



Province of Alberta

PROFESSIONAL AND OCCUPATIONAL ASSOCIATIONS REGISTRATION ACT

Revised Statutes of Alberta 2000
Chapter P-26

Current as of April 30, 2015

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer
7th Floor, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7
Phone: 780-427-4952
Fax: 780-452-0668

E-mail: qp@gov.ab.ca
Shop on-line at <http://www.gov.ab.ca/qp>

Copyright and Permission Statement

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20__.*

*The year of first publication of the legal materials is to be completed.

Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Professional and Occupational Associations Registration Act* that are filed as Alberta Regulations under the Regulations Act

Alta. Reg. *Amendments*

Professional and Occupational Associations Registration Act

Alberta Institute of Purchasing Management <i>see Supply Chain Management Association Alberta</i>	
Alberta Shorthand Reporters	197/96
Certified Management Consultants	166/2005
Human Ecologist and Home Economist.....	119/2002
Information Systems Professional.....	39/97 18/2002, 35/2004
Landscape Architects	228/2010 151/2015
Local Government Managers	52/2006
Municipal Assessor	347/2009 171/2014
Professional Biologists.....	120/2002 285/2009
Professional Chemists	248/2001
Professional Electrical Contractors and Master Electricians	36/2004 106/2008
Professional Planner.....	115/2010 119/2011
School Business Officials.....	37/2004

Supply Chain Management

Association Alberta.....131/89 *140/2000, 118/2011,*
141/2014

PROFESSIONAL AND OCCUPATIONAL ASSOCIATIONS REGISTRATION ACT

Chapter P-26

Table of Contents

- 1 Definitions
- Part 1
Registration**
- 2 Staff
- 3 Registrar
- 4 Register
- 5 Ineligibility for registration
- 6 Application for registration
- 7 Registration investigation
- 8 Registration recommendation
- 9 Registration approval
- 10 Cancellation of registration
- Part 2
Registered Association**
- 11 Corporation
- 12 Membership of governing body
- 13 Governing body and officers
- 14 Governing body regulations
- 15 Governing body bylaws
- 15.1 Consultation with Ministers required
- 16 Registration Committee, Practice Review Committee
- 17 Discipline Committee
- 18 Chair
- Part 3
Complaint Proceedings**
- 19 Conduct

- 20 Making a complaint
- 21 Notice of complaint
- 22 Notice of direction
- 23 Notice of hearing
- 24 Adjournment
- 25 Suspension
- 26 Counsel
- 27 Private proceedings
- 28 Evidence
- 29 Witness
- 30 Witness attendance, production
- 31 Failure to attend or give evidence
- 32 Hearing in absence of investigated person
- 33 Order
- 34 Payment of fines and costs
- 35 Review application
- 36 Review
- 37 Appeal
- 38 Powers of Court

Part 4

General Provisions

- 39 Service of documents
- 40 Exemption from municipal licence
- 41 Ministerial orders
- 42 Transfer of administration
- 43 Misrepresentation
- 44 Offence
- 45 Injunction
- 46 No action
- 47 Reports

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

- 1** In this Act,
- (a) “association’s register” means the register of a registered association;
 - (b) “bylaws” means bylaws under section 15;
 - (c) “chair” means the chair of a Discipline Committee;

- (d) “conduct” includes any act or omission;
- (e) “designated title” means the name and title and abbreviations of the name and title designated under section 9;
- (f) “investigated person” means a member of a registered association with respect to whose conduct a complaint has been made and an investigation or hearing is held or may be held under this Act;
- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (h) “Register” means the Register of Registered Professional and Occupational Associations;
- (i) “registered association” means a professional or occupational association registered under this Act;
- (j) “Registrar” means the Registrar of Registered Professional and Occupational Associations;
- (k) “regulations” means regulations under section 14.

1985 cP-18.5 s1

Part 1 Registration

Staff

2 In accordance with the *Public Service Act*, there may be appointed a Registrar of Registered Professional and Occupational Associations and any other persons who are necessary for the administration of this Act.

