

1979 BILL 39

First Session, 19th Legislature, 28 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 39

THE PRIVATE VOCATIONAL SCHOOLS ACT

THE MINISTER OF ADVANCED EDUCATION
AND MANPOWER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

THE PRIVATE VOCATIONAL SCHOOLS ACT

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THE PRIVATE VOCATIONAL SCHOOLS ACT

(Assented to , 1979)

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

1 In this Act,

- (a) “agent” means a person who solicits or arranges to sell or sells instruction or training in a vocation;
- (b) “Council” means the Private Vocational Schools Advisory Council;
- (c) “Court” means the Court of Queen’s Bench;
- (d) “Director” means the Director of Private Vocational Schools;
- (e) “inspector” means a person appointed under section 3(1) as an inspector and includes the Director or a person whose services are engaged under section 3(2);
- (f) “licence” includes a conditional licence;
- (g) “Minister” means the Minister of Advanced Education and Manpower;
- (h) “school” means a facility used for the purpose of providing instruction or training in a vocation and includes a facility out of which correspondence courses are provided;
- (i) “vocation” means any employment, trade, calling or pursuit designated by the regulations as a vocation.

2 This Act does not apply to

- (a) the board of a university under *The Universities Act*,
- (b) the board of a public college under *The Colleges Act*,

Explanatory Notes

1 Definitions.

2 Application of Act.

(c) the governors of the Banff Centre for Continuing Education,

(d) a provincially administered institution as defined in *The Department of Advanced Education and Manpower Act*,

(e) a school or correspondence course operated or provided under *The School Act*,

(f) a school or correspondence course operated or provided by the Government of Alberta, the Government of Canada or the government of another province,

(g) a school or correspondence course operated or provided by an employer for his employees,

(h) a school or correspondence course operated or provided by an association of employers for the employees of its members,

(i) a school or correspondence course operated or provided by a trade union as defined in *The Alberta Labour Act, 1973* for its members, or

(j) a school, correspondence course or vocation or class of them exempted by the regulations.

3(1) In accordance with *The Public Service Act* there may be appointed a Director of Private Vocational Schools, inspectors and other employees as may be necessary for the administration of this Act.

(2) The Director may engage the services of persons who are not employees of the Government and who have special technical skills or knowledge to act as inspectors or to advise him on matters that are under his administration.

(3) The Director may authorize in writing

(a) an employee of the Government under the administration of the Minister, or

(b) a person engaged under subsection (2)

to do any act or thing required or permitted to be done by the Director under this Act or the regulations.

(4) A written authorization made under subsection (3) may be

(a) general or applicable to a particular case, and

(b) conditional or unconditional.

3 Director, staff and employment of experts.

(5) A written authorization made under subsection (3)

(a) purporting to be signed by the Director, and

(b) stating that the person named in it is authorized under this section to do the act or thing set forth in the written authorization,

or a copy of it, shall be admitted in evidence as prima facie proof of that person's authorization to do the act or thing without proof of the signature or official character of the person appearing to have signed the written authorization.

4(1) There shall be a council called the "Private Vocational Schools Advisory Council" that shall consist of not more than 5 persons appointed by the Minister.

(2) The Minister may designate one of the members of the Council as chairman.

(3) The members of the Council may elect from among themselves a vice-chairman of the Council.

(4) The term of office of a member of the Council shall be for a term prescribed by the Minister not exceeding 3 years.

(5) A member of the Council may be appointed for not more than 2 consecutive terms.

(6) Upon a person serving 2 consecutive terms as a member of the Council that person is not eligible to again be appointed to the Council until 3 years have expired from the time his last term of office on the Council expired.

(7) The members of the Council shall be paid remuneration and living and travelling expenses in amounts prescribed by the Minister.

5 The Council shall

(a) hear appeals under section 20,

(b) inquire into matters referred to it by the Minister, and

(c) perform any other duties assigned to it by the Minister.

6(1) The Council shall at the direction of the Minister or its chairman sit in one or more divisions for the purpose of hearing appeals or performing its other duties or functions.

(2) A division of the Council as determined by the Minister or the chairman of the Council may consist of

4 Private Vocational Schools Advisory Council.

5 Duties of the Council.

6 Divisions of the Council.

(a) one or more persons when it is performing functions other than hearing appeals under section 20, or

(b) 3 or more persons when it is hearing appeals under section 20.

(3) A division of the Council has all the jurisdiction and power of the Council and may perform any of the duties of the Council assigned to it by the Minister or the chairman of the Council.

