

1985 BILL 71

Third Session, 20th Legislature, 34 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 71

CHARTERED ACCOUNTANTS ACT

HON. DR. REID

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 71

1985

CHARTERED ACCOUNTANTS 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(1) In this Act,

(a) “audit” means an examination and evaluation of relevant financial systems, financial data and other corroborative evidence relating to an entity, for the purpose of expressing an independent opinion to provide reasonable assurance, based on professional judgment, that the financial statements or assertions, whether explicit or implicit, that are the subject of examination and evaluation

(i) are fairly stated in accordance with criteria that are appropriate in the circumstances and have been consistently applied, and

(ii) taken as a whole, are not materially misstated;

(b) “chartered accountant” means an individual who is registered as a member of the Institute and maintains his membership in accordance with this Act, the regulations and the by-laws;

(c) “Council” means the Council of the Institute;

(d) “Executive Director” means the individual appointed as Executive Director of the Institute in accordance with the by-laws;

- (e) “former Act” means the *Chartered Accountants Act*, chapter C-5 of the Revised Statutes of Alberta 1980, and the by-laws passed under that Act;
 - (f) “Institute” means the Institute of Chartered Accountants of Alberta;
 - (g) “member of the public” means an individual who is not a chartered accountant, professional corporation or student or a member of any other accounting profession or organization;
 - (h) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
 - (i) “permit” means a permit issued pursuant to section 25;
 - (j) “professional corporation” means a corporation that is the holder of a subsisting permit;
 - (k) “records” includes
 - (i) an account, book, return, statement, report, correspondence, financial document, financial statement, working paper, notes or other memorandum of financial or non-financial information whether in writing or in electronic form or represented or reproduced by any other means, and
 - (ii) the results of the recording of details of electronic data processing systems and programs to illustrate what the systems and programs do and how they operate;
 - (l) “Registrar” means the Member Registrar or the Student Registrar, as the context requires;
 - (m) “registration” means the registration of an individual as a chartered accountant or as a student, as the context requires;
 - (n) “review” means, in Part 1, an independent review of financial statements provided on a fee for service basis, primarily by means of inquiry, comparison and discussion of information supplied by an entity, with the objective of determining whether the financial statements
 - (i) appear to be plausible in the circumstances, and
 - (ii) appear to be in accordance with an appropriate and disclosed basis of accounting consistently applied,
 resulting in a communication of responsibility that is intended to be relied upon or might reasonably be expected to be relied upon by third parties, and includes a statement that an audit of the financial statements has not been conducted;
 - (o) “student” means an individual registered as a student by the Institute;
 - (p) “Universities Co-ordinating Council” means the Universities Co-ordinating Council established under the *Universities Act*.
- (2) In this Act or any enactment enacted or made before, at or after the commencement of this section, 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 unless otherwise provided.

PART 1

EXCLUSIVE SCOPE OF PRACTICE

- 2**(1) Except as provided in this Act or the regulations, no person except a chartered accountant shall perform an audit.
- (2) Except as provided in this or any other enactment, no person except a chartered accountant shall perform a review.
- (3) This section does not apply to
- (a) a person employed or engaged by a chartered accountant who performs an audit or review under the supervision or control of a chartered accountant, or
 - (b) a person who performs an audit or review for his employer where the employer is not a chartered accountant.
- 3**(1) No person, except a chartered accountant, shall
- (a) use the name “chartered accountant”, “Fellow of the Chartered Accountants”, “Associate of the Chartered Accountants” or any other name or any abbreviation of those words alone or in any combination with any other word, or
 - (b) use the initials “C.A.”, “F.C.A.” or “A.C.A.” or any other initials, either alone or in combination with any other word, letter, symbol, initial or abbreviation,
- to represent expressly or by implication that he is a chartered accountant, or use any title, name, description, abbreviation, letter or symbol representing the name “chartered accountant”, “Fellow of the Chartered Accountants” or “Associate of the Chartered Accountants” or the letters “C.A.”, “F.C.A.” or “A.C.A.”.
- (2) No person shall use the name “Certified Public Accountant” or the initials “C.P.A.” or any title, name, description, abbreviation, letter or symbol representing that name or those initials, alone or in combination with any other name, title, description, abbreviation, letter, symbol or initials, that represents expressly or by implication that he is a certified public accountant.
- 4** Unless otherwise permitted under this Act, no chartered accountant or student shall engage in the practice of accounting directly or indirectly with a person whose registration or permit is under suspension or has been cancelled under this Act or the regulations or any predecessor to this Act.
- 5** The Court of Queen’s Bench, on application by the Institute by way of originating notice, may grant an injunction enjoining any person from doing any act that contravenes this Part, notwithstanding any penalty that may be provided by this Act or the regulations in respect of that contravention.

