

PART 7A

National Mobility and Interjurisdictional Practice

Definitions

192. In this Part, unless the context indicates otherwise:

“**Barreau**” means the Barreau du Québec;

“**Chambre**” means the Chambre des notaires du Québec;

“**Committee**” means the Admissions & Education Committee;

“**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 physical or mental capacity to engage in the practise 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 practise 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 this Part;

“**governing body**” means any Law Society or Barristers’ Society in a Canadian jurisdiction;

“**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, other than the Chambre;

“**liability insurance**” means compulsory professional liability errors and omissions insurance required by a governing body;

“**Mobility Defalcation Compensation Agreement**” means the 2010 Mobility Defalcation Compensation Agreement of the Federation of Law Societies of Canada, as amended from time to time;

“**National Mobility Agreement**” means the 2013 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;

“**Permit**” means an interjurisdictional practice permit to provide legal services in Saskatchewan on a temporary basis issued under Rule 196;

“**practice of law**” has the meaning with respect to each jurisdiction that applies in that jurisdiction;

“**Protocol**” means the Interjurisdictional Practice Protocol of the Federation of the Law Societies of Canada signed February 18, 1994 in Jasper, Alberta;

“**provide legal services**” means to engage in the practise of law:

- (a) physically in Saskatchewan, except with respect to the law of another Canadian jurisdiction; or
- (b) with respect to the law of Saskatchewan, physically in any jurisdiction; and

includes the provision of legal services respecting federal jurisdiction in Saskatchewan;

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

“**Suitability to Practise**” means honesty, governability, financial responsibility and respect for the rule of law and the administration of justice and “**Suitable to Practise**” has a corresponding meaning.

“**Territorial Mobility Agreement**” means the 2006 Territorial Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;

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

[Rule 192, “Permit” definition amended, April 17, 2015]

Application

193. (1) These Rules:

- (a) are intended to implement the provisions of the Protocol, the National Mobility Agreement and the Territorial Mobility Agreement; and
- (b) apply to a Visiting Lawyer, provided that the Visiting Lawyer is entitled to practise law in the jurisdiction of a governing body of which the Visiting Lawyer is a member.

(2) Unless it is inconsistent with the provisions of these Rules, the Protocol applies to temporary mobility under these Rules.

(3) Notwithstanding these Rules, a member of the Canadian Forces who is entitled to practise law in the jurisdiction of a governing body, other than the Chambre:

- (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.

National Registry of Practising Lawyers

194. (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.

A. Temporary Mobility

Temporary Mobility Without a Permit under National Mobility Agreement and Protocol

195. (1) A Visiting Lawyer who qualifies under subrule (2) may provide legal services without a Permit for a maximum of 100 days in any calendar year.

(2) Subject to subrule (4), to qualify to provide legal services on a temporary basis under subrule (1) or (3), a Visiting Lawyer must at all times:

- (a) be entitled to practise law in a Home Jurisdiction other than the Chambre;
- (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 199.

(3) On application of a Visiting Lawyer who otherwise qualifies under subrule (2), the Executive Director may:

- (a) 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); or
 - (b) require the applicant to apply for a Permit under Rule 196 to provide legal services beyond the time limit set in subrule (1).
- (4) The requirement in subrule (2)(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.

[Rule 195(2)(g) amended, April 17, 2015]

Temporary Mobility Requiring Interjurisdictional Practice Permit

196. (1) A Visiting Lawyer who fails to comply with any of the requirements set out in Rule 195(2)(d) – (g) 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 Executive Director;
 - (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 Executive Director 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) Subrule (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
 - (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 subrule (5)(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 all Home Jurisdictions;
 - (ii) fails to maintain professional liability insurance as required under subrule (2)(d);
 - (iii) fails to maintain defalcation compensation coverage as required under subrule (2)(e); or
 - (iv) is suspended or disbarred in any jurisdiction;
 - (d) on application, the Executive Director may extend the authorization granted by the Permit.

[Rule 196(1) amended and (a) & (b) deleted, April 17, 2015]

Responsibilities of Visiting Lawyer

197. (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.

Trust Funds

198. 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 a 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.

Disqualification Due to Economic Nexus

199. (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 195(3)(a) or 196(5)(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 198;
- (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 a 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 206 for call and admission or under Rule 196 for a 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 206 or Rule 196.

Federal Jurisdiction

200. (1) As an exception to the requirements of Rule 199, a Visiting Lawyer who is not disqualified under Rule 202 may appear before any of the following tribunals in Saskatchewan without a Permit:

- (a) the Supreme Court of Canada;
- (b) the Federal Court of Canada;
- (c) the Tax Court of Canada;
- (d) a federal administrative tribunal;
- (e) service tribunals as defined in the *National Defence Act*; and
- (f) the Court Martial Appeal Court of Canada.

(2) The exception to Rule 199 established in subrule (1) extends to a Visiting Lawyer preparing for an appearance allowed under that subrule and otherwise furthering the matter giving rise to the appearance.

