

WANT TO PRACTICE LAW IN CANADA? HERE'S HOW.

**Guide for Foreign-Trained Lawyers on How
to Become Licensed in Canada**

Volume 1 - NCA ASSESSMENT

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Introduction

I have come across the following questions like a thousand times: I want to practice as a lawyer in Canada, how do I go about it? Can I practice in Canada with the same academic and professional qualifications obtained in my country? Will my credentials be recognised in Canada? What are the procedures involved in transferring to Canada? Do I have to undergo another course of study to become qualified as a Canadian lawyer? Are there exams to be taken? What are the formats of those exams? What is the cost of the qualification process? How many years of post-qualification experience must I possess before I can apply to transfer to Canada? Are there age limits? Must I be a citizen or resident of Canada before I can apply? And many more questions.

For every law graduate or lawyer who intends to immigrate to Canada to live and practice law, or for those who only desire to acquire the license to enable them practice across borders, you are bound to consider one or more of those questions at one time or the other. Those are preliminary questions every rational individual must ask.

As a general answer to the above questions, the bad news is that you cannot practice as a lawyer in Canada merely with the education or license obtained in your home country, unless and until you are further licensed by a provincial law society in Canada. No matter the length of professional experience obtained in your country or the height of your academic attainments, a foreign lawyer cannot practice in Canada without going through the provincial licensing process, (including even those who want to practice as Paralegals or Foreign Legal Consultants in applicable Canadian Provinces). And I want to assume that this relicensing requirement is equally applicable in your country: a foreign lawyer may not come in to permanently practice as a lawyer without first fulfilling some further licensing requirements of your country. Same applies in Canada. So, if you had your legal education overseas, what you need to do to become licensed as a Canadian lawyer is what this book is all about.

The good news is that you do not have to start all over again. You do not have to enrol in the university or law school afresh. Your previous academic and professional background will eventually count, along with your legal work experience in specified instances. The Canadian licensing system has provided a shortcut for all lawyers trained in a foreign country. And when I say shortcut, it is indeed a shortcut because, depending on the individual, you could become licensed in some Canadian Provinces in about a year; (i.e., if you qualify for the fast-track

exceptions available only in those Provinces which offer full exemptions from the articling requirements).

There are indeed examinations to be taken at one or two stages of the process, depending on the province. These are usually open-book, self-study, self-scheduled examinations designed to test your general knowledge of common law. The examinations come, first as an initial assessment platform to prequalify you for entry into the licensing process; and second, as part of the licensing process itself. The second stage may be known as bar exams in some provinces or similar titles in others. Whereas the first-stage examinations are almost impossible to avoid, the second stage exam does not apply in some provinces as they have other licensing requirements.

How many years of professional experience must you have? That is additional good news. Generally, the Canadian licensing requirements do not demand that you must have had some years of professional work experience as a lawyer before you can apply to transfer. It does not also matter that you were licensed 50 years ago or called to the bar just yesterday. A professional qualification is not really a requirement, which means you can apply fresh from the law school or as a lawyer awaiting license. You may even apply while still at your law school, probably in your final year, as long as you meet the other requirements. Professional qualifications or years of professional experience are only required in limited exceptions, to make up for identified inadequacies in your academic qualifications.

And, yes, there is no age barrier, neither is there any residency requirement. You can apply to transfer to Canada no matter your age - old or young. You do not have to be a Canadian citizen to be called to bar in Canada. You do not have to be a permanent resident of Canada. In fact, you are not even required to be physically present in Canada for you to begin the process of becoming licensed. You can start right there, right now from your home country and later complete the process in Canada. Amazing, isn't it? I'll show you how to do it in this book.

Let me state briefly that the process outlined in this book applies to all foreign-trained lawyers or law graduates, irrespective of their country of original jurisdiction. So, whether you are from Australia, Bangladesh, China, Ghana, India, Nigeria, Pakistan, South Africa, the United Kingdom, the United States, etc., the procedures remain the same. The most important consideration is that you are from a common-law jurisdiction (mixed or mono) which has a legal system similar to that of Canada. And even if you are from a non-common law jurisdiction, you will find the required provisions and additional requirements that will cure your deficiencies and make you eligible. You only need to meet these additional requirements and you are good to go. These are all issues covered in the book.

The inspiration to write this book was provided by my personal experience. As a lawyer qualified to practise in England & Wales and in Nigeria, I was desirous of further becoming licensed in Canada but totally confused about the whole process of qualification. I made plenty of researches and tonnes of enquiries. I had to pull pieces together here and there. But there wasn't that single book which contained a comprehensive step-by-step guide on what I needed to do, or how and when. Without the benefit of a guide, I fumbled and stumbled through the process. I incurred extraordinary expenses and wasted a lot of time. At a point, I even gave up on the whole process for about three years. At the end of the whole exercise, I regretted that I could have become licensed to practise in Canada probably six years earlier, if I had a guide. But, well, as the saying goes, it was better late than never.