PART 2

INSTITUTE OF CHARTERED ACCOUNTANTS OF ALBERTA

Corporation continued	<p>6(1) The Institute is continued as a corporation and may be known as the “Institute of Chartered Accountants of Alberta”.</p> <p>(2) The Institute has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.</p>
Council	<p>7(1) There is hereby established a governing body of the Institute called the Council.</p> <p>(2) The Council shall manage and conduct the business and affairs of the Institute and exercise its powers in the name of and on behalf of the Institute.</p>
Council	<p>8(1) The Council shall consist of</p> <ul style="list-style-type: none">(a) at least 9 chartered accountants, or a greater number that may be prescribed by or determined in accordance with the by-laws, each of whom shall be elected by and from among chartered accountants at the time, in the manner and for the period provided by the by-laws, and(b) when the number of elected chartered accountants does not exceed 10, 1 member of the public, or when the number of elected chartered accountants is more than 10, 2 members of the public, who shall be appointed by the Minister for a 3-year term of office from a list of members of the public nominated by the Council. <p>(2) A member of the public appointed to the Council continues to hold office after the expiry of his term until he is reappointed or a successor is appointed.</p> <p>(3) The Minister may, after consultation with the Council, revoke the appointment of a member of the public appointed to the Council.</p> <p>(4) The Minister may pay to a member of the public appointed to the Council travelling and living expenses incurred by that member for attendance at a meeting of the Council while away from his usual place of residence, and fees in an amount prescribed by the Minister.</p> <p>(5) The powers, duties and operation of the Council under this Act, the regulations and the by-laws are not affected by</p> <ul style="list-style-type: none">(a) the fact that no member of the public is appointed as a member of the Council,(b) the revocation of the appointment of a member of the public, or(c) the resignation from the Council of a member of the public. <p>(6) The failure of a member of the public appointed to the Council to attend a meeting of the Council does not affect or restrict the Council from exercising any powers or performing any duties under this Act, the regulations or the by-laws at that meeting.</p>
Annual report	<p>9(1) The Council shall submit annually to the Minister, in a form satisfactory to him, a report on those matters of the business and affairs of the Institute that the Minister requires.</p>

(2) The Minister shall, on receipt of the annual report of the Institute, lay it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days of the commencement of the next ensuing sitting.

PART 3 REGISTRATION

Registrars **10** There may be a Member Registrar and a Student Registrar of the Institute appointed in accordance with the by-laws.

Membership Register **11(1)** There is hereby established a Membership Register in which shall be entered the names of individuals approved for registration as chartered accountants.

(2) There is hereby established a Student Register in which shall be entered the names of individuals approved for registration as students.

(3) The Membership Register and Student Register shall be maintained and operated in accordance with this Act and the by-laws.

Registration Committee **12(1)** There is hereby established a Registration Committee composed of

- (a) at least 3 chartered accountants, and
- (b) any other individuals,

appointed by the Council in accordance with the by-laws.

(2) The Registration Committee shall consider applications for registration as chartered accountants or as students and shall undertake any other functions and duties as directed by the Council.

(3) The Registration Committee may delegate its authority under this Act, the regulations and the by-laws to a Registrar.

Eligibility for registration as student **13** An application for registration as a student shall not be approved by the Registration Committee unless the applicant

(a) produces documentation satisfactory to the Registration Committee showing that

(i) he meets the academic requirements prescribed in the regulations, or

(ii) the Universities Co-ordinating Council is satisfied that his academic qualifications, at the time they were acquired, were at least equivalent to those required for registration under subclause (i),

(b) is a Canadian citizen or is lawfully admitted into Canada for permanent residence,

(c) shows himself to be of good character and reputation,

(d) shows that his name has not been removed for cause from the register of any accountants' institute, society, association, college or similar body in Canada or elsewhere,

(e) meets any other requirements prescribed in the regulations or the by-laws, and

(f) pays the fees in accordance with the by-laws.

Eligibility for registration as chartered accountant

14(1) An application for registration as a chartered accountant shall not be approved by the Registration Committee unless the applicant

(a) produces documentation satisfactory to the Registration Committee showing that

(i) he meets the requirements set out in section 13(a)(i) or (ii), as the case may be, and

(ii) he has successfully completed the examinations prescribed in accordance with the regulations,

(b) meets the term of service requirements and any other requirements prescribed in the regulations or the by-laws,

(c) is a Canadian citizen or is lawfully admitted into Canada for permanent residence,

(d) shows himself to be of good character and reputation,

(e) shows that his name has not been removed for cause from the register of any accountants' institute, society, association, college or similar body in Canada or elsewhere, and

(f) pays the fees in accordance with the by-laws.