Enforcement

201. (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 allow in writing:
- (a) the Visiting Lawyer is immediately prohibited from providing legal services under Rule 195, and must apply for a Permit under Rule 196 to provide further legal services;
 - (b) any Permit issued to the Visiting Lawyer under Rule 196 is rescinded; and
 - (c) the Executive Director must advise the Visiting Lawyer's Home Governing Bodies of the Visiting Lawyer's failure to comply and the consequences.
- (3) A Visiting Lawyer may appeal a decision of the Executive Director under subrule (2) to the Committee and the Committee may, in its discretion:
- (a) grant the application, subject to any conditions it considers to be in the public interest; or
 - (b) deny the application.
- (4) The Committee may establish its own practices and procedures for reaching a decision under subrule (3).

Discipline

202. A Visiting Lawyer shall comply with the applicable legislation, regulations, rules and standards of professional conduct of Saskatchewan while providing legal services in, or with respect to the law of, Saskatchewan. Non-compliance may result in disciplinary action in a jurisdiction determined in accordance with the National Mobility Agreement.

Notification of Proceedings

203. (1) A Visiting Lawyer, articled student or applicant shall immediately report to the Executive Director:
- (a) particulars of charges and any disposition of the charges laid, under the following:
 - (i) an offence under any law in force in Canada where the offence was prosecutable either as an indictable offence or as a summary conviction offence;
 - (ii) the *Securities Act* of any province of Canada;
 - (iii) an offence committed outside Canada and similar to any of the kinds of offences described in clauses (a) or (b);
 - (b) any suspension, investigation, supervision, undertaking, conditions or similar processes including, but not limited to, discipline, professional standards, competency, accounting, or audit proceedings, by a professional regulatory body in any jurisdiction.
- (2) Where the Executive Director becomes aware of any matter set out in subrule (1):
- (a) the Visiting Lawyer may be immediately prohibited from providing legal services under Rule 195, and may be required to apply for a Permit under Rule 196 to provide further legal services;
 - (b) any Permit issued to the Visiting Lawyer under Rule 196 may be rescinded; and
 - (c) the Executive Director must advise the Visiting Lawyer's Home Governing Bodies of the matter.

Special Fund

204. (1) The Mobility Defalcation Compensation Agreement applies to a claim under Rule 704 involving inter-jurisdictional practice in a jurisdiction where a governing body has signed and implemented the Mobility Defalcation Compensation Agreement.

(2) The provisions of the Protocol concerning claims for compensation for misappropriation apply to a claim under Rule 704 involving interjurisdictional practice in a jurisdiction where a governing body has not signed and implemented the Mobility Defalcation Compensation Agreement.

B. Permanent Mobility

Transfer under National Mobility Agreement and Territorial Mobility Agreement

205. (1) This Rule applies to an applicant for transfer from another Canadian jurisdiction, provided that the applicant is entitled to practise law in the jurisdiction of any governing body, other than the Chambre, of which the applicant is a member.

(2) An applicant under this Rule must fulfill all of the requirements in Rule 206 for call and admission on transfer from another Canadian jurisdiction.

(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 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) those the lawyer has as a member of another governing body; or
- (b) any other member of the Society in similar circumstances.

Admission as a Transfer Lawyer

206. (1) To qualify for admission as a lawyer on transfer an applicant must:

- (a) be Suitable to Practise;
- (b) deliver to the Executive Director:
 - (i) a completed application for admission as a lawyer on transfer, in a form approved by the Committee;
 - (ii) an original or notarial copies of certified government issued identification document, such as a driver's license, birth certificate, passport or other document acceptable to the Society which verifies the applicant's identity;
 - (iii) in the case of an applicant that is not a Canadian citizen, provide proof of the applicant's entitlement to work in Canada;
 - (iv) testimonials, in a form approved by the Committee, from 2 persons who have each known the applicant for at least 3 years, verifying the applicant's Suitability to Practise;
 - (v) a certificate from the governing body of each Canadian Province and Territory of which the applicant is a member, stating:
 - (1) whether the applicant is a member in good standing;
 - (2) whether the applicant is presently the subject of any disciplinary proceedings; and
 - (3) the details of any previous disciplinary proceedings taken against the applicant;
 - (vi) the admission on transfer application fee fixed by the Benchers under subrule 830(3); and
 - (vii) any other information and documents required by the *Act* or these Rules which is requested.

(2) Rules 162 and 176 apply to applications for admission as a transfer lawyer *mutatis mutandis*.

[Rule 206(1)(b)(v) deleted so that proof of law degree from transfer applicant no longer required, as home jurisdiction would have already verified, April 17, 2015]

Liability Insurance Exemption for Members Entitled to Practice in More than One Canadian Jurisdiction

207. (1) A member of the Society may apply to the Executive Director for exemption from the requirement for professional liability insurance under Rule 605, if the member has professional liability insurance as:

- (a) a member of another governing body, other than the Chambre or Barreau, which allows a similar exemption for members of the Society; or

(b) a member of both the Barreau and another governing body, other than the Chambre, which allows a similar exemption for members of the Society; which is reasonably comparable in coverage and limits to that required under the Society's insurance plan and extends to the lawyer's practice in Saskatchewan.