1985 cP-18.5 s2

Registrar

3 The Registrar shall, when directed to do so by the Minister, examine, inquire into, study and report to the Minister on any matter that the Minister considers necessary for the purpose of obtaining information for conducting an investigation under section 7.

1985 cP-18.5 s3

Register

4(1) The Registrar shall establish and maintain a Register of Registered Professional and Occupational Associations showing

- (a) the names of all registered associations,

- (b) the designated title of the members of each registered association,
- (c) a description of the field of practice of members of each registered association,
- (d) the names of chairs of the Discipline Committees and the officers of the registered associations,
- (e) the head office address for each registered association, and
- (f) any other matters prescribed by the Minister under section 41.

(2) The Registrar shall, during regular office hours, permit the inspection of the Register by any person.

1985 cP-18.5 s4

Ineligibility for registration

5 An association is not eligible to be registered under this Act if that association purports to represent

- (a) a profession regulated or eligible to be regulated under the *Health Professions Act*, or
- (b) a trade or occupation designated or eligible to be designated under the *Apprenticeship and Industry Training Act*.

RSA 2000 cP-26 s5;RSA 2000 cH-7 s155

Application for registration

6(1) An association may apply to the Registrar for registration as a registered association under this Act by submitting a completed application in the prescribed form.

(2) An application under subsection (1) shall be accompanied with

- (a) the name and abbreviations of the name of the association and the proposed designated title and abbreviations of the proposed designated title to be used by its members,
- (b) a list of the names of the members of the association,
- (c) a resolution of the members passed in accordance with the association's procedures indicating that they wish the association to be registered under this Act,
- (d) a copy of the incorporating documents of the association, if any,
- (e) a statement of the purposes of the association,

- (f) the existing bylaws of the association, if any, on matters referred to in section 15,
- (g) the association's proposed regulations, if any, and.
- (h) repealed 2008 c25 s27.
RSA 2000 cP-26 s6;2003 cP-19.5 s146;2008 c26 s27

Registration investigation

7(1) On receipt of an application for registration as a registered association, the Registrar shall conduct an investigation into whether an association should be recommended for registration under this Act.

(2) In conducting the Registrar's investigation, the Registrar may consider

- (a) whether the association serves to protect the public against incompetence and fraud that could affect the life, health, welfare, safety or property of the public and whether it is in the public interest that the association be registered;
- (b) whether the association represents a group of persons practising an identifiable profession or occupation and whether it represents persons whose primary object is to advance the interests of a profession or occupation practised by the members of the association;
- (c) whether there are a sufficient number of persons engaged in an identifiable profession or occupation to warrant the exclusive use by those persons of a name identifying that profession or occupation;
- (d) the proportion that the members of the association are of the total number of persons in Alberta who engage in the practice of the profession or occupation seeking registration and whether the association represents a significant number of the persons engaged in the practice of a profession or occupation;
- (e) whether the profession or occupation is governed by an Act in force in Alberta;
- (f) whether the name proposed by the association may cause the public undue confusion with the name of any other profession, trade, occupation or calling already governed by an Act or regulation;
- (g) whether the proposed designated title or its abbreviations conflict with those of another registered association or

profession or occupation governed by any other Act in force in Alberta;

- (h) whether other associations support the association's application for registration as a registered association;
- (i) whether the association represents or is normally engaged in representing its members in the negotiation of collective bargaining agreements;
- (j) the number of members in the association, the length of time it has existed, whether it is incorporated and its financial position;
- (k) whether the association has a continuing education program for its members;
- (l) the academic and experience requirements for registration as a member of the association;
- (m) whether the association has proposed regulations;
- (n) whether the association has an elected governing body;
- (o) any other matter that the Registrar considers appropriate.

(3) In conducting an investigation, the Registrar may consult with any person or association of persons engaged in the practice of the profession or occupation in respect of which the application for registration has been made or with an association of persons that has as one of its objects the advancement or promotion of the practice of the profession or occupation of the members of the association making the application.

(4) In conducting an investigation, the Registrar shall seek the advice of

- (a) the Department of Enterprise and Advanced Education with respect to the training required for admission of members into the association, and.
- (b) repealed 2008 c25 s27.