(2) The Universities Co-ordinating Council and the Council may enter into an agreement respecting the examinations referred to in subsection (1)(a)(ii).

Registration Committee decision

15(1) If the Registration Committee approves an application for registration as a student, the applicant shall be registered in accordance with the regulations and the by-laws.

(2) If the Registration Committee approves an application for registration as a chartered accountant, the Registration Committee shall cause the name of the applicant to be registered in the Membership Register.

(3) On entering the name of an applicant in the Membership Register, the Committee shall issue a certificate of membership to the applicant.

Application not approved

16 If the Registration Committee does not approve an application for registration as a student or chartered accountant, the Registration Committee shall

(a) notify the applicant in writing giving reasons for its decision,

(b) if the applicant does not meet the academic requirements set out in section 13(a) or 14(1)(a), as the case may be, refer the applicant to the Universities Co-ordinating Council for direction respecting the courses or examinations, or both, that the Universities Co-ordinating Council considers necessary, and

(c) if the Registration Committee is not satisfied that the applicant meets the term of service, character, reputation or other

	<p>requirements set out in section 13 or 14, as the case may be, notify the applicant of his right to a review by the Council.</p>
Review by Council	<p>17(1) An applicant whose application for registration as a student or chartered accountant is not approved by the Registration Committee may, within 30 days of receipt of the Registration Committee's decision, request the Council in writing to review the decision, specifying the reasons for the request.</p> <p>(2) On receipt of a request for a review under subsection (1), the Council shall consider the matter or appoint a special committee of Council members to do so, and the Council or special committee may invite the applicant to make representations to it personally or by counsel.</p> <p>(3) A member of the Registration Committee who is also a member of the Council may participate in but shall not vote on a decision of the Council.</p> <p>(4) Following its consideration, the Council or special committee shall notify the applicant of its decision to approve or refuse to approve the application.</p>
Annual dues	<p>18(1) Unless the Council otherwise provides, a chartered accountant and a student shall pay the Institute annual dues at the time and in the manner prescribed in the by-laws.</p> <p>(2) The registration of a chartered accountant or student who fails to pay annual dues in accordance with the by-laws is suspended while the annual dues remain unpaid.</p>
Removal of registration on request	<p>19 A chartered accountant may make a written request to the Member Registrar that his name be removed from the Membership Register and the Registration Committee may, on receipt of the chartered accountant's certificate of membership, direct that his name be removed from the Membership Register.</p>
Suspension of registration	<p>20(1) The registration of a chartered accountant or student and the permit of a professional corporation are suspended when a decision to suspend the registration or permit is made in accordance with this Act.</p> <p>(2) The Registrar shall, after a decision to suspend a registration or permit is made, enter a memorandum of the suspension in the appropriate register indicating</p> <p>(a) the period of the suspension or the conditions to be met before a suspension is removed, if any, and</p> <p>(b) the reason for the suspension.</p>
Cancellation of registration	<p>21(1) The registration of a chartered accountant or student and the permit of a professional corporation are cancelled when a decision to cancel the registration or permit is made in accordance with this Act, the regulations and the by-laws.</p> <p>(2) The Registrar shall, after a decision to cancel a registration or permit is made, remove the name of the person whose registration or permit is cancelled from the appropriate register.</p>

Return of
certificate of
registration

22 A person who is notified that his registration or permit is suspended or cancelled shall forthwith return his certificate of membership or permit, as the case may be, to the Registrar.

Membership
register notations

23 The Registrar shall not enter, remove or re-enter a name or memorandum in a register under this Part except in accordance with this Act, the regulations and the by-laws.

Inspection of lists

24(1) The Member Registrar shall maintain and, during regular office hours, permit any person to inspect a list of names of

- (a) chartered accountants, and
- (b) professional corporations.

(2) The Student Registrar shall maintain, and during regular office hours permit any person to inspect, a list of names of students.

PART 4

PROFESSIONAL CORPORATIONS

Permit
conditions

25(1) The Member Registrar shall issue a permit to a corporation that

- (a) files an application in the form prescribed by the Council;
- (b) pays the fees prescribed by the by-laws;
- (c) satisfies the Member Registrar that it is a company limited by shares that is in good standing with the Registrar of Companies under the *Companies Act* or that it is a corporation in good standing with the Registrar as defined in the *Business Corporations Act*, as the case may be;
- (d) satisfies the Member Registrar that the corporation, by law or by virtue of its incorporating documents, has the capacity to carry on the business and exercise the powers set out in the by-laws;
- (e) satisfies the Member Registrar that the name of the corporation is in accordance with the regulations and contains the words "Professional Corporation";
- (f) satisfies the Member Registrar that the legal and beneficial ownership of all the issued shares of the corporation is vested in 1 or more chartered accountants and that all of the directors of the corporation are chartered accountants;
- (g) satisfies the Member Registrar that the persons who will carry on the practice of accounting on behalf of the corporation are chartered accountants or persons employed or engaged by a professional corporation and under the direction or supervision of a chartered accountant.

