

2006

## CHAPTER F-19.2

An Act respecting the Forestry Professions of Saskatchewan

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(Assented to April 27, 2006)

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

#### Short title

1 This Act may be cited as *The Forestry Professions Act*.

#### Interpretation

2 In this Act:

(a) “**administrative bylaw**” means a bylaw made for a purpose set out in subsection 15(1);

- (b) **“association”** means the Association of Saskatchewan Forestry Professionals established pursuant to section 3;
- (c) **“bylaws”** means the valid and subsisting bylaws of the association;
- (d) **“council”** means the council of the association;
- (e) **“court”** means the Court of Queen’s Bench;
- (f) **“forest technologist-in-training”** means a person who is registered with the association as a forest technologist-in-training;
- (g) **“forested land”** means publicly owned or privately owned forested land;
- (h) **“forester-in-training”** means a person who is registered with the association as a forester-in-training;
- (i) **“member”** means a member of the association who is in good standing;
- (j) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (k) **“professional forest technologist”** means a person who is registered with the association as a professional forest technologist;
- (l) **“professional forester”** means a person who is registered with the association as a professional forester;
- (m) **“professional practice of forestry”** means the provision of services in relation to the development, management, conservation and sustainability of forests, forested land and forest resources where those services require knowledge, training and experience equivalent to that required to become a member pursuant to this Act, and includes all or any of the following:
  - (i) the planning, classification, inventory, mapping, measurement, certification, appraisal and evaluation of forests and forested land;
  - (ii) the development, implementation, examination or auditing of programs for harvesting and renewal of forests and forested land;
  - (iii) the conservation, reclamation, improvement or protection of forests, forested land or forest soils for forestry purposes;
  - (iv) the preparation, review or approval of forest management and operating plans;
  - (v) the development of integrated forest land use plans;
  - (vi) the administration, inspection or monitoring of forested land;
  - (vii) the teaching of forestry at a college, technical institute or university;
  - (viii) the conducting of research activities related to forestry;
- (n) **“register”** means the register kept pursuant to section 18;
- (o) **“registrar”** means the registrar appointed pursuant to section 12;
- (p) **“regulatory bylaw”** means a bylaw made for a purpose set out in subsection 15(2).

## ASSOCIATION

### Association established

- 3(1) The Association of Saskatchewan Forestry Professionals is established.
- (2) The association is a corporation.

### Objects

- 4 The objects of the association are:
  - (a) to establish and maintain high standards of professional ethics and excellence for members in the professional practice of forestry;
  - (b) to assure the general public of the knowledge, skill, proficiency and competency of members in the professional practice of forestry;
  - (c) to promote and improve the knowledge, skill, proficiency and competency of members in all matters relating to the professional practice of forestry; and
  - (d) to foster the professional practice of forestry by members in a manner that is in the public interest of the people of Saskatchewan.

### Membership

- 5 The membership of the association consists of those persons who are admitted as members of the association pursuant to this Act and the bylaws.

### Property

- 6(1) The association may acquire, hold, mortgage, lease, sell or dispose of any property.
- (2) All fees, fines and penalties receivable or recoverable pursuant to this Act are the property of the association.
- (3) The association may:
  - (a) invest its funds in investments in which trustees are authorized to invest pursuant to *The Trustee Act*; and
  - (b) sell or otherwise dispose of those investments and reinvest the proceeds in similar investments.

### Meetings

- 7(1) An annual meeting of the association is to be held at the time and place that is determined by the council in accordance with the bylaws.
- (2) A special meeting of the association for the transaction of the business that is specified in the resolution or demand is to be held:
  - (a) on resolution of the council; or
  - (b) on the demand, in writing, of the number of members specified in the bylaws.
- (3) The procedure at an annual or special meeting is to be determined by bylaw.
- (4) The registrar shall send a notice of an annual meeting or special meeting to each member at least 10 days before the meeting.

## COUNCIL

### **Council**

8(1) The council shall manage and regulate the affairs and business of the association.

(2) The council consists of:

(a) the number of members prescribed in the bylaws elected by members in accordance with this Act and the bylaws; and

(b) the person appointed pursuant to section 9.

(3) Members of council elected pursuant to clause (2)(a) are entitled to remuneration and reimbursement for expenses in the amounts prescribed in the bylaws.

(4) Each member of council elected pursuant to clause (2)(a) holds office for the term prescribed in the bylaws.

### **Public appointee**

9(1) The Lieutenant Governor in Council may appoint one person who resides in Saskatchewan as a member of council.

