

1975 Bill 68
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 68

THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1975
(NO. 2)

HON. MR. MCCRAE

First Reading

Second Reading

Third Reading

BILL 68

1975

(Second Session)

THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1975 (NO. 2)

(Assented to _____, 1975)

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

The Chartered Accountants Act

1. (1) *The Chartered Accountants Act is amended by this section.*

(2) *Section 2 is amended by adding after clause (d) the following clauses:*

- (d1) “permit” means a permit issued pursuant to section 53, subsection (3);
- (d2) “professional corporation” means the holder of a subsisting permit;

(3) *The following sections are added after section 51:*

Professional Corporations

52. (1) The Council may by by-law approved by the Lieutenant Governor in Council

- (a) prescribe the manner of proof as to matters required to be proven by applicants for permits;
- (b) fix the fees payable to the Institute for the issuance of permits and the fees payable annually by professional corporations;
- (c) provide for the creation and maintenance of a register of professional corporations and requiring the filing of periodic returns by such corporations;
- (d) provide for the annual renewal of permits and prescribing the terms and conditions upon which renewals may be granted;
- (e) prescribe the types of names by which
 - (i) a professional corporation, or

Explanatory Notes

1. (1) This section will amend chapter 42 of the Revised Statutes of Alberta 1970.

(2) Definitions.

(3) This amendment will permit the incorporation of chartered accountant practices.

52. By-laws and rules of the Council.

- (ii) a partnership of two or more professional corporations, or
- (iii) a partnership of one or more professional corporations and one or more individual chartered accountants,
may be known.

(2) The Council may make rules

- (a) providing that the permit of a professional corporation is suspended without notice or investigation upon contravention of any by-law that requires the corporation to pay a fee or assessment, file a document or do any other act by a specified or ascertainable date, and providing for the reinstatement of a permit so suspended;
- (b) providing for the reinstatement or re-issuance of any permit suspended or revoked pursuant to a by-law or order of the Council and prescribing the terms and conditions upon which reinstatement or re-issuance of a permit may be granted.

53. (1) Notwithstanding any other provision of this Act, a corporation to which a permit is issued under this section may practice or act as a chartered accountant in its own name.

(2) Notwithstanding subsection (1), no corporation shall be enrolled as a member of the Institute.

(3) The secretary shall issue a permit to any corporation which fulfils the following conditions:

- (a) files an application in the form prescribed by the by-laws;
- (b) pays all the fees prescribed by the by-laws;
- (c) satisfies the secretary that it is a company limited by shares that is in good standing with the Registrar of Companies under *The Companies Act*;
- (d) satisfies the secretary that the objects of the company stated in its memorandum of association include the objects contained in the Schedule to this Act;
- (e) satisfies the secretary that the name of the company is in accordance with the rules of the Council and contains the words "Professional Corporation";
- (f) satisfies the secretary that the legal and beneficial ownership of all the issued shares of the company is vested in one or more members of the Institute and that all of the directors of the company are members of the Institute;

53. Granting of permits to professional corporations.

(g) satisfies the secretary that the persons who will carry on the practice of a chartered accountant on behalf of the company are active members of the Institute.

(4) A permit issued under subsection (3) is valid for the period stated thereon.

(5) A permit issued under subsection (3) may be revoked or its renewal withheld by the Council where any of the conditions specified in subsection (3) no longer continue to exist.

(6) For the purposes of subsection (3), clause (g), the practice of a chartered accountant shall not be deemed to be carried on by clerks, secretaries, bookkeepers and other assistants employed by the corporation to perform services which are not usually and ordinarily considered by law, custom and practice to be services which may be performed by a member of the Institute, nor shall the practice of a chartered accountant be deemed to be carried on by registered students employed by the corporation to do any thing in the course of service under articles if it is done under the direction or supervision of a member of the Institute.

54. Where a professional corporation ceases to fulfil any condition specified in section 53, subsection (3) other than clause (g) by reason only of

- (a) the death of a member, or
- (b) the striking off or other removal from the register of the name of a member, or
- (c) the suspension by the Council of a member,

who is a shareholder of the corporation, the professional corporation has a period of 90 days from the date of the death, striking off or suspension, as the case may be, in which to fulfil the condition failing which the permit is automatically terminated effective upon the expiration of the 90-day period without the necessity of an order of the Council.

55. (1) Notwithstanding any provision to the contrary in *The Companies Act*, every person who is a shareholder of a corporation during the time that it is the holder of a permit or of a corporation during the time that it practices or acts as a chartered accountant without holding a permit is liable to the same extent and in the same manner as if the shareholder of the corporation were during that time carrying on the business of the corporation as a partnership or, where there is only one shareholder, as an individual practising or acting as a chartered accountant.

(2) The liability of any person in carrying on the practice of or acting as a chartered accountant is not affected

54. Termination of permit.

55. Liability of shareholders and employees of a professional corporation.

by the fact that the practice of or acting as a chartered accountant is carried on or done by such person as an employee and on behalf of a professional corporation.

56. No shareholder of a professional corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person who is not a member of the Institute the authority to exercise the voting rights attached to any or all of his shares.

57. The relationship of a member of the Institute or of a registered student to a professional corporation, whether as shareholder, director, officer or employee, does not affect, modify or diminish the application to him of the provisions of this Act and the by-laws and rules.

58. (1) Nothing contained in section 53 shall affect or limit any law applicable to the fiduciary, confidential or ethical relationships between a chartered accountant and a person receiving the professional services of a chartered accountant.

