

Information

The Law Society
of British Columbia



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Practitioners of Foreign Law

A practitioner of foreign law is defined in the Law Society Rules as "a person qualified to practise law in a country other than Canada or in an internal jurisdiction of that country, who gives legal advice in British Columbia respecting the laws of that country or of the internal jurisdiction in which that person is qualified." See Rule 1 (definitions).

The Law Society regulates practitioners of foreign law in BC to ensure that only qualified persons provide legal services relating to other countries and to minimize the unauthorized practice of law, for protection of the public.

Practitioners of foreign law may offer a defined scope of services and must meet ethical and financial standards in accordance with the *Legal Profession Act*, Law Society Rules and *Code of Professional Conduct for BC*.

This information sheet explains the role of practitioners of foreign law in British Columbia and the necessary requirements for obtaining a permit.

Who may act as a practitioner of foreign law?

A person with foreign legal qualifications who wishes to give legal advice in British Columbia respecting the laws of his or her home jurisdiction must first obtain from the Law Society a permit to act as a practitioner of foreign law: see Law Society Rule 2-30.

A permit is valid for one year from the issue date shown on it, and a practitioner of foreign law may act in that capacity only while the permit remains valid.

A person who, without a valid permit, acts as a practitioner of foreign law or holds himself or herself out as such, is engaged in the unauthorized practice of law and is subject to prosecution or to injunction proceedings by the Law Society.

Practitioners of foreign law are not required to reside in British Columbia and may offer services on a full-time or part-time basis. A foreign lawyer who comes to British Columbia infrequently, or even once, to advise a member of the public about the laws of his or her home jurisdiction must first obtain a permit to act as a practitioner of foreign law.

To be eligible for a practitioner of foreign law permit, you must be a member of the legal profession in one or more foreign jurisdictions: see Rule 2-29. You must have practised the law of such a foreign jurisdiction for at least three of the past five years, or undertake in writing to act as a practitioner of

foreign law in BC only under the direct supervision of a practitioner of foreign law who has practised law in that foreign jurisdiction for at least three of the past five years.

Can a lawyer who is a member of the Law Society of BC act as a practitioner of foreign law?

A lawyer who is a member of the Law Society of BC (other than a retired or non-practising member) and who is also qualified to practise law in a foreign jurisdiction may act as a practitioner of foreign law in British Columbia without obtaining a permit. To do so, the lawyer must hold liability insurance that specifically extends to the lawyer's activities as a practitioner of foreign law in BC and is in a form and amount at least reasonably comparable to that required of lawyers under Rule 3-39(1).

How do I apply for a permit to act as a practitioner of foreign law?

To apply for a permit to act as a practitioner of foreign law in British Columbia, you must submit to the Law Society:

- Application: Practitioner of Foreign Law Permit;
- **two** Certificates of Character (Practitioner of Foreign Law Permit);
- documentary evidence that you are a member of the legal profession in one or more foreign jurisdictions, are not suspended or disbarred and have not otherwise ceased, for disciplinary reasons, to be a member of a governing body or of the legal profession in any foreign jurisdiction;
- documentary evidence that you carry professional liability insurance or a bond, indemnity or other security that is comparable in form and amount to that required of BC lawyers under Law Society Rule 3-39(1), and that specifically extends to services rendered by you while acting as a practitioner of foreign law in British Columbia; and
- the non-refundable permit application fee of \$630 (\$600 plus GST).

If any documentary evidence in support of your application is, in its original form, in a language other than English, you must submit with it an English translation authenticated by a qualified translator.

What evidence do I need to produce of my professional standing in my home jurisdiction?

On applying for a permit to act as a practitioner of foreign law, you must provide evidence that you are a member of the legal profession in one or more foreign jurisdictions, are not suspended or disbarred and have not otherwise ceased, for disciplinary reasons, to be a member of a governing body or of the legal profession in any foreign jurisdiction: see Law Society Rule 2-29(2).

In most cases, an official certificate of good standing issued from the law society or governing legal body of which you are a member will be adequate. The certificate should detail your professional standing history, including any disciplinary proceedings, outstanding complaints or bankruptcy proceedings.

A practitioner of foreign law has a continuing obligation to maintain his or her membership in good standing in the legal profession of any foreign jurisdiction in which the practitioner is licensed to practise law as long as he or she holds a permit to act as a practitioner of foreign law. If the practitioner ceases, for any reason, to be in good standing, the permit automatically ceases to be valid: see Rule 2-29(6).