(2) A permit is valid for the period stated on it.

(3) A permit may be suspended or cancelled or its renewal may be withheld by the Member Registrar if any of the conditions specified in subsection (1) cease to be fulfilled.

(4) When the Member Registrar issues a permit to a corporation, he shall enter the name of the corporation in the register of professional corporations operated and maintained in accordance with the by-laws.

Failing to fulfil conditions

26(1) If a professional corporation ceases to fulfil any condition specified in section 25 by reason only of

(a) the death of a chartered accountant, or

(b) the cancellation, suspension or removal from the Membership Register under this Act or a predecessor to this Act of the registration of a chartered accountant,

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

(2) In the event of the death of a chartered accountant, the Council may in writing order that the 90-day period provided for in subsection (1) be extended for a further period that it considers reasonable.

Liability

27(1) Notwithstanding anything to the contrary in the *Companies Act* or the *Business Corporations Act*, every person who is a shareholder of a corporation

(a) during the time that it is the holder of a permit, or

(b) during the time that it practises in contravention of this Act or a predecessor of this Act,

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, when there is only 1 shareholder, as an individual practising as a chartered accountant.

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

Voting rights not transferable

28 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 chartered accountant the authority to exercise the voting rights attached to any or all of his shares.

Application of Act to corporations

29(1) The provisions of this Act, the regulations and the by-laws that apply to chartered accountants apply with all necessary modifications to a professional corporation unless otherwise expressly provided.

(2) The relationship of a chartered accountant or a student to a professional corporation, whether as shareholder, director, officer or employee, does not affect, modify or diminish the application to him of this Act, the regulations and the by-laws.

Application of the Act to corporations

30(1) Nothing contained in this Part affects, modifies or limits any law applicable to the fiduciary, confidential or ethical relationship between a chartered accountant and a person receiving the professional services of a chartered accountant.

(2) The relationship between a professional corporation engaging in the practice of accounting and a person receiving the professional services of the corporation is subject to all applicable laws relating to the fiduciary, confidential and ethical relationships between a chartered accountant and his client.

Title protection

31 No chartered accountant shall engage in the practice of accounting under any name or title containing the words "Professional Corporation" or the abbreviation "P.C." unless that person is incorporated and the holder of a subsisting permit, and a person engaging in the practice of accounting in contravention of this section is guilty of an offence and liable to a fine not exceeding \$100 for every day on which that name or title is used.

PART 5

PRACTICE REVIEW COMMITTEE

Committee established

32 There is hereby established a Practice Review Committee consisting of not fewer than 3 chartered accountants appointed by the Council.

Powers of Committee

33 The Practice Review Committee may

(a) conduct and oversee the review of the practice of a chartered accountant in accordance with the by-laws;

(b) determine whether the standards of the profession are being complied with;

(c) consider and decide on requests for authority to train students, and shall notify a chartered accountant of its decision;

(d) foster improved standards of training and experience for students;

(e) make recommendations to the Council relating to standards of training for students;

(f) engage in any matter that the Committee or the Council considers necessary or appropriate with respect to the maintenance and improvement of competence in practice as a chartered accountant.

Practice review

34(1) A person conducting a practice review may require a chartered accountant or student or an employer or employee, if applicable, of either of them to produce to him any records in his possession or under his control.

(2) The Institute may apply ex parte to the Court of Queen's Bench for an order

(a) directing a person described in subsection (1) or any other person to produce to the person conducting a practice review any

records in his possession or under his control if it is shown that the person described in subsection (1) failed to produce them when required by the person conducting the practice review, or

(b) directing any person to produce to the person conducting a practice review any records in his possession or under his control that are or may be related to the practice review.

Authority of
Committee

35 After each review of a practice, the Practice Review Committee may

(a) make recommendations to a chartered accountant as to his practice;

(b) direct a further review of the practice at the times and for the purpose prescribed by it;

(c) assess and levy the costs of any review in accordance with the by-laws against the chartered accountant in respect of whom the review was conducted;

(d) restrict, limit or place conditions on the approval of a practice to train students;

(e) cancel an approval of a practice to train students;

(f) if it is of the opinion that the conduct of a chartered accountant constitutes or may constitute either conduct unbecoming a chartered accountant or a professional misdemeanour,

(i) refer the matter relating to that conduct to the Executive Director for an inquiry under Part 6, and in that case the Executive Director shall deal with it as if it were a complaint, and

(ii) if it makes a referral under subclause (i), recommend to the Professional Conduct Chairman that the registration of the chartered accountant or permit of the professional corporation be suspended.

