

*Federation of Law Societies
of Canada*



*Fédération des ordres professionnels
de juristes du Canada*

Territorial Mobility Agreement 2013

Signed April 3, 2014



April 2014

Introduction

The purpose of this Agreement is to extend the scope of the National Mobility Agreement 2013 (“NMA 2013”) 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, including those differences between common law and civil law jurisdictions in Canada, and lawyers have a professional responsibility to ensure that they are competent with respect to any matter that they undertake, 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 (“NMA”) by all provincial law societies other than the *Chambre des notaires du Québec* (“Chambre”).

The resolution adopted by the Federation in approving the report of the Task Force 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.”

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In 2006 all law societies other than the Chambre signed the Territorial Mobility Agreement (“TMA”). To recognize the unique circumstances of the territorial law societies, the agreement provided for reciprocal permanent mobility between the law societies of the provinces and the territories, without requiring the territorial law societies to participate in the temporary mobility provisions of the NMA. The original term of the TMA was five years. In 2011 the agreement was renewed without a termination date.

In March 2010, all Canadian law societies except the Chambre signed the Quebec Mobility Agreement (“QMA”), facilitating reciprocal mobility between Quebec and the common law jurisdictions. The mobility provisions set out in the QMA were extended to members of the Chambre in March 2012 with the signing by all law societies of the Addendum to the QMA.

The signatories to the NMA and the Chambre have now approved a revised agreement that extends the permanent mobility provisions of the NMA to mobility to and from the Barreau du Québec and incorporates the mobility provisions of the QMA and the Addendum to the QMA applicable to the Chambre. The “NMA 2013” was executed in October 2013.

This Agreement has been amended to ensure that references to the relevant clauses of the NMA 2013 are accurate.

The signatories to this Agreement who are not signatories to the NMA 2013 do not hereby subscribe to the provisions of the NMA 2013, except as expressly stated in this Agreement.



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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;

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

“National Mobility Agreement 2013” or **“NMA 2013”** means the National Mobility Agreement 2013 of the Federation of Law Societies of Canada, as amended from time to time;

“permanent mobility provisions” means clauses 33 to 40, and 43 to 50 of the NMA 2013;

“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 18 of the NMA 2013.

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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
 - (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 NMA 2013 agree to extend the application of the permanent mobility provisions of the NMA 2013 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 NMA 2013.
8. A signatory that has adopted regulatory provisions giving effect to the permanent mobility requirements of the NMA 2013 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.

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SIGNED on the 3rd day of April, 2014

Law Society of British Columbia

Per:  _____
Authorized Signatory

Law Society of Alberta

Per:  _____
Authorized Signatory


Law Society of Saskatchewan

Per:  _____
Authorized Signatory

Law Society of Manitoba

Per:  _____
Authorized Signatory

Law Society of Upper Canada

Per:  _____
Authorized Signatory

Barreau du Québec

Per:  _____
Authorized Signatory

Chambre de notaires du Québec

Per:  _____
Authorized Signatory

Law Society of New Brunswick

Per:  _____
Authorized Signatory

Nova Scotia Barristers' Society

Per:  _____
Authorized Signatory

Law Society of Prince Edward Island

Per:  _____
Authorized Signatory

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Law Society of Newfoundland and Labrador

Per: George L. Murphy
Authorized Signatory

Law Society of Yukon

Per: Susan D. Smith
Authorized Signatory

Law Society of The Northwest Territories

Per: Karen Alliford
Authorized Signatory

Law Society of Nunavut

Per: Mark Morsey
Authorized Signatory

Federation of Law Societies of Canada

Per: Marie-Claude Blais-Beaud
Authorized Signatory