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3) Canadian Legal Advisor (CLA)

The Canadian Legal Advisor (“CLA”) Certificate is for lawyers with a Bachelor of Civil Law. Similar to full membership, the CLA designation entitles civil law lawyers to practice law in the Territory, but CLA lawyers are restricted to giving legal advice and doing legal work on:

- a) the law of Quebec,
- b) matters under federal jurisdiction, and
- c) matters involving public international law.

Canadian Legal Advisors are subject to specific rules with respect to marketing of services (see Rule 39.8 of the *Rules of the Law Society of Nunavut*).

Combined applications

There is a Combined RAC and Regular Membership option, which is appropriate for a lawyer who urgently requires the entitlement to practice law in the Territory. In this situation, a lawyer would be issued an RAC in the interim while their application for regular membership is being reviewed – the only additional cost is the \$200 application fee.

The CLA Certificate may also be combined with a RAC for the purposes of expediting the application process in urgent matters. The RAC may be issued while the Membership Approval Committee reviews the applicant’s eligibility for the CLA Certificate for the additional \$200 application fee.

Practical Information for sending an application

When submitting applications to the Law Society of Nunavut, the most efficient and reliable method for sending documents to the office is through Canada Post through the regular, express, or registered mail service. The Law Society also accepts scanned application packages to administrator@lawsociety.nu.ca for initial processing while the original copies are sent by mail.

If you have any questions, please do not hesitate to contact the Law Society of Nunavut at (867) 979-2330 or by email to administrator@lawsociety.nu.ca.

Application Checklist

Please submit:

- Law Society of Nunavut Membership Application (Form D);
- Certificates from each provincial or territorial law society or comparable body where the applicant is a member, stating:
 - (i) that the applicant is in good standing;
 - (ii) the period of time during which the applicant has been listed as an active member;
 - (iii) whether disciplinary proceedings are pending against the applicant;
 - (iv) the nature and disposition of any disciplinary action that has been taken against the applicant.
- The Certificate must not be dated earlier than 30 days before the application package is received by the Law Society of Nunavut. If there is a change in the applicant’s status

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between the time the Certificate of Standing is received and the applicant's Entitlement, the Law Society of Nunavut must be informed.

- Originals of all Certificates of Standing must be received by the Law Society of Nunavut.
- Copies of the Certificates of Standing may be scanned or faxed. This allows the Law Society of Nunavut to start processing the application before the original arrives by mail.
- Two Letters of Good Character written and submitted by a judge or a lawyer, one of which should NOT be from a partner or associate who currently works with the applicant; *See Letter of Good Character Form.*
- Optional: Insurance Exemption Certificate and Undertaking;
 - This is effectively an "opt-out" form for the Law Society of Nunavut's Professional Liability (errors & omissions) insurance plan where an applicant does not require the coverage, typically:
 - Government Lawyers DO NOT require the Law Society of Nunavut's coverage as they do not provide legal services to the public;
 - Lawyers with Nunavut's Legal Services Board DO require the Law Society of Nunavut's coverage;
 - Out-of-province private practitioners who are covered under the insurance plan of their home province or territory DO NOT require the Law Society of Nunavut's coverage;
 - Private practitioners who primarily provide legal services to the public in Nunavut DO require the Law Society of Nunavut's insurance coverage;
 - In-house lawyers for a single employer who do NOT provide legal services to the public in Nunavut DO NOT require the Law Society of Nunavut's coverage;
 - **ALWAYS** check with your employer or the Law Society to find out if you are covered by the required insurance plans.
 - If no form is submitted, it is assumed that the applicant DOES need the Law Society of Nunavut's coverage and an invoice for the insurance levy will be sent.
- Prepare EITHER:
 - i) Accountants' Report (Form E);
 - ii) Statutory Declaration: Trust Accounts (Form F); If you submit the Statutory Declaration, you must pay the Trust Account Levy.
- **Total payment (including GST)** of prescribed assurance levy, and application/admission fees based on Schedule A : http://lawsociety.nu.ca/wp-content/uploads/2013/07/Fee-Schedule-Summary_-Amended-Dec-10-2014.pdf

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- (e) if applicable, 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 referred to in paragraph 93(4)(a), or
 - (ii) exempt under paragraph 93(4)(b);
- (f) if applicable, payment of the assurance fund levy; and
- (g) payment of the application, admission and annual fees set out in Schedule A.

(2) Subject to subsection (3), an applicant shall pass such bar admission examinations as may be established under section 38.

(3) An applicant may petition the Executive to waive the requirement for the taking of any bar admission examination.

INTER-JURISDICTIONAL PRACTICE

Definitions

39.1 In rules 39.2 through 39.3, unless the context indicates otherwise,

"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;

"governing body" means the Law Society or Barristers' Society in a Canadian common law jurisdiction, and the Barreau du Québec;

"lawyer" means a member of a governing body;

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

"reciprocating governing body" means a governing body that has

- (a) signed the Territorial Mobility Agreement, and
- (b) adopted regulatory provisions giving effect to the requirements of the Territorial Mobility Agreement;

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

"Territorial Mobility Agreement" means the 2006 Territorial Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time.

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Application and Interpretation

39.2 Rules 39.1 through 39.3 are intended to implement the provisions of the Territorial Mobility Agreement and cease to have effect on the expiry of that Agreement.