In all honesty, the qualification and licensing processes seem straight-forward. But there are so many components involved. There are several requirements to be met. There are several conditions to be fulfilled. And if you are not properly guided, you may miss out on important details which may cause you delays, wastages and frustration with the whole process.

That was when it occurred to me that there could be thousands of other foreign-trained law graduates and lawyers out there who will most likely also suffer what I went through due to the dearth of a comprehensive guide. They will similarly waste time and money, like I did. From the diverse inquiries I encountered daily on Facebook and different other online platforms, from my interactions with many individuals, and from personal observations - I came to the conclusion that many people are confused about the whole process, just like I was at the beginning. Many do not know how to start. More curious, even for those who have started, there are many who do not know how and when to proceed, or know that there are some other incentives available in the process that will shorten their timelines. Each step of the way, I received several questions and enquiries on my Facebook page and other platforms. And when I say several, I mean several. Many people wanted to know how I did it. Many sought to know the next stages in the licensing process. I became a consultant of sort to many people, because of the researches I had made. Of course, quite a large number of people hailed my answers as eye-opening. Several commendations! (Only if they knew what I went through). Then I thought to myself that I could come up with a book that explains the whole process to would-be Canadian lawyers, everything from the beginning to the end. In writing, just like this. I believe that others should be able to gain from the extensive researches I conducted and from the experience I acquired in the process which lasted me about eight years, (entirely due to my own fault and ignorance, though. I initiated the process sometime in October 2012, got my assessment in February 2013 and got licensed in January 2020). Others do not have to suffer the same fate. With a comprehensive guide, the journey is made a lot

smoother. Financial wastages are eliminated. Time is saved. And the ultimate goal is achieved. This formed the basis of writing this book.

As stated earlier, the process of becoming licensed in Canada as a foreign lawyer or law graduate appears straight-forward but condensed, with many requirements involved. But if you must know, the quest for relicensing in Canada by those who studied/trained overseas is becoming unprecedented. Official figures from the Federation of Law Societies of Canada (FLSC) indicate that over 1000 applications are attended to every year. More accurately, the National Committee on Accreditation (NCA) was said to have received about 1700 applications in 2015 alone! All these point to one direction: more and more foreign-trained lawyers and law graduates are applying to become licensed in Canada.

And this should put you on your marks to make a move now, before changes are made to the process that may hinder you or disqualify you entirely. Because there have been calls for some adjustments to the assessment and/or licensing process. For instance, the FLSC had commissioned a review of the work of its standing committee (the NCA). A Program Review Report dated May 29, 2017 has been submitted to the FLSC, and it outlines some recommendations for changes/amendments to some aspect of the application, assessment and examination processes for foreign-trained lawyers and law graduates. We do not yet know what those changes will entail if those recommendations are accepted, or when it will happen. Therefore, the time for you to act is *now*.

Having personally gone through and successfully completed the process of qualification and licensing, it is my belief that my experience as shared in this book will serve you as a guide, directing you each step of the way, and providing you with the companionship necessary to navigate the licensing process, to a timely and successful completion. I trust that you won't fail, if you follow the recommendations and directions contained in this book.

Preface

For the information of all foreign-trained lawyers, the process of becoming a lawyer in Canada consists of two major stages – qualification and licensing. These two major stages are further divided into four general sub-stages –

- 1) assessment by the National Committee on Accreditation (NCA);
- 2) obtaining NCA’s Certificate of Qualification;
- 3) fulfilling licensing requirements; and,
- 4) licensing (Call to Bar).

Each stage is significant in its own respect.

For NCA assessment, which is the first sub-stage and very beginning of the process:

- you must ensure that you meet the stipulated eligibility criteria;
- you must submit your credentials to NCA for assessment;
- you must obtain an assessment report; and,
- you will be assigned a number of examinations to write or some other requirements to fulfil.

NCA Qualification, being the second sub-stage consists of the following steps:

- you must register for the assigned examinations (or enrol in an approved program);
- you must sit and pass any assigned examination within the prescribed period; and,
- you must obtain a Certificate of Qualification from NCA.

For licensing which is the third sub-stage, the steps involved are as follows:

- you must apply to a provincial law society. You must submit your Certificate of Qualification obtained at the second sub-stage and get registered into a provincial licensing process;
- depending on your Province of choice, the licensing process may include bar examinations or another bar admission process which may combine some examinations with some other forms of training;

- if bar examinations are required, you must sit and pass; and if another admission process is stipulated, you must meet the required competence; and,
- you must undergo articling (unless your Province exempts you fully or in part) and meet all other licensing requirements, including paying all requisite fees.

Then, of course, the fourth and final sub-stage is your call to bar. We all know what this means, as the stage where you eventually receive the license to practice as a lawyer in Canada.

Proceeding on the four sub-stages stipulated above, this book in its volumes seeks to provide a comprehensive guide and information to candidates, on each of the sub-stages. To this end, the book has four volumes to take care of the totality of the four processes respectively, from the beginning to the end, as compartmentalised in those four sub-stages. Thus, in this Volume 1, the process for beginners is thoroughly explained. Here, we shall exclusively focus our attention on those candidates who are about to start the process. You will be guided on what are the eligibility criteria and how to determine if you meet them, before you even start the process at all. There are a couple of these eligibility criteria and it is important for you to pay good attention to each of them.

