

1985 BILL 57

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Third Session, 20th Legislature, 34 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 57**

## **PROFESSIONAL AND OCCUPATIONAL ASSOCIATIONS REGISTRATION ACT**

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HON. DR. REID

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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Bill 57

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1985

### PROFESSIONAL AND OCCUPATIONAL ASSOCIATIONS REGISTRATION ACT

(Assented to , 1985)

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

Definitions

#### **1** In this Act,

- (a) “association’s register” means the register of a registered association;
- (b) “by-laws” means by-laws under section 15;
- (c) “chairman” means the chairman of a Discipline Committee;
- (d) “conduct” includes any act or omission;
- (e) “designated title” means the name and title and abbreviations of the name and title designated under section 9;
- (f) “investigated person” means a member of a registered association with respect to whose conduct a complaint has been made and an investigation or hearing is held or may be held under this Act;
- (g) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (h) “Register” means the Register of Registered Professional and Occupational Associations;
- (i) “registered association” means a professional or occupational association registered under this Act;
- (j) “Registrar” means the Registrar of Registered Professional and Occupational Associations;
- (k) “regulations” means regulations under section 14.

#### PART 1 REGISTRATION

Staff

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

Registrar

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

Register

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

- (a) the names of all registered associations,
- (b) the designated title of the members of each registered association,
- (c) a description of the field of practice of members of each registered association,
- (d) the names of chairmen of the Discipline Committees and the officers of the registered associations,
- (e) the head office address for each registered association, and
- (f) any other matters prescribed by the Minister under section 37.

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

Ineligibility for registration

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

- (a) a health discipline designated or eligible to be designated under the *Health Disciplines Act*, or
- (b) a trade designated or eligible to be designated under the *Manpower Development Act*.

Application for registration

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

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

- (a) the name and abbreviations of the name of the association and the proposed designated title and abbreviations of the proposed designated title to be used by its members,
- (b) a list of the names of the members of the association,
- (c) a resolution of the members passed in accordance with the association's procedures indicating that they wish the association to be registered under this Act,
- (d) a copy of the incorporating documents of the association, if any,
- (e) a statement of the purposes of the association,
- (f) the existing by-laws of the association, if any, on matters referred to in section 15,
- (g) the association's proposed regulations, if any, and

(h) a statement indicating whether the association wishes to have section 64 of the *Universities Act* apply to the academic requirements for a person to become a registered member of the association.

Registration  
investigation

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

(2) In conducting his investigation, the Registrar may consider

(a) whether the association serves to protect the public against incompetence and fraud that could affect the life, health, welfare, safety or property of the public and whether it is in the public interest that the association be registered;

(b) whether the association represents a group of persons practising an identifiable profession or occupation and whether it represents persons whose primary object is to advance the interests of a profession or occupation practised by the members of the association;

(c) whether there are a sufficient number of persons engaged in an identifiable profession or occupation to warrant the exclusive use by those persons of a name identifying that profession or occupation;

(d) the proportion that the members of the association are of the total number of persons in Alberta who engage in the practice of the profession or occupation seeking registration and whether the association represents a significant number of the persons engaged in the practice of a profession or occupation;

(e) whether the profession or occupation is governed by an Act in force in Alberta;

(f) whether the name proposed by the association may cause the public undue confusion with the name of any other profession, trade, occupation or calling already governed by an Act or regulation;

(g) whether the proposed designated title or its abbreviations conflict with those of another registered association or profession or occupation governed by any other Act in force in Alberta;

(h) whether other associations support the association's application for registration as a registered association;

(i) whether the association represents or is normally engaged in representing its members in the negotiation of collective bargaining agreements;

(j) the number of members in the association, the length of time it has existed, whether it is incorporated and its financial position;

(k) whether the association has a continuing education program for its members;

- (l) the academic and experience requirements for registration as a member of the association;
- (m) whether the association has proposed regulations;
- (n) whether the association has an elected governing body;
- (o) any other matter he considers appropriate.

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

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

- (a) the Department of Advanced Education with respect to the training required for admission of members into the association, and
- (b) the Universities Co-ordinating Council, with respect to whether to have section 64 of the *Universities Act* apply to academic requirements for registration as a member of the association.