A practitioner of foreign law who is issued a permit has a continuing obligation to inform the Law Society immediately if he or she is the subject of criminal or professional discipline proceedings or ceases to be a member in good standing of the legal profession in any jurisdiction.

What evidence do I need to produce of my good character?

On applying for a permit to act as a practitioner of foreign law, you must provide evidence that you are a person of good character and repute: see Law Society Rule 2-29(2).

To meet this requirement, you must file two Certificates of Character attesting to your good character and repute. The certificates must be completed by members of the Law Society of BC or of the legal profession in a jurisdiction in which you are qualified to practise law.

What evidence do I need to produce of my professional liability insurance?

As part of your application, you must provide evidence that you carry professional liability insurance or a bond, indemnity or other security that is comparable in form and amount to that required of BC lawyers under Law Society Rule 3-39(1) and that specifically extends to your services as a practitioner of foreign law while acting as such in British Columbia: see Rule 2-29(2).

In British Columbia every member of the Law Society must participate in a compulsory professional liability insurance program. The program provides coverage in the amount of \$1 million per occurrence, to an annual maximum of \$2 million for all errors reported during the year. The coverage extends to any negligent act, error or omission of the member or any other person or entity for whose acts, errors or omissions the member is legally liable in rendering or failing to render professional services for others in his or her capacity as a member of the Law Society.

A practitioner of foreign law has a continuing obligation to maintain professional liability insurance as long as he or she holds a permit to act as a practitioner of foreign law. If the insurance lapses or is cancelled, the permit automatically ceases to be valid: see Rule 2-29(6).

A practitioner of foreign law who is issued a permit has a continuing obligation to inform the Law Society of the cancellation of, or any significant change to that liability insurance coverage.

What else do I need to know about completing the permit application form?

In the permit application, you must undertake that, if permitted to act as a practitioner of foreign law in BC, you will submit to the jurisdiction of the Law Society of BC and will comply with the *Legal Profession Act*, Law Society Rules and *Code of Professional Conduct for BC*.

The permit application includes a "declaration of applicant." The declaration must be made before a person described in s. 63 of the British Columbia *Evidence Act*, R.S.B.C. 1996, c. 124.

Can conditions be attached to a practitioner of foreign law permit?

The Executive Director of the Law Society may attach conditions to a permit to act as a practitioner of foreign law. The conditions must have been authorized by the Credentials Committee: see Law Society Rule 2-29.

How long is a practitioner of foreign law permit valid?

A permit issued to a practitioner of foreign law is, subject to two exceptions, valid for one year from the issue date shown on it: see Law Society Rule 2-29(5).

The permit ceases to be valid if the practitioner of foreign law:

- is suspended under Part 4 of the *Legal Profession Act* and Part 4 of the Law Society Rules (as a result of disciplinary proceedings or a failure to meet standards of financial responsibility or upon conviction for an indictable offence); or
- ceases to comply with any of the requirements imposed under Part 2 of the Law Society Rules.

What services may a practitioner of foreign law offer?

A practitioner of foreign law holding a valid permit may provide legal services in British Columbia respecting the law of the jurisdiction in which he or she is fully licensed to practise law, and respecting trans-jurisdictional or international legal transactions: see Law Society Rule 2-30.

A practitioner of foreign law must not provide advice respecting the law of British Columbia or another Canadian jurisdiction, or deal in any way with funds that would, if accepted, held, transferred or otherwise dealt with by a lawyer, constitute trust funds, except money received on deposit for fees to be earned in the future by the practitioner.

The "practice of law" is defined in section 1 of the *Legal Profession Act*.

In accordance with this definition, a practitioner of foreign law is not permitted to appear as counsel on behalf of a client before any British Columbia or federal court or administrative tribunal, is not permitted to advise a client about the law of British Columbia, and is not permitted to draft, revise or settle documents, or perform any of the other functions described in s. 1 of the Act, insofar as they relate to the practice of British Columbia law.

A practitioner of foreign law who engages in any activity encompassed by the definition of "practice of law" in s. 1 of the Act, other than providing legal services respecting the law of the jurisdiction in which the practitioner is fully licensed to practise, or respecting trans-jurisdictional or international legal transactions, is engaged in the unauthorized practice of law and is liable to prosecution or to injunction proceedings by the Law Society.

Are there requirements for a practitioner of foreign law relating to books, records and accounts?