(2) A member applying for an exemption under subrule (1)(b) must have insurance coverage from the professional liability insurance program of:

- (a) the Barreau, with respect to services provided by the lawyer as a member of the Barreau; and
- (b) the governing body in the jurisdiction in which the member has been continuously entitled to practise law for the longest period of time, with respect to services provided by the lawyer as a member of that governing body.

(3) A member applying for an exemption under this Rule must provide evidence that the member maintains the full mandatory professional liability insurance coverage required by the applicable governing bodies in accordance with this Rule.

C. Practice Privileges for Members of the Chambre

Canadian Legal Advisor

208. (1) A member of the Chambre, with a Canadian Civil Law degree, or with a foreign degree and a certificate of equivalency from the Chambre, may apply for admission as a Canadian Legal Advisor by delivering to the Executive Director the following:

- (a) a completed application for admission as a Canadian Legal Advisor in a form approved by the Committee;
- (b) original or notarially certified documents verifying identity, including valid original government issued identification including a driver's license, birth certificate, passport or other document acceptable to the Executive Director;
- (c) testimonials, in a form approved by the Committee, from 2 persons who have known the applicant for at least 3 years, verifying the applicant's Suitability to Practise;
- (d) a certificate of standing from the governing body of each Canadian Province and Territory of which the applicant is a member;
- (e) an errors and omissions insurance application or exemption form;
- (f) the transfer application fee fixed by the Benchers under subrule 830(3); and
- (g) any other information and documents required by the *Act* or these Rules which is requested.

(2) Rules 162 and 176 apply to applications for admission as a Canadian Legal Advisor *mutatis mutandis*.

Scope of Practice

209. (1) A Canadian Legal Advisor's practice in Saskatchewan is limited to the following:

- (a) providing legal advice on:
 - (i) the law of Québec and matters involving the law of Québec;
 - (ii) matters under federal jurisdiction, or
 - (iii) matters involving public international law if insurance coverage is provided by the Chambre;
- (b) preparing and drawing-up documents for use in a proceeding concerning matters under federal jurisdiction, or
- (c) appearing as counsel or an advocate before any tribunal with respect to matters under federal jurisdiction.

Obligations

210. (1) A Canadian Legal Advisor must:
- (a) continue to be a member in good standing of the Chambre authorized to practise law in Quebec; and
 - (b) notify the Executive Director in writing if he or she becomes disqualified from the practise of law in Québec;
 - (c) obey and observe all duties and responsibilities of a practising lawyer under the *Act*, these Rules and the *Code of Professional Conduct*.

D. Foreign Legal Consultants

Foreign Legal Consultants

211. (1) A person who is qualified to practise law in a country other than Canada, or in an internal jurisdiction of that country, may apply to the Executive Director for a permit to act as a foreign legal consultant in Saskatchewan by delivering to the Executive Director:

- (a) a completed permit application in a form approved by the Benchers;
- (b) the permit fee fixed by the Benchers under subrule 870(1); and
- (c) a written undertaking to:
 - (i) not accept, hold, transfer or in any other manner deal with funds which would, if accepted, held, transferred or dealt with by a member, constitute trust funds;
 - (ii) submit to the jurisdiction of the Society and comply with the *Act*, the Law Society Rules and *The Code of Professional Conduct*; and
 - (iii) notify the Executive Director promptly of a failure to satisfactorily complete whatever continuing legal education program is required of members of the applicable home country or internal jurisdiction.

Issuance of Permit

212. (1) The Executive Director may issue to an applicant a permit to act as a foreign legal consultant when satisfied that the applicant:

- (a) is a member in good standing of the legal profession in the applicant's home country or in one of its internal jurisdictions;
 - (b) is Suitable to Practise;
 - (c) has practised the law of the applicant's home country or one of its internal jurisdictions for the last 3 years, or undertakes in writing to work, while acting as a foreign legal consultant in Saskatchewan, only under the direct supervision of a foreign legal consultant from that country or internal jurisdiction who has satisfied the 3-year practise requirement;
 - (d) carries professional liability insurance or a bond, indemnity or other security:
 - (i) in a form and amount which is reasonably comparable with that maintained by the Society in its compulsory program; and
 - (ii) which specifically extends to services rendered by the foreign legal consultant while acting as such in Saskatchewan; and
 - (e) participates in a program or carries a fidelity bond or other security satisfactory to the Society and in an amount of at least \$1,000,000, for the purpose of reimbursing persons who suffer pecuniary loss as a result of the misappropriation or conversion by the foreign legal consultant of money or other property entrusted to or received by the foreign legal consultant in Saskatchewan.
- (2) The Executive Director may fix conditions that may be attached to permits which are issued or renewed under this Rule.
- (3) Subject to subrule (4), a permit issued under subrule (1) is valid from the issue date shown on it until the last day of the same calendar month in the next year.
- (4) Notwithstanding subrule (3), a permit ceases to be valid if the foreign legal consultant:
- (a) is suspended as a result of proceedings under the *Act*; or