

LICENSEE LEAVE OF ABSENCE REGULATION



icrcrc
IMMIGRATION CONSULTANTS OF
CANADA REGULATORY COUNCIL
crcic
CONSEIL DE RÉGLEMENTATION DES
CONSULTANTS EN IMMIGRATION DU CANADA

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1. AUTHORITY

- 1.1 This Regulation is enacted pursuant to sections 3.1 and 18.3 of the By-law.
- 1.2 The Board of Directors delegates to the Registrar the authority to remit or forgive all or part of the annual fees of Licensees.

2. DEFINITIONS

- 2.1 In this Regulation, capitalized terms, unless otherwise defined herein, have the same meaning as they do in the By-law.
- 2.2 In this Regulation:
 - (a) “**Authorized Representative**” means an individual who can offer immigration/citizenship advice and/or service for a fee or other consideration. An Authorized Representative includes a member in good standing with a Canadian provincial or territorial law society (including paralegals within their authorized scope of practice) or with the Chambre des notaires du Québec or an RCIC [*représentant autorisé*];
 - (b) “**Client Account**” means a savings or chequing account opened by a Licensee at a Financial Institution in which account the Licensee holds funds received from or on behalf of one or more Clients and which is designated in the Licensee’s records as a Client Account [*compte client*];
 - (c) “**Client File**” means the physical paper folder containing the physical documents and/or the electronic folder or directory containing the electronic files, data or information related to the Initial Consultation Agreement and/or the Retainer Agreement for a particular Client. A Client File contains Client Records, Client Property and Licensee Property [*dossier client*];
 - (d) “**Compliance Audit**” means a compliance assessment of various aspects of a Licensee’s practice to determine compliance with the Council’s By-laws, Code of Professional Conduct, Regulations and Policies and includes, without limitation, a Quality Management Program [*vérification de conformité*].

3. REASONS FOR LEAVE

- 3.1 A Licensee who, at the time of receiving their annual or quarterly fees invoice, is not practising due to:
 - (a) Family reasons – which is defined as a leave from all employment or practice (including part-time or *pro bono* work) due to maternity, paternity, adoption or to care for a sick family member as a primary caregiver.
 - (b) Medical reasons – which is defined as leave from all employment or practice (including part-time or *pro bono* work) on the advice of a duly licensed medical practitioner in the jurisdiction where the Licensee has their principal residence.

- (c) Retirement – is defined as a Licensee being 60 years of age or more, and has been a Licensee for more than two (2) years, winds down their practice and/or retires completely from immigration/citizenship-related employment, and does not plan to engage in any form of immigration/citizenship-related work (including part-time or *pro bono* work) within the next twelve (12) months.
- (d) Full-time studies – which is defined as a leave from all employment or practice (including part-time or *pro bono* work) for the purpose of attending a post-secondary education institution that is recognized by the Council with a course load deemed to be that of a full-time student.
- (e) Working for government – which is defined as a leave from practice (including part-time or *pro bono* work) to accept:
 - i. a judicial or quasi-judicial appointment such as, but not limited to, serving on the Immigration Refugee Board or
 - ii. a contract or permanent position by the governmentwhere concurrently holding a valid licence to practise is prohibited or would be considered a conflict of interest.
- (f) Unemployed – which is defined as a Licensee who has resigned or otherwise been released from a position they held as an employee for twelve (12) months or more in the previous two (2) years, and is actively seeking employment.
- (g) another reason acceptable to the Registrar as deserving compassionate consideration.

4. APPLICATION

- 4.1 A Licensee may request a leave of absence by submitting complete and correct the prescribed statutory declaration, together with supporting evidence, to the Registrar.
- 4.2 Supporting evidence is defined as:
 - (a) in the case of family or medical leave – an original currently-dated medical certificate.
 - (b) in the case of full-time student leave – a photocopy of a letter or other official academic institutional document that confirms enrolment for the present academic year with a sufficient course load to be deemed a full-time student by the institution.
 - (c) in the case of serving a judicial or quasi-judicial appointment or being employed in government – a photocopy of the official letter of appointment or engagement.
 - (d) in the case of unemployed leave – a photocopy of a letter of resignation or the employer’s letter of termination/lay-off.
- 4.3 The Registrar may seek further evidence before rendering a decision.

- 4.4 For audit purposes, the Registrar may require a Licensee to provide a copy of their Canada Revenue Agency Notice of Assessment (or any other document deemed necessary), relating to the year in which a leave of absence occurred, to confirm that they were not practising or otherwise generating income from practice during the leave.

5. DURATION

- 5.1 A temporary leave is defined as a period lasting between one (1) and twelve (12) months.
- 5.2 An application for leave may be approved to a maximum of twelve (12) months at any one time, and to an overall maximum duration of twenty-four (24) months in any five (5) year period.
- 5.3 A Licensee wishing to return to active practice and thereby conclude an approved leave early shall notify the Registrar of such request in writing. Upon receipt of the request the Registrar shall arrange for the Licensee to be returned to active practising status and for a pro-rated invoice to be issued for the difference between any regular annual fees owing and the amount already paid. Leave months unused from an original approval may be retained for future use towards the overall five (5) year maximum.
- 5.4 The Registrar may, for extenuating circumstances on a case-by-case basis, extend the twenty-four (24) month maximum period provided in section 5.2 of this Regulation.