Yes. A practitioner of foreign law is required to comply with the *Legal Profession Act*, Law Society Rules and *Code of Professional Conduct for BC*.

Part 2 of the Law Society Rules includes requirements that the practitioner of foreign law not deal in any way with funds that would, if accepted, held, transferred or otherwise dealt with by a lawyer, constitute trust funds, except money received on deposit for fees earned in the future by the practitioner of foreign law.

What rules govern marketing activities of a practitioner of foreign law?

A practitioner of foreign law who engages in any marketing activity must comply with Chapter 14 of the *Code of Professional Conduct for BC*. Chapter 14 generally entitles the practitioner to use any medium of communication to undertake or authorize any marketing activity that is factual, accurate and verifiable and that maintains a high standard of professionalism.

Chapter 14 limits the types of representations that may be made, prescribes the circumstances in which a statement of fees for specific legal services may be published, restricts the circumstances in which a "preferred area of practice" may be stated and prevents use of the title "specialist" or any similar designation suggesting a recognized status or accreditation.

Pursuant to Law Society Rule 2-33, a practitioner of foreign law who is not a member of the Law Society of BC must, when engaged in any marketing activity as defined in the *Code of Professional Conduct for BC*, Chapter 14, Rule 2:

- use the term "practitioner of foreign law;"
- state the foreign jurisdiction in which he or she holds professional legal qualifications, and the professional title used in that jurisdiction; and
- not use any designation or make any representation from which a recipient might reasonably conclude that the practitioner is a member of the Law Society of BC.

A practitioner of foreign law who is a member of a British Columbia law firm may be shown on the firm's letterhead if he or she is clearly designated as a practitioner of foreign law.

How do I renew my practitioner of foreign law permit?

You must apply to the Law Society for a renewal of your practitioner of foreign law permit before the permit expires: see Law Society Rule 2-34. The renewal application must include:

- a completed permit renewal application form, including a written consent for release of relevant information to the Society;
- evidence that you continue to comply with the requirements set out in Law Society Rule 2-18(2); and

- the permit renewal fee of \$131.25 (\$125 plus GST).

How can I obtain more information?

If you have any questions regarding a permit to act as a practitioner of foreign law, please contact:

Member Services
Law Society of British Columbia
8th Floor, 845 Cambie Street
Vancouver, BC V6B 4Z9

Tel.: 604.605.5311
Toll-free in BC: 1.800.903.5300
Fax: 604.687.0135
Email: memberinfo@lsbc.org

The information in this package is based on the Law Society Rules as they exist at this time. You must comply with the Rules that are in effect at the time you apply for a permit to act as a practitioner of foreign law and with any changes in the Rules that may occur while you are in the process of applying. If you have any questions about applying for a practitioner of foreign law permit, contact a Member Services Representative at the Law Society of British Columbia.

Law Society Rules

Definitions

- 1 **"practitioner of foreign law"** means a person qualified to practise law in a country other than Canada or in an internal jurisdiction of that country, who gives legal advice in British Columbia respecting the laws of that country or of the internal jurisdiction in which that person is qualified;

Practitioners of foreign law

- 2-29** (1) A person who qualifies under section 17 [*Practitioners of foreign law*] may apply to the Executive Director for a permit to act as a practitioner of foreign law in British Columbia by delivering to the Executive Director
- (a) a completed permit application in a form approved by the Credentials Committee, including a written consent for the release of relevant information to the Society, and
 - (b) the application fee specified in Schedule 1.
- (2) The Executive Director may issue a permit to a person applying under subrule (1) if satisfied that the person
- (a) is a member of the legal profession in one or more foreign jurisdictions,
 - (b) is not suspended or disbarred and has not otherwise ceased, for disciplinary reasons, to be a member of a governing body or of the legal profession in any foreign jurisdiction,
 - (c) is a person of good character and repute,
 - (d) has practised the law of a foreign jurisdiction for at least 3 of the past 5 years, or undertakes in writing to act as a practitioner of foreign law in British Columbia only under the direct supervision of a practitioner of foreign law who has practised law in that foreign jurisdiction for at least 3 of the past 5 years,
 - (e) carries professional liability insurance or a bond, indemnity or other security
 - (i) in a form and amount at least reasonably comparable to that required of lawyers under Rule 3-39 (1) [*Compulsory liability insurance*], and
 - (ii) that specifically extends to services rendered by the practitioner of foreign law while acting as such in British Columbia.
- (3) Subject to subrule (4), the Executive Director may attach conditions or limitations to a permit issued or renewed under this rule.
- (4) The Executive Director may only attach under subrule (3) conditions or limitations that are authorized by the Credentials Committee.
- (5) A permit issued under subrule (2) is valid for one year from the issue date shown on it.
- (6) Despite subrule (5), a practitioner of foreign law permit ceases to be valid if the practitioner of foreign law
- (a) is suspended as a result of proceedings taken under Part 4 [*Discipline*], or
 - (b) ceases to comply with any of the requirements of this Part.