Registration  
recommendation

**8(1)** If on concluding his investigation the Registrar considers that he should not recommend registration of the association, he shall provide the Minister and the association with written reasons and shall provide the association with the opportunity to submit further information and submissions with respect to the application.

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

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

- (a) the proposed name and abbreviations of the name of the association and the title and abbreviations of the title to be used by its members to be designated to be for the exclusive use of the association and of members of the association,
- (b) any proposed regulations of the association, and
- (c) whether section 64 of the *Universities Act* should apply with respect to the academic requirements for registration of members in the proposed registered association.

Registration  
approval

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

- (a) order the registration of the association as a registered professional or occupational association;
- (b) determine the designation of the name of the registered association and the designated professional or occupational title

and abbreviations of the name and designated professional or occupational title that may be used exclusively by the registered association and its members;

(c) state whether section 64 of the *Universities Act* shall apply with respect to the academic requirements for registration as a member of the registered association.

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

(a) notify the association and the Department of Advanced Education of the order and its contents, and

(b) enter in the Register the matters referred to in section 4(1).

Cancellation of  
registration

**10(1)** If the Registrar

(a) is of the opinion that a registered association no longer represents a significant number of the persons engaged in the practice of the profession or occupation,

(b) is of the opinion that the registered association is not performing its duties in a proper manner, or

(c) receives a resolution from the registered association passed in accordance with the association's procedures that it no longer wishes to be a registered association,

the Registrar shall make a recommendation to

(d) the Minister, and

(e) in the case of a registered association with respect to which a transfer of administration is ordered under section 38, the Minister who administers this Act with respect to that registered association

that the order under section 9(1) be rescinded.

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

(a) the Minister, or

(b) in the case of a registered association with respect to which a transfer of administration is ordered under section 38, the Minister who administers this Act with respect to that registered association

rescind an order under section 9(1).

## **PART 2**

### **REGISTERED ASSOCIATION**

Corporation

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

(a) is a corporation, or

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

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

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

Membership of  
governing body

**12(1)** In this section, “Minister” means Minister as defined in section 1 or, in the case of a registered association with respect to which a transfer of administration is ordered under section 38, the Minister who administers this Act with respect to that registered association.

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

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

(a) the number of members of the registered association prescribed in the by-laws, each of whom shall be elected by and from among members of the registered association in accordance with the by-laws, and

(b) when the number of members under clause (a) does not exceed 10, 1 member of the public, when the number of members under clause (a) is more than 10 but does not exceed 20, 2 members of the public, or when the number of members under clause (a) is more than 20, 3 members of the public, who shall be appointed for a 2-year term of office by the Minister after consultation with the members of the governing body elected under clause (a).

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

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

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

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

(a) the fact that no one is appointed as a member of the governing body under subsection (3)(b),

(b) the revocation under subsection (5) of the appointment of a member of the governing body, or

(c) the resignation from the governing body of a member appointed under subsection (3)(b).

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

Governing body  
and officers

**13(1)** The governing body of a registered association shall manage and conduct the business and affairs of the registered association and



exercise the rights, powers and privileges of the registered association in the name and on behalf of the registered association.

(2) The members of a governing body shall elect from among themselves the officers of the registered association specified in the by-laws in the manner and for the term prescribed in the by-laws.

Governing body  
regulations

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

(a) respecting the field of practice of the members of the registered association and prescribing conditions or limitations applicable to that field of practice;

(b) prescribing standards of conduct, including a code of ethics, and standards of competency of members of a registered association;

(c) governing eligibility, including examinations, for registration as a registered member;

(d) respecting renewal of registration of registered members;

(e) respecting continuing education of registered members;

(f) respecting the temporary registration of a person as a member of a registered association;

(g) respecting the suspension or cancellation of a member's registration other than pursuant to complaint proceedings under this Act;

(h) respecting the establishment of the Registration Committee and the Practice Review Committee;

(i) respecting the powers, duties and procedures of the Registration Committee and the Practice Review Committee including prescribing the number of members that constitutes a quorum at meetings of those committees;

(j) respecting the establishment of the Discipline Committee and its procedures;

(k) respecting the establishment of registers for each class or category of members of the association.