(2) The relationship between a professional corporation carrying on the practice of or acting as a chartered accountant and a person receiving the professional services of the corporation is subject to all applicable law relating to the fiduciary, confidential and ethical relationships between a chartered accountant and his client.

(3) All rights and obligations pertaining to communications made to or information received by a chartered accountant, or his advice thereon, apply to the shareholder, directors, officers and employees of a professional corporation.

59. No person or persons shall trade or carry on business within Alberta under any name or title containing the words "Professional Corporation" or the abbreviation "P.C." unless that person or those persons are duly incorporated as a company and the company holds a subsisting permit, or unless otherwise expressly authorized by statute, and every person so trading or carrying on business is guilty of an offence and liable upon summary conviction to a fine not exceeding \$25 for every day upon which that name or title has been used.

60. (1) All the provisions of this Act and the by-laws and rules thereunder which are applicable to chartered accountants apply with all necessary modifications to a professional corporation under this Act unless otherwise expressly provided in this Act.

56. Voting agreements with non-members prohibited.

57. Application of Act and rules.

58. Preservation of fiduciary, confidential and ethical relationships with clients.

59. Prohibition.

60. Application of the Act, by-laws and rules to the corporation.

(2) For the purposes of section 49, the term "member" includes a professional corporation.

61. (1) References in section 38, subsection (3), section 39, subsection (4) and sections 42 and 46 to the suspension of a member shall, in the case of a professional corporation, be deemed a reference to the suspension of the permit of the professional corporation, and the references in section 46, subsection (1), clause (b) and section 48 to striking the name of a member from the register shall, in the case of a professional corporation, be deemed a reference to revocation of the permit of the corporation.

(2) All shareholders, directors, officers and employees of a professional corporation whose conduct is being investigated are compellable witnesses in any proceedings under this Act.

(3) When a professional corporation has been found guilty by the Council of conduct unbecoming a chartered accountant, the Council may

- (a) revoke the permit of the corporation, or
 - (b) suspend for a stated period of time the permit of the corporation, or
 - (c) reprimand the corporation,
- and in addition to a suspension of the permit or a reprimand, the Council may
- (d) order the professional corporation to pay for each offence of which it is found guilty, a fine of not more than \$1,000 to the Institute, within the time fixed by the Council,
 - (e) order the professional corporation to pay the costs of the investigation in an amount and within the time fixed by the Council, and
 - (f) suspend the permit of the corporation in default of paying any fine or costs ordered to be paid until such time as the fine or costs are paid.

62. A corporation may sue for fees for services performed on its behalf and in its name by a person in his capacity as a member at any time after the services are performed, if the services were performed during the time that the corporation was the holder of a subsisting permit.

63. A certificate purporting to be signed by the secretary and stating that a named corporation was or was not, on a specified day or during a specified period, a professional corporation according to the records of the Institute, shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the secretary's appointment or signature.

61. Discipline proceedings.

62. Right to sue.

63. Evidence.

64. In any provision of an Act of the Legislature or any regulation, rule, order or by-law made under an Act of the Legislature enacted or made before the coming into force of this Act, a reference to a person authorized to carry on the practice of a chartered accountant, whether referred to as a member of the Institute of Chartered Accountants of Alberta, a chartered accountant or otherwise, shall be read as including a professional corporation.

(4) The following Schedule is added at the end of the Act:

SCHEDULE

The objects for which the company is established are:

- (a) to engage in every phase and aspect of rendering the same services to the public that a chartered accountant, being a member of the Institute of Chartered Accountants of Alberta, is authorized to render;
- (b) to purchase or otherwise acquire and to own, mortgage, pledge, sell, assign, transfer or otherwise dispose of, and to invest in, deal in and with, real and personal property necessary for the rendering of the services of a chartered accountant;
- (c) to contract debts and borrow money, issue and sell or pledge bonds, debentures, notes and other evidences of indebtedness and execute such mortgages, transfers of corporate property or other instruments to secure the payment of corporate indebtedness as required;
- (d) to enter into partnership, consolidate or merge with or purchase the assets of another corporation or individual rendering the same professional services.

The Companies Act

2. (1) The Companies Act is amended by this section.

(2) Section 13 is amended by renumbering the section as subsection (1) and by adding the following subsection after subsection (1):

(2) Notwithstanding subsection (1), a company whose objects include the objects contained in the Schedule to The Legal Profession Act may be formed under this Act and has power under this Act while it is the holder of a subsisting permit issued under section 113, subsection (3) of The Legal Profession Act to execute the office of executor, administrator, trustee, receiver, assignee or liquidator.

(3) Section 15 is amended by adding after subsection (3) the following subsection:

64. Transitional.

- (4) Included objects of a professional corporation.

2. (1) This section will amend chapter 60 of the Revised Statutes of Alberta 1970.

(2) Section 13 (d) reads:

13. No company shall be formed under this Act, nor has a company power under this Act

(d) to execute the office of executor, administrator, trustee, receiver, assignee, liquidator, guardian of a minor's estate or committee of a lunatic's estate, except as is expressly authorized by this Act, or

(3) This amendment will permit one person to incorporate to carry on business as a chartered accountant, dentist or dental surgeon, barrister and solicitor or a physician.

(4) Consequential to amendments to the professional Acts.

(5) Complementary to the amendment in subsection (3). Section 293 presently reads:

293. A public company shall not carry on business with fewer than three members nor a private company with fewer than two members, and if at any time a company carries on business for more than six months with fewer than three members or two members, as the case may be, every person who is a member of the company during the time that it so carries on business after those six months, and is cognizant of the fact that it is so carrying on business, is severally liable for the payment of all the debts of the company contracted during that time, and may be sued for the same, without joinder in action of any other member.

