

*Federation of Law Societies
of Canada*



*Fédération des ordres professionnels
de juristes du Canada*

Quebec Mobility Agreement

FEDERATION OF LAW SOCIETIES OF CANADA

March 19, 2010
Toronto, Ontario

Introduction

The purpose of this Agreement is to extend the scope of the National Mobility Agreement (the "NMA") in facilitating reciprocal permanent mobility between the common law jurisdictions and the Barreau du Québec ("the Barreau"). Clause 40(b) of the NMA provides that "a signatory governing body, other than the Barreau, will admit members of the Barreau as members on one of the following bases:... (b) as permitted by the Barreau in respect of members of the signatory governing body."

The Barreau has implemented a scheme under which members of the law societies of the other provinces and the territories may become members of the Barreau and practise federal law and the law of their home jurisdictions as Canadian Legal Advisors. It is the intention of the signatories to this Agreement that the other provincial and territorial law societies will reciprocate with the Barreau by implementing provisions that will permit members of the Barreau to become members of other law societies and practise federal and Quebec law in other jurisdictions.

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 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”) accepted the report of the National Mobility Task Force for the implementation of full mobility rights for Canadian lawyers.

Eight law societies, including the Barreau, signed the NMA on December 9, 2002. The Agreement recognized that special circumstances applicable to the Barreau would necessitate additional provisions to implement mobility between the Barreau and the common law jurisdictions. The signatories also recognized that the requirement for the Barreau to comply with regulations applicable to all professions in Quebec would delay implementation of the NMA with respect to the Barreau.

In 2006, the law societies of all 10 provinces, including the Barreau, signed the Territorial Mobility Agreement, along with the law societies of all three territories. Under that agreement, provisions were mandated for reciprocal permanent mobility between the law societies of the territories and the provinces, for a five-year period ending January 1, 2012.

Quebec Mobility

In June 2008 Quebec enacted a “Regulation respecting the issuance of special permits of the Barreau du Québec”, which is stated to be “made in order to facilitate the mobility of advocates.” The Regulation provides, *inter alia*, that a member in good standing of a bar of another Canadian province or territory may apply for a “special Canadian legal advisor permit” in Quebec. A person granted such a permit may engage in the following activities on behalf of another person:

- (1) give legal advice and consultations on legal matters involving the law of the Canadian province or territory where he or she is legally authorized to practise law or involving matters under federal jurisdiction;
- (2) prepare and draw up a notice, motion, proceeding or other similar document intended for use in a case before the courts, but only with respect to matters under federal jurisdiction;
- (3) give legal advice and consultations on legal matters involving public international law; and
- (4) plead or act before any tribunal, but only with respect to matters under federal jurisdiction.

Recognizing the provisions of the Quebec Regulation, the signatories to this Agreement agree to enter into an arrangement with the Barreau to enable its members to exercise mobility in the common law jurisdictions on a reciprocal basis. It is recognized that members of other governing bodies will not be able to

exercise the reciprocal right to practise public international law unless they have professional liability insurance coverage that specifically includes such practice.

THE SIGNATORIES AGREE AS FOLLOWS:

Definitions

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

“**Advisor**” means a Canadian Legal Advisor;

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

“**Canadian Legal Advisor**” means a member of a governing body who holds a current Canadian Legal Advisor certificate issued by another governing body;

“**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;

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

“**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;

“**permanent mobility provisions**” means clauses 32 to 36, 39 and 40 of the NMA;

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 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
 - (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.

Canadian Legal Advisor

6. The Barreau will continue to issue Canadian Legal Advisor certificates to qualifying members of governing bodies, and the other signatories will establish and maintain an equivalent program in order to issue Canadian Legal Advisor certificates to qualifying members of the Barreau.
7. Members of the Barreau whose legal training was obtained outside Canada and who have not had their credentials reviewed and accepted as equivalent by the Barreau are not qualifying members of the Barreau for the purpose of clause 6.
8. The permanent mobility provisions of the NMA apply with respect to requirements and qualifications to obtain a Canadian Legal Advisor Certificate, except that a signatory governing body must require that an

Advisor continue to maintain practising membership in the home governing body.

9. A signatory governing body that has adopted regulatory provisions giving effect to the requirements of clauses 6 and 8 of this Agreement is a reciprocating governing body for the purposes of this Agreement, whether or not the signatory governing body has adopted or given effect to the NMA or any provision of the NMA.

Liability Insurance

10. A governing body will continue to make available to its members who are also Advisors in another jurisdiction ongoing liability insurance as required in the governing body's jurisdiction that provides occurrence or claim limits for indemnity of \$1,000,000 and \$2,000,000 annual per member aggregate.
11. If a member of more than one governing body becomes an Advisor member of a third governing body, the governing body that makes ongoing liability insurance available to the member at the time or did so most recently, will continue to do so or resume doing so, whether or not the member continues to be a resident of that jurisdiction.
12. On application, a signatory governing body will exempt an Advisor member from liability insurance requirements if the Advisor maintains, in another signatory jurisdiction, ongoing liability insurance that provides occurrence or claim limits for indemnity of \$1,000,000 and \$2,000,000 annual per member aggregate.

Transition Provisions

13. 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.
14. This Agreement is intended to implement clauses 39 and 40 of the NMA. It does not affect the obligations of any party under others provision of the NMA or other agreements in effect.
15. Provisions governing temporary and permanent mobility in effect at the time that a governing body becomes a signatory to this agreement will continue in effect
 - (a) until this Agreement is implemented, and
 - (b) when this Agreement is implemented, except to the extent modified by this Agreement.

Dispute Resolution

- 16.** Signatory governing bodies adopt and agree to apply provisions in the Inter-Jurisdictional Practice protocol in respect of arbitration of disputes, specifically Clause 13 and Appendix 5 of the Protocol.

Withdrawal

- 17.** A signatory governing body may cease to be bound by this agreement by giving each other signatory governing body written notice of at least one clear calendar year.
- 18.** A signatory governing body that gives notice under clause 17 will immediately notify its members in writing of the effective date of withdrawal.



SIGNED on the 19th day of March 2010.

Law Society of British Columbia

Per: *[Signature]*
Authorized Signatory

Law Society of Alberta

Per: *[Signature]*
Authorized Signatory

Law Society of Saskatchewan

Per: *[Signature]*
Authorized Signatory

Law Society of Manitoba

Per: *[Signature]*
Authorized Signatory

Law Society of Upper Canada

Per: *[Signature]*
Authorized Signatory

Barreau du Québec

Per: *[Signature]*
Authorized Signatory

Law Society of New Brunswick

Per: *[Signature]*
Authorized Signatory

Nova Scotia Barristers' Society

Per: *[Signature]*
Authorized Signatory

Law Society of Prince Edward Island

Per: *[Signature]*
Authorized Signatory

Law Society of Newfoundland and Labrador

Per: *[Signature]*
Authorized Signatory

Law Society of Yukon

Per: *[Signature]*
Authorized Signatory

Law Society of the Northwest Territories

Per: *[Signature]*
Authorized Signatory

Law Society of Nunavut

Per: *[Signature]*
Authorized Signatory