(4) An order of a division of the Council is an order of the Council and binds all the members of the Council.

(5) The chairman of the Council may designate a member of a division of the Council to preside at a sitting of the division.

7(1) A quorum of the Council is a majority of the members of the Council.

(2) A quorum of a division of the Council is a majority of the members of the division.

8 If the Council or a division of the Council is hearing an appeal or inquiring into a matter and one or more members of the Council or division do not for any reason attend on any day or part of a day, the remaining members present may, if they constitute a quorum of the Council or division, as the case may be, exercise all the jurisdiction and power and perform all the duties of the Council with respect to that appeal or inquiry.

9 A decision of a majority of the members of the Council or a division of the Council present and constituting a quorum is the decision of the Council or of the division and in the event of a tie vote the chairman or the presiding member, as the case may be, may cast a second vote.

10 The Council may establish rules of procedure respecting the holding of an appeal or an inquiry.

11 No person shall maintain or operate a school or provide correspondence courses for the purpose of giving instruction or training in a vocation or act as an agent unless he is licensed to do so under this Act.

12 A person licensed to provide correspondence courses shall, if he does not maintain a school in Alberta, employ an agent licensed under this Act who resides in Alberta.

7 Quorum of the Council.

8 Effect of a member of the Council being absent from a portion of an appeal or an inquiry.

9 Decision of the Council.

10 Rules of procedure of the Council.

11 Licence required to operate a school or provide correspondence courses.

12 Non-resident licensee.

13(1) An application for a licence or a renewal of a licence to operate a school or provide correspondence courses shall

(a) be made to the Director in a form that he may prescribe,

(b) state

(i) the location of the school or office, as the case may be,

(ii) the vocations in respect of which the applicant intends to offer instruction and training,

(iii) the instruction and training that the applicant intends to offer, and

(iv) the names of the agent or agents, if any, employed or proposed to be employed by the applicant,

and

(c) be accompanied by the licence fee and security, if any, in the amount prescribed by the regulations.

(2) An application for an agent's licence or renewal of an agent's licence shall

(a) be made to the Director in a form that he may prescribe,

(b) state the name of the person operating the school or providing the correspondence courses and the trade name, if any, of the school or correspondence courses on whose behalf he is an agent,

(c) state the location of the agent's office or proposed office, if any, and

(d) be accompanied by the licence fee in the amount prescribed by the regulations.

(3) Upon considering an application for a licence or a renewal of a licence the Director may

(a) issue a licence,

(b) issue a conditional licence, or

(c) refuse to issue a licence.

(4) Unless otherwise specified on the licence, a licence to operate a school or provide correspondence courses expires 2 years from the date on which it is issued.

13 Application and licence.

(5) Unless otherwise specified on the licence, an agent's licence expires on April 1 following the date on which it is issued.

14(1) A licence issued to a person to operate a school or provide correspondence courses shall state

- (a) the name of the person who may operate the school or provide correspondence courses,
- (b) the location of the school,
- (c) the vocations in which instruction and training may be offered by the licensee,
- (d) the instruction and training that may be offered by the licensee,
- (e) the term of the licence, if the term is other than 2 years from the date on which it is issued, and
- (f) in the case of a conditional licence, the conditions to which the conditional licence is subject.

(2) A licensee shall post the licence on a prominent place on or in the school that he operates.

(3) No person shall

- (a) cover up, mutilate or deface a licence, or
- (b) without the written permission of the Director, remove a licence,

posted under subsection (2).

15 A licence issued to an agent shall state

- (a) the person on whose behalf he is an agent,
- (b) the location of the agent's office, if any,
- (c) the term of the licence, if the term expires before April 1 following the date on which the licence is issued, and
- (d) in the case of a conditional licence, the conditions to which the licence is subject.

16(1) An inspector may

- (a) at any reasonable hour enter and inspect a school or an office of an agent;

14 Licence to operate a school or provide correspondence courses.

15 Agent's licence.

16 Inspection.

(b) with respect to the business of being an agent, of operating a school or providing correspondence courses, require the production of any books, records or other documents and may examine them, make copies of them or remove them temporarily for the purpose of making copies;

(c) inspect and take samples of material, books, lessons and equipment used in providing instruction or training in a vocation and of work performed by persons receiving that instruction or training;

(d) require that a person offering correspondence courses provide to the inspector samples of material, books, lessons and equipment used in providing instruction or training in a vocation and of work performed by persons receiving that instruction or training;

(e) perform tests, take photographs or make recordings in a school;

(f) observe the instruction or training being provided in a school.

