

2019 Bill 11

First Session, 30th Legislature, 68 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 11

FAIR REGISTRATION PRACTICES ACT

THE MINISTER OF LABOUR AND IMMIGRATION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 11

2019

FAIR REGISTRATION PRACTICES ACT

(Assented to , 2019)

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Schedules

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

Definitions and application

1(1) In this Act,

- (a) “applicant” means an individual who applies to a regulatory body of a designated occupation, designated trade or regulated profession to be registered in the designated occupation, designated trade or regulated profession;
- (b) “auditor” means a person who conducts an audit referred to in section 10(2);
- (c) “compliance order” means an order made under section 11;
- (d) “designated occupation” means a designated occupation as defined in the *Apprenticeship and Industry Training Act*;
- (e) “designated trade” means a designated trade as defined in the *Apprenticeship and Industry Training Act*;

- (f) “domestic trade agreement” means a domestic trade agreement as defined in Schedule 6 to the *Government Organization Act*;
- (g) “interim registration decision” means a decision by a regulatory body, without regard to the terminology used by the regulatory body to describe the decision, to
 - (i) register an applicant subject to a condition that must be met within a time period specified by the regulatory body, or
 - (ii) defer a registration decision until a requirement specified by the regulatory body is met;
- (h) “internal review or appeal” means a rehearing, reconsideration, review or appeal or similar process provided by a regulatory body in respect of an interim registration decision or a registration decision, without regard to the terminology used by the regulatory body to describe the process;
- (i) “internal review or appeal decision” means a decision resulting from an internal review or appeal;
- (j) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (k) “register” means to grant membership or certification, with or without conditions, in a designated occupation, designated trade or regulated profession, whether by registration, admission, enrolment, issuance of a licence or certificate or other means, without regard to the terminology used by the regulatory body for the designated occupation, designated trade or regulated profession to describe the process;
- (l) “registration decision” means a decision by a regulatory body, without regard to the terminology used by the regulatory body to describe the decision, to
 - (i) register an applicant without conditions,
 - (ii) refuse to register an applicant, or

(iii) register an applicant subject to a condition other than a condition referred to in clause (g)(i);

(m) “regulated profession” means a profession regulated by a regulatory body identified in Schedule 1;

(n) “regulatory body” means a body identified in Schedule 1 or a person identified in Schedule 2.

(2) This Act applies to a regulatory body on the date this section comes into force unless specified otherwise by regulation.

Fair Registration Practices Code

2 Part 1 is the Fair Registration Practices Code.

Part 1 Fair Registration Practices Code

Registration practices — general duty

3 A regulatory body has a duty to carry out registration practices that are transparent, objective, impartial and procedurally fair.

Duty to provide information

4 A regulatory body shall provide information about the following matters, in a clear and understandable form, to individuals applying or intending to apply for registration by the regulatory body:

- (a) the regulatory body’s registration practices and internal review or appeal processes;
- (b) the length of time that the registration process usually takes;
- (c) the requirements for registration, any alternative means of meeting any of the requirements and the criteria used to assess whether the requirements have been met;
- (d) any support the regulatory body provides to applicants, or other available supports for applicants of which the regulatory body is aware, with respect to the registration process;

- (e) any fees relating to registration.

Qualifications for registration

5(1) A regulatory body shall make information publicly available respecting

- (a) the documents that are to accompany an application for registration as proof of the applicant's qualifications, and
- (b) any alternative proof of the applicant's qualifications that may be acceptable to the regulatory body if an applicant cannot obtain the documents referred to in clause (a) for reasons beyond the applicant's control.

(2) A regulatory body that assesses the qualifications of an applicant shall do so in a way that is transparent, objective, impartial and procedurally fair.

(3) A regulatory body that relies on a third party to assess the qualifications of an applicant shall take reasonable measures to ensure that the third party conducts the assessment in a way that is transparent, objective, impartial and procedurally fair.

Timely decisions, responses and reasons

6 A regulatory body shall

- (a) make an interim registration decision in respect of an application for registration within 6 months after receiving the application and all information required by the regulatory body in respect of the application,
- (b) make a registration decision in respect of an application for registration within a reasonable time that does not exceed any applicable maximum time period prescribed in the regulations after receiving the application and all information required by the regulatory body in respect of the application,
- (c) provide written communication of an interim registration decision or a registration decision in respect of an applicant to the applicant within a reasonable time,
- (d) provide written reasons to an applicant within a reasonable time respecting any

- (i) interim registration decision in respect of the applicant,
 - (ii) registration decision refusing to register the applicant, or registering the applicant subject to a condition, and
 - (iii) internal review or appeal decision in respect of the applicant,
- and
- (e) provide information to an applicant within a reasonable time respecting the applicant's rights to any internal review or appeal, including the applicable procedures and deadlines.