- (3.1) Any one person who is
- (a) a member of the Institute of Chartered Accountants of Alberta, or
 - (b) a member of the Alberta Dental Association, or
 - (c) an active member of The Law Society of Alberta, or
 - (d) a registered practitioner under *The Medical Profession Act, 1975*,

may, by subscribing his name to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company limited by shares, the objects of which shall include the objects contained in the Schedule to *The Chartered Accountants Act, The Dental Association Act, The Legal Profession Act* or *The Medical Profession Act, 1975*, as the case may be.

(4) *Section 16 is amended by renumbering the section as subsection (1) and by adding the following subsections:*

(2) Notwithstanding subsection (1), clause (a), a company limited by shares

- (a) may be incorporated under a name which does not include the word "Limited" or "Ltd.", and
- (b) may change its name in accordance with section 32 to exclude the word "Limited" or "Ltd.",

if the company is incorporated, or its name is changed, as the case may be, for the purpose of making application for the issuance of a permit to operate as a professional corporation under *The Chartered Accountants Act, The Dental Association Act, The Legal Profession Act* or *The Medical Profession Act, 1975* and if the company undertakes to change its name to include the word "Limited" or "Ltd." within 90 days after the company ceases to hold a subsisting permit.

(3) The Registrar, after having given notice to the company of his intention to do so, may by order change the name of a company limited by shares to include the word "Limited" or "Ltd." if it is shown to the satisfaction of the Registrar that the company has carried on business for a period exceeding 90 days while not the holder of a subsisting permit as a professional corporation issued under *The Chartered Accountants Act, The Dental Association Act, The Legal Profession Act* or *The Medical Profession Act, 1975*.

(4) A notice given by the Registrar under subsection (3) shall be subject to appeal in accordance with section 12.

(5) Notwithstanding subsection (1), clause (c), the memorandum of a company the objects of which include the objects contained in the Schedule to *The Chartered Accountants Act, The Dental Association Act, The Legal Profession Act* or *The Medical Profession Act, 1975* shall state

that the liability of the members is limited except in the circumstances described in section 55, subsection (1) of *The Chartered Accountants Act*, section 72, subsection (1) of *The Dental Association Act*, section 115, subsection (1) of *The Legal Profession Act* or section 89, subsection (1) of *The Medical Profession Act, 1975*.

(5) *Section 293 is amended by renumbering the section as subsection (1) and by adding the following subsection:*

(2) Subsection (1) does not apply to a company formed pursuant to section 15, subsection (3.1).

The Dental Association Act

3. (1) *The Dental Association Act is amended by this section.*

(2) *Section 2 is amended by adding after clause (d) the following clauses:*

(d1) “permit” means a permit issued pursuant to section 70, subsection (3);

(d2) “professional corporation” means the holder of a subsisting permit;

(3) *Section 50, subsection (1) is amended by striking out the words “No company” and by substituting therefor the words “Subject to section 70, no company”.*

(4) *The following sections are added after section 68:*

Professional Corporations

69. The board may make by-laws

- (a) prescribing the manner of proof as to matters required to be proven by applicants for permits;
- (b) fixing the fees payable to the Association for the issuance of permits and the fees payable annually by professional corporations;
- (c) providing that the permit of a professional corporation is suspended without notice or investigation upon contravention of any by-law that requires the corporation to pay a fee or assessment, file a document or do any other act by a specified or ascertainable date, and providing for the reinstatement of a permit so suspended;
- (d) providing for the reinstatement or re-issuance of any permit suspended or revoked pursuant to an order of the board under section 77 and prescribing the terms and conditions upon which reinstatement or re-issuance of a permit may be granted;

3. (1) This section will amend chapter 90 of the Revised Statutes of Alberta 1970.

(2) Definitions.

(3) Section 50 (1) presently reads:

50. (1) No company incorporated, registered or licensed under any of the Acts of the Province regulating or respecting joint stock companies shall carry on or attempt or purport to carry on the practice of the profession of dentistry or dental surgery in the Province.

(4) This amendment will permit the incorporation of dental practices.

69. By-laws.

- (e) providing for the creation and maintenance of a register of professional corporations and requiring the filing of periodic returns by such corporations;
- (f) providing for the annual renewal of permits and prescribing the terms and conditions upon which renewals may be granted;
- (g) prescribing the types of names by which a
 - (i) professional corporation, or
 - (ii) a partnership of two or more professional corporations, or
 - (iii) a partnership of one or more professional corporations and one or more dentists or dental surgeons,
 may be known.

70. (1) Notwithstanding any other provision of this Act, a corporation to which a permit is issued under this section may practice dentistry and dental surgery in its own name.

(2) Notwithstanding subsection (1), no corporation shall be enrolled as a member of the Association.

(3) The registrar shall issue a permit to any corporation which fulfils the following conditions:

- (a) files an application in the form prescribed by the board;
- (b) pays all the fees prescribed by the board;
- (c) satisfies the registrar that it is a company limited by shares that is in good standing with the Registrar of Companies under *The Companies Act*;
- (d) satisfies the registrar that the objects of the company stated in its memorandum of association include the objects contained in the Schedule to this Act;
- (e) satisfies the registrar that the name of the company is in accordance with the by-laws of the Association and contains the words "Professional Corporation";
- (f) satisfies the registrar that the legal and beneficial ownership of all the issued shares of the company is vested in one or more members of the Association and that all of the directors of the company are members of the Association;
- (g) satisfies the registrar that the persons who will carry on the practice of dentistry and dental surgery on behalf of the company are members of the Association.