(2) If an inspector removes any books, records or other documents under subsection (1)(b), he shall

(a) give a receipt to the person from whom those books, records or documents were taken, and

(b) forthwith make copies of, take photographs of or otherwise record the books, records or documents taken and return them to the person to whom the receipt was given.

(3) If an inspector acquires samples under subsection (1)(c) or (d), he shall

(a) give a receipt to the person from whom those samples were taken, and

(b) upon that person's request, return those samples to that person when the samples have served the purposes for which they were taken.

(4) If a person refuses to allow an inspector to exercise any powers under subsection (1) or interferes or attempts to interfere with the inspector in the exercise of those powers, the Director may apply to the Court by originating notice for an order restraining that person from preventing or interfering in any manner with the inspector in the exercise of those powers.

(5) An application under subsection (4) may be made ex parte, if the Court considers it proper to do so.

17 If an inspector makes an inspection under section 16 and is of the opinion that this Act, the regulations or a licence are not being complied with, he may in writing order the licensee to take those corrective measures specified in the written order within the time limits prescribed in that order.

18(1) If the Director is of the opinion that a person licensed to operate a school or provide correspondence courses

- (a) is not providing competent instruction or training,
- (b) is providing instruction or training in a vocation other than that permitted under his licence,
- (c) is providing instruction or training other than that permitted under his licence,
- (d) has not complied with this Act, the regulations, a licence, an order made under section 17 or a stop order made under section 22, or
- (e) is operating a school that is unfit or unsuitable to be used as a school or for the instruction or training being offered by the licensee,

the Director may, on 30 days' notice in writing to the licensee, cancel or suspend the licence.

(2) Upon receiving a notice under subsection (1), the licensee shall forthwith provide to the Director a list of the names and addresses of his students.

(3) Upon a notice being given under subsection (1), the Director shall

- (a) post a notice of the cancellation or suspension in the school operated by the licensee, and
- (b) in the case of a licensee providing correspondence courses, upon receiving the list referred to in subsection (2), notify in writing those persons shown on the list of the cancellation or suspension of the licence.

(4) No person shall

- (a) cover up, mutilate or deface a notice posted under subsection (3)(a), or
- (b) without the written permission of the Director, remove a notice posted under subsection (3)(a).

19(1) If the Director is of the opinion that a person licensed as an agent

17 Order after inspection.

18 Suspension or cancellation of a licence to operate a school or provide correspondence courses.

19 Suspension or cancellation of an agent's licence.

(a) has not complied with this Act, the regulations, a licence, an order or a stop order, or

(b) is acting as an agent on behalf of a person who is not named on the agent's licence,

the Director may, on 30 days' notice in writing to the licensee, cancel or suspend the licence.

(2) Upon receiving a notice under subsection (1), the licensee shall forthwith provide to the Director a list of the names and addresses of persons to whom he has entered into agreements with respecting the sale of instruction or training in a vocation during the 13 months immediately preceding the cancellation or suspension of the licence.

20(1) A person

(a) who has been refused a licence or a renewal of a licence under section 13(3), or

(b) whose licence has been cancelled or suspended under section 18 or 19,

may appeal the refusal, cancellation or suspension by serving the Director with a notice of appeal within 30 days of being notified in writing of the refusal, cancellation or suspension.

(2) The Director shall, within 10 days of being served with the notice of appeal deliver the notice of appeal to the chairman of the Council.

(3) The Council shall commence hearing the appeal within 30 days of the notice of appeal being served on the Director.

(4) Upon hearing the appeal, the Council may by order either

(a) confirm the refusal, cancellation or suspension,

(b) direct that a licence or renewal of a licence be issued,

(c) reinstate the cancelled licence, or

(d) remove or vary the suspension.

(5) The Director or the person whose appeal is heard by the Council may appeal the decision of the Council by filing an originating notice with the Court within 30 days of being served with the order made under subsection (4) and the Court may make any order that the Council may make under subsection (4).

20 Appeals.

21(1) A person

(a) whose licence has been cancelled or suspended under section 18 or 19 or whose licence has not been renewed, and

(b) who has in respect of that cancellation, suspension or non-renewal commenced an appeal under section 20,

may apply to the Court by originating notice for an order reinstating the cancelled licence, removing the suspension or renewing the licence, as the case may be, pending the determination of the appeal.

