interjurisdictional practice permit.
  - (5) On application by a visiting lawyer, the Executive Director may allow the visiting lawyer to continue to provide legal services pending consideration of an application under Rule 205 or Rule 201

### **National Registry of Practising Lawyers**

- 203.** (1) The Executive Director must provide to the National Registry the current and accurate information about practising lawyers required under the National Mobility Agreement.
- (2) No one may use or disclose information obtained from the National Registry except for the purposes of the Act and these Rules.

### **Enforcement**

- 204.** (1) The Executive Director may require a visiting lawyer to
- (a) account for and verify the number of days spent providing legal services, and
  - (b) verify compliance with any Rules specified by the Executive Director.
- (2) If a visiting lawyer fails or refuses to comply with a requirement under subrule (1) within 20 calendar days, or such longer time that the Executive Director may permit in writing,
- (a) the visiting lawyer is prohibited from providing legal services without a permit,
- 25d
- (b) any permit issued to the visiting lawyer under Rule 201 is rescinded, and
  - (c) the Executive Director must advise the visiting lawyer's home governing body of the visiting lawyer's failure to comply and the consequences.
- (3) A visiting lawyer who is affected by subrule (2) may apply to the Admissions & Education Committee for restoration of any or all rights lost under that subrule and the Committee may, in its discretion, grant the application, subject to any conditions it considers to be in the public interest.
  - (4) A visiting lawyer, articled student or applicant who is charged with an offence under a federal statute must, as soon as practicable, give written notice to the Executive Director of
    - (a) the particulars of the charge, and
    - (b) the disposition of the charge and any consequences arising from the charge.

### **Transfer under National Mobility Agreement**

**205.** (1) This Rule applies to an applicant for transfer from another Canadian jurisdiction, provided

body of that the applicant is entitled to practise law in the jurisdiction of an NMA governing which the applicant is a member.

(2) An applicant under this Rule must fulfill all of the requirements in Rule 170 and Rule 171(2) for call and admission on transfer from another Canadian jurisdiction, except that he or she need not pass any transfer examination.

(3) To qualify for call and admission, an applicant under this Rule must certify that he or she has reviewed and understands all of the materials reasonably required by the Admissions & Education Committee.

(4) A lawyer called and admitted under this Rule has no greater rights as a member of the Society than the more restrictive of

(a) the lawyer has as a member of the governing body of his or her home jurisdiction, or

(b) any other member of the Society in similar circumstances.

### **Liability insurance**

**206.** (1) This Rule applies to a member of the Society who is entitled to practise law in the jurisdiction

of an NMA governing body of which the lawyer is a member.

(2) A lawyer may apply to the Executive Director for exemption from the requirement for professional liability insurance under Rule 605, if, in another Canadian jurisdiction in which the governing body allows a similar exemption for members of the Society, the lawyer

(a) is resident, and

(b) maintains the full mandatory professional liability insurance coverage required in the other jurisdiction that is reasonably comparable in coverage and limits to that required of lawyers in Saskatchewan and extends to the lawyer's practice in Saskatchewan.

### **Discipline**

**207.** (1) If there is an allegation of misconduct under the provisions of the Rules of another Canadian

jurisdiction equivalent to Rule 202 by a member of the Society while practising temporarily in

that other Canadian jurisdiction, the Society will:

(a) consult with the governing body concerned respecting the manner in which disciplinary proceedings will be conducted, and

(b) subject to subrule (2), assume responsibility for the conduct of the disciplinary proceedings.

(2) The Society may agree to allow the other governing body concerned to assume responsibility for the conduct of disciplinary proceedings under subrule (1), including expenses of the proceeding.

(3) In deciding whether to agree under subrule (2), the primary considerations will be the public interest, convenience and cost.

(4) To the extent that is lawful and reasonable in the circumstances, the Executive Director must do the following on the request of a governing body that is investigating the conduct of a member of the Society or a visiting lawyer who has provided legal services:

- (a) provide all relevant information and documentation respecting the lawyer or visiting lawyer as is reasonable in the circumstances;
  - (b) cooperate fully in the investigation and the prosecution of any citation or formal complaint and hearing.
- (5) Subrule (4) applies when the Society agrees with a governing body under subrule (2).
- (6) A duly certified copy of a disciplinary decision of another governing body concerning a lawyer found guilty of misconduct is proof of the fact of the lawyer's conviction in that jurisdiction.

[Rules 195 – 200 amended/added June, 2003]



Federation of  
Law Societies  
of Canada

Fédération des  
ordres professionnels  
de juristes du Canada

Search

» Français

Montreal Time :  
6:51:29 PM

Latest News

## Interjurisdictional Protocol

The Interjurisdictional Practice Protocol was executed by 10 of the 13 governing bodies at the Federation's Semi-annual meeting held in Jasper, Alberta. In March 1996, the Barreau du Québec executed the Protocol. As of today, the Law Society of Yukon and the Law Society of the Northwest Territories have not signed the Protocol.

The Protocol was amended on February 25, 1995, on March 2nd 1996 and on August 28, 1998. The following version includes these amendments.

