Notice to the Profession

Acting as an Arbitrator

Nunavut prohibits the unauthorized practice of law. This prohibition extends not only to non-lawyers, but also to lawyers licenced in other jurisdictions. Practicing law in Nunavut without a membership is called unauthorized practice of law and is monitored by the Law Society.

The Law Society has been made aware of individuals without membership acting as arbitrators of legal disputes in Nunavut. The Law Society has been asked to consider whether acting as an arbitrator constitutes unauthorized practice.

Arbitration in Nunavut is governed by the *Arbitration Act*, which does not require arbitrators to be legal counsel. Accordingly, an arbitrator is not required to be a practicing lawyer when acting under this statute.

Provided a person remains in his/her role as an arbitrator under the *Arbitration Act*, the Law Society does not consider this to be the practice of law and would not require the arbitrator to be a member of the Law Society. This of course is subject to any other statute which may expressly require an arbitrator to be a lawyer.

What is the unauthorized practice of law?

The *Legal Profession Act*, RSNWT (Nu) 1988, c L-2 (the "Act") states in s. 68 that no person shall engage in the practice of law unless he or she is an active member of the Law Society.

Section 1 of the Act provides a definition of the "practice of law." It is very broad and includes "giving legal advice".

Individuals who engage in the practice of law and who are not entitled or permitted to do so engage in the unauthorized practice of law.

What can happen if someone engages in the unauthorized practice of law?

Every person who engages in unauthorized practice is guilty of an offence and liable on summary conviction to a fine not exceeding $5,000 or, in default of payment, to imprisonment for a term not exceeding one year.

If a person is convicted of this offence, the Law Society may also apply and the Nunavut Court of Justice may grant an injunction prohibiting a person from engaging in the practice of law.

In addition, the Law Society may consider other options which may include reporting a person to their "home" law society or writing to the Nunavut Courts advising that a person is not lawfully authorized the practice law in Nunavut.

Where can I find more information about the Act and unauthorized practice?

Visit the Law Society's website for the *Legal Profession Act* as well as information about the unauthorized practice of law. Arbitrators are encouraged to contact the Law Society at administrator@lawsociety.nu.ca.