Internal review or appeal

7(1) A regulatory body shall provide a process for an internal review or appeal of an interim registration decision, a registration decision refusing to register an applicant or a registration decision registering an applicant subject to a condition within a reasonable time after written reasons for the decision are provided to the applicant.

(2) A regulatory body shall provide an opportunity for the applicant to make submissions orally, in writing or by electronic means.

(3) A regulatory body shall ensure that no person who participated as a decision maker in respect of an interim registration decision or a registration decision participates as a decision maker in respect of an internal review or appeal of the decision.

Training

8(1) A regulatory body that assesses the qualifications of an applicant shall ensure that, before an individual assesses the qualifications, the individual receives training with respect to an assessor's role.

(2) A regulatory body that relies on a third party to assess the qualifications of an applicant shall take reasonable measures to ensure that, before an individual assesses the qualifications, the individual receives training with respect to an assessor's role.

(3) A regulatory body shall ensure that, before an individual participates in making an interim registration decision, a registration decision or an internal review or appeal decision, the individual receives training that includes, where appropriate, training with respect to

- (a) special considerations that may apply in the assessment of applications and the process for applying the considerations, and
- (b) the conduct of hearings.

Domestic trade agreements

9 A regulatory body shall ensure that its registration practices in respect of an applicant to whom a domestic trade agreement that is in force in Alberta applies are consistent with the domestic trade agreement.

**Part 2
Powers and Duties
of the Minister**

Powers and duties of the Minister

10(1) The Minister shall

- (a) give information and advice to regulatory bodies about the requirements of this Act and the regulations,
- (b) for the purposes of determining compliance with this Act and the regulations, review the registration and assessment practices of regulatory bodies, including the use of third parties to assess the qualifications of applicants,
- (c) make recommendations to regulatory bodies about their duties under this Act and the regulations,
- (d) advise regulatory bodies, government departments, government agencies, third parties relied on by regulatory bodies to assess applicant qualifications, community organizations, post-secondary institutions and others as the Minister considers appropriate about matters under this Act and the regulations, and

- (e) perform any other duty or function provided for in the regulations.
- (2) The Minister may give notice to a regulatory body that an audit must be conducted, in accordance with the regulations, in respect of its registration practices and its compliance with this Act and the regulations.
- (3) A regulatory body shall cooperate with
 - (a) the Minister in the conduct of a review referred to in subsection (1)(b), and
 - (b) an auditor in the conduct of an audit referred to in subsection (2).
- (4) The Minister shall not become involved in an interim registration decision, a registration decision or an internal review or appeal decision on behalf of an applicant.

Part 3 Compliance Orders

Compliance order

11 If there are reasonable grounds to believe, following consultations with a regulatory body, that the regulatory body has contravened this Act or the regulations, the Minister may issue an order to the regulatory body requiring compliance with this Act or the regulations.

Notice of order

12(1) Before making a compliance order in respect of a regulatory body, the Minister shall serve written notice on the regulatory body.

- (2) A notice under subsection (1) must include information about
 - (a) the nature of the proposed compliance order,
 - (b) the steps that the regulatory body must take to comply with the proposed compliance order,
 - (c) the right of the regulatory body to make a written submission to the Minister in respect of the proposed compliance order, and

(d) the time period within which a written submission must be made.

(3) A regulatory body may make written submissions in respect of a proposed compliance order within 30 days after the notice is served on the regulatory body or within any longer period specified in the notice.

(4) The Minister may extend a time period referred to in subsection (3).

(5) Subsections (1) to (4) apply if the Minister proposes to vary a compliance order.

Service of order or notice

13(1) A compliance order must be served on the regulatory body that is the subject of the order without delay after the compliance order is issued or varied.

(2) A compliance order or a notice under section 12(1) may be served on a regulatory body by delivering it to a representative of the regulatory body

(a) by personal delivery,

(b) by courier or mail, if receipt of the notice is acknowledged in writing, or

(c) by electronic means, if it is possible to make a copy of the notice from the electronic transmission.

(3) Service of a compliance order or a notice under subsection (2) is presumed to be effected

(a) if the compliance order or notice is delivered by courier or mail, when the acknowledgment of receipt is signed, or

(b) if the compliance order or notice is delivered by electronic means, when it is transmitted, unless it is proved that the electronic transmission was not received by the representative.