(2) If the Lieutenant Governor in Council appoints a person as a member of council, the term of office of that person is not to exceed three years.

(3) Subject to subsection (4), the member of council appointed pursuant to this section holds office until that person's successor is appointed and is eligible for reappointment, but is not eligible to hold office for more than two consecutive terms.

(4) The member of council appointed pursuant to this section ceases to hold office if that person ceases to be a resident of Saskatchewan.

(5) The member of council appointed pursuant to this section may exercise rights and serve as a member of committees to the same extent as other members of council.

(6) The member of council appointed pursuant to this section shall be a member of the discipline committee.

(7) The absence or inability to act as a member of the discipline committee by the member of council appointed pursuant to this section or the failure to appoint a member of council pursuant to this section does not impair the ability of the other members of the discipline committee to act.

(8) The minister shall remunerate and reimburse for expenses the member of council appointed pursuant to this section at the rate determined by the Lieutenant Governor in Council.

### **Resignation**

10(1) An elected member of council may resign by giving written notice of his or her resignation to the council.

(2) A member of council appointed pursuant to section 9 may resign by giving written notice of his or her resignation to the minister.

(3) The resignation of a member of council is effective on the date stated on the written notice or, if no date is stated:

- (a) in the case of a resignation of an elected member, on the date the written notice is received by the council; or
- (b) in the case of a resignation of a member of council appointed pursuant to section 9, on the date the written notice is received by the minister.

#### **Vacancy**

**11(1)** When a vacancy occurs in the elected membership of the council, the remaining members of council may appoint another member to fill the vacancy until the earlier of:

- (a) the expiry of the term of office of the person who ceased to be a member of council; and
- (b) the date on which a member is elected to fill the vacancy in accordance with this Act and the bylaws.

(2) A vacancy in the membership of the council does not impair the power of the remaining members of council to act.

(3) If a member serving as an elected member of council is suspended from the association, the member's powers and duties as an elected member of council are suspended for the same period.

(4) If a member serving as an elected member of council is expelled from the association, the member ceases to be an elected member of council on the day the member is expelled.

#### **Officers and employees**

**12(1)** The officers of the association are to be those that are:

- (a) prescribed in the bylaws; and
- (b) appointed or elected in accordance with the bylaws.

(2) The council shall appoint a registrar.

(3) The council may engage any employees that it considers necessary to carry out the duties and functions of the association.

(4) Subject to this Act and the bylaws, the council shall determine the duties, responsibilities and remuneration of employees of the association.

#### **Committees**

**13(1)** The council may establish any committees that are provided for by the bylaws or that it considers necessary.

(2) The council shall appoint persons to any committees that are provided for by this Act or the bylaws or that it has established pursuant to subsection (1).

(3) Subject to this Act and the bylaws, the council, on any terms or conditions that it may determine, may delegate any of its powers or duties to a committee provided for by this Act or the bylaws or established pursuant to subsection (1).

(4) The council shall not delegate the power to make bylaws.

(5) Subject to this Act and the bylaws, a committee may establish its own procedures.

## BYLAWS

### Procedures

**14(1)** The council, with the approval of not less than a three-quarters majority of the members of council, may make bylaws for any purpose set out in section 15.

(2) A bylaw made by the council pursuant to subsection (1) has effect only until the next annual or special meeting of the association and, unless confirmed or varied by the members in accordance with subsection (3), ceases to have any effect after that time.

(3) With the approval of a two-thirds majority of those members who vote at an annual or special meeting, the association may:

- (a) make bylaws for any purpose set out in section 15; and
- (b) confirm, vary or revoke any bylaw made by the council pursuant to subsection (1).

(4) The variation or revocation of a bylaw pursuant to subsection (3) does not affect the operation or application of the bylaw prior to its revocation or variation, and everything done, omitted to be done or authorized pursuant to the bylaw is valid and effective against all persons notwithstanding the revocation or variation.

(5) The registrar shall forward copies of proposed bylaws to all members at least 14 days before the date of the annual or special meeting at which the bylaws are to be presented.

(6) The registrar shall notify each member of each bylaw made pursuant to subsection (1) or (3), or confirmed, varied or revoked pursuant to subsection (3), within 150 days after the bylaw is made, confirmed, varied or revoked.

(7) Failure to comply with subsection (6) does not invalidate a bylaw.

(8) No regulatory bylaw made by the council or the association comes into force until it is:

- (a) approved by the minister pursuant to section 16; and
- (b) published in the Gazette.