(4) A permit issued under subsection (3) expires on December 31 of the year for which it was issued.

70. Granting of permits to professional corporations.

(5) A permit issued under subsection (3) may be revoked or its renewal withheld by the board where any of the conditions specified in subsection (3) no longer continue to exist.

(6) For the purposes of subsection (3), clause (g), the practice of dentistry or dental surgery shall not be deemed to be carried on by clerks, secretaries, bookkeepers, hygienists, dental assistants or other assistants employed by the corporation to perform services which are not usually and ordinarily considered by law, custom and practice to be services which may be performed only by a member of the Association.

71. Where a professional corporation ceases to fulfil any condition specified in section 70, subsection (3) by reason only of

- (a) the death of a member, or
- (b) removal of a member's name from the register, or
- (c) the suspension by the Association of a member,

who is a shareholder of the corporation, the professional corporation has a period of 90 days from the date of death, striking off or suspension, as the case may be, in which to fulfil the condition failing which the permit is automatically terminated effective upon the expiration of the 90-day period without the necessity of an order of the board.

72. (1) Notwithstanding any provision to the contrary in *The Companies Act*, every person who is a shareholder of a corporation during the time that it is the holder of a permit or of a corporation during the time that it acts in contravention of the provisions of section 47, subsection (1) or of section 50, 52 or 54 is liable to the same extent and in the same manner as if the shareholders of the corporation were during that time carrying on the business of the corporation as a partnership or, where there is only one shareholder, as an individual practising dentistry or dental surgery.

(2) The liability of any person in carrying on the practice of dentistry or dental surgery is not affected by the fact that the practice of dentistry or dental surgery is carried on by such person as an employee and on behalf of a professional corporation.

73. No shareholder of a professional corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person who is not a member of the Association the authority to exercise the voting rights attached to any or all of his shares.

71. Termination of permit.

72. Liability of shareholders and employees of a professional corporation.

73. Voting agreements with non-members prohibited.

74. The relationship of a member of the Association to a professional corporation, whether as a shareholder, director, officer or employee, does not affect, modify or diminish the application to him of the provisions of this Act and the by-laws.

75. No person or persons shall trade or carry on business within Alberta under any name or title containing the words "Professional Corporation" or the abbreviation "P.C." unless that person or those persons are duly incorporated as a company and the company holds a subsisting permit, or unless otherwise expressly authorized by statute, and every person so trading or carrying on business is guilty of an offence and liable upon summary conviction to a fine not exceeding \$25 for every day upon which that name or title has been used.

76. (1) All the provisions of this Act and the by-laws which are applicable to members apply with all necessary modifications to a professional corporation under this Act unless otherwise expressly provided in this Act.

(2) Sections 50, 52 and 54 do not apply to a professional corporation.

77. (1) References in section 32 or 39 to the suspension of a member shall, in the case of a professional corporation, be deemed a reference to the suspension of a permit of the professional corporation, and references in section 32 to removing the name of a member from the register shall, in the case of a professional corporation, be deemed a reference to revocation of the permit of the corporation.

(2) All shareholders, directors, officers and employees of a professional corporation whose conduct is being investigated are compellable witnesses in any proceedings under this Act.

(3) When a professional corporation has been found guilty by the board under this Act of unbecoming, improper or unprofessional conduct, the board may

- (a) revoke the permit of the corporation, or
 - (b) suspend for a stated period of time the permit of the corporation, or
 - (c) reprimand the corporation,
- and in addition to a suspension of the permit or a reprimand, the board may
- (d) order the professional corporation to pay for each offence of which it is found guilty, a fine of not more than \$1,000 to the Association, within the time fixed by the order,

74. Application of Act and by-laws.

75. Prohibition.

76. Application of Act and by-laws to the corporation.

77. Discipline proceedings.

- (e) order the professional corporation to pay the costs of the investigation in an amount and within the time fixed by the board, and
- (f) suspend the permit of the corporation in default of paying any fine or costs ordered to be paid until such time as the fine or costs are paid.

78. A corporation may sue for fees for services performed on its behalf and in its name by a person in his capacity as an active member at any time after the services are performed, if the services were performed during the time that the corporation was the holder of a subsisting permit.

79. (1) No professional corporation shall, except under the authority of a resolution of the board, employ in connection with its practice, a suspended member or a member whose name has been struck off the register.

(2) The board may by resolution permit a professional corporation to employ in connection with its practice a suspended member or a member whose name has been struck off the register but the employment shall be in the capacity and subject to the terms and conditions that the resolution prescribes.

80. A certificate purporting to be signed by the registrar and stating that a named corporation was or was not, on a specified day or during a specified period, a professional corporation according to the records of the Association, shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the registrar's appointment or signature.

81. In any provision of an Act of the Legislature or any regulation, rule, order or by-law made under an Act of the Legislature enacted or made before the coming into force of this Act, a reference to a person authorized to carry on the practice of dentistry or dental surgery, whether referred to as a member of The Alberta Dental Association, a dentist or dental surgeon or otherwise, shall be read as including a professional corporation.