RSA 2000 cP-26 s7;2003 cP-19.5 s146;
2008 c25 s27;2013 c10 s24

Registration recommendation

8(1) If on concluding the Registrar's investigation the Registrar considers that the Registrar should not recommend registration of the association, the Registrar shall provide the Minister and the association with written reasons and shall provide the association

with the opportunity to submit further information and submissions with respect to the application.

(2) If the Registrar is satisfied on the conclusion of the Registrar's investigation that an applicant applying for registration should be registered, the Registrar shall recommend to the Minister that the association be registered under this Act.

(3) A recommendation under subsection (2) shall include a report on

- (a) the proposed name and abbreviations of the name of the association and the title and abbreviations of the title to be used by its members to be designated to be for the exclusive use of the association and of members of the association, and
- (b) any proposed regulations of the association.
- (c) repealed 2008 c25 s27.

RSA 2000 cP-26 s8;2003 cP-19.5 s146;2008 c25 s27

Registration approval

9(1) The Lieutenant Governor in Council, on the recommendation of the Minister, may

- (a) order the registration of the association as a registered professional or occupational association;
- (b) determine the designation of the name of the registered association and the designated professional or occupational title and abbreviations of the name and designated professional or occupational title that may be used exclusively by the registered association and its members.
- (c) repealed 2008 c25 s27.

(2) On an order being made under subsection (1), the Registrar shall

- (a) notify the association and the Department of Enterprise and Advanced Education of the order and its contents, and
- (b) enter in the Register the matters referred to in section 4(1).

RSA 2000 cP-26 s9;2003 cP-19.5 s146;
2008 c25 s27;2013 c10 s24

Cancellation of registration

10(1) If the Registrar

- (a) is of the opinion that a registered association no longer represents a significant number of the persons engaged in the practice of the profession or occupation,
- (b) does not receive the annual fee required under section 41(d),
- (c) is of the opinion that the registered association is not performing its duties in a proper manner, or
- (d) receives a resolution from the registered association passed in accordance with the association's procedures that it no longer wishes to be a registered association,

the Registrar shall recommend that the order under section 9(1) be rescinded and shall make that recommendation to the Minister and, in the case of a registered association with respect to which a transfer of administration is ordered under section 42, the Minister who administers this Act with respect to that registered association.

(2) The Lieutenant Governor in Council may on the advice of

- (a) the Minister, or
- (b) in the case of a registered association with respect to which a transfer of administration is ordered under section 42, the Minister who administers this Act with respect to that registered association

rescind an order under section 9(1).

1985 cP-18.5 s10;1987 c16 s3

Part 2

Registered Association

Corporation

11(1) An association that is named in an order under section 9(1)(a)

- (a) is a corporation, or
- (b) if it was a corporation before the order is made, is continued as a corporation

under this Act and has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(2) A corporation referred to in subsection (1)(b) is not subject to the enactment under which it was incorporated.

(3) A person who is a registered member of an association referred to in subsection (1) is a member of the corporation referred to in subsection (1).

1985 cP-18.5 s11

Membership of governing body

12(1) In this section, “Minister” means Minister as defined in section 1 or, in the case of a registered association with respect to which a transfer of administration is ordered under section 42, the Minister who administers this Act with respect to that registered association.

(2) A registered association shall establish a governing body.

(3) The governing body of a registered association shall consist of

- (a) the number of members of the registered association prescribed in the bylaws, each of whom shall be elected by and from among members of the registered association in accordance with the bylaws, and
- (b) when the number of members under clause (a) does not exceed 10, one member of the public, when the number of members under clause (a) is more than 10 but does not exceed 20, 2 members of the public, or when the number of members under clause (a) is more than 20, 3 members of the public, who shall be appointed for a 2-year term of office by the Minister after consultation with the members of the governing body elected under clause (a).

(4) A member of a governing body appointed under subsection (3)(b) continues to hold office after the expiry of the member’s term of office until the member is reappointed or the member’s successor is appointed.