Appeal to
Council

36(1) A chartered accountant may, by notice in writing, appeal

(a) a restriction, limitation or condition under subsection 35(d),
or

(b) a cancellation under subsection 35(e)

to the Council.

(2) A notice of appeal under subsection (1) shall be served on the Executive Director within 30 days after notice to the chartered accountant of the Practice Review Committee's decision.

(3) At least 15 days before the date of the hearing the Executive Director shall serve the chartered accountant and the Practice Review Chairman with a notice of hearing stating the date, time and location of the appeal.

(4) The chartered accountant, the Practice Review Committee and the Council may each be represented at an appeal under this section.

(5) The Practice Review Chairman may participate in an appeal under this section.

(6) The Council shall schedule an appeal under this section within a reasonable period after the date of service of the notice of appeal under subsection (2).

(7) The Council on an appeal may

(a) quash, vary or confirm the decision of the Practice Review Committee,

(b) refer the matter back to the Practice Review Committee for further consideration in accordance with any direction that the Council may make, or

(c) make any decision that in its opinion ought to have been made by the Practice Review Committee.

Costs **37** The registration of a chartered accountant who or the permit of a professional corporation that does not pay costs assessed or levied under section 35(c) in accordance with the direction of the Practice Review Committee is suspended while the costs remain unpaid.

Failure to co-operate in practice review **38** The failure or refusal of a chartered accountant to co-operate in a practice review may be held to be conduct unbecoming a chartered accountant or a professional misdemeanour.

PART 6 DISCIPLINE

Definitions **39** In this Part,

(a) “complaint” means a complaint made in writing about the conduct or alleged conduct of a chartered accountant or student, signed by the person making it;

(b) “conduct” includes an act or omission;

(c) “hearing committee” means a special hearing committee or standing hearing committee established by this Act, as the case may be;

(d) “investigated person” means a chartered accountant or student with respect to whose conduct an investigation is made or a hearing is held under this Part;

(e) “investigator” means the person appointed by the Professional Conduct Chairman to conduct a preliminary investigation under this Part, or the Professional Conduct Chairman if he conducts the preliminary investigation personally;

(f) “Professional Conduct Chairman” means the chairman of the Professional Conduct Committee and includes a vice-chairman.

Professional Conduct Committee **40(1)** There is hereby established a committee called the Professional Conduct Committee composed of

(a) at least 5 chartered accountants appointed by the Council in accordance with the by-laws, and

(b) 1 member of the public appointed by the Minister from a list of members of the public nominated by the Council.

(2) The Minister may pay to a member of the public appointed to the Professional Conduct Committee travelling and living expenses incurred by that member for attendance at a meeting of the Committee away from his usual place of residence, and fees in an amount prescribed by the Minister.

(3) The Minister may, after consultation with the Council, revoke the appointment of the member of the public appointed to the Professional Conduct Committee.

(4) The powers, duties and operation of the Professional Conduct Committee under this Act, the regulations and the by-laws are not affected by

(a) the fact that no member of the public is appointed as a member of the Committee,

(b) the revocation of the appointment of a member of the public, or

(c) the resignation from the Committee of the member of the public.

(5) Subject to the by-laws prescribing a quorum, the failure of the member of the public appointed to the Professional Conduct Committee to attend a meeting of the Committee does not affect or restrict the Committee from exercising any powers or performing any duties under this Act, the regulations or the by-laws at that meeting.

Hearing committees

41 The Council may establish such

(a) special hearing committees, and

(b) standing hearing committees,

as it requires, each composed of at least 3 chartered accountants appointed by the Council in accordance with the by-laws.

Unbecoming conduct and professional misdemeanours

42 Any conduct of a chartered accountant or student that, in the opinion of a hearing committee,

(a) is detrimental to the best interest of the public or members of the Institute,

(b) contravenes this Act, the regulations or the by-laws,

(c) harms or tends to harm the standing of the chartered accountants' profession generally, or

(d) displays a lack of knowledge of or lack of skill or judgment in the practice of accounting,

whether or not that conduct is disgraceful or dishonourable, may be found

(e) by a special hearing committee to constitute either conduct unbecoming a chartered accountant or a professional misdemeanour, or

(f) by a standing hearing committee to constitute a professional misdemeanour.