(5) The following Schedule is added at the end of the Act:

SCHEDULE

The objects for which the company is established are

- (a) to engage in every phase and aspect of rendering the same dental services to the public that a dentist

78. Right to sue.

79. Employment of persons struck off the register or suspended members.

80. Evidence.

81. Transitional.

(5) Included objects of a professional corporation.

or dental surgeon, being a member of The Alberta Dental Association, is authorized to render;

- (b) to purchase or otherwise acquire and to own, mortgage, pledge, sell, assign, transfer or otherwise dispose of, and to invest in, deal in and with, real and personal property necessary for the rendering of dental services;
- (c) to contract debts and borrow money, issue and sell or pledge bonds, debentures, notes and other evidences of indebtedness and execute such mortgages, transfers of corporate property or other instruments to secure the payment of corporate indebtedness as required;
- (d) to enter into partnership, consolidate or merge with or purchase the assets of another corporation or individual rendering the same professional services.

The Legal Profession Act

4. (1) *The Legal Profession Act is amended by this section.*

(2) *The following Part is added after section 110:*

PART 8

PROFESSIONAL CORPORATIONS

111. In this Part,

- (a) “permit” means a permit issued pursuant to section 113, subsection (3);
- (b) “professional corporation” means the holder of a subsisting permit.

112. The Benchers may make rules

- (a) prescribing the manner of proof as to matters required to be proven by applicants for permits;
- (b) fixing the fees payable to the Society for the issuance of permits and the fees payable annually by professional corporations;
- (c) providing that the permit of a professional corporation is suspended without notice or investigation upon contravention of any rule that requires the corporation to pay a fee or assessment, file a document or do any other act by a specified or ascertainable date, and providing for the reinstatement of a permit so suspended;
- (d) providing for the reinstatement or re-issuance of any permit suspended or revoked pursuant to an

4. (1) This section will amend chapter 203 of the Revised Statutes of Alberta 1970.

(2) This amendment will permit the incorporation of law practices.

111. Definitions.

112. Rules by Benchers.

order of the Benchers under section 121 and prescribing the terms and conditions upon which reinstatement or re-issuance of a permit may be granted;

- (e) requiring professional corporations to open and maintain trust accounts for clients' money at a chartered bank, a treasury branch or a corporation that is an approved corporation under *The Trustee Act*;
- (f) requiring professional corporations to keep books of account and records containing particulars and information as to moneys received, held or paid for or on account of clients, requiring the furnishing of evidence that those accounts and records are being kept and maintained and providing for the inspection of those books and records from time to time by the officers, auditors or agents of the Society;
- (g) requiring any professional corporation to pay to the Society the cost of any inspection or audit of its books and accounts where the rules under clause (e) or (f) have not been complied with,
- (h) providing for the creation and maintenance of a register of professional corporations and requiring the filing of periodic returns by such corporations;
- (i) providing for the annual renewal of permits and prescribing the terms and conditions upon which renewals may be granted;
- (j) prescribing the types of names by which
 - (i) a professional corporation, or
 - (ii) a partnership of two or more professional corporations, or
 - (iii) a partnership of one or more professional corporations and one or more individual barristers and solicitors,may be known.

113. (1) Notwithstanding any other provision of this Act, a corporation to which a permit is issued under this section may practice law in its own name.

(2) Notwithstanding subsection (1), no corporation shall be enrolled as a member of the Society.

(3) The Secretary shall issue a permit to any corporation which fulfils the following conditions:

- (a) files an application in the form prescribed by the Benchers;
- (b) pays all the fees prescribed by the Benchers;

113. Granting of permits to professional corporations.

- (c) satisfies the Secretary that it is a company limited by shares that is in good standing with the Registrar of Companies under *The Companies Act*;
 - (d) satisfies the Secretary that the objects of the company stated in its memorandum of association include the objects contained in the Schedule to this Act;
 - (e) satisfies the Secretary that the name of the company is in accordance with the rules of the Society and contains the words "Professional Corporation";
 - (f) satisfies the Secretary that the legal and beneficial ownership of all the issued shares of the company is vested in one or more active members of the Society and that all of the directors of the company are active members of the Society;
 - (g) satisfies the Secretary that the persons who will carry on the practice of a barrister and solicitor on behalf of the company are active members of the Society.
- (4) A permit issued under subsection (3) expires on December 31 of the year for which it was issued.
- (5) A permit issued under subsection (3) may be revoked or its renewal withheld by the Benchers where any of the conditions specified in subsection (3) no longer continue to exist.
- (6) For the purposes of subsection (3), clause (g), the practice of a barrister and solicitor shall not be deemed to be carried on by clerks, secretaries, bookkeepers and other assistants employed by the corporation to perform services which are not usually and ordinarily considered by law, custom and practice to be services which may be performed only by an active member of the Society, nor shall the practice of a barrister and solicitor be deemed to be carried on by articulated students-at-law employed by the corporation to do any thing in the course of service under articles if it is done under the direction or supervision of an active member of the Society.

114. Where a professional corporation ceases to fulfil any condition specified in section 113, subsection (3) by reason only of

- (a) the death of an active member, or
 - (b) the striking off of the name of an active member from the roll, or
 - (c) the suspension of an active member,
- who is a shareholder of the corporation, the professional corporation has a period of 90 days from the date of the death, striking off or suspension, as the case may be, in

114. Termination of permit.

which to fulfil the condition failing which the permit is automatically terminated effective upon the expiration of the 90-day period without the necessity of an order of the Benchers.

115. (1) Notwithstanding any provision to the contrary in *The Companies Act*, every person who is a shareholder of a corporation during the time that it is the holder of a permit or of a corporation during the time that it acts in contravention of the provisions of section 92, subsection (1), is liable to the same extent and in the same manner as if the shareholders of the corporation were during that time carrying on the business of the corporation as a partnership or, where there is only one shareholder, as an individual practising as a barrister and solicitor.