(5) The Minister may, after consultation with the governing body, revoke the appointment of a member of a governing body appointed under subsection (3)(b).

(6) The Minister may, in the absence of any payment by the governing body to the member for that purpose, pay to a member of a governing body appointed under subsection (3)(b) travelling and living expenses incurred by that member for the member’s attendance at any meeting of the governing body while away from the member’s usual place of residence and fees in an amount prescribed by the Minister.

(7) The powers, duties and operations of a governing body are not affected by

- (a) the fact that no one is appointed as a member of the governing body under subsection (3)(b),
- (b) the revocation under subsection (5) of the appointment of a member of the governing body, or
- (c) the resignation from the governing body of a member appointed under subsection (3)(b).

(8) The failure of a member appointed under subsection (3)(b) to attend a meeting of the governing body does not affect or restrict the governing body from exercising any powers or performing any duties at that meeting.

1985 cP-18.5 s12

Governing body and officers

13(1) The governing body of a registered association shall manage and conduct the business and affairs of the registered association and exercise the rights, powers and privileges of the registered association in the name and on behalf of the registered association.

(2) Officers of the registered association shall be elected in the manner and for the term prescribed in the bylaws.

1985 cP-18.5 s13

Governing body regulations

14(1) The governing body of a registered association may make regulations

- (a) respecting the field of practice of the members of the registered association and prescribing conditions or limitations applicable to that field of practice;
- (b) prescribing standards of conduct, including a code of ethics, and standards of competency of members of a registered association;
- (c) governing eligibility, including examinations, for registration as a registered member;
- (d) respecting renewal of registration of registered members;
- (e) respecting continuing education of registered members;
- (f) respecting the temporary registration of a person as a member of a registered association;
- (g) respecting the suspension or cancellation of a member's registration other than pursuant to complaint proceedings under this Act;

- (h) respecting the establishment of the Registration Committee and the Practice Review Committee;
 - (i) respecting the powers, duties and procedures of the Registration Committee and the Practice Review Committee including prescribing the number of members that constitutes a quorum at meetings of those committees;
 - (j) respecting the establishment of the Discipline Committee and its procedures;
 - (k) respecting the costs payable pursuant to an order under section 34,
 - (i) by an investigated person, in respect of a hearing by the Discipline Committee or a review by the governing body under section 35, or
 - (ii) by a complainant, in respect of a complaint determined to be frivolous or vexatious under section 22(3)(a);
 - (l) respecting the establishment of registers for each class or category of members of the association;
 - (m) prescribing the professional or occupational title and abbreviations of that title designated in an order under section 9(1)(b) that a member of a registered association may use to indicate membership in the registered association.
- (2)** Regulations under subsection (1) do not come into force unless they are approved by a majority of members of the registered association
- (a) voting in person or by proxy in accordance with the bylaws at a general meeting for which notice has been given in accordance with the bylaws, or
 - (b) voting in a vote conducted by mail in accordance with the bylaws,

and the Lieutenant Governor in Council has approved the regulations.

RSA 2000 cP-26 s14;2001 c10 s5

Governing body bylaws

15(1) The governing body of a registered association may make bylaws

- (a) for the government of the registered association and the management and conduct of its affairs;
- (b) respecting the nomination, election, number and term of office of officers of the registered association, the filling of vacancies and the powers and duties of officers;
- (c) determining the location of the head office of the registered association;
- (d) respecting the calling of and conduct of meetings of the registered association;
- (e) respecting voting at meetings of the registered association, in person or by proxy and voting by mail;
- (f) respecting notice requirements for meetings at which bylaws or regulations are to be put to a vote;
- (g) prescribing the number of members that constitutes a quorum at meetings of the registered association, its governing body and committees established by bylaw;
- (h) providing for the establishment of committees by the governing body and prescribing the powers and duties of the committees;
- (i) providing for delegation, with or without conditions, of any powers or duties of a governing body under this Act except those under sections 19, 22, 28(2), 35 and 36, and under the regulations or the bylaws to a committee established by the governing body;
- (j) respecting the establishment of and payment of sums of money for scholarships, fellowships and any other educational incentive or benefit programs that the governing body considers appropriate;
- (k) requiring registered members of a registered association to maintain a business address in Alberta and to inform the registered association in writing of that address and of any change in that address forthwith after the change occurs;
- (l) prescribing the manner of proof as to matters required to be proved by applicants for temporary registration;
- (m) respecting fees payable to the registered association for registration, conducting an examination, and the renewal of registration;

(n) subject to section 12, respecting the membership of the governing body.