(2) Regulations under subsection (1) do not come into force unless they are approved by a majority of members of the registered association

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

(b) voting in a vote conducted by mail in accordance with the by-laws,

and the Lieutenant Governor in Council has approved the regulations.

**15(1)** The governing body of a registered association may make by-laws

- (a) for the government of the registered association and the management and conduct of its affairs;
  - (b) respecting the nomination, election, number and term of office of officers of the registered association, the filling of vacancies and the powers and duties of officers;
  - (c) determining the location of the head office of the registered association;
  - (d) respecting the calling of and conduct of meetings of the registered association;
  - (e) respecting voting at meetings of the registered association, in person or by proxy and voting by mail;
  - (f) respecting notice requirements for meetings at which by-laws or regulations are to be put to a vote;
  - (g) prescribing the number of members that constitutes a quorum at meetings of the registered association, its governing body and committees established by by-law;
  - (h) providing for the establishment of committees by the governing body and prescribing the powers and duties of the committees;
  - (i) providing for delegation, with or without conditions, of any powers or duties of a governing body under this Act except those under sections 13(2), 19, 22, 28(2), 34 and 35, and under the regulations or the by-laws to a committee established by the governing body;
  - (j) respecting the establishment of and payment of sums of money for scholarships, fellowships and any other educational incentive or benefit programs that the governing body considers appropriate;
  - (k) requiring persons who engage in the practice of a registered association to maintain a business address in Alberta and to inform the registered association in writing of that address and of any change in that address forthwith after the change occurs;
  - (l) prescribing the manner of proof as to matters required to be proved by applicants for temporary registration;
  - (m) respecting fees payable to the registered association for registration, conducting an examination, and the renewal of registration;
  - (n) subject to section 12, respecting the membership of the governing body.
- (2) A by-law under subsection (1) does not come into force unless it is approved by a majority of members of the registered association
- (a) voting in person or by proxy in accordance with the by-laws at a general meeting for which notice has been given in accordance with the by-laws, or

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

(3) The *Regulations Act* does not apply to by-laws under this section.

Registration  
Committee,  
Practice Review  
Committee

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

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

Discipline  
Committee

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

Chairman

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

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

### PART 3

#### COMPLAINT PROCEEDINGS

Conduct

**19** Any conduct of a member of a registered association that in the opinion of a Discipline Committee or of a governing body reviewing an order pursuant to section 34

(a) is detrimental to the best interests of the public,

(b) harms or tends to harm the standing of the profession or occupation generally, or

(c) displays a lack of knowledge of or a lack of skill or judgment in the practice of the profession or occupation,

whether or not that conduct is disgraceful or dishonourable, constitutes either

(d) unskilled practice of the profession or occupation, or

(e) professional or occupational misconduct,

whichever the Discipline Committee or the governing body finds.

Making a  
complaint

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

(a) unskilled practice of the profession or occupation, or

(b) professional or occupational misconduct,

may submit a signed, written complaint to the chairman.

(2) Proceedings on a complaint with respect to a member of a registered association whose registration was cancelled or suspended pursuant to this Act may, notwithstanding the cancellation or suspension, be commenced within 1 year following the date of cancellation or suspension as if the cancellation or suspension had not occurred.

Notice of  
complaint

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

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

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

(a) that no further action be taken, if he is satisfied that the complaint is frivolous or vexatious, or

(b) that a hearing be held before a Discipline Committee not more than 60 days after receipt of the complaint, or within any longer period on which he and the member agree, to consider the complaint.

Notice of  
direction

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

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

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

(a) the complaint is frivolous or vexatious, or

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

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

Notice of hearing

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

Adjournment

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

Suspension

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

Counsel

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

In camera

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

Evidence

**28(1)** Evidence may be given before a Discipline Committee in any manner that the Committee considers appropriate, and the Commit-

tee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

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

Witness

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

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

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

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

(3) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench on an application made ex parte by the registered association may direct the issuing of a commission for the obtaining of the evidence of the witness, and the commission shall be issued and the evidence taken pursuant to the Alberta Rules of Court.

Witness  
attendance,  
production

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

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

(3) A witness, other than the investigated person, who has been served with a notice under subsection (1) or (2) is entitled to be paid the

same fees as are payable to a witness in an action in the Court of Queen's Bench.