[Protocol](#)

[Appendix 1 - Temporary mobility of lawyers within Canada](#)

[Appendix 2 - Permanent mobility of lawyers within Canada](#)

[Appendix 3 - Foreign Legal Consultants](#)

[Appendix 4 - Inter-jurisdictional Law Firms](#)

[Appendix 5 - Arbitration Rules](#)

[Appendix 6 - Guidelines for defalcation claims](#)

### PROTOCOL

**WHEREAS** the signatories are governing bodies of the profession of law in Canada,

**AND WHEREAS** the signatories recognize that Canadian lawyers have constitutional rights relating to the inter-provincial practice of law,

**AND WHEREAS** the signatories recognize that it is in the interests of the public and of the legal profession of Canada to facilitate the inter-jurisdictional practice of law in a manner which is consistent with the duty imposed on the signatories to regulate the practice of law within their jurisdictions so as to ensure that their members practice law competently, ethically and with financial responsibility,

**AND WHEREAS** the December 1990 report of the Federation of Law Societies' Inter-Jurisdictional Practice Committee, which recommended a comprehensive regulatory regime for the inter-jurisdictional practice of law, was approved in principle on February 22, 1991,

**AND WHEREAS** the signatories recognize that differences exist with respect to certain aspects of the existing legislation, policies and programs of the signatories,

**AND WHEREAS** it is desirable to facilitate a nationwide regulatory regime for the inter-jurisdictional practice of law which will promote uniform standards and procedures, while recognizing the exclusive authority of each signatory within its own legislative jurisdiction,

**NOW THEREFORE** the signatories agree:

**Parties agree to adjourn trial on money-laundering legislation to November 2004**  
Posted on  
4/21/2003 2:06:29 AM

**The SCC hands down reasons in Ryan decision**  
Posted on  
4/6/2003 2:56:17 PM

**Court challenges by Federation and law societies lead to important victory for rights of Canadians: repeal of portions of money laundering regulations**  
Posted on  
3/28/2003 12:03:38 PM

Download this  
[Interjurisdictional Protocol](#)



Emerging Issues

The Federation  
Before The Courts

Mobility of  
Lawyers in Canada

Criminal and Family  
Law Programs

Calendar of Events

CanLII

Intranet

1. to implement in their respective jurisdictions a regulatory regime for the inter-jurisdictional practice of law as described in this Protocol;
2. to use their best efforts to obtain from the appropriate legislative or supervisory bodies amendments to their legislation or regulations which are necessary or advisable in order to implement the regulatory regime referred to in paragraph 1;
3. to amend their own rules, policies and programs to the extent they consider necessary or advisable in order to implement the regulatory regime referred to in paragraph 1;
4. to work cooperatively with the other signatories to resolve differences and ambiguities regarding the inter-jurisdictional practice of law in legislation, policies and programs which presently exist or which in the future may arise between or among the signatories, and to execute with one or more signatories such specific agreements as they may deem advisable to resolve such differences and ambiguities;
5. that in this Protocol and in the Appendices, unless otherwise specified:
  - "home governing body" means a governing body of the legal profession in Canada of which a lawyer is a member, and "home jurisdiction" has a corresponding meaning,
  - "host governing body" means a governing body of the legal profession in Canada in whose jurisdiction a lawyer practises law without being a member, and "host jurisdiction" has a corresponding meaning,
  - "lawyer" means a member of a signatory and, in the case of the Province of Quebec, includes a notary member of La Chambre des Notaires du Québec,
  - "misconduct" includes professional misconduct, conduct unbecoming a member of a signatory and any other breach of a member's professional responsibilities to a signatory;
6. that in matters of individual mobility they will facilitate:
  - a. the temporary mobility of lawyers within Canada, by adopting rules or regulations substantially the same as or less restrictive than those set out in Appendix 1 to this Protocol,
  - b. the permanent mobility of lawyers within Canada, by adopting rules or regulations substantially the same as or less restrictive than those set out in Appendix 2 to this Protocol,
  - c. the issuance of permits to foreign legal consultants, by adopting rules or regulations substantially the same as or less restrictive than those set out in Appendix 3 to this Protocol, and
  - d. the provision of legal services by inter-jurisdictional law firms, by adopting rules or regulations substantially the same as or less restrictive than those set out in Appendix 4 to this Protocol;
7. that they shall enforce professional standards in relation to lawyers who practise law inter-provincially, in the following manner:
  - a. lawyer who practises in a host jurisdiction in accordance with Appendix 1 shall disclose to the host governing body, on request, all the governing bodies of the legal profession in Canada of which he or she is a member,
  - b. where a signatory initiates disciplinary proceedings against one of its members or against a member of another signatory, it shall notify each other signatory of which that person is a member, of those proceedings,
  - c. in the event of alleged misconduct arising out of a lawyer's practice in a host jurisdiction:
    - (i) the host governing body shall assume responsibility for the conduct of disciplinary proceedings against the lawyer unless the host governing body and the lawyer's home governing body or bodies agree to the contrary, and
    - (ii) the host governing body and the home governing body or bodies





