6. REDUCED ANNUAL FEES RATE

- 6.1 Annual fees already paid are not refundable but will be retained on deposit towards future annual fees payable.
- 6.2 The partial Licensee annual fees rate for Family Leave, Medical Leave, Retirement Leave, Full-Time Student Leave and Unemployed Leave is fixed at \$10 plus applicable taxes for each month of approved leave, with the balance of the regular annual fees owing for that approved period being remitted and forgiven. Regular annual fees become payable upon conclusion of the leave period.
- 6.3 The partial Licensee annual fees rate for Working for Government is fixed at twenty-five (25) percent of the regular annual fees rate plus applicable taxes for each month of approved leave, with the balance of the regular annual fees owing for that period being remitted and forgiven. Annual fees become payable upon conclusion of the leave period.
- 6.4 Payment of the total partial annual fees amount, equating to the number of months requested and approved for leave, shall be paid in full within thirty (30) days of the annual fees invoice to complete the leave of absence approval process.
- 6.5 A Licensee indebted to the Council at the time of seeking a leave of absence, may enter into a mutually agreeable payment plan with the Registrar to satisfy the payment of the total partial annual fees amount and all other monies already owing as of the date the leave is commenced.

7. OBLIGATIONS WHILE ON LEAVE

7.1 When on leave:

- (a) An RCIC must ensure that all Clients have been notified of the intended leave and had their file transferred to another Authorized Representative or returned to the client;
- (b) An RCIC must participate in Practice Management Education (PME) obligations, in accordance with the PME Regulation (RISIA's are exempt), or if electing not to complete new courses while on leave, then to complete all requirements within six (6) months of returning to active status;
- (c) Licensees must complete their Continuing Professional Development (CPD) obligations for the year, in accordance with the CPD Regulation, being mindful of the number of leave credits being awarded and the final year-end balance of CPD hours that must still be completed. Even on leave for an entire year, the CPD obligation is not zero;
- (d) Licensees must maintain valid professional liability insurance coverage;
- (e) Licensees must maintain all required personal and business contact details with the Council;
- (f) An RCIC must maintain a working Client Account in accordance with the provisions or exemptions of the Client Account Regulation;
- (g) Licensees must participate in the annual Compliance Audit, in accordance with the Compliance Audit Regulation; and
- (h) Licensees must respond to notices from the Professional Conduct Department with regards to complaints concerning their conduct.

7.2 A Licensee on medical leave shall be exempt from completing the annual Compliance Audit for the duration of their approved leave.

8. MAY NOT APPLY WHILE SUSPENDED

8.1 A Licensee who is suspended for any reason is no longer In Good Standing and therefore cannot apply for a leave of absence until the reason(s) for such suspension or suspensions are resolved.

9. LICENSEE STATUS

9.1 A Licensee on leave may be suspended and/or revoked for failing to maintain any of the Licensee obligations stipulated in section 7 above.

9.2 Unless suspended or revoked, a Licensee while on leave remains In Good Standing and may continue to use the title "Regulated Canadian Immigration Consultant" and "RCIC" designation or "Regulated International Student Immigration Advisor" and "RISIA"

designation for biographical purposes only.

- 9.3 Unless suspended for cause, a Licensee on leave remains In Good Standing and accordingly may actively participate in the affairs of the Council including serving as a committee member, volunteer, stand for elected office as well as attend meetings and vote on Licensee -related matters.
- 9.4 A Licensee on leave may not practise, including part-time or *pro bono* work, for the duration of the approved leave.

10. RETIREMENT LEAVE

- 10.1 The provisions of section 5.2 of this Regulation with respect to the maximum duration of leave requests shall not apply to a Licensee on Retirement Leave.
- 10.2 A retired Licensee shall apply on an annual basis to extend their retired status by submitting a new declaration form confirming continued retirement from practise (including part-time or *pro bono* work).
- 10.3 A Licensee on retirement leave shall immediately notify the Registrar, upon coming out of retirement and commencing a part-time or full-time practice, when a pro-rated invoice for the difference between the reduced amount paid and the regular annual fees owing for the current licensing year will be issued.
- 10.4 The requirements of sections 7.1(b) (PME), 7.1(c) (CPD), 7.1(f) (Client Account) and 7.1(g) (Compliance Audit) of this Regulation are waived for a retired Licensee so long as they maintain retired status.
- 10.5 A Licensee on retirement leave shall maintain valid professional liability insurance, to respond to any potential claims arising from Client Files completed while practising, until a period of one (1) year has elapsed from when all Client Files are closed in accordance with the Client File Management Regulation.