Complaints

43(1) A person may make a complaint to the Executive Director and the complaint shall be dealt with in accordance with this Part.

(2) If, after the registration of a chartered accountant or student is removed, suspended or cancelled or the permit of a professional corporation is removed, suspended or cancelled under this Act or any predecessor to this Act,

(a) a complaint is made about the former chartered accountant, student or professional corporation, and

(b) the complaint relates to conduct occurring before the removal, suspension or cancellation occurred,

the complaint may be dealt with within 2 years following the date of removal, suspension or cancellation as if the removal, suspension or cancellation had not occurred.

Mediation

44(1) A person designated by the Council as a mediator may assist in settling a complaint made to the Executive Director if the complainant and the chartered accountant or student about whose conduct the complaint is made agree.

(2) If, within 45 days of the date of receipt of a complaint, or a longer period agreed to by the persons concerned, a settlement of the complaint does not occur, or in the mediator's opinion is not likely to occur, the mediator shall forward the complaint to the Professional Conduct Chairman forthwith.

(3) If mediation is not agreed to by the persons concerned, the Executive Director shall forward the complaint to the Professional Conduct Chairman forthwith.

(4) Notwithstanding that a settlement is reached under this section or that a complaint is withdrawn, the Executive Director may refer the complaint to the Professional Conduct Chairman.

Admission of conduct

45(1) If a chartered accountant or student admits to conduct that is or is alleged to be conduct unbecoming a chartered accountant or a professional misdemeanour,

(a) a mediator, or

(b) the Executive Director,

may, with the consent of the chartered accountant or student concerned, refer the matter to the Professional Conduct Committee without a preliminary investigation.

(2) On receipt of a reference under subsection (1), the Professional Conduct Committee, if it is of the opinion that

(a) the conduct may be found to constitute unbecoming conduct, or if repeated conduct that may be found to constitute professional misdemeanours is alleged or admitted, may refer the conduct to a special hearing committee, or

(b) the conduct may be found to constitute a professional misdemeanour, may refer the conduct to a standing hearing committee.

(3) A hearing committee to which a matter is referred under subsection (2) may hold a hearing limiting itself to

(a) finding whether the conduct admitted by the investigated person constitutes, in the case of a special hearing committee, conduct unbecoming a chartered accountant or a professional misdemeanour and, in the case of a standing hearing committee, a professional misdemeanour, and

(b) making an order, if any, under section 62 or 63 or both.

Preliminary investigation

46(1) The Professional Conduct Chairman shall, within 60 days after receiving a complaint, commence a preliminary investigation of the complaint or appoint a person to conduct the investigation.

(2) An investigator may require the investigated person or any other chartered accountant or student to produce to him any records in his possession or under his control and may require the attendance at the investigation of the chartered accountant or student concerned and any other chartered accountant or student or an employee of either of them.

(3) The Institute may apply ex parte to the Court of Queen's Bench for an order

(a) directing a chartered accountant or student concerned and any other chartered accountant or student to produce to an investigator any records in his possession or under his control if it is shown that the chartered accountant or student failed to produce them when required by the investigator, or

(b) directing any person to produce to an investigator any records that are or may be relevant to a complaint being investigated.

(4) If a chartered accountant or student does not co-operate with an investigator, the investigator may make a complaint and the failure or refusal to co-operate may be held to be conduct unbecoming a chartered accountant or a professional misdemeanour.

Preliminary investigation

47(1) An investigator shall conduct a preliminary investigation in a manner considered by him to be most suitable in all the circumstances.

(2) An investigator may investigate any other matter regarding the conduct of the investigated person that arises in the course of a preliminary investigation whether associated with the original complaint or investigation or not.

(3) If a person other than the Professional Conduct Chairman is the investigator, that person shall, on concluding the preliminary investigation, report to the Professional Conduct Chairman.

Investigator's report considered

48(1) The Professional Conduct Chairman, on concluding a preliminary investigation and a report or on receiving a report under sec-

tion 47(3), shall refer the report to the Professional Conduct Committee.

(2) The Professional Conduct Committee shall consider the report and shall,

- (a) if the report alleges
 - (i) conduct unbecoming a chartered accountant,
 - (ii) conduct that may be found to constitute unbecoming conduct, or
 - (iii) repeated professional misdemeanours,

refer the matter to a special hearing committee,

(b) if the report alleges a professional misdemeanour or conduct that may be found to constitute a professional misdemeanour, refer the matter to a standing hearing committee, or

(c) if it is of the opinion that

- (i) the complaint is frivolous or vexatious, or
- (ii) there is insufficient evidence of conduct unbecoming a chartered accountant or of a professional misdemeanour to warrant a referral to a hearing committee under this Part,

direct that no further action be taken.

