

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]