Judicial review

14(1) An application by a regulatory body to the Court of Queen's Bench for judicial review of a compliance order may be made not later than 30 days from the day that the compliance order is served on the regulatory body.

(2) If an application for judicial review is made under subsection (1), the Court may stay the compliance order until the Court makes a decision on the application.

Part 4 General

Fair Registration Practices Office

15(1) The Minister may establish a Fair Registration Practices Office to assist the Minister in the exercise of the Minister's powers and the performance of the Minister's duties and functions under this Act and the regulations.

(2) There may be appointed, in accordance with the *Public Service Act*, the employees that are considered necessary to carry out the functions of the Fair Registration Practices Office.

Audit powers

16(1) For the purposes of conducting an audit referred to in section 10(2), an auditor may

- (a) enter and inspect the premises of a regulatory body, and
- (b) require the production for examination of any documents or records in the possession of the regulatory body and make copies of them or temporarily remove them for the purpose of making copies.

(2) A person who removes documents or records under subsection (1) shall

- (a) give a receipt for the documents or records to the person from whom they were taken,
- (b) on request, provide a copy of the documents or records removed to the person from whom they were taken or to a person who is entitled to custody of them, and

- (c) return the documents or records removed without delay to the person from whom they were taken when they have served the purpose for which they were taken.

(3) If a person prevents an auditor from exercising powers under subsection (1) or obstructs or hinders an auditor in the exercise of the powers, a judge of the Court of Queen's Bench may, on application, make any order that the judge considers necessary to permit the auditor to exercise the powers.

(4) An application under subsection (3) may be made without notice if the judge considers it proper in the circumstances.

Report to Minister

17 A regulatory body shall, at any time that the Minister directs, submit a report to the Minister in the form and with the content required by the Minister.

Conflict with other enactments

18 A provision of this Act or the regulations prevails to the extent of any inconsistency or conflict with a provision of any other enactment.

Protection from liability

19 No action or other proceeding may be brought against the Minister, a person acting under the authority of the Minister, an auditor or an officer appointed under the regulations in respect of anything done or omitted to be done in good faith in the exercise or purported exercise of a power or the performance or purported performance of a duty or function under this Act or the regulations.

Compellable witness

20(1) A statement made or an answer given by a person during a review referred to in section 10(1)(b) or an audit referred to in section 10(2) is inadmissible in evidence in a court or in any other proceeding except

- (a) in a prosecution for perjury,
- (b) in a prosecution for an offence under this Act, or

- (c) in an application for judicial review or an appeal from a decision with respect to an application for judicial review.

(2) The Minister, a person acting under the authority of the Minister, an auditor or an officer appointed under the regulations shall not give or be compelled to give evidence in a court or other proceeding in respect of any information obtained in exercising powers or performing duties or functions under this Act or the regulations, except in a prosecution, application or appeal described in subsection (1)(a) to (c).

Act binds Crown

21 This Act binds the Crown.

Offence

22(1) A person who does any of the following commits an offence:

- (a) fails to submit a report to the Minister as required under section 17;
- (b) provides false or misleading information in a report to the Minister under this Act or otherwise provides false or misleading information to the Minister, a person acting under the authority of the Minister, an auditor or an officer appointed under the regulations;
- (c) fails to comply with a compliance order;
- (d) obstructs or fails to cooperate with the Minister, a person acting under the authority of the Minister, an auditor or an officer appointed under the regulations in the exercise of powers or the performance of duties or functions under this Act or the regulations;
- (e) intimidates, coerces, penalizes or discriminates against another person because that person
 - (i) has cooperated or may cooperate with the Minister, a person acting under the authority of the Minister, an auditor or an officer appointed under the regulations in the exercise of powers or the performance of duties or functions under this Act or the regulations, or

- (ii) has provided or may provide records or other information for the purposes of a review or audit under this Act or the regulations.

(2) A person who is guilty of an offence under subsection (1) is liable on summary conviction

- (a) in the case of an individual, to a fine of not more than \$25 000, or
- (b) in the case of a corporation, to a fine of not more than \$50 000.

(3) A prosecution for an offence under this Act must not be commenced more than 2 years after the day on which evidence of the offence first came to the attention of the Minister.