(3) The Professional Conduct Committee shall cause to be served on the investigated person a notice that no further action will be taken or that the matter has been referred to a hearing committee, as the case may be, and the complainant, if any, shall be notified accordingly.

Complainant's
request for
review

49(1) A complainant may, within 30 days of receipt of a notice that no further action will be taken on a complaint, by notice in writing to the Executive Director request a review of the decision by the Professional Conduct Committee.

(2) The Professional Conduct Committee shall review its decision on receipt of a request to do so under subsection (1) and shall determine whether

- (a) the complaint is frivolous or vexatious,
- (b) there is insufficient evidence of conduct unbecoming a chartered accountant or of a professional misdemeanour to warrant a referral to a hearing committee under this Part, or
- (c) there is sufficient evidence to warrant a referral to a hearing committee under this Part,

and shall notify the complainant and the investigated person in writing of its decision.

(3) In coming to a decision under subsection (2), the Professional Conduct Committee shall invite the complainant and the investigated person to attend before the Committee and make representations to it.

(4) If the Professional Conduct Committee determines that a complaint is frivolous or vexatious, it may order the costs of the preliminary investigation and the review under this section

(a) to be paid in accordance with the by-laws, if the complainant is a chartered accountant or student, or

(b) to be paid in accordance with the regulations, if the complainant is any other person.

Temporary suspension

50(1) Notwithstanding anything in this Act, the Professional Conduct Chairman may suspend the registration of a chartered accountant or student or the permit of a professional corporation

(a) pending the conclusion of a preliminary investigation or the decision of a hearing committee, or

(b) on the recommendation of the chairman of the Practice Review Committee.

(2) An investigated person whose registration or permit, as the case may be, is suspended under subsection (1) may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the Executive Director, apply for an order staying the decision of the Professional Conduct Chairman until the conclusion of a preliminary investigation or the decision of a hearing committee.

Representation before hearing committee

51(1) The investigated person may be represented by counsel at a hearing before a hearing committee.

(2) A hearing committee and the Institute may each be represented by counsel at a hearing before a hearing committee.

(3) If an investigated person requests that a proceeding before a hearing committee be held in public, that proceeding shall be held in public.

Notice of hearing

52(1) Subject to section 45, a hearing committee shall, on referral to it of a matter in accordance with this Act, investigate the matter and hold a hearing.

(2) A hearing under subsection (1) shall be commenced within 90 days of the date on which the matter is referred to the hearing committee or within such other period as may be prescribed by the Council.

(3) At least 15 days before the date set for a hearing, the Executive Director shall serve on the investigated person a notice of the hearing stating the date, time and place that the hearing committee will hold a hearing and giving reasonable particulars of the matter in respect of which the hearing will be held.

Further investigation

53(1) If any other matter concerning the conduct of the investigated person arises in the course of an investigation or hearing, the hearing committee may investigate and hear the matter, but in that event the hearing committee shall declare its intention to hear the further matter and shall permit the investigated person reasonable opportunity to prepare his answer to the further matter.

(2) If, in the course of an investigation or hearing, a standing hearing committee considers the conduct or alleged conduct to be of a sufficiently serious nature, it may adjourn its proceedings and by notice to the Professional Conduct Chairman request the Professional Conduct Committee to refer the matter to a special hearing committee.

(3) On receipt of a notice under subsection (2) the Professional Conduct Chairman may conduct a further investigation and prepare a report thereon or appoint a person to conduct a further investigation and provide a report to the Professional Conduct Chairman on concluding his investigation.

Investigator's
report considered

54(1) The Professional Conduct Chairman, on preparing or receiving a report under section 53(3), shall forthwith refer the report to the Professional Conduct Committee.

(2) On considering a report referred under subsection (1) the Professional Conduct Committee shall

(a) direct the standing hearing committee to continue with its investigation or hearing, or

(b) direct that the standing hearing committee cease its proceedings and refer the matter to a special hearing committee, together with any evidence received by the standing hearing committee,

and notify the investigated person accordingly.

Evidence

55 Evidence may be given before a hearing committee in any manner that the committee considers appropriate, and the committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

Compellable
witnesses

56(1) The investigated person and any other person who, in the opinion of the hearing committee, has knowledge of the matter being investigated are compellable witnesses in any proceeding under this Part.

(2) A witness may be examined under oath on anything relevant to the investigation or hearing before a hearing committee and shall not be excused from answering any question on the ground that the answer might tend to

(a) incriminate him,

(b) subject him to punishment under this Part, or

(c) 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,

but if the answer so given tends to incriminate him, subject him to punishment or establish his liability, it shall not be used or received against him in any civil proceedings, in a prosecution under Part 7 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.

