



# Territorial Mobility Agreement

**Federation of Law Societies of Canada**

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## **Territorial Mobility Agreement**

# **FEDERATION OF LAW SOCIETIES OF CANADA**

May, 2006  
Charlottetown, Prince Edward Island

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

The resolution that the Federation adopted 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.”

Eight law societies signed the National Mobility Agreement (“NMA”) on December 9, 2002. Since that time, seven law societies have fully implemented the NMA. None of the law societies of Yukon, the Northwest Territories and Nunavut were among the law societies signing or implementing the NMA.

## Territorial Mobility Agreement

### Territorial Mobility Agreement

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, and the Task Force has approved the proposal. This Agreement is intended to give effect to the proposal of the Group as approved by the Task Force.

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 at this time, given their current 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 agree that this arrangement may subsist for a period of up to five years. This period will allow the territorial law societies to evaluate their ability to become signatories to the NMA. On January 1, 2012 this Agreement will expire and the signatories will be under no further obligation and have no further rights under this Agreement.

During the subsistence of this Agreement, the Group will continue to assist in facilitating the implementation of this Agreement and consideration of full participation of the territorial law societies in the NMA.

The signatories to this Agreement who are not signatories to the NMA do not hereby subscribe to the provisions of the NMA, except as expressly stated in this Agreement and only for the period of time specified 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
  - (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.

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### **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:
  - (a) with respect to all Canadian lawyers until this agreement is implemented; and
  - (b) with respect to members of Canadian law societies that are not signatories to this agreement.

### **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.

### **Termination and Withdrawal**

12. This Agreement will terminate and cease to be effective at 12:01 a.m. Newfoundland Standard Time on January 1, 2012.
13. A signatory may cease to be bound by this Agreement by giving each other signatory written notice of at least one clear calendar year.
14. A signatory that gives notice under clause 13 will immediately notify its members in writing of the effective date of withdrawal.

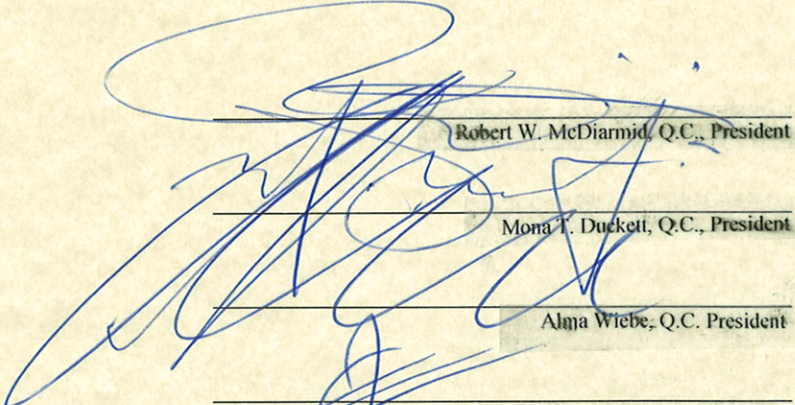


# Territorial Mobility Agreement



## Signatures

LAW SOCIETY OF BRITISH COLUMBIA

  
Robert W. McDiarmid, Q.C., President

LAW SOCIETY OF ALBERTA

Mona T. Duckett, Q.C., President

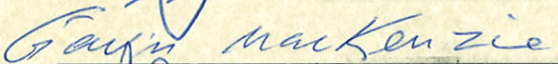
LAW SOCIETY OF SASKATCHEWAN

Alma Wiebe, Q.C. President

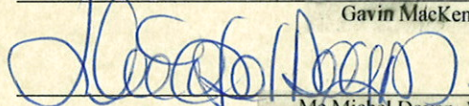
LAW SOCIETY OF MANITOBA

Jon van der Krabben, President

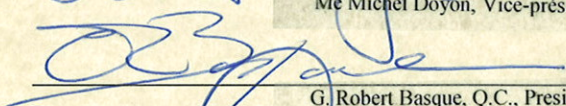
LAW SOCIETY OF UPPER CANADA

  
Gavin MacKenzie, Treasurer


BARREAU DU QUÉBEC

  
Me Michel Doyon, Vice-président

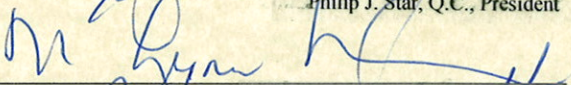
LAW SOCIETY OF NEW BRUNSWICK

  
G. Robert Basque, Q.C., President

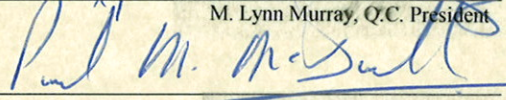
NOVA SCOTIA BARRISTERS' SOCIETY

  
Philip J. Star, Q.C., President

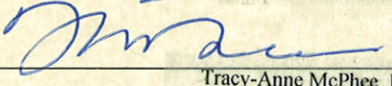
LAW SOCIETY OF PRINCE EDWARD ISLAND

  
M. Lynn Murray, Q.C. President

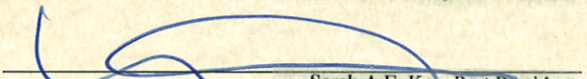
LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

  
Paul M. McDonald, President

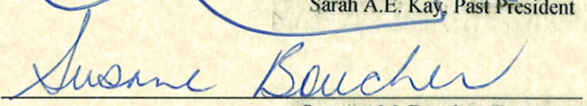
LAW SOCIETY OF YUKON

  
Tracy-Anne McPhee, Past President

LAW SOCIETY OF THE NORTHWEST TERRITORIES

  
Sarah A.E. Kay, Past President

LAW SOCIETY OF NUNAVUT

  
Suzanne M. Boucher, Treasurer

DATED:

November 3, 2006.