

*Federation of Law Societies
of Canada*



*Fédération des ordres professionnels
de juristes du Canada*

Territorial Mobility Agreement

November 2011

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FEDERATION OF LAW SOCIETIES OF CANADA

November , 2011

Introduction

The purpose of this Agreement is to extend the scope of the National Mobility Agreement in facilitating permanent mobility of lawyers between Canadian jurisdictions.

While the signatories participate in this Agreement voluntarily, they intend that only lawyers who are members of signatories that have implemented reciprocal provisions in their jurisdictions will be able to take advantage of the provisions of this Agreement.

The signatories recognize that

- they have a duty to the Canadian public and to their members to regulate the inter-jurisdictional practice of law so as to ensure that their members practise law competently, ethically and with financial responsibility, including professional liability insurance and defalcation compensation coverage, in all jurisdictions of Canada,
- differences exist in the legislation, policies and programs pertaining to the signatories, particularly between common law and civil law jurisdictions, and
- it is desirable to facilitate a nationwide regulatory regime for the inter-jurisdictional practice of law to promote uniform standards and procedures, while recognizing the exclusive authority of each signatory within its own legislative jurisdiction.

Background

In August, 2002, the Federation of Law Societies of Canada (the "Federation") approved the report of the National Mobility Task Force ("the Task Force") for the implementation of full mobility rights for Canadian lawyers. This led to adoption of the National Mobility Agreement by 10 law societies and its full implementation in nine jurisdictions. Since that time, all Canadian law societies have also signed the Quebec Mobility Agreement, which facilitates reciprocal mobility between Quebec and the common law jurisdictions.

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The resolution adopted by the Federation in approving the Task Force report included an acknowledgement that “the unique circumstances of the law societies of Yukon, the Northwest Territories and Nunavut necessitate special considerations that could not be undertaken within the time frame prescribed in the Task Force’s terms of reference, but should be undertaken in the future.”

In 2005, an informal Territorial Mobility Group (“the Group”) was formed with representatives of the Task Force, the law societies of the provinces in Western Canada and the law societies of the territories. The Group developed a proposal respecting territorial mobility to address the unique characteristics of the law societies of the territories. This agreement gives effect to the Group’s proposal.

The purpose of this Agreement is to allow the law societies of the territories to participate in national mobility for lawyers to the extent possible for them, given their unique circumstances. Specifically, the signatories agree that the territorial law societies will participate in national mobility as reciprocating governing bodies with respect to permanent mobility, or transfer of lawyers from one jurisdiction to another, without a requirement that they participate in temporary mobility provisions.

The signatories to this Agreement who are not signatories to the National Mobility Agreement do not hereby subscribe to the provisions of the National Mobility Agreement, except as expressly stated in this Agreement.

THE SIGNATORIES AGREE AS FOLLOWS:

Definitions

1. In this Agreement, unless the context indicates otherwise:

“**governing body**” means the Law Society or Barristers’ Society in a Canadian common law jurisdiction, and the Barreau;

“**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;

“**Inter-Jurisdictional Practice Protocol**” means the 1994 Inter-Jurisdictional Practice Protocol of the Federation of Law Societies of Canada, as amended from time to time;

“**lawyer**” means a member of a signatory governing body;

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

“National Mobility Agreement” or **“NMA”** means the 2002 National Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time;

“permanent mobility provisions” means clauses 32 to 36, 39 and 40 of the National Mobility Agreement;

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

“Registry” means the National Registry of Practising Lawyers established under clause 17 of the National Mobility Agreement;

General

2. The signatory governing bodies will
 - (a) use their best efforts to obtain from the appropriate legislative or supervisory bodies amendments to their legislation or regulations necessary or advisable in order to implement the provisions of this Agreement;
 - (b) amend their own rules, by-laws, policies and programs to the extent they consider necessary or advisable in order to implement the provisions of this Agreement;
 - (c) comply with the spirit and intent of this Agreement to facilitate mobility of Canadian lawyers in the public interest and strive to resolve any differences among them in that spirit and in favour of that intent; and
 - (d) work cooperatively to resolve all current and future differences and ambiguities in legislation, policies and programs regarding inter-jurisdictional mobility.
3. Signatory governing bodies will subscribe to this Agreement and be bound by it by means of the signature of an authorized person affixed to any copy of this Agreement.
4. A signatory governing body will not, by reason of this Agreement alone,
 - (a) grant to a lawyer who is a member of another governing body greater rights to provide legal services than are permitted to the lawyer by his or her home governing body; or

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(b) relieve a lawyer of restrictions or limits on the lawyer's right to practise, except under conditions that apply to all members of the signatory governing body.

5. Amendments made under clause 2(b) will take effect immediately on adoption with respect to members of signatory governing bodies that have adopted reciprocal provisions.

Permanent Mobility

6. The signatories that are signatories to the National Mobility Agreement agree to extend the application of the permanent mobility provisions of the National Mobility Agreement with respect to the territorial signatories to this Agreement.
7. The territorial signatories agree to adopt and be bound by the permanent mobility provisions of the National Mobility Agreement.
8. A signatory that has adopted regulatory provisions giving effect to the permanent mobility requirements of the National Mobility Agreement is a reciprocating governing body for the purposes of permanent mobility under this Agreement, whether or not the signatory has adopted or given effect to any other provisions of the National Mobility Agreement.

Transition Provisions

9. This Agreement is a multi-lateral agreement, effective respecting the governing bodies that are signatories, and it does not require unanimous agreement of Canadian governing bodies.
10. Provisions governing permanent mobility in effect at the time that a governing body becomes a signatory to this Agreement will continue in effect: until this agreement is implemented.

Dispute Resolution

11. Signatory governing bodies adopt and agree to apply provisions in the Inter-Jurisdictional Practice Protocol in respect of arbitration of disputes, specifically Clause 14 and Appendix 5 of the Protocol.

Withdrawal

12. A signatory may cease to be bound by this Agreement by giving each other signatory written notice of at least one clear calendar year.

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13. A signatory that gives notice under clause 12 will immediately notify its members in writing of the effective date of withdrawal.

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SIGNED on the day of , 2011.

Law Society of British Columbia

Law Society of Alberta

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Law Society of Saskatchewan

Law Society of Manitoba

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Law Society of Upper Canada

Barreau du Québec

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Law Society of New Brunswick

Nova Scotia Barristers' Society

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

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Law Society of Prince Edward Island

**Law Society of Newfoundland and
Labrador**

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Law Society of Yukon

**Law Society of the Northwest
Territories**

Per: _____
Authorized Signatory

Per: _____
Authorized Signatory

Law Society of Nunavut

Per: _____
Authorized Signatory