(9) An administrative bylaw becomes effective on the later of:

- (a) the day on which it is filed pursuant to subsection 16(5); and
- (b) the date specified in the bylaw.

### Bylaws

**15(1)** Subject to this Act, administrative bylaws may be made pursuant to section 14 for the following purposes:

- (a) prescribing the seal of the association;
- (b) providing for the execution of documents by the association;
- (c) respecting the banking and financial dealings of the association;
- (d) fixing the fiscal year of the association and providing for the audit of the accounts and transactions of the association;

- (e) respecting the management of the property of the association;
  - (f) prescribing the number and terms of office of elected members of council;
  - (g) prescribing the officers of the association and governing the procedure for the appointment or election of those officers;
  - (h) prescribing the Saskatchewan address of the head office of the association;
  - (i) prescribing the duties of members of council and of officers and employees of the association;
  - (j) governing the procedures for the election of members of council;
  - (k) prescribing the organization, powers and procedures of the council and regulating the council in the performance of its duties;
  - (l) respecting the holding and procedures of meetings of the council and annual and special meetings of the association;
  - (m) prescribing the amount of registration and other fees payable to the association, the times of payment and penalties for late payment;
  - (n) providing for the receipt, management and investment of contributions, donations and bequests;
  - (o) establishing and governing scholarships, bursaries and prizes;
  - (p) regulating joint participation by the association with any educational institution or any person, group, organization or body corporate having goals or objectives similar to those of the association;
  - (q) establishing any committees that the council considers necessary and prescribing the manner of election or appointment of committee members;
  - (r) prescribing the remuneration and reimbursement for expenses for members of council and for committee members;
  - (s) providing for any other thing that is necessary for the effective administration of the association.
- (2) Subject to this Act, regulatory bylaws may be made pursuant to section 14 for the following purposes:
- (a) prescribing the qualifications, standards and tests of competency for the registration of persons or any category of persons as members;
  - (b) prescribing:
    - (i) the procedures governing registration of persons or any category of persons as members; and
    - (ii) the terms and conditions of membership;
  - (c) setting standards of professional conduct, competency and proficiency of members;

- (d) providing for a code of ethics for members;
- (e) setting standards regarding the manner and method of practice of members;
- (f) prescribing procedures for:
  - (i) the review, investigation and disposition by the professional conduct committee of complaints alleging that a member is guilty of professional misconduct or professional incompetence;
  - (ii) hearings by the discipline committee of complaints alleging that a member is guilty of professional misconduct or professional incompetence; and
  - (iii) reviews pursuant to subsection 21(4);
- (g) establishing categories of membership in the association and prescribing the rights and privileges of each category;
- (h) prescribing the circumstances under which members are required to attend re-entry education programs and courses and approving programs and courses for that purpose;
- (i) governing the approval of education programs for the purposes of registration pursuant to this Act and prescribing terms and conditions for initial or continued approval of those programs;
- (j) setting standards for continuing education and the participation of members in continuing education;
- (k) governing the reinstatement of a member who has been expelled;
- (l) setting requirements for maintenance of membership;
- (m) regulating advertising by members;
- (n) prescribing the number of members required to demand a special meeting of the association;
- (o) prescribing the minimum amount of liability protection that members are required to obtain;
- (p) prescribing the form, content and maintenance of the register and the information to be provided by members for the purpose of the register;
- (q) respecting the reporting and publication of decisions and reports of the council and committees;
- (r) respecting the types and service of notices that may be served electronically;
- (s) defining activities that constitute a conflict of interest and prohibiting the participation of members in those activities;
- (t) prescribing any other matters considered necessary for the better carrying out of this Act.



