

Application for Restricted Appearance Certificate

Enclosed in the application package you will find the necessary forms and information needed to apply for a restricted membership in the Law Society of Nunavut:

1. Application for Restricted Appearance Certificate (Form M)
2. Accountant's Report (Form E)
3. Statutory Declaration, re: Trust Funds (Form F)
4. Insurance Exemption Certificate and Undertaking
5. Authorization Document

Please note the following explanations and stipulations so that your application will meet the requirements of the *Legal Profession Act* and the Rules of our Law Society:

- 1) Persons giving the letters of good character should state:
 - which Law Society(s) in Canada they belong to and **that they are in good standing in that Society(s)**;
 - the capacity in which they know the applicant;
 - how long they have known the applicant;
 - why they are of the opinion that the applicant is of good character;
 - a telephone number at which they can be reached, if necessary.

One of these letters of good character should not be from a partner or associate.

- 2) The Certificate(s) of Good Standing should be in the form prescribed by each Law Society of which you are currently a member and **must not be dated earlier than thirty days prior to our receiving your application in our office**. Please direct the Law Societies concerned to send these certificates directly to this office. I suggest you have a copy faxed to yourself, as well, as you will be asked to address any issues of concern. **If your status changes between our receiving your Certificate(s) of Good Standing and your entitlement, you must inform this office.**
- 3) **EITHER** the Accountant's Report **OR** the Statutory Declaration with respect to trust funds is required. Please note that for the purposes of the Statutory Declaration, you are applying for membership in this Society, albeit a restricted one.
- 4) If you cannot pick **EITHER** 1 or 2, without any alterations, on the Insurance Exemption Certificate, you may be required to enroll in our Society's liability insurance program. A current quotation of the premium cost will be provided if necessary. As with the Statutory Declaration, for the purposes of this form, you are, indeed, applying for membership in this Society, albeit a restricted one.

5) In completing section 4 of the Application, we require full particulars, including the name of the client(s) on whose behalf you wish to act and, if applicable, the court number and style of cause. You will be entitled to appear on that matter only.

6) Applicable fees.

A person granted a Restricted Appearance Certificate is entitled to act for up to one year from the date of admission to the Society as a restricted member. Prior to expiration, an extension may be granted for a further year if the restricted member makes an application and provides the Law Society with an updated Certificate of Good Standing from his/her home province, proof of insurance and payment of the fee prescribed for the renewal of a Restricted Appearance Certificate. If the Certificate is granted for a number of matters and a specific time period, as in a criminal court circuit, the Certificate will expire the day after the stated period has ended.

Applicants should be aware that the Rules of the Law Society of Nunavut provide that: 51. (1) In determining whether an applicant, under section 39, 40, 48 or 49, is of good character, the Executive is not bound by the letters of character provided by the applicant but may make such inquiries and hold such hearings as it deems necessary or desirable under the circumstances.

Persons providing letters of good character should be prepared to be contacted with respect to their letter, if the need arises. Further, in the event the Executive receives information adverse to your character, you will be informed of the information and given a reasonable opportunity to respond.

RESTRICTED APPEARANCE CERTIFICATE

49. (1) A person who has been duly called to the bar of a province or territory or has been admitted to practice as an attorney, advocate, barrister or solicitor in the superior courts of a province or territory may apply to the Executive for a restricted appearance certificate to appear or to act as an active member on a single matter or for a number of matters over a limited period of time.