(2) The liability of any person in carrying on the practice of a barrister and solicitor is not affected by the fact that the practice of a barrister and solicitor is carried on by such person as an employee and on behalf of a professional corporation.

116. No shareholder of a professional corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person who is not an active member of the Society the authority to exercise the voting rights attached to any or all of his shares.

117. The relationship of a member of the Society or of a student-at-law to a professional corporation, whether as shareholder, director, officer or employee, does not affect, modify or diminish the application to him of the provisions of this Act and the rules.

118. (1) Nothing contained in section 113 shall affect, modify or limit any law applicable to the fiduciary, confidential or ethical relationships between a barrister and solicitor and a person receiving the professional services of a barrister and solicitor.

(2) The relationship between a professional corporation carrying on the practice of a barrister and solicitor and a person receiving the professional services of the corporation is subject to all applicable law relating to the fiduciary, confidential and ethical relationships between a barrister and solicitor and his client.

(3) All rights and obligations pertaining to communications made to or information received by a barrister and solicitor, or his advice thereon, apply to the shareholders, directors, officers and employees of a professional corporation.

115. Liability of shareholders and employees of a professional corporation.

116. Voting agreements with non-members prohibited.

117. Application of Act and rules.

118. Preservation of fiduciary, confidential and ethical solicitor-client relationships.

119. No person or persons shall trade or carry on business within Alberta under any name or title containing the words "Professional Corporation" or the abbreviation "P.C." unless that person or those persons are duly incorporated as a company and the company holds a subsisting permit, or unless otherwise expressly authorized by statute, and every person so trading or carrying on business is guilty of an offence and liable upon summary conviction to a fine not exceeding \$25 for every day upon which that name or title has been used.

120. (1) All the provisions of Parts 3, 4 and 5 and the rules thereunder which are applicable to barristers and solicitors apply with all necessary modifications to a professional corporation under this Part unless otherwise expressly provided in this Part.

(2) The following provisions of this Act do not apply to a professional corporation:

- section 73, subsection (2);
- section 92, subsection (1);
- section 93, subsections (1) and (2).

(3) For the purposes of sections 100, 101 and 109, the term "member" includes a professional corporation.

121. (1) References in section 56, section 64, subsection (2) and section 73, subsection (1) to the suspension of a member shall, in the case of a professional corporation, be deemed a reference to the suspension of the permit of the professional corporation, and references in section 73, subsection (1), clause (b) and section 75, subsections (1) and (3) to striking the name of a member from the roll shall, in the case of a professional corporation, be deemed a reference to revocation of the permit of the corporation.

(2) All shareholders, directors, officers and employees of a professional corporation whose conduct is being investigated are compellable witnesses in any proceedings under Part 3.

(3) When a professional corporation has been found guilty by the Benchers under Part 3 of conduct unbecoming a barrister and solicitor, the Benchers may

- (a) revoke the permit of the corporation, or
 - (b) suspend for a stated period of time the permit of the corporation, or
 - (c) reprimand the corporation,
- and in addition to a suspension of the permit or a reprimand, the Benchers may
- (d) order the professional corporation to pay for each offence of which it is found guilty, a fine of not

119. Prohibition.

120. Application of Act and rules to the corporation.

121. Discipline proceedings.

more than \$1,000 to the Society, within the time fixed by the order,

- (e) order the professional corporation to pay the costs of the investigation in an amount and within the time fixed by the Benchers, and
- (f) suspend the permit of the corporation in default of paying any fine or costs ordered to be paid until such time as the fine or costs are paid.

122. (1) The misappropriation or wrongful conversion referred to in section 76, subsection (1) includes misappropriation or wrongful conversion by a member of the Society of money or other property entrusted to or received by any professional corporation in its capacity as a barrister and solicitor, of which corporation such member is a shareholder, director, officer or employee.

(2) An order authorized to be made by a judge of the Supreme Court in the case of a member under section 82, subsection (1) may, in the case of a professional corporation, be made in any of the following cases, namely,

- (a) when the permit of the corporation has been revoked or suspended under section 121, subsection (3), or
- (b) when a shareholder of the corporation has died or become mentally incapacitated, or
- (c) when for any reason the corporation is unable to practice as a barrister and solicitor, or
- (d) when a shareholder of the corporation has absconded or is otherwise improperly absent from the corporation's place of business, or the corporation has neglected its practice for an unduly extended period, or
- (e) when there is reason to believe that the trust moneys held by the corporation are not sufficient to meet its trust liabilities, or
- (f) when sufficient grounds otherwise exist.

123. No municipality has the power to require any professional corporation to obtain a licence from the municipality to practice law or to carry on the practice or profession of a barrister and solicitor.

124. A corporation may sue for fees for services performed on its behalf and in its name by a person in his capacity as an active member at any time after the services are performed, if the services were performed during the time that the corporation was the holder of a subsisting permit.

122. Application of Assurance Fund and custodian provisions.

123. No municipal licence necessary.

124. Right to sue.

125. (1) No professional corporation shall, except under the authority of a resolution of the Benchers, employ in connection with its practice a suspended member or a member whose name has been struck off the roll.

(2) The Benchers may by resolution permit a professional corporation to employ in connection with its practice a suspended member or a member whose name has been struck off the roll but the employment shall be in the capacity and subject to the terms and conditions that the resolution prescribes.