Regulations

23(1) The Lieutenant Governor in Council may make regulations

- (a) amending Schedule 1 or Schedule 2 by adding or removing a regulatory body from the Schedule;
- (b) for the purposes of section 1(2), specifying the date on which this Act applies to a regulatory body;
- (c) respecting additional powers, duties and functions of the Minister;
- (d) prescribing a maximum time period for the purposes of section 6(b);
- (e) respecting the training required under section 8(1), (2) and (3), including training with respect to assessing the qualifications of applicants who have been trained in a country other than Canada to work in an occupation or a trade or to practise a profession, special considerations that may apply in assessing the qualifications of applicants and the processes for applying the considerations;
- (f) requiring regulatory bodies to conduct, or permit the conduct of, audits of their registration practices and of their compliance with this Act and the regulations;

- (g) respecting audit standards, the scope of audits, the persons or classes of persons authorized to conduct audits, the powers and duties of auditors, the duties of, and the records or other information to be provided by, regulatory bodies with respect to audits, reporting requirements for audits and requiring a regulatory body to pay an auditor's fees and expenses;
- (h) respecting the collection, use and disclosure of information, including personal information as defined in the *Freedom of Information and Protection of Privacy Act* and as defined in the *Personal Information Protection Act*, for the purposes of this Act and the regulations;
- (i) respecting the appointment of an officer to perform all or any of the powers, duties or functions of the Minister under this Act or the regulations and authorizing the officer to perform those powers, duties or functions;
- (j) defining any term or expression that is used in this Act but not defined in this Act;
- (k) further defining or setting out criteria respecting a term or expression that is defined in this Act;
- (l) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

(2) A regulation may

- (a) create different classes of regulatory bodies,
- (b) define a class as consisting of one or more regulatory bodies, and
- (c) provide differently for different classes.

(3) Subsection (1)(i) does not affect the Minister's authority to delegate to any person any power, duty or function of the Minister under this Act or the regulations.

Coming into force

24 This Act comes into force on Proclamation.

Schedule 1

Alberta Association of Architects
Alberta Association of Landscape Architects
Alberta Boilers Safety Association
Alberta College and Association of Chiropractors
Alberta College and Association of Opticians
Alberta College of Combined Laboratory and
X-Ray Technologists
Alberta College of Medical Diagnostic and
Therapeutic Technologists
Alberta College of Occupational Therapists
Alberta College of Optometrists
Alberta College of Paramedics
Alberta College of Pharmacy
Alberta College of Social Workers
Alberta College of Speech-Language
Pathologists and Audiologists
Alberta Dental Association and College
Alberta Funeral Services Regulatory Board
Alberta Human Ecology and Home Economics Association
Alberta Institute of Agrologists
Alberta Insurance Council
Alberta Land Surveyors' Association
Alberta Motor Vehicle Industry Council
Alberta Professional Outfitters Society
Alberta Professional Planners Institute
Alberta Securities Commission
Alberta Shorthand Reporters Association
Alberta Society of Professional Biologists
Alberta Veterinary Medical Association
Alberta Assessors' Association
Association of Alberta Forest Management Professionals
Association of Professional Engineers and Geoscientists of Alberta
Association of School Business Officials of Alberta
Association of Science and Engineering
Technology Professionals of Alberta
Association of the Chemical Profession of Alberta
Canadian Information Processing Society of Alberta
Chartered Professional Accountants of Alberta
College and Association of Acupuncturists of Alberta
College and Association of Registered Nurses of Alberta
College and Association of Respiratory Therapists of Alberta
College of Alberta Dental Assistants
College of Alberta Denturists
College of Alberta Psychologists

College of Dental Technologists of Alberta
College of Dietitians of Alberta
College of Hearing Aid Practitioners of Alberta
College of Licensed Practical Nurses of Alberta
College of Medical Laboratory Technologists of Alberta
College of Midwives of Alberta
College of Naturopathic Doctors of Alberta
College of Physicians and Surgeons of Alberta
College of Podiatric Physicians of Alberta
College of Registered Dental Hygienists of Alberta
College of Registered Psychiatric Nurses of Alberta
Electrical Contractors Association of Alberta
General Insurance Council
Horse Racing Alberta
Institute of Certified Management Consultants of Alberta
Insurance Adjusters' Council
Insurance Brokers Association of Alberta
Law Society of Alberta
Life Insurance Council
Physiotherapy Alberta College + Association
Real Estate Council of Alberta
Safety Codes Council
Society of Local Government Managers of Alberta
Supply Chain Management Association Alberta

Schedule 2

Minister of Advanced Education
Minister of Children's Services
Minister of Education
Minister of Environment and Parks
Minister of Justice and Solicitor General
Minister of Municipal Affairs
Minister of Service Alberta
Minister of Transportation