- (2) An applicant under subsection (1) shall furnish to the Secretary
- (a) an application in Form M;
 - (b) two letters of good character from members in good standing of a provincial or territorial law society or comparable body of which the applicant is a member or from judges of a provincial, territorial or superior court of the jurisdiction of the law society or body of which the applicant is a member;
 - (c) a certificate from each provincial or territorial law society or comparable body of which the applicant is a member dated not earlier than 30 days prior to the presentation of the application showing
 - (i) that the applicant is in good standing,
 - (ii) the period of time during which the applicant has been listed as an active member of the society or body,
 - (iii) whether disciplinary proceedings are pending against the applicant, and
 - (iv) the nature and disposition of any disciplinary action that has been taken against the applicant;
 - (d) an Accountants Report in Form E or a Statutory Declaration in Form F;
 - (e) payment of the insurance levy or, where the applicant is exempt under subsection 93(4), proof that the applicant is
 - (i) covered by errors and omissions insurance in the province or territory in which the applicant is an active member and that coverage under such policy extends to cover the applicant in respect of the matter or matters on which he or she intends to act or appear in the Territories, or
 - (ii) exempt under paragraph 93(4)(b);
 - (f) payment of the assurance fund levy;
 - (g) payment of the application and admission fees set out in Schedule A; and
 - (h) if required by the Executive, proof that the applicant has passed such bar admission examinations as may be established under section 38. [(e) amended, R-115-94]

(3) On the recommendation of the Secretary, or on the recommendation of the Admissions Committee in respect of an application referred to the Admissions Committee, the Executive may, if it considers that the nature or circumstances of the matter or matters warrant, grant a restricted appearance certificate to the applicant to act or appear as an active member in the matter or matters in respect of which the applicant has applied to act or appear. [amended, R-127-95]

(4) A member granted a restricted appearance certificate ceases to be entitled to appear or act as an active member on the conclusion of the matter or matters in respect of which the applicant has applied to act or appear or, unless the certificate is renewed in accordance with subsection (5), on the anniversary of the day the certificate was granted, whichever first occurs.

(5) Prior to each anniversary of the day a restricted appearance certificate was granted, a member granted a restricted appearance certificate wishing to renew the certificate shall furnish to the Secretary

- (a) a current certificate in the form required by paragraph (2)(c)
- (b) payment of the renewal fee set out in Schedule A;
- (c) payment of the assurance fund levy; and
- (d) payment of the insurance levy or, where the member is exempt under subsection 93(4), proof that the member is
 - (i) covered by errors and omissions insurance required by paragraph (2)(e), or
 - (ii) exempt under paragraph 93(4)(b). [(d) amended, R-115-94]

Legal Profession Act

Part VI

ACCOUNTS, AUDITS AND FINANCIAL INSPECTIONS

Client's funds

- 44.** (1) Every member who holds or receives money on account of a client shall maintain in a bank, treasury branch, trust company or credit union, an account that shall be designated both in the books of the member and in the records of the bank as a clients' trust account.

Cheques

- (2) Every cheque drawn on a clients' trust account shall be clearly marked as such.

BOOKS OF ACCOUNTS REQUIRED TO BE MAINTAINED

81. (1) Unless otherwise authorized by the Executive, a member shall maintain the books of account described in sections 81.2 and 81.3 in order to record all money received and disbursed in connection with the law practice. [amended, R-012-96; amended R-158-98]

81.1 (1) A member's books of account must be maintained in

- (a) legibly handwritten form, in ink or other duplicated or permanent form;
- (b) printed form; or
- (c) an electronic form that can readily be transferred to printed form on demand.

[amended, R-158-98]

(2) The transactions recorded in a member's books of account must be in chronological order and in a form that is easily traceable. [amended, R-158-98]

81.2 A member shall maintain at least the following trust books of account:

- (a) a trust cash book or synoptic showing,
 - (i) for all trust money received for each client, the date of receipt, the source of the money and the identity of the client on whose behalf the trust money is received,
 - (ii) for all money disbursed out of trust for each client, the cheque or voucher number, the date of each disbursement, the name of each recipient and the identity of the client on whose behalf the trust money is disbursed;
- (b) a trust ledger showing separately for each client on whose behalf trust money has been received, all such money received and disbursed and the unexpended balance;
- (c) a record
 - (i) showing each transfer of money between clients' trust ledgers,
 - (ii) containing an explanation of the purpose for which each transfer is made, and
 - (iii) containing the member's written approval of the transfer;
- (d) monthly trust reconciliations required to be prepared under section 81.7, and any detailed listings, documents, banking documents and vouchers prepared in support of the reconciliations;
- (e) file copies of all billings for fees charged or other billings made to clients, which copies
 - (i) show the dates such charges are made,
 - (ii) identify the clients charged, and
 - (iii) are filed in chronological, alphabetical or numerical order;
- (f) copies of bank validated duplicate deposit slips for all deposits made;
- (g) all supporting vouchers and documents including monthly bank statements, pass books, cancelled cheques, bank vouchers and similar documents and invoices.