**Filing of bylaws**

**16(1)** The association shall file with the minister two copies, certified by the registrar to be true copies, of:

- (a) all regulatory bylaws; and
  - (b) any amendment to a regulatory bylaw together with two certified copies of the regulatory bylaw to which the amendment relates.
- (2) If the minister does not advise the association in writing within 90 days after receiving copies of the regulatory bylaw or amendment that the minister approves the regulatory bylaw or amendment, the regulatory bylaw or amendment is deemed not to be approved.
- (3) If the minister approves a regulatory bylaw or an amendment to a regulatory bylaw, the minister shall file with the Department of Justice two copies, certified by the registrar to be true copies, of the regulatory bylaw or amendment.
- (4) If an amendment to a regulatory bylaw is filed pursuant to subsection (3), the minister shall file two copies, certified by the registrar to be true copies, of the regulatory bylaw with the amendment.
- (5) Within 30 days after an administrative bylaw or an amendment to an administrative bylaw is made, the council shall file with the Department of Justice two copies, certified by the registrar to be true copies, of the administrative bylaw or amendment.
- (6) If an amendment to an administrative bylaw is filed pursuant to subsection (5), the council shall also file two copies, certified by the registrar to be true copies, of the administrative bylaw with the amendment.
- (7) If an administrative bylaw or an amendment to an administrative bylaw is not filed within the time required by subsection (5), the administrative bylaw or amendment to the administrative bylaw is deemed to be revoked on the expiration of the 30 days mentioned in subsection (5).

**MEMBERSHIP AND REGISTRATION****Membership**

**17** The council, in accordance with this Act and the bylaws, may register persons as members in those categories of membership set out in section 19 and the bylaws.

**Register**

**18(1)** In accordance with the bylaws, the council shall keep a register in which the name and address of every member is to be recorded.

- (2) The register is to be:
- (a) kept at the head office of the association; and
  - (b) open for inspection by all persons, without fee, during normal office hours of the association.

(3) The following documents are admissible in evidence as proof, in the absence of evidence to the contrary, of their contents without proof of the registrar's appointment or signature:

- (a) a certificate purporting to be signed by the registrar and stating that:
  - (i) a named person was or was not, on a specified day or during a specified period, a member according to the register; or
  - (ii) a named person was or was not, on a specified day or during a specified period, suspended according to the register;
- (b) an extract from the register that is certified by the registrar.

#### Registration

**19(1)** In this section, “**reciprocal association**” means an association of forestry professionals in a jurisdiction other than Saskatchewan that has objects similar to the association and that has standards of admission that are equivalent to or that exceed those of the association.

(2) The council may register as a professional forester a person who produces evidence establishing to the satisfaction of the council that the person:

- (a) has paid the prescribed fees;
- (b) has complied with the bylaws with respect to registration as a professional forester;
- (c) either:
  - (i) possesses the educational qualifications and the employment qualifications required by the bylaws for professional foresters; or
  - (ii) is the equivalent of a professional forester in good standing in a reciprocal association; and
- (d) has successfully completed the examinations for professional foresters set by the association.

(3) The council may register as a professional forest technologist a person who produces evidence establishing to the satisfaction of the council that the person:

- (a) has paid the prescribed fees;
- (b) has complied with the bylaws with respect to registration as a professional forest technologist;
- (c) either:
  - (i) possesses the educational qualifications and the employment qualifications required by the bylaws for professional forest technologists; or
  - (ii) is the equivalent of a professional forest technologist in good standing in a reciprocal association; and
- (d) has successfully completed the examinations for professional forest technologists set by the association.

- (4) The council may register as a forester-in-training a person who produces evidence establishing to the satisfaction of the council that the person:
- (a) has paid the prescribed fees;
  - (b) has complied with the bylaws with respect to registration as a forester-in-training;
  - (c) possesses the educational qualifications required by the bylaws for foresters-in-training; and
  - (d) has successfully completed the examinations for foresters-in-training set by the association.
- (5) The council may register as a forest technologist-in-training a person who produces evidence establishing to the satisfaction of the council that the person:
- (a) has paid the prescribed fees;
  - (b) has complied with the bylaws with respect to registration as a forest technologist-in-training;
  - (c) possesses the educational qualifications required by the bylaws for forest technologists-in-training; and
  - (d) has successfully completed the examinations for forest technologists-in-training set by the association.
- (6) The council may register as a restricted member a person who:
- (a) does not fully meet the requirements of clauses (2)(c) and (d) or (3)(c) and (d);
  - (b) agrees to practise in accordance with the conditions or restrictions specified in the bylaws;
  - (c) has paid the prescribed fees; and
  - (d) has complied with the bylaws with respect to registration as a restricted member.
- (7) Notwithstanding clauses (2)(c) and (d) or (3)(c) and (d), the council may, at any time before the expiration of two years after the coming into force of this subsection, admit to membership in the association as a professional forester or professional forest technologist a person who meets any educational and experience requirements that may be set out in the regulatory bylaws for the purposes of this subsection.

**Admissions**

- 20(1)** The council, in accordance with this Act and the bylaws, shall appoint an admissions committee.
- (2) The admissions committee shall consist of at least three members appointed by council.
- (3) The admissions committee shall set and conduct examinations of applicants for membership and shall file the results of the examinations with the registrar.