126. A certificate purporting to be signed by the Secretary and stating that a named corporation was or was not, on a specified day or during a specified period, a professional corporation according to the records of the Society, shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the Secretary's appointment or signature.

127. In any provision of an Act of the Legislature or any regulation, rule, order or by-law made under an Act of the Legislature enacted or made before the coming into force of this Act, a reference to a person authorized to carry on the practice of law, whether referred to as a member of The Law Society of Alberta, a barrister and solicitor or otherwise, shall be read as including a professional corporation.

(3) The following Schedule is added at the end of the Act:

SCHEDULE

The objects for which the company is established are

- (a) to engage in every phase and aspect of rendering the same legal services to the public that a barrister and solicitor, being an active member of The Law Society of Alberta, is authorized to render;
- (b) to purchase or otherwise acquire and to own, mortgage, pledge, sell, assign, transfer or otherwise dispose of, and to invest in, deal in and with, real and personal property necessary for the rendering of legal services;
- (c) to contract debts and borrow money, issue and sell or pledge bonds, debentures, notes and other evidences of indebtedness and execute such mortgages, transfers of corporate property or other instruments to secure the payment of corporate indebtedness as required;
- (d) to enter into partnership, consolidate or merge with or purchase the assets of another corporation or individual rendering the same professional services.

125. Employment of persons struck off the roll or suspended members.

126. Evidence.

127. Transitional.

(3) Included objects of a professional corporation.

The Medical Profession Act, 1975

5. (1) The Medical Profession Act, 1975 is amended by this section.

(2) The following Part is added after section 84:

PART 6

PROFESSIONAL CORPORATIONS

85. In this Part,

- (a) “permit” means a permit issued pursuant to section 87, subsection (3);
- (b) “professional corporation” means the holder of a subsisting permit.

86. The council may make by-laws

- (a) prescribing the manner of proof as to matters required to be proven by applicants for permits;
- (b) fixing the fees payable to the College for the issuance of permits and the fees payable annually by professional corporations;
- (c) providing that the permit of a professional corporation is suspended without notice or investigation upon contravention of any by-law that requires the corporation to pay a fee or assessment, file a document or do any other act by a specified or ascertainable date, and providing for the reinstatement of a permit so suspended;
- (d) providing for the reinstatement or re-issuance of any permit suspended or revoked pursuant to an order of the council under section 95 and prescribing the terms and conditions upon which reinstatement or re-issuance of a permit may be granted;
- (e) providing for the creation and maintenance of a register of professional corporations and requiring the filing of periodic returns by such corporations;
- (f) providing for the annual renewal of permits and prescribing the terms and conditions upon which renewals may be granted;
- (g) prescribing the types of names by which
 - (i) a professional corporation, or
 - (ii) a partnership of two or more professional corporations, or
 - (iii) a partnership of one or more professional corporations and one or more individual practitioners,may be known.

5. (1) This section will amend chapter 26 of the Statutes of Alberta, 1975.

(2) This amendment will permit the incorporation of medical practices.

35. Definitions.

36. By-laws of council.

87. (1) Notwithstanding any other provision of this Act, a corporation to which a permit is issued under this section may practice medicine in its own name.

(2) Notwithstanding subsection (1), no corporation shall be enrolled as a registered practitioner.

(3) The registrar shall issue a permit to any corporation which fulfils the following conditions:

- (a) files an application in the form prescribed by the council;
- (b) pays all the fees prescribed by the council;
- (c) satisfies the registrar that it is a company limited by shares that is in good standing with the Registrar of Companies under *The Companies Act*;
- (d) satisfies the registrar that the objects of the company stated in its memorandum of association include the objects contained in the Schedule to this Act;
- (e) satisfies the registrar that the name of the company is in accordance with the by-laws of the council and contains the words "Professional Corporation";
- (f) satisfies the registrar that the legal and beneficial ownership of all the issued shares of the company is vested in one or more registered practitioners and that all of the directors of the company are registered practitioners;
- (g) satisfies the registrar that the persons who will carry on the practice of medicine on behalf of the company are registered practitioners.

(4) A permit issued under subsection (3) expires on December 31 of the year for which it was issued.

(5) A permit issued under subsection (3) may be revoked or its renewal withheld by the council where any of the conditions specified in subsection (3) no longer continue to exist.

(6) For the purposes of subsection (3), clause (g), the practice of a registered practitioner shall not be deemed to be carried on by clerks, secretaries, nurses and other assistants employed by the corporation to perform services which are not usually and ordinarily considered by law, custom and practice to be services which may be performed only by a registered practitioner.

88. Where a professional corporation ceases to fulfil any condition specified in section 87, subsection (3) by reason only of

- (a) the death of a registered practitioner, or
- (b) the striking off or other removal from the register of the name of a registered practitioner, or

87. Granting of permits to professional corporations.

88. Termination of permit.

(c) the suspension of a registered practitioner by the College,

who is a shareholder of the corporation, the professional corporation has a period of 90 days from the date of death, striking off or other removal or the suspension, as the case may be, in which to fulfil the condition failing which the permit is automatically terminated effective upon the expiration of the 90-day period without the necessity of an order of the council.

89. (1) Notwithstanding any provision to the contrary in *The Companies Act*, every person who is a shareholder or a corporation during the time that it is the holder of a permit or of a corporation during the time that it acts in contravention of the provisions of section 64, subsection (1), is liable to the same extent and in the same manner as if the shareholders of the corporation were during that time carrying on the business of the corporation as a partnership or, where there is only one shareholder, as an individual practising medicine.