[amended, R-158-98]

81.3 (1) A member shall maintain, at a minimum, the following non-trust books of account:

- (a) a non-trust cash book or synoptic showing,
 - (i) for all non-trust money received relating to the law practice, the date of receipt and the source of the money, and
 - (ii) for all non-trust money disbursed, the cheque or voucher number, the date of each disbursement and the name of each recipient;
- (b) an accounts receivable ledger or other suitable system to record, for each client, the member/client position on all non-trust transaction with respect to which a bill has been delivered or a disbursement made, and including
 - (i) a record of all transfers from a trust account,
 - (ii) any other receipts from or on behalf of the client, and
 - (iii) the balance, if any, owed by the client;
- (c) file copies of all billings for fees charged or other billings made to clients, which copies
 - (i) show the dates such charges are made,
 - (ii) identify the clients charged, and
 - (iii) are filed in chronological, alphabetical or numerical order;
- (d) copies of bank validated duplicate deposit slips for all deposits made;
- (e) all supporting vouchers and documents, including monthly bank statements, pass

books, cancelled cheques, bank vouchers and similar documents and invoices.
[amended, R-158-98]

(2) The information required to be recorded on the accounts receivable ledger referred to in paragraph (1)(b) may be recorded on the trust ledger referred to in paragraph 81.2(b) if the entries are clearly identified and are not combined with trust account information.
[amended, R-15-98]

81.4 (1) A member shall record each trust transaction promptly and, in any event, not more than seven days after the transaction. [amended, R-158-98]

(2) A member shall record each non-trust transaction promptly and, in any event, not more than 30 days after the transaction. [amended, R-158-98]

81.5 (1) A member shall add and balance each trust cash book at least monthly and, in any event, not more than 21 days after the effective date of the trust reconciliation prepared pursuant to section 81.7. [amended, R-158-98]

(2) A member shall add and balance each non-trust cash book at least monthly and, in any event, not more than 30 days after the end of the month in which the transaction was required to be recorded. [amended, R-158-98]

81.6 The books of account of a member must show current transactions for the six previous years as determined by the member's fiscal year end. [amended, R-158-98]

MONTHLY TRUST RECONCILIATION

81.7 (1) A member shall prepare a monthly trust reconciliation of the total of all unexpended balances of trust money held for clients as they appear in the trust ledger, with the total of balances held in the trust account or accounts, together with the reasons for any differences between the totals and supported by the following:

- (a) detailed monthly listing showing the unexpended balance of trust money held for each client, and identifying each client for whom trust money is held;
- (b) a detailed monthly bank reconciliation for each trust account held for more than one client;
- (c) a listing of balances of each separate trust account, identifying the client for whom each account is held;
- (d) a listing of balances of trust money received pursuant to paragraph 88(a)

[amended, R-158-98]

(2) The member shall retain the detailed listings described in paragraphs (1)(a) to (d) as records supporting the monthly trust reconciliations. [amended, R-158-98]

(3) The member shall prepare the monthly trust reconciliation required by subsection (1) not more than 30 days after the effective date of the reconciliation. [amended, R-158-98]

81.8 Where there is a shortage in a client's trust fund that is not rectified within five days after the shortage has come to the member's attention, the member shall, without delay, report the shortage and the circumstances surrounding it to the Secretary in writing. [amended, R-158-98]

81.9 A member who discovers that he or she is or will be unable to deliver up when due any trust money held by the member shall, without delay, report that fact and the reasons for it to the secretary in writing. [amended, R-159-98]