

The Legal Services Board of Nunavut

Resident Counsel Policy



2014

This Policy was ratified by the Legal Services Board of Nunavut on November 14, 2010.
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LEGAL SERVICES BOARD OF NUNAVUT

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Resident Counsel Policy

1.0 Policy Statement

- 1.1 The Legal Services Board of Nunavut (the “LSB”) is committed to increasing the number of lawyers who primarily reside and practice in Nunavut. Resident Nunavut lawyers are crucial to ensuring access to justice for Nunavummiut on a daily basis.
- 1.2 Resident criminal law lawyers are necessary for the LSB to fulfill its legal obligations and to provide a choice of counsel to eligible individuals.
- 1.3 The promotion of this objective is aided, in part, through a higher compensation tariff rate for lawyers that are deemed to be resident in Nunavut. The increased tariff compensation for resident lawyers, as provided for in the regulations of the *Legal Services Act* (the “Act”), reflects the “higher costs of maintaining an office and practicing in Nunavut and the savings that result from legal services being

provided by lawyers based in Nunavut and the higher costs of living in Nunavut”.

- 1.4 Only lawyers who have satisfied the Chief Executive Officer (CEO) of the LSB, that they meet the requisite residency criteria, as defined below, are eligible to bill and be paid by the LSB as a “Resident Lawyer”.

2.0 Policy Objective

- To provide counsel who is applying as a Resident Lawyer under the higher Tariff Rate a definition of the criteria needed to be deemed resident in Nunavut.
- To promote the interests of lawyers resident in Nunavut with the goal of increasing access to justice for Nunavummiut through elevating the number of lawyers residing and practicing in Nunavut.
- To fulfill obligations under the *Legal Services Act* (the “Act”) and Regulation 3(1.1) so that those eligible persons under s. 40 of the Act may exercise their right to select criminal defense counsel on LSB’s choice of counsel list.

3.0 Definitions

“Resident” someone who ordinarily resides in Nunavut and meets the residency requirements of the *Income Tax Act of Canada* R.S.C.1985.

“Lawyer” a lawyer, in good standing with the Law Society of Nunavut.

“Office” a physical structure from which resident counsel conducts his or her practice of law and where resident counsel can be regularly reached, Monday to Friday, during normal business hours by Nunavummiut in need of legal services.

3.0 Application

3.1 In recognizing the inherent value of having resident counsel in Nunavut, the Act’s enhanced Tariff Rate for Resident Lawyers provides those lawyers who are committed to living in the jurisdiction with a higher rate to reflect the high costs of living and operating an office in Nunavut.

3.2 Resident lawyers will be asked to provide proof of residency in accordance with the Nunavut residency requirements as stipulated in the Income Tax Act of Canada R.S.C. 1985c c. 1. Proof, in the form of the previous year’s tax designation of residency, may be requested by the CEO at the time of submission of the lawyer’s application to be included on the Nunavut Panel as a resident lawyer.

3.2 A lawyer, newly resident to Nunavut, who is unable to provide the requisite tax designation due to recent relocation, may satisfy the residency requirements by submitting to the CEO for consideration

- 1) a valid Nunavut driver's license or Nunavut health card, and
- 2) proof of operating a law office or being employed in a law office in Nunavut.

3.3 The CEO of LSB will maintain a resident counsel list for its own purposes and to provide such a list to the Government of Nunavut to assist in verification and ensure payment of enhanced tariff rates to Nunavut resident counsel.

4.0 Implementation

4.1 This policy is to come into full force and effect on April 1, 2011.