

BY-LAW 14

Made: May 1, 2007
Amended: June 28, 2007
April 30, 2009
May 21, 2009 (editorial changes)
September 29, 2010
October 28, 2010

FOREIGN LEGAL CONSULTANTS

INTERPRETATION

Definitions

1. In this by-law,

“foreign jurisdiction” means a jurisdiction outside Canada;

“foreign legal consultant” means a person who holds a valid permit authorizing the person to give legal advice in Ontario respecting the law of a foreign jurisdiction;

“licensee” means a person licensed to practise law in Ontario as a barrister and solicitor.

PROHIBITION

Prohibition against giving foreign legal advice

2. No person shall give legal advice in Ontario respecting the law of a foreign jurisdiction except in accordance with this By-Law.

Insurance coverage

3. No person shall give legal advice in Ontario respecting the law of a foreign jurisdiction under this By-Law unless the person has professional liability insurance for the giving of legal advice in Ontario respecting the law of the foreign jurisdiction which is at least equivalent to that required of a licensee who holds a Class L1 licence for the licensee’s practice of law in Ontario.

PERMIT

Application

4. (1) This section applies to a person if the foreign jurisdiction in respect of the law of which the person wishes to give legal advice in Ontario has provisions respecting the giving of legal advice by a licensee in that jurisdiction respecting the law of Ontario or Canada that are reasonably comparable to the provisions contained in this section.

Persons authorized to give foreign legal advice

(2) A person other than a licensee may give legal advice in Ontario respecting the law of a foreign jurisdiction if the person meets the following conditions:

1. The person is authorized to practise law in the foreign jurisdiction.
2. The person is not the subject of any order made against him or her by a tribunal of any governing body of the legal profession in the foreign jurisdiction in which the person is authorized to practise law.
3. The person has no terms, conditions, limitations or restrictions imposed on the person's authorization to practise law in the foreign jurisdiction.
4. The person is of good character.
5. For a period totalling at least three years within the five-year period immediately before the person applies for a permit authorizing the person to give legal advice in Ontario respecting the law of a foreign jurisdiction, the person was lawfully engaged in the practice of law in the foreign jurisdiction.

Same

(3) A person other than a licensee may, under the direct supervision of a person qualified under subsection (2) or (4) to give legal advice in Ontario respecting the law of a foreign jurisdiction, give legal advice in Ontario respecting the law of the same foreign jurisdiction if the person meets the following conditions:

1. The person is authorized to practise law in the foreign jurisdiction.
2. The person is not the subject of any order made against him or her by a tribunal of any governing body of the legal profession in the foreign jurisdiction in which the person is authorized to practise law.
3. The person has no terms, conditions, limitations or restrictions imposed on the person's authorization to practise law in the foreign jurisdiction.
4. The person is of good character.
5. For any period of time within the five-year period immediately before the person applies for a permit authorizing the person to give legal advice in Ontario

respecting the law of a foreign jurisdiction, the person was lawfully engaged in the practice of law in the foreign jurisdiction.

Licensees authorized to give foreign legal advice

(4) A licensee may give legal advice in Ontario respecting the law of a foreign jurisdiction if the licensee meets the following conditions:

1. The licensee is authorized to practise law in the foreign jurisdiction.
2. The licensee is not the subject of any order made against him or her by a tribunal of any governing body of the legal profession in the foreign jurisdiction in which the licensee is authorized to practise law.
3. The licensee has no terms, conditions, limitations or restrictions imposed on the licensee's authorization to practise law in the foreign jurisdiction.

Application to Society

5. (1) A person, including a licensee, who wishes to give legal advice in Ontario respecting the law of a foreign jurisdiction shall apply in writing to the Society for a permit authorizing the person to give legal advice in Ontario respecting the law of a foreign jurisdiction.

Application fee

(2) Every application under subsection (1) shall be accompanied by an application fee.

Documents, explanations, releases, etc.

(3) For the purposes of assisting the Society to consider an application under subsection (1), the applicant shall provide,

- (a) to the Society such documents and explanations as may be required; and
- (b) to a person named by the Society, such releases, directions and consent as may be required to permit the person to make available to the Society such information as may be required.

Application to be considered by Society

(4) Every application under subsection (1), in respect of which the application fee required under subsection (2) has been paid, shall be considered by the Society, and,

- (a) if the Society is satisfied that the conditions set out in subsection 4 (2), (3) or (4), as the case may be, are met, the Society shall notify the applicant in writing that, upon payment of the permit fee, he or she will be issued a permit; or
- (b) if the Society is not satisfied that the conditions set out in subsection 4 (2), (3) or (4), as the case may be, are met, the Society shall notify the applicant in writing that his or her application for a permit has been rejected.