(2) The liability of any person in carrying on the practice of medicine is not affected by the fact that the practice of medicine is carried on by such person as an employee and on behalf of a professional corporation.

90. No shareholder of a professional corporation shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person who is not a registered practitioner the authority to exercise the voting rights attached to any or all of his shares.

91. The relationship of a registered practitioner to a professional corporation, whether as shareholder, director, officer or employee, does not affect, modify or diminish the application to him of the provisions of this Act and the by-laws.

92. (1) Nothing contained in section 87 shall affect, modify or limit any law applicable to the confidential or ethical relationships between a registered practitioner and a person receiving the professional services of a registered practitioner.

(2) The relationship between a professional corporation carrying on the practice of medicine and a person receiving the professional services of the corporation is subject to all applicable law relating to the confidential and ethical relationships between a registered practitioner and his patient.

(3) All rights and obligations pertaining to communications made to or information received by, a registered practitioner apply to the shareholders, directors, officers and employees of a professional corporation.

89. Liability of shareholders and employees of a professional corporation.

90. Voting agreements with non-members prohibited.

91. Application of Act and by-laws.

92. Preservation of confidential and ethical doctor-patient relationships.

93. No person or persons shall trade or carry on business within Alberta under any name or title containing the words "Professional Corporation" or the abbreviation "P.C." unless that person or those persons are duly incorporated as a company and the company holds a subsisting permit, or unless otherwise expressly authorized by statute, and every person so trading or carrying on business is guilty of an offence and liable upon summary conviction to a fine not exceeding \$25 for every day upon which that name or title has been used.

94. (1) All of the provisions of Parts 3, 4 and 5 and the by-laws thereunder which are applicable to members of the College apply with all necessary modifications to a professional corporation under this Part unless otherwise expressly provided in this Part.

(2) The following provisions of this Act do not apply to a professional corporation:

- section 64, subsection (1);
- section 69;
- section 70.

95. (1) References in this Act to the suspension of a member shall, in the case of a professional corporation, be deemed a reference to the suspension of the permit of the professional corporation, and references in this Act to striking the name of a registered practitioner from the register shall, in the case of a professional corporation, be deemed a reference to revocation of the permit of the corporation.

(2) All shareholders, directors, officers and employees of a professional corporation whose conduct is being investigated are compellable witnesses in any proceedings under Part 3.

(3) When a professional corporation has been found guilty by the council under Part 3 of unbecoming conduct, the council may

- (a) revoke the permit of the corporation, or
 - (b) suspend for a stated period of time the permit of the corporation, or
 - (c) reprimand the corporation,
- and in addition to a suspension of the permit or a reprimand, the council may
- (d) order the professional corporation to pay for each offence of which it is found guilty, a fine of not more than \$1,000 to the College, within the time fixed by the order,
 - (e) order the professional corporation to pay the costs of the investigation in an amount and within the time fixed by the council, and

93. Prohibition.

94. Application of Act and rules to the corporation.

95. Discipline proceedings.

- (f) suspend the permit of the corporation in default of paying any fine or costs ordered to be paid until such time as the fine or costs are paid.

96. No municipality has the power to require any professional corporation to obtain a licence from the municipality to practice medicine.

97. A corporation may sue for fees for services performed on its behalf and in its name by a person in his capacity as a registered practitioner at any time after the services are performed, if the services were performed during the time that the corporation was the holder of a subsisting permit.

98. A certificate purporting to be signed by the registrar and stating that a named corporation was or was not, on a specified day or during a specified period, a professional corporation according to the records of the College, shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the registrar's appointment or signature.

99. In any provision of an Act of the Legislature or any regulation, rule, order or by-law made under an Act of the Legislature enacted or made before the coming into force of this Act, a reference to a person authorized to carry on the practice of medicine, whether referred to as a registered practitioner, physician or any like words or expressions implying legal recognition of a person as being entitled to practise medicine, shall be read as including a professional corporation.

(3) The following Schedule is added at the end of the Act:

SCHEDULE

The objects for which the company is established are

- (a) to engage in every phase and aspect of rendering the same medical services to the public that a registered practitioner of the College of Physicians and Surgeons of the Province of Alberta is authorized to render;
- (b) to purchase or otherwise acquire and to own, mortgage, pledge, sell, assign, transfer or otherwise dispose of, and to invest in, deal in or with, real or personal property necessary for the rendering of medical services;
- (c) to contract debts and borrow money, issue and sell or pledge bonds, debentures, notes and other evidences of indebtedness and execute such mortgages,

96. No municipal licence necessary.

97. Right to sue.

98. Evidence.

99. Transitional.

(3) Included objects of a professional corporation.

transfers of corporate property and other instruments to secure the payment of corporate indebtedness as required;

- (d) to enter into partnership, consolidate or merge with or purchase the assets of another corporation or individual rendering the same professional services.

The Trust Companies Act

6. (1) *The Trust Companies Act is amended by this section.*

(2) *Section 2, subsection (1), clause 5 is amended by adding after the word "powers" the words "but does not include a corporation whose objects include the objects contained in the Schedule to The Legal Profession Act and all issued shares of which are legally and beneficially owned by active members of The Law Society of Alberta".*

7. *This Act comes into force on the day upon which it is assented to.*

6. (1) This section will amend chapter 372 of the Revised Statutes of Alberta 1970.

(2) Consequential amendment. Section 2, (1), 5 presently reads:

2. (1) In this Act,

5. "company" or "trust company" means a corporation empowered to carry on the business of executing the offices of executor, administrator and trustee, either with or without other objects or powers;