(2) A bylaw under subsection (1) does not come into force unless it is approved by a majority of members of the registered association

(a) voting in person or by proxy in accordance with the bylaws at a general meeting for which notice has been given in accordance with the bylaws, or

(b) voting in a vote conducted by mail in accordance with the bylaws.

(3) The *Regulations Act* does not apply to bylaws under this section.

1985 cP-18.5 s15

Consultation with Ministers required

15.1 Before the governing body of a registered association, by regulation, establishes or amends the eligibility requirements that relate to the academic qualifications of applicants for membership in the registered association, the governing body must consult with the Minister and the Minister responsible for Parts 1 to 3 of the *Post-secondary Learning Act* and must consider the comments received from those Ministers.

2010 c7 s5

Registration Committee, Practice Review Committee

16(1) A registered association may establish a Registration Committee and a Practice Review Committee in accordance with the regulations.

(2) The Registration Committee and the Practice Review Committee shall have the procedures, powers and duties prescribed by regulation.

1985 cP-18.5 s16

Discipline Committee

17 A registered association shall establish a Discipline Committee in accordance with the regulations.

1985 cP-18.5 s17

Chair

18(1) A Discipline Committee shall choose one of its members to act as chair and a member to act as vice-chair.

(2) In the absence or inability to act of the chair, the vice-chair has the powers and duties of the chair.

1985 cP-18.5 s18

Part 3 Complaint Proceedings

Conduct

19 Any conduct of a member of a registered association that in the opinion of a Discipline Committee or of a governing body reviewing an order pursuant to section 35

- (a) is detrimental to the best interests of the public,
- (b) harms or tends to harm the standing of the profession or occupation generally, or
- (c) displays a lack of knowledge of or a lack of skill or judgment in the practice of the profession or occupation,

whether or not that conduct is disgraceful or dishonourable, constitutes either professional or occupational misconduct or unskilled practice of the profession or occupation, whichever the Discipline Committee or the governing body finds.

1985 cP-18.5 s19

Making a complaint

20(1) A person who has a complaint that the conduct of a member of a registered association constitutes

- (a) unskilled practice of the profession or occupation, or
- (b) professional or occupational misconduct,

may submit a signed, written complaint to the chair.

(2) Proceedings on a complaint with respect to a member of a registered association whose registration was cancelled or suspended pursuant to this Act may, notwithstanding the cancellation or suspension, be commenced within one year following the date of cancellation or suspension as if the cancellation or suspension had not occurred.

1985 cP-18.5 s20

Notice of complaint

21(1) On receiving a complaint under section 20, the chair shall serve notice of the complaint on the member of the registered association named in the complaint.

(2) The notice shall include a request for a written response to the complaint in accordance with the regulations.

(3) Within 30 days after service of the notice under subsection (1), the chair shall direct

- (a) that no further action be taken, if the chair is satisfied that the complaint is frivolous or vexatious, or
- (b) that a hearing be held before a Discipline Committee not more than 60 days after receipt of the complaint, or within any longer period on which the chair and the member agree, to consider the complaint.

1985 cP-18.5 s21

Notice of direction

22(1) The chair shall serve the investigated person and the complainant with notice of any direction made under section 21(3).

(2) A complainant who is served with a notice informing the complainant that a direction under section 21(3)(a) has been made may, within 30 days after receipt of the notice, appeal that decision to the governing body of the registered association by a signed written notice served on the president of the registered association.

(3) On an appeal under subsection (2), the governing body shall at its next scheduled meeting determine whether

- (a) the complaint is frivolous or vexatious, or
- (b) the complaint should be referred to the Discipline Committee for a hearing in accordance with this Act and, if so, the time limits, if any, within which the hearing must be held,

and shall serve its written decision on the complainant, the investigated person and the chair.