**Delegation and review**

**21(1)** The council may delegate to the admissions committee the power to register persons as members.

(2) Where a power is delegated pursuant to this section, the exercise of that power by the admissions committee is deemed to be an exercise of the power by the council.

(3) The council may impose any terms and conditions that it considers appropriate on a delegation of its powers.

(4) A person who is aggrieved by a decision of the admissions committee made pursuant to a delegated power may apply to the council to review that decision.

(5) On a review pursuant to subsection (4), the council shall hear the review and may:

(a) direct the admissions committee to exercise the power in a manner that the council considers appropriate; or

(b) confirm the decision of the admissions committee.

(6) On a review pursuant to subsection (4), the person aggrieved by the decision of the admissions committee has the right to appear in person before the council in support of the application.

(7) The council shall cause the applicant to be informed, in writing, of its decision regarding the review.

**Professional seals**

**22(1)** Every professional forester is entitled, in accordance with the bylaws, to sign and seal all final plans, reports and other documents relating to the practice of professional forestry that are prepared, issued or approved by that person.

(2) All seals must be acquired from the association and be designed in the manner set out in the bylaws.

(3) A professional forester who is expelled or suspended shall return his or her seal to the association for the period of the suspension or expulsion.

**PROHIBITION****Protection of title**

**23(1)** No person other than a professional forester shall use:

(a) the title or abbreviation:

(i) "Registered Professional Forester", "R.P.F." or "RPF";

(ii) "Registered Forester", "R.F." or "RF"; or

(iii) "Professional Forester", "P.For." or "PFor"; or

(b) any word, title or designation, abbreviated or otherwise, to imply that the person is a professional forester.

- (2) No person other than a professional forest technologist shall use:
  - (a) the title or abbreviation:
    - (i) “Registered Professional Forest Technologist”, “R.P.F.T.” or “RPFT”;
    - (ii) “Registered Forest Technologist”, “R.F.T.” or “RFT”; or
    - (iii) “Professional Forest Technologist”, “P.F.T.” or “PFT”; or
  - (b) any word, title or designation, abbreviated or otherwise, to imply that the person is a professional forest technologist.
- (3) No person other than a forester-in-training shall use:
  - (a) the title or abbreviation “Forester-in-Training”, “F.I.T.” or “FIT”; or
  - (b) any word, title or designation, abbreviated or otherwise, to imply that the person is a forester-in-training.
- (4) No person other than a forest technologist-in-training shall use:
  - (a) the title or abbreviation “Forest Technologist-in-Training”, “F.T.I.T.” or “FTIT”; or
  - (b) any word, title or designation, abbreviated or otherwise, to imply that the person is a forest technologist-in-training.

## DISCIPLINE

### Professional incompetence

**24** Professional incompetence is a question of fact, but the display by a member of a lack of knowledge, skill or judgment or a disregard for the welfare of a member of the public served by the profession of a nature or to an extent that demonstrates that the member is unfit to:

- (a) continue in the practice of the profession; or
- (b) provide one or more services ordinarily provided as a part of the practice of the profession;

is professional incompetence within the meaning of this Act.

### Professional misconduct

**25** Professional misconduct is a question of fact, but any matter, conduct or thing, whether or not disgraceful or dishonourable, is professional misconduct within the meaning of this Act if:

- (a) it is harmful to the best interests of the public or the members;
- (b) it tends to harm the standing of the profession;
- (c) it is a breach of this Act or the bylaws; or
- (d) it is a failure to comply with an order of the professional conduct committee, the discipline committee or the council.

**Professional conduct committee**

**26(1)** The professional conduct committee is established consisting of at least three persons appointed by the council.

(2) No member of the discipline committee is eligible to be a member of the professional conduct committee.

**Investigation**

**27(1)** Where the professional conduct committee is requested by the council to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence, the committee shall:

- (a) review the complaint; and
- (b) investigate the complaint by taking any steps it considers necessary, including summoning before it the member whose conduct is the subject of the complaint.

(2) On completion of its investigation, the professional conduct committee shall make a written report to the discipline committee recommending:

- (a) that the discipline committee hear and determine the formal complaint set out in the written report; or
- (b) that no further action be taken with respect to the matter under investigation.

(3) The formal complaint set out in a written report made pursuant to clause (2)(a) may relate to any matter disclosed in the complaint received pursuant to subsection (1) or the investigation conducted pursuant to subsection (1).