TRANSFER UNDER TERRITORIAL MOBILITY AGREEMENT

39.3 (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 a reciprocating governing body of which the applicant is a member.

(2) An applicant under this Rule must fulfil all of the requirements in Rule 39 for call and admission on transfer from another Canadian jurisdiction and shall furnish to the Secretary

- (a) an application in Form D;
- (b) two letters of good character from members in good standing of a provincial or territorial law society or a 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 stating
 - (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 or a statement indicating that the applicant is joining a partnership that, or is becoming associated with a member who, has filed a Certificate of Accountant and Member in Form V;
- (e) if applicable, 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 referred to in paragraph 93(4)(a), or
 - (ii) exempt under paragraph 93(4)(b);
- (f) if applicable, payment of the assurance fund levy; and
- (g) payment of the application, admission and annual fees set out in Schedule A, except that he or she need not pass any bar admission examination.

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(3) To qualify for call and admission, an applicant under this Rule must certify in a prescribed form that he or she has reviewed and understands all of the materials reasonably required by the Executive.

(4) A lawyer called and admitted under this Rule has no greater rights as a member of the Society than

(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.

[39.1 to 39.3 passed 2007 05 05]

[39.3(2) amended 2009 05 02]

39.4 Quebec Mobility Agreement” means the 2010 Quebec Mobility Agreement of the Federation of Law Societies of Canada, as amended from time to time.

Application and Interpretation

39.5 Rules 39.4 through 39.7 are intended to implement the provisions of the 2010 Quebec Mobility Agreement and cease to have effect on the expiry of that Agreement.

CANADIAN LEGAL ADVISORS

39.6 (1) A Canadian legal advisor may

(a) give legal advice on

(i) the law of Quebec and matters involving the law of Quebec,

(ii) matters under federal jurisdiction, or

(iii) matters involving public international law,

(b) draw, revise or settle a document for use in a proceeding concerning matters under federal jurisdiction, or

(c) appear as counsel or advocate before any tribunal with respect to matter under federal jurisdiction.

(2) A Canadian legal advisor must not engage in the practice of law except as permitted under subrule (1).

(3) A member of the Society in good standing who is admitted as a Canadian legal advisor has all the duties and responsibilities of a practising lawyer under the Act, these Rules, the Canadian Bar Association Professional Conduct Handbook or any other rules of professional conduct adopted by the Society.

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(4) A Canadian legal advisor must

- (a) be a member in good standing of the Barreau du Québec or the Chambre des notaires du Québec authorized to practise law in that Province,
- (b) undertake to comply with subrule (2), and
- (c) immediately notify the Secretary in writing if he or she ceases to be authorized to practise law in Quebec.

Canadian Legal Advisor Certificate

- 39.7** (1) Subject to subrules (3) and (4), a person who has been duly called to the Barreau du Québec or the Chambre des notaires du Québec may apply to the Secretary for a Canadian legal advisor certificate to appear or to act as a Canadian legal advisor.
- (2) An applicant under this Rule must fulfil all of the requirements in Rule 39 for call and admission on transfer from another Canadian jurisdiction and shall furnish to the Secretary
- (a) an application in Form D;
 - (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 the Barreau du Québec or the Chambre des notaires du Québec and 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 stating
 - (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 Nunavut, 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

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(h) if required by the Executive, proof that the applicant has passed such bar admission examinations as may be established under section 38; and

(i) an undertaking to comply with subsection 39.6 (1).

(3) This Rule does not apply to a member of the Barreau du Québec or the Chambre des notaires du Québec unless he or she has earned a bachelor's degree in civil law in Canada or a foreign degree and a certificate of equivalency from the Barreau or the Chambre.

(4) A lawyer called and admitted under this Rule has no greater rights as a member of the Society than

(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.

Marketing of legal services

39.8 A Canadian Legal Advisor, when engaging in advertising or any other form of marketing activity in Nunavut:

(1) Shall use the term "Canadian Legal Advisor",

(2) Shall state that he or she is only qualified to provide legal advice on matters dealing with public international law, the laws of Quebec, and matters under federal jurisdiction, and

(3) Shall not use any designation or make any representation from which a recipient might reasonably conclude that the consultant is a regular unrestricted member of the Society or in any way qualified to practice in Nunavut except as a Canadian Legal Advisor.

[39.4 to 39.8 enacted 2011 04 31]

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 D;

(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

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- (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 Nunavut, 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.

[49 (2)(e)(i) amended, 2004 03 13]

[49 (2)(a) amended, 2011 04 11]

(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.

(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

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(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).

LEGAL PROFESSION ACT

PART VI

ACCOUNTS, AUDITS AND FINANCIAL INSPECTIONS

Clients' 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. 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.

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.

(2) The transactions recorded in a member's books of account must be in chronological order and in a form that is easily traceable.

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;

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- (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.

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 transactions 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.

(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.

81.4. (1) A member shall record each trust transaction promptly and, in any event, not more than seven days after the transaction.

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

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.

(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.

81.6. The books of account of a member must show current transactions and the transactions for the six previous years as determined by the member's fiscal year end.

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) 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).

(2) The member shall retain the detailed listings described in paragraphs (1)(a) to (d) as records supporting the monthly trust reconciliations.

(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.

81.8. Where there is a shortage in a clients' 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.

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.