1985 cP-18.5 s22

Notice of hearing

23 If a hearing is to be held pursuant to section 21(3)(b) or 22(3)(b), the chair shall, at least 30 days before the hearing, serve on the investigated person and the complainant a notice stating the date, time and place at which the Discipline Committee will hold the hearing.

1985 cP-18.5 s23

Adjournment

24 A Discipline Committee may adjourn a hearing from time to time.

1985 cP-18.5 s24

Suspension

25 Notwithstanding anything in this Act, a Discipline Committee may suspend the registration of an investigated person pending its decision on the complaint.

1985 cP-18.5 s25

Counsel

26 The investigated person may make oral representations and be represented at a hearing by an agent or counsel.

1985 cP-18.5 s26

Private proceedings

27 All proceedings before a Discipline Committee and the governing body with respect to complaints may be held in camera.

1985 cP-18.5 s27

Evidence

28(1) Evidence may be given before a Discipline Committee in any manner that the Committee considers appropriate, and the Committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

(2) For the purposes of a hearing under this Act, any member of the governing body or a Discipline Committee has the power of a commissioner for oaths under the *Notaries and Commissioners Act*.

RSA 2000 cP-26 s28;2013 cN-5.5 s32

Witness

29(1) The investigated person and any other registered member of the association who in the opinion of a Discipline Committee has knowledge of the subject-matter of a hearing are compellable witnesses in a hearing under this Part.

(2) A witness referred to in subsection (1) may be examined under oath on all matters relevant to the investigation and shall not be excused from answering any question on the ground that the answer might

- (a) tend to incriminate the witness,
- (b) subject the witness to punishment under this Part, or
- (c) tend to establish the witness's liability
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or
 - (ii) to prosecution under any Act or regulations under any Act,

but if the answer so given tends to incriminate the witness, subjects the witness to punishment or establishes the witness's liability, it shall not be used or received against the witness in any civil proceedings, in a prosecution under Part 4 or in any proceedings under any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

(3) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench on an application made ex parte by the registered association may direct the obtaining of the evidence of the witness in the manner provided under the *Alberta Rules of Court* for the taking of the evidence of a person outside Alberta.

RSA 2000 cP-26 s29;2009 c53 s142

Witness attendance, production

30(1) The attendance of witnesses referred to in section 29(1) before a Discipline Committee and the production of reports, books, papers and other documents, materials or records that are relevant to the investigation may be enforced by a notice issued by the chair requiring the witness to attend and stating the date, time and place at which the witness is to attend and the reports, books, papers and other documents, materials or records, if any, that the witness is required to produce.

(2) On the written request of the investigated person or of that person's counsel or agent, the chair shall without charge issue and deliver to that person or that person's counsel or agent any notices that may be required under subsection (1).

(3) A witness, other than the investigated person, who has been served with a notice under subsection (1) or (2) is entitled to be paid the same fees, expenses and allowances as are payable to a witness in an action in the Court of Queen's Bench.

RSA 2000 cP-26 s30;2009 c53 s142

Failure to attend or give evidence

31(1) Proceedings for civil contempt of court may be brought against a witness

- (a) who fails
 - (i) to attend before the Discipline Committee in compliance with a notice to attend, or
 - (ii) to produce anything referred to in section 30(1) in compliance with a notice to produce it,

or

- (b) who refuses to be sworn or to answer any question directed to be answered by the Discipline Committee.

(2) If the witness referred to in subsection (1) is the investigated person, the witness's failure or refusal may be held to be professional or occupational misconduct as determined by the Discipline Committee.

1985 cP-18.5 s31

Hearing in absence of investigated person

32 A Discipline Committee, on proof of service of the notice of hearing on the investigated person, may

- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act, decide or report on the matter being heard in the same way as though the investigated person were in attendance.