(4) A report signed by a majority of the professional conduct committee is the decision of that committee.

(5) The professional conduct committee shall provide, or cause the registrar to provide, a copy of a written report made pursuant to clause (2)(b) to:

- (a) the council;
- (b) the complainant, if any; and
- (c) the member whose conduct is the subject of the complaint mentioned in subsection (1).

**Discipline committee**

**28(1)** The discipline committee is established consisting of at least three persons appointed by the council, one of whom shall be the member of council appointed pursuant to section 9.

(2) No member of the professional conduct committee is eligible to be a member of the discipline committee.

(3) Subject to this Act and the bylaws, the discipline committee may make rules regulating its business and proceedings.

**Discipline hearing**

**29(1)** Where a report of the professional conduct committee recommends that the discipline committee hear and determine a formal complaint, the registrar shall, at least 14 days before the date the discipline committee is to sit:

- (a) send a copy of the formal complaint to the member whose conduct is the subject of the hearing; and
  - (b) serve notice on the member whose conduct is the subject of the hearing of the date, time and place of the hearing.
- (2) The professional conduct committee shall prosecute or direct the prosecution of the formal complaint, but its members shall not participate in any other manner in the hearing of the formal complaint except as witnesses when required.
- (3) The discipline committee shall hear the formal complaint and shall determine whether or not the member is guilty of professional misconduct or professional incompetence, notwithstanding that the determination of a question of fact may be involved, and the discipline committee need not refer any question to a court for adjudication.
- (4) The discipline committee may accept any evidence that it considers appropriate and is not bound by rules of law concerning evidence.
- (5) The discipline committee may employ, at the expense of the association, any legal or other assistance that it considers necessary, and the member whose conduct is the subject of the hearing, at his or her own expense, may be represented by counsel.
- (6) The testimony of witnesses is to be under oath or affirmation administered by the chairperson of the discipline committee.
- (7) At a hearing by the discipline committee, there is to be full right:
- (a) to examine, cross-examine and re-examine all witnesses; and
  - (b) to present evidence in defence and reply.
- (8) On application and payment of the appropriate fee, the local registrar of the court at any judicial centre shall issue writs of *subpoena ad testificandum* or *subpoena duces tecum* to all or any of the following:
- (a) a member whose conduct is the subject of a hearing pursuant to this Act;
  - (b) a member of the professional conduct committee;
  - (c) a member of the discipline committee.
- (9) Where a writ issued pursuant to subsection (8) is disobeyed, the proceedings and penalties are those applicable in civil cases in the court.
- (10) Where the member whose conduct is the subject of the hearing fails to attend the hearing, the discipline committee, on proof of service of the notice mentioned in subsection (1), may proceed with the hearing in his or her absence.

(11) If, during the course of a hearing, the evidence shows that the member whose conduct is the subject of the hearing may be guilty of a charge different from or in addition to any charge specified in the formal complaint, the discipline committee shall notify the member of that fact.

(12) If the discipline committee proposes to amend, add to or substitute the charge in the formal complaint, the discipline committee shall adjourn the hearing for any period that the discipline committee considers sufficient to give the member an opportunity to prepare a defence to the amended formal complaint, unless the member consents to continue the hearing.

(13) The person, if any, who made the complaint pursuant to section 27:

- (a) is to be advised orally or in writing by the registrar of the date, time and place of the hearing; and
- (b) subject to subsection (15), is entitled to attend the hearing.

(14) Subject to subsection (15), the discipline committee shall conduct all hearings in public.

(15) The discipline committee may exclude members of the public and the person who made the complaint from any part of the hearing when the committee is of the opinion that evidence brought in the presence of the person or persons to be excluded will unduly violate the privacy of a person other than the member whose conduct is the subject of the hearing.

**Disciplinary powers**

**30(1)** Where the discipline committee finds a member guilty of professional misconduct or professional incompetence, it may make one or more of the following orders:

- (a) an order that the member be expelled from the association and that the member's name be struck from the register;
- (b) an order that the member be suspended for a specified period;
- (c) an order that the member be suspended pending the satisfaction and completion of any conditions specified in the order;
- (d) an order that the member may continue to practise, but only under conditions specified in the order, which may include, but are not restricted to, an order that the member:
  - (i) not do specified types of work;
  - (ii) successfully complete specified classes or courses of instruction;
  - (iii) obtain all or any medical treatment, other treatment or counselling;
- (e) an order reprimanding the member;
- (f) any other order that the discipline committee considers just.