Application to committee of benchers

(5) If the Society rejects the application of a person, the person may apply to a committee of benchers appointed for the purpose by Convocation for a reconsideration of his or her application.

Time for application

(6) An application under subsection (5) shall be commenced by the person notifying the Society in writing of the application within thirty days after the day the person receives notice of the Society's rejection of the person's initial application.

Parties

(7) The parties to an application under subsection (5) are the applicant and the Society.

Quorum

(8) An application under subsection (5) shall be considered and determined by at least three members of the committee of benchers.

Procedure

(9) The rules of practice and procedure apply, with necessary modifications, to the consideration by the committee of benchers of an application under subsection (5) as if the consideration of the application were the hearing of an application for a licence under section 27 of the Act.

Same

(10) Where the rules of practice and procedure are silent with respect to a matter of procedure, the *Statutory Powers Procedure Act* applies to the consideration by the committee of benchers of an application under subsection (5).

Decision on application

(11) After considering an application under subsection (5), the committee of benchers shall,

- (a) if the committee is satisfied that the conditions set out in subsection 4 (2), (3) or (4), as the case may be, are met, direct the Society to notify the applicant in writing that, upon payment of the permit fee, he or she will be issued a permit; or
- (b) if the committee is not satisfied that the conditions set out in subsection 4 (2), (3) or (4), as the case may be, are met, direct the Society to notify the applicant in writing that his or her application for a permit has been rejected.

Decision final

(12) The decision of the committee of benchers on an application under subsection (5) is final.

Conditions

6. (1) A permit issued to a person who qualified for the permit by meeting the conditions set out in subsection 4 (3) is subject to the condition that the person shall only provide legal advice in Ontario respecting the law of a foreign jurisdiction under the direct supervision of a foreign legal consultant who qualified for his or her permit by meeting the conditions set out in subsection 4 (2) or (4).

Same

(2) A permit may include such terms and conditions as the Society or the committee of benchers, as the case may be, considers appropriate.

Validity of permit

7. (1) Subject to its being revoked, a permit is valid for one year after the day on which it comes into effect.

Renewal of permit

(2) Before the expiry of a permit, the permit holder may apply for its renewal and sections 5 and 6 apply, with necessary modifications, to an application for renewal.

Revocation of permit

8. A permit is automatically revoked immediately the permit holder fails to comply with any of the conditions set out in subsection 4 (2), (3) or (4), as the case may be, fails to comply with any condition imposed on the permit, fails to comply with section 3 or fails to comply with section 12.

GENERAL

Application of Act, etc.

9. (1) The Act, the regulations, the by-laws, the rules of practice and procedure and the rules of professional conduct for licensees who hold a Class L1 licence apply, with necessary modifications, to a person who gives legal advice in Ontario respecting the law of a foreign jurisdiction under this By-Law.

Conflict

(2) In the event of a conflict between the provisions of this By-Law and the provisions of any other by-law or any rule of professional conduct, the provisions of this By-Law prevail.

Handling of money and other property

10. A foreign legal consultant shall not in connection with the giving of legal advice in Ontario respecting the law of a foreign jurisdiction receive money or other property in trust for a person or otherwise handle money or other property that is held in trust for a person.

Marketing of Services

11. (1) A foreign legal consultant shall, when advertising or otherwise marketing his or her services as a foreign legal consultant, refer to him or herself as a foreign legal consultant, state the jurisdiction in respect of the law of which he or she is qualified to give legal advice in Ontario and state the professional title applicable to him or her in that jurisdiction.

Same

(2) A foreign legal consultant, other than a foreign legal consultant who is a licensee, shall not, when advertising or otherwise marketing his or her services as a foreign legal consultant, use any designation or make any representation from which a person might reasonably conclude that the foreign legal consultant is a licensee.

Report to Society

12. A foreign legal consultant shall notify the Society immediately the person fails to comply with the continuing legal education requirements of any governing body of the legal profession in the jurisdiction in which the person is authorized to practise law.

Application for licence deemed application for permit

13. If, immediately before the day before this By-Law comes into force, an application for a licence as a foreign legal consultant has not yet been accepted or refused, the application shall be

deemed to become, on the day this By-Law comes into force, an application for a permit as a foreign legal consultant.