After eligibility comes assessment. If you determine that you are eligible, then we will elaborate on the whole process of obtaining an assessment of your credentials and how to go about it. We will detail the process involved in the assessment, the benefits your previous academic and professional qualifications will have on your assessment, and the language proficiency required; we will also attempt to give you an idea of how many examinations to expect as a result of your assessment. This is a very important stage because the outcome of your NCA assessment will determine a whole lot of things, including the time it might take you to complete the whole process as well as the likely cost implications.

In the subsequent publication to be titled Volume 2, the process of obtaining NCA qualification shall be dealt with in details. This includes the available examinations, when and how to register for the examinations, what the examination itself consists of, what is being tested, and the necessary materials that you need to enable you prepare for the examinations. Tips for passing the examinations shall also be discussed.

Volume 3 shall deal with the further steps that are required after you have passed your assigned qualifying examinations. Here, you have crossed into the licensing stage and your first decision will be as to in which of the Canadian Provinces you wish to be licensed. As you might have known, Canada consists of ten Provinces and three Territories. By the Constitution Act of 1867,

the Canadian federation is broadly divided into Federal and Provincial governments. Each of both levels of governments has its own powers, as prescribed by the Constitution. And as constitutionally provided, the power to grant licenses (which includes the power to license a person to practice as a lawyer) is reserved to the Provinces. As a result, each Province and Territory has its distinct and different licensing requirements. In some cases, though, a number of Provinces may mutually adopt the same licensing method, e.g., Alberta, Manitoba, Nova Scotia and Saskatchewan which have jointly employed the Canadian Center for Professional Legal Education (CPLED) to run the bar admission program known as Practice Readiness Education Program [PREP] for prospective candidates.

But you must always remember that license in one Canadian Province cannot generally entitle you to permanently practice in another Province, unless you fulfil certain further requirements. Therefore, in Volume 3, the various licensing requirements of each Province will be explained, to enable candidates make informed decisions as to Province of choice when they get to that stage. Additionally, what you need to consider before you choose a Province of license will generally be discussed. Because apart from your present/proposed residence, there are some other vital issues to consider before you choose your Province of license. So, you must select only one Province and once you decide, you will enrol into the licensing process of that Province.

In Volume 4, we shall examine the different call to bar requirements of each Province, just like the different licensing requirements in Volume 3. We shall also consider issues of inter-provincial mobility, i.e., what you generally require to practise in a second Province whether on a temporary or permanent basis.

It must have become clear to you from the above that the book will come in four distinct but inter-related volumes, to cater for each stage of the qualification and licensing process. Nonetheless, the volumes are progressive in content so that sufficient information is available to you at the relevant stage where you are; you may not necessarily require the next volume until you get to that stage, unless of course, you are curious about the whole process. This means that each volume is independent of each other. All the information you need at each stage is contained in each respective volume, to enable you concentrate your efforts on that particular stage that applies to you, without necessarily bothering about the whole process at a go.

My intention is also to make the volumes as short as I can. In this wise, I will seek to provide as much information in as very few paragraphs. This is because I know that majority of foreign-trained lawyers and law graduates are either in practice or some other engagements. You already have a heavy work schedule. I do not intend to add unnecessarily to this.

In all, the volumes seek to provide details for each stage of the process, until you ultimately obtain your license to practise law in Canada. Therefore, the information contained in these volumes is essential for you; it does not matter whether you have not taken any step at all, or whether you have already started the assessment, qualification or licensing process. With the four volumes, you are bound to find relevant and extremely useful resources to guide you through each stage of the process.

Preface To This Revised Edition

After the publication of this book, the NCA modified some of its policies in three major respects:

- The first amendment came into effect on June 3, 2020 and did away with the requirements that Contracts, Property and Torts must have been successfully completed through in-class learning for it to be recognised by the NCA. This change was necessary so as not to put students who couldn't complete the courses in class due to the pandemic at a disadvantage.

- The second amendment was to the NCA Policy Manual and this came into effect on July 21, 2020 relating to its policy on distance and online education. This change became unavoidable because of the global effect of the Covid-19 pandemic which limited physical class attendance and many educational institutions had to rely more on online or distance education. NCA therefore had to modify its existing policies on online and distance education to be able to accommodate this unexpected situation. The new policy has been reproduced in *Appendix VII* below.

- The third change announced on 17 November 2020 relates to the NCA exam schedule. Before now, and up to the end of 2019, NCA exams were held physically at designated locations four times in a year – January, May, August and October. But again because of the pandemic, the exams had to be held online. Now, NCA has changed the exam schedule to monthly beginning from the January 2021 session.

Since the information relating to these three changes are vital, it became necessary to revise this book to accommodate these policy updates.

Whether these changes will be permanent is totally uncertain. But I will endeavor to regularly revise and update this book in line with any major changes from NCA.