(2) In addition to any order made pursuant to subsection (1), the discipline committee may order:

- (a) that the member pay to the association, within a fixed period:
  - (i) a fine in a specified amount not exceeding \$5,000; and
  - (ii) the costs of the investigation and hearing into the member's conduct and related costs, including the expenses of the professional conduct committee and the discipline committee and the costs of legal services and witnesses; and
- (b) if a member fails to make payment in accordance with an order pursuant to clause (a), that the member be suspended.

(3) The registrar shall send a copy of an order made pursuant to this section to the member whose conduct is the subject of the order and to the person, if any, who made the complaint.

(4) If a member is expelled or suspended from the association, the registrar shall strike the name of the member from the register or indicate the suspension on the register, as the case may be.

(5) The discipline committee may inform a member's employer of the order made against that member where that member has been found guilty of professional misconduct or professional incompetence.

**Criminal conviction**

**31** The discipline committee may make any order pursuant to section 30 where:

- (a) the member has been convicted of an offence pursuant to the *Criminal Code*;
- (b) a report of the professional conduct committee is made to the discipline committee respecting the conviction mentioned in clause (a);
- (c) the discipline committee has given the member mentioned in clause (a) an opportunity to be heard; and
- (d) the discipline committee finds that the conduct of the member giving rise to the conviction is professional misconduct.

**Duty to report**

**32** Where the professional conduct committee in its investigation pursuant to section 27 or the discipline committee at the conclusion of its hearing pursuant to section 29 believes that the member whose conduct is the subject of the investigation or hearing may be guilty of a criminal offence, the committee may immediately discontinue its investigation or hearing, as the case may be, and shall make a report of its findings to:

- (a) the president of the association; and
- (b) the Deputy Minister of Justice.

**Suspension**

**33** A judge of the court, on the application of the council, may direct that a member be suspended pending the disposition of a criminal charge where:

- (a) a criminal charge is laid against the member; and
- (b) the member has applied to the court for a stay of any disciplinary proceedings against the member.

**Appeal to council**

**34(1)** A member may appeal the decision or any order of the discipline committee to the council by serving the registrar with a notice of appeal within 30 days after the decision or order if:

- (a) the member has been found guilty of professional misconduct or professional incompetence by the discipline committee; or
  - (b) the member is subject to an order made pursuant to section 30.
- (2) An appellant shall set out the grounds of appeal in a notice of appeal mentioned in subsection (1).
- (3) On receipt of a notice of appeal, the registrar shall file with the council a true copy of:
- (a) the formal complaint sent and notice served pursuant to section 29 or the report of the professional conduct committee made pursuant to section 31;
  - (b) the transcript of the evidence presented to the discipline committee; and
  - (c) the decision and order of the discipline committee.
- (4) The appellant or the appellant's solicitor or agent may obtain from the registrar a copy of the documents filed pursuant to subsection (3) on payment of the costs of producing them.
- (5) On hearing an appeal, the council may:
- (a) dismiss the appeal;
  - (b) quash the finding of guilt;
  - (c) direct a new hearing or further inquiries by the discipline committee;
  - (d) vary the order of the discipline committee; or
  - (e) substitute its own decision for the decision appealed from.
- (6) The council may make any order as to costs that it considers appropriate.

**Appeal to court**

**35** A member whose conduct is the subject of an order of the council pursuant to section 34 may appeal that order to a judge of the court within 30 days after the date of the order of the council, and section 34 applies, with any necessary modification.

**Effect of appeal**

**36** The commencement of an appeal pursuant to section 34 or 35 does not stay the effect of the decision or order appealed from, but, on five days' notice to the registrar, the appellant may apply to the court for a stay of the decision or order pending the disposition of the appeal.

**Effect of expulsion or suspension**

**37** When a member is expelled or suspended from the association, that member's rights and privileges as a member are removed for the period during which he or she is expelled or suspended from the association.

**Reinstatement**

**38(1)** A person who has been expelled as a member may apply to the council for reinstatement.

(2) Subject to the bylaws, on receipt of an application pursuant to subsection (1), the council shall:

- (a) review the application; and
- (b) investigate the application by taking any steps it considers necessary.

(3) On completion of its investigation, the council may:

- (a) if it is satisfied that the person's subsequent conduct and any other facts warrant reinstatement, order that the person be reinstated as a member on any terms and conditions that the council considers appropriate; or
- (b) by order, refuse to reinstate the person.