1985 cP-18.5 s32

Order

33(1) If a Discipline Committee is satisfied that a complaint against the investigated person of professional or occupational misconduct or unskilled practice of the profession or occupation has been proved in whole or in part, it may, by order, do any one or more of the following:

- (a) direct the suspension of the registration of the investigated person for a stated period with or without conditions, including completion of a specified course of studies or obtaining supervised practical experience;
- (b) direct the cancellation of the investigated person's registration;
- (c) require the investigated person to complete the training prescribed by the Discipline Committee at the times and in the manner specified in the order.

(2) A Discipline Committee shall

- (a) serve any order it makes, together with written reasons for making the order, on the investigated person, and
- (b) inform the complainant in writing of the nature of the order.

1985 cP-18.5 s33

Payment of fines and costs

34(1) The Discipline Committee may, in addition to or instead of dealing with the conduct of an investigated person in accordance

with section 33, order that the investigated person pay to the registered association

- (a) all or part of the costs, determined in accordance with the regulations, of the hearing before the Discipline Committee or a review under section 35,
- (b) a fine not exceeding \$5000 for each finding of unskilled practice or professional or occupational misconduct or \$25 000 in the aggregate for all such findings arising out of the hearing, or
- (c) both the costs under clause (a) and the fine under clause (b),

within the time set by the order.

(2) If the person ordered to pay a fine or costs, or both, under subsection (1) fails to pay the fine or costs, or both, within the time ordered, the governing body of the registered association may suspend the registration of that person until the fine or costs, or both, are paid.

(3) If the governing body finds under section 22(3)(a) that a complaint is frivolous or vexatious, the Discipline Committee may order the complainant to pay all or part of the costs, determined in accordance with the regulations, of the proceeding before the governing body.

(4) A fine or costs ordered to be paid under this section are a debt due to the registered association and may be recovered by the association by civil action for debt.

1988 c40 s3

Review application

35(1) A member of the Discipline Committee or the investigated person in respect of whom an order has been made under section 33 or 34(1) may, within 30 days after the service of the order, by written notice served on the president of the registered association, request the governing body to review the order.

(2) A notice under subsection (1) shall set out the reasons for the request and describe the order being appealed.

(3) On receiving a written request to review an order, the governing body shall review the order and the reasons for the order forthwith.

1985 cP-18.5 s34;1988 c40 s4

Review

36(1) The governing body, in conducting a review under section 35, may

- (a) amend, substitute or add to the particulars of the matter being investigated;
- (b) adjourn the proceedings or reserve the determination of the matters before it for a future meeting of the governing body;
- (c) review all or any part of the evidence given before the Discipline Committee in the same manner and subject to the same rules and with the same powers as are provided with respect to hearings before the Discipline Committee;
- (d) on an application to receive further evidence, inquire as to the nature of that further evidence and, on granting leave, receive part or all of that further evidence in the same manner and subject to the same rules and with the same powers as are provided with respect to hearings before the Discipline Committee.

(2) The Discipline Committee and the investigated person may make oral representations and be represented by an agent or counsel at the review.

(3) The governing body may

- (a) draw inferences of fact and make any determination or finding that in its opinion ought to have been made by the Discipline Committee, or
- (b) quash, vary or confirm the finding or order of the Discipline Committee.

(4) The governing body shall

- (a) serve the investigated person with a copy of the governing body's decision and of the reasons for its decision, and
- (b) inform the complainant in writing of the nature of the decision.

1985 cP-18.5 s35

Appeal

37(1) A party to proceedings before the governing body under section 36 may, within 30 days after the date of service of the decision of the governing body, appeal to the Court of Queen's Bench by way of application.

- (2) The application shall
- (a) name the governing body as the respondent,
 - (b) state the reasons for the appeal, and
 - (c) be served on the chair, the governing body and any other party to the proceedings, within 30 days after the date of service of the order of the governing body.
- (3) An appeal under this section shall be by way of a rehearing of the matter on the merits.

RSA 2000 cP-26 s37;2009 c53 s142

Powers of Court

- 38(1)** The Court, on hearing the appeal, may make any findings of fact that in its opinion ought to have been made and may
- (a) reverse, confirm or vary any decision or order made by the governing body or substitute its own decision for the decision of the governing body, or
 - (b) refer the matter back to the governing body for further consideration by it.
- (2) The Court may make any award respecting the costs of an appeal that it considers appropriate.