Failure to attend  
or give evidence

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

(a) who fails

(i) to attend before the Discipline Committee in compliance with a notice to attend, or

(ii) to produce anything referred to in section 30(1) in compliance with a notice to produce it,

or

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

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

Hearing in  
absence of  
investigated  
person

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

(a) proceed with the hearing in the absence of the investigated person, and

(b) act, decide or report on the matter being heard in the same way as though the investigated person were in attendance.

Order

**33(1)** If a Discipline Committee is satisfied that a complaint of

(a) unskilled practice of the profession or occupation, or

(b) professional or occupational misconduct

against the investigated person has been proved in whole or in part, it may, by order, do any one or more of the following:

(c) direct the suspension of the registration of the investigated person for a stated period with or without conditions including completion of a specified course of studies or obtaining supervised practical experience;

(d) direct the cancellation of the investigated person's registration;

(e) require the investigated person to complete the training prescribed by the Discipline Committee at the times and in the manner specified in the order.

(2) A Discipline Committee shall

(a) serve any order it makes, together with written reasons for making the order, on the investigated person, and

(b) inform the complainant in writing of the nature of the order.

Review  
application

**34(1)** A member of the Discipline Committee or the investigated person in respect of whom an order has been made under section 33

may, within 30 days of the service of the order, by written notice served on the president of the registered association, request the governing body to review the order.

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

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

Review

**35(1)** The governing body, in conducting a review under section 34, may

(a) amend, substitute or add to the particulars of the matter being investigated;

(b) adjourn the proceedings or reserve the determination of the matters before it for a future meeting of the governing body;

(c) review all or any part of the evidence given before the Discipline Committee in the same manner and subject to the same rules and with the same powers as are provided with respect to hearings before the Discipline Committee;

(d) on an application to receive further evidence, inquire as to the nature of that further evidence and, on granting leave, receive part or all of that further evidence in the same manner and subject to the same rules and with the same powers as are provided with respect to hearings before the Discipline Committee.

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

(3) The governing body may

(a) draw inferences of fact and make any determination or finding that in its opinion ought to have been made by the Discipline Committee, or

(b) quash, vary or confirm the finding or order of the Discipline Committee.

(4) The governing body shall

(a) serve the investigated person with a copy of the governing body's decision and of the reasons for its decision, and

(b) inform the complainant in writing of the nature of the decision.

#### **PART 4**

#### **GENERAL PROVISIONS**

Service of documents

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

Ministerial  
orders

**37 The Minister may make orders**

- (a) respecting the Register to be kept by the Registrar and matters to be entered in it;
- (b) prescribing forms for the purposes of this Act;
- (c) respecting the annual report and its contents to be submitted
  - (i) by the registered association to the Registrar, and
  - (ii) by the Registrar to the Minister and to any Minister to whom a transfer of administration is ordered under section 38.

Transfer of  
administration

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

Misrepresenta-  
tion

**39(1) No person, except a member of a registered association, shall use a designated title, alone or in combination with any other title, name, description, abbreviation, letter or symbol, in such a way as to represent expressly or by implication that he is a member of the registered association.**

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

Offence

**40 A person who contravenes section 39 is guilty of an offence and liable to a fine of not more than \$500.**

Injunction

**41 The Court of Queen's Bench, on application by a registered association by way of originating notice, may grant an injunction enjoining any person from doing any act or thing that contravenes section 40, notwithstanding any penalty that may be provided by this Act in respect of that contravention.**

No action

**42(1) No action lies against**

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

- (b) any member, officer or employee of a registered association,

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

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

- (a) a registered association, a Practice Review Committee or a Discipline Committee,



(b) an officer or employee of a registered association, or

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

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

Reports

**43(1)** The Registrar shall submit annually to the Minister and to any Minister to whom a transfer of administration is ordered under section 38 a report on all registered associations containing the information required by the Minister pursuant to section 37.

(2) Registered associations shall submit annually to the Registrar on the date prescribed by the Minister, in a form satisfactory to the Minister, a report on those matters of the business and affairs of the registered association that the Minister requires pursuant to section 37.

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*In accordance with section 4(1) of the Interpretation Act,  
this Bill comes into force on the date it receives Royal  
Assent.*