(2) The Court may hear an application made under this section not less than 2 days after the originating notice has been served upon the Director.

(3) Upon hearing an application made under this section, the Court may, subject to those conditions that it considers proper, if any, reinstate the cancelled licence, remove the suspension or renew the licence, as the case may be, pending the determination of the appeal under section 20.

22(1) If the Director is of the opinion that a person has contravened or is contravening this Act, the regulations, a licence or an order made under section 17, he may issue a stop order to that person directing that person within the time specified in the stop order to do one or more of the following:

(a) cease the contravention specified in the stop order;

(b) cease the activity specified in the stop order;

(c) cease operation of the school specified in the stop order;

(d) cease providing the correspondence courses specified in the stop order.

(2) A stop order

(a) shall set forth the reasons for which it was made, and

(b) may, if it is made under subsection (1)(b), (c) or (d), specify a period of time that the stop order remains in force.

(3) The Director shall cause a copy of the stop order to be served upon the person to whom it is issued within 48 hours of the stop order being made.

(4) A person to whom a stop order is issued may appeal the making of the stop order by filing an originating notice with the Court within 15 days of being served with the stop order.

21 Reinstatement of a licence pending an appeal.

22 Stop orders.

(5) The Court may hear an application made under this section not less than 2 days after the originating notice has been served on the Director.

(6) On an appeal under subsection (4), the Court shall

(a) inquire into all matters leading to the making of the stop order,

(b) determine whether, in its opinion, there were sufficient grounds for the making of the stop order, and

(c) confirm, amend or revoke the stop order.

23 An order, stop order or notice made or given under this Act may be served

(a) by personal service upon the person to whom it is made,

(b) by double registered mail if the post office receipt for the envelope containing the order is signed by the person to whom the order is made,

(c) in the case of an order, stop order or notice made to a person operating a school, by posting it on a prominent place on or in the school,

(d) in the case of an order, stop order or notice made to an agent, by posting it on a prominent place on or in an office of the agent, or

(e) as directed by a judge of the Court.

24 A person who contravenes this Act, the regulations, a licence or a stop order is guilty of an offence and liable on summary conviction to a fine of not more than \$2000, and in the case of a continuing offence, to a further fine of not more than \$500 for each day or part of a day during which the offence continues after the first day.

25 If a person does not comply with a stop order, the Director may, whether or not that person has been prosecuted under this Act, apply to the Court by originating notice for an order of the Court directing that person to comply with the stop order.

26 The Lieutenant Governor in Council may make regulations:

23 Service of documents.

24 Offences.

25 Enforcement of a stop order.

26 Regulations.

- (a) designating any employment, trade, calling or pursuit or any class of them as a vocation;
- (b) governing the licensing of persons under this Act;
- (c) prescribing licence fees payable under this Act;
- (d) prescribing security to be given to the Government by a licensee;
- (e) governing the forfeiture of security provided by the licensee and the distribution of the proceeds of security that is forfeited;
- (f) governing the filing of returns with the Director;
- (g) governing the soliciting or advertising, as the case may be, by a licensee;
- (h) governing the enrollment of persons in schools or correspondence courses;
- (i) governing fees that may be charged for instruction or training provided in schools or by correspondence courses;
- (j) governing the handling of money paid by persons to licensees under this Act for instruction or training in a vocation and the return of that money or a portion of it if the instruction or training is not completed or if the licensee's licence is cancelled, suspended or not renewed;
- (k) governing facilities used as schools;
- (l) governing the operation of schools;
- (m) governing the provision of correspondence courses;
- (n) governing the instruction or training that may be offered by a licensee;
- (o) governing the qualification of instructors providing instruction or training in a vocation;
- (p) governing books, accounts and records to be maintained by a licensee and the disposition of those books, accounts or records;
- (q) governing examinations given to persons receiving instruction or training in a vocation;
- (r) governing certificates, diplomas or documents that may be issued to persons who are receiving or have completed instruction or training in a vocation;

(s) exempting schools, correspondence courses or vocations from the operation of this Act or a part of it.

27 A licence issued or registration made under *The Trade Schools Regulation Act* remains in force as though it was a licence issued under this Act and it expires one year from the date it was issued unless sooner cancelled or suspended under this Act.

28 *The Trade Schools Regulation Act* is repealed.

29 This Act comes into force on a date or dates to be fixed by Proclamation.

27 Previous licence.

28 Repeals chapter 366 of the Revised Statutes of Alberta 1970.