1985 cP-18.5 s37

Part 4 General Provisions

Service of documents

- 39** A notice, order, complaint or other document or a copy of any one or more of them that is required by this Act to be given or served on or that may be made to any person shall be served personally or by registered or certified mail addressed to the person at the person's last known address.

1985 cP-18.5 s38

Exemption from municipal licence

- 40** No municipality has the power to require any member of a registered association to obtain a licence from the municipality to engage in the field of practice established by the registered association under the regulations.

1998 c36 s5

Ministerial orders

- 41** The Minister may make orders

- (a) respecting the Register to be kept by the Registrar and matters to be entered in it;
- (b) prescribing forms for the purposes of this Act;
- (c) requiring the payment of a fee in respect of an application for registration;
- (d) requiring the payment of a fee in respect of the registration of an association;
- (e) requiring the payment by a registered association of an annual fee;
- (f) requiring the payment of a fee in respect of the searching, examination or copying of any document;
- (g) prescribing the fees referred to in clauses (c), (d), (e) and (f);
- (h) respecting the annual report and its contents to be submitted
 - (i) by the registered association to the Registrar, and
 - (ii) by the Registrar to the Minister and to any Minister to whom a transfer of administration is ordered under section 42.

1985 cP-18.5 s39;1987 c16 s3

Transfer of administration

42 The Lieutenant Governor in Council, on request of a registered association and on the recommendation of the member of the Executive Council charged with the administration of this Act, may by order transfer to any Minister the administration of this Act with respect to that registered association.

1985 cP-18.5 s40

Misrepresentation

43(1) No person, except a member of a registered association, shall use a designated title, alone or in combination with any other title, name, description, abbreviation, letter or symbol, in such a way as to represent expressly or by implication that the person is a member of the registered association.

(2) A person whose registration is cancelled or suspended under this Act shall not hold out that the person is a member of the registered association.

1985 cP-18.5 s41

Offence

44(1) A person who contravenes section 43 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$2000,
- (b) for a 2nd offence, to a fine of not more than \$4000, and
- (c) for a 3rd and every subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months or to both a fine and imprisonment.

(2) A prosecution under this section may be commenced within 2 years after the alleged commission of the offence, but not afterwards.

1985 cP-18.5 s42

Injunction

45 The Court of Queen's Bench, on application by a registered association, may grant an injunction enjoining any person from doing any act or thing that contravenes section 43, notwithstanding any penalty that may be provided by this Act in respect of that contravention.

RSA 2000 cP-26 s45;2009 c53 s142

No action

46(1) No action lies against

- (a) a member of a Registration Committee, Practice Review Committee, Discipline Committee or governing body or any person acting on the instructions of any of them, or
- (b) any member, officer or employee of a registered association,

for anything done by that person in good faith and in purporting to act under this Act, the regulations or the bylaws that relates to or is incidental to a professional or occupational matter or a matter of public interest that is or may be the subject of a regulation under section 14.

(2) No action for defamation may be founded on a communication that consists of or pertains to the conduct of a person who is a registered member of a registered association if the communication is published to or by

- (a) a registered association, a Practice Review Committee or a Discipline Committee,
- (b) an officer or employee of a registered association, or

- (c) a person acting on the instructions of a person referred to in clause (a) or (b),

in good faith in the course of investigating the conduct of a registered member or in the course of any proceeding under this Act relating to the conduct.

1985 cP-18.5 s44

Reports

47(1) The Registrar shall submit annually to the Minister and to any Minister to whom a transfer of administration is ordered under section 42 a report on all registered associations containing the information required by the Minister pursuant to section 41.

(2) Registered associations shall submit annually to the Registrar on the date prescribed by the Minister, in a form satisfactory to the Minister, a report on those matters of the business and affairs of the registered association that the Minister requires pursuant to section 41.

1985 cP-18.5 s45



Printed on Recycled Paper 