Conditions and limitations

- 2-30** (1) Subject to Rule 2-31 [*Providing foreign legal services without a permit*], no one may provide foreign legal services or market a foreign legal practice in British Columbia without a permit issued under Rule 2-29 (2) [*Practitioners of foreign law*].
- (2) A practitioner of foreign law who holds a current permit may provide foreign legal services in British Columbia respecting
- (a) the law of a foreign jurisdiction in which the practitioner of foreign law is fully licensed to practise law, and
 - (b) trans-jurisdictional or international legal transactions.
- (3) A practitioner of foreign law must not
- (a) provide advice respecting the law of British Columbia or another Canadian jurisdiction, or
 - (b) deal in any way with funds that would, if accepted, held, transferred or otherwise dealt with by a lawyer, constitute trust funds, except money received on deposit for fees to be earned in the future by the practitioner of foreign law.
- (4) The Act, these rules and the *Code of Professional Conduct* apply to and bind a practitioner of foreign law.
- (5) A practitioner of foreign law must notify the Executive Director promptly if he or she
- (a) is the subject of criminal or professional discipline proceedings in any jurisdiction,
 - (b) ceases to be a member in good standing of the legal profession in any jurisdiction, or
 - (c) fails to complete satisfactorily any continuing legal education program required of the practitioner of foreign law as a member of the legal profession in a foreign jurisdiction.

Dual qualification

- 2-32** A lawyer, other than a retired or non-practising member, who is qualified to practise law in a foreign jurisdiction may act as a practitioner of foreign law in British Columbia without obtaining a permit, provided the lawyer holds liability insurance that
- (a) specifically extends to the lawyer's activities as a practitioner of foreign law in British Columbia, and
 - (b) is in a form and amount at least reasonably comparable to that required of lawyers under Rule 3-39 (1) [*Compulsory liability insurance*].

Marketing of legal services by practitioners of foreign law

- 2-33** A practitioner of foreign law who is not a member of the Society must do all of the following when engaging in any marketing activity as defined in the *Code of Professional Conduct*, section 4.2 [*Marketing*]:
- (a) use the term “practitioner of foreign law”;
 - (b) state the foreign jurisdiction in which he or she holds professional legal qualifications, and the professional title used in that jurisdiction;
 - (c) not use any designation or make any representation from which a recipient might reasonably conclude that the practitioner of foreign law is a member of the Society.

Renewal of permit

- 2-34** (1) In order to renew a practitioner of foreign law permit, a practitioner of foreign law must apply to the Executive Director for a renewal of the permit before his or her permit expires.
- (2) A renewal application must include
- (a) a completed permit renewal application in a form approved by the Credentials Committee, including a written consent for the release of relevant information to the Society,
 - (b) evidence satisfactory to the Executive Director that the practitioner of foreign law continues to comply with the requirements set out in Rule 2-29 (2) [*Practitioners of foreign law*], and
 - (c) the renewal fee specified in Schedule 1.
- (3) The Executive Director may renew the permit of a practitioner of foreign law who has complied with the Act and these rules.
- (4) Subject to subrule (5), a permit renewed under subrule (3) is valid for one year.
- (5) Rule 2-29 (6) [*Practitioners of foreign law*] applies to a permit renewed under subrule (3).
- (6) A practitioner of foreign law who fails to pay when due the fee for renewal of a permit under subrule (2), including applicable taxes, or any part of it, must pay the late payment fee specified in Schedule 1.

Legal Profession Act

Practitioners of foreign law

- 17** (1) The benchers may do any or all of the following:
- (a) permit a person holding professional legal qualifications obtained in a country other than Canada to practise law;
 - (b) attach conditions or limitations to a permission granted under paragraph (a);
 - (c) make rules establishing conditions or limitations under which permission may be granted under paragraph (a), including payment of a fee.
- (2) Parts 3 to 8 and 10 apply to a person given permission under this section.