(4) If, on an application pursuant to subsection (1), the council refuses to reinstate the person as a member, the person, within 30 days after the date of the order, may appeal the order of the council to a judge of the court, and the judge may allow or disallow the appeal.

(5) On an appeal pursuant to subsection (4), the judge shall consider:

- (a) the proceedings before the council on the application for reinstatement;
- (b) the past record of the appellant as shown by the books and records of the association; and
- (c) the evidence taken before the council and any committee that dealt with the expulsion and application for reinstatement and the report of that committee.

(6) A person whose application for reinstatement is refused or whose appeal of a refusal is dismissed may make another application for reinstatement, based on new information, at any time.

## GENERAL

**Immunity**

**39** No action lies or shall be instituted against:

- (a) the council or any member of council;
- (b) the admissions committee;
- (c) the professional conduct committee;
- (d) the discipline committee;
- (e) any member of any committee; or
- (f) any officer, employee or agent of the association;

for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the bylaws or in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the bylaws or any duty imposed by this Act or the bylaws.

**Offence and penalty**

**40** Every person who contravenes section 23 is guilty of an offence and liable on summary conviction:

- (a) for a first offence, to a fine of not more than \$5,000;
- (b) for a second offence, to a fine of not more than \$10,000; and
- (c) for each subsequent offence, to a fine of not more than \$15,000, to imprisonment for a term of not more than six months or to both.

**Limitation of prosecution**

**41** No prosecution for a contravention of section 23 is to be commenced:

- (a) after the expiration of 24 months from the date of the alleged offence; and
- (b) without the consent of the Minister of Justice or the council.

**Report of termination of employment**

**42** Any employer who terminates for cause the employment of a member shall report the termination to the association where the employer reasonably believes the cause is professional incompetence or professional misconduct.

**Review by Legislative Assembly**

**43(1)** One copy of each bylaw and amendment filed with the Department of Justice pursuant to section 16 is to be laid before the Legislative Assembly by the Minister of Justice in accordance with *The Tabling of Documents Act, 1991*.

(2) If any bylaw or amendment laid before the Legislative Assembly is found by the Legislative Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, that bylaw or amendment ceases to have any effect and is deemed to have been revoked.

**Record of revocation and notification**

44(1) If it appears from any Votes and Proceedings of the Legislative Assembly that any bylaw or amendment has ceased to have effect, the Clerk of the Legislative Assembly shall immediately:

- (a) forward two copies of the Votes and Proceedings to the Deputy Minister of Justice; and
  - (b) advise him or her that the copies are forwarded pursuant to this subsection.
- (2) On receipt of the copies mentioned in subsection (1), the Deputy Minister of Justice shall immediately:
- (a) file one of the copies with the bylaw or amendment to which it relates;
  - (b) forward the other copy to the association; and
  - (c) advise the association that the copy is forwarded pursuant to this subsection.

**Annual register**

45 On or before February 1 in each year, the association shall file with the Minister of Justice a list, certified by the registrar to be a true list, showing:

- (a) the names of all members as at December 31 in the preceding year;
- (b) the addresses of the members mentioned in clause (a) as shown by the records of the association; and
- (c) the respective dates of admission of the members mentioned in clause (a).

**Annual report**

46 The association shall file an annual report with the minister in the form, with the contents and in the time prescribed by the minister.

**Compliance**

47(1) Every member shall comply with this Act and the bylaws.

(2) In addition to complying with subsection (1), every person who is registered as a restricted member pursuant to subsection 19(6) shall comply with the bylaws governing restricted memberships.

**Service of notices, etc.**

48(1) Unless otherwise provided for in this Act or the bylaws, any notice or other document that is required to be served pursuant to this Act may be served by:

- (a) personal service made:
  - (i) in the case of an individual, on that individual;
  - (ii) in the case of a partnership, on any partner; or
  - (iii) in the case of a corporation, on any officer or director; or
- (b) registered mail addressed to the last business or residential address of the person to be served that is known to the registrar.

(2) A notice or document sent by registered mail is deemed to have been served on the seventh day following the date of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the notice or document or received it at a later date.

(3) If it is for any reason impractical to effect service of any documents in the manner provided for in subsection (1), the court may, on an application that may be made *ex parte*, make an order for substituted service.

(4) A document served in accordance with the terms of an order mentioned in subsection (3) is deemed to have been properly served.

#### COMING INTO FORCE

##### Coming into force

**49** This Act comes into force on assent.