Commission evidence	<p>57 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 ex parte application by the Institute, may direct the issuing of a commission for obtaining the evidence of the witness, and the commission shall be issued and the evidence taken pursuant to the Alberta Rules of Court.</p>
Attendance of witnesses	<p>58(1) The attendance of witnesses before a hearing committee and the production of records may be enforced by a notice issued by the Executive Director requiring the witness to attend and stating the date, time and place at which the witness is to attend and the records, if any, that the witness is required to produce.</p> <p>(2) On the written request of the investigated person or of his counsel or agent, the Executive Director shall, without charge, issue and deliver to that person or his counsel or agent any notices that that person requires for the attendance of witnesses or the production of any record.</p> <p>(3) A witness, other than the investigated person, who has been served with a notice to attend or a notice for the production of any record 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.</p>
Civil contempt proceedings	<p>59(1) Proceedings for civil contempt of court may be brought against a witness</p> <p style="padding-left: 20px;">(a) who fails</p> <p style="padding-left: 40px;">(i) to attend before a hearing committee in compliance with a notice to attend, or</p> <p style="padding-left: 40px;">(ii) to produce records in compliance with a notice to produce them,</p> <p style="padding-left: 20px;">or</p> <p style="padding-left: 20px;">(b) who refuses to be sworn or to answer any question that he is directed to answer by a hearing committee.</p> <p>(2) The chairman of a hearing committee may make a complaint with respect to the failure or refusal of an investigated person referred to in subsection (1), and the failure or refusal may be held to be conduct unbecoming a chartered accountant or a professional misdemeanour.</p>
Proceedings in absence of investigated person	<p>60 A hearing committee, on proof of service in accordance with this Act of the notice of hearing on the investigated person, may</p> <p style="padding-left: 20px;">(a) proceed with the hearing in the absence of the investigated person, and</p> <p style="padding-left: 20px;">(b) act and decide on the matter being heard in the same way as if the investigated person were in attendance.</p>
Findings by hearing committee	<p>61(1) A standing hearing committee may find that the conduct of an investigated person constitutes or does not constitute a professional misdemeanour.</p> <p>(2) A special hearing committee may find that the conduct of an investigated person constitutes or does not constitute conduct unbecoming a chartered accountant or a professional misdemeanour.</p>

62(1) If a special hearing committee finds that the conduct of an investigated person constitutes conduct unbecoming a chartered accountant or a professional misdemeanour, the special hearing committee may make any one or more of the following orders:

- (a) reprimand the investigated person;
- (b) suspend the registration or permit of the investigated person either generally or from any aspect of the practice of accounting for a stated period or pending compliance with specified conditions;
- (c) suspend the registration or permit of the investigated person either generally or from any aspect of the practice of accounting until
 - (i) that person has completed a specified course of studies or obtained supervised practical experience, or
 - (ii) the Professional Conduct Committee or any other committee established by the Council is satisfied as to the competence of the investigated person generally or in a specified field of practice;
- (d) accept in place of a suspension the investigated person's undertaking to limit his practice;
- (e) impose conditions on the investigated person's entitlement to engage in the practice of accounting generally or in any field of practice, including the conditions that that person
 - (i) practise under supervision,
 - (ii) not engage in practice as a sole practitioner,
 - (iii) permit periodic inspections of his practice by a person authorized by the Professional Conduct Committee or any other committee established under this Act, or
 - (iv) report on specified matters to the Professional Conduct Committee, the Practice Review Committee or any other committee established under this Act, the regulations or the by-laws;
- (f) direct the investigated person to pass a particular course of studies or satisfy the Professional Conduct Committee or any other committee established under this Act, the regulations or the by-laws as to his professional competence generally or in a specified area of practice;
- (g) direct the investigated person to satisfy the Professional Conduct Committee or any other committee established under this Act, the regulations or the by-laws that a disability or addiction can be or has been overcome, and suspend the investigated person until the Professional Conduct Committee or other committee is so satisfied;
- (h) require the investigated person to take counselling that, in the opinion of the Professional Conduct Committee or any other

committee established under this Act, the regulations or the by-laws, is appropriate;

(i) prohibit, restrict, limit or place conditions on an investigated person training or supervising the training of students;

(j) cancel the registration or the permit of the investigated person;

(k) make any further or other order that it considers appropriate in the circumstances.

(2) If a standing hearing committee finds that the conduct of an investigated person constitutes a professional misdemeanour, the standing hearing committee may make any order under subsection (1), except an order suspending or cancelling a registration or permit.

(3) A hearing committee may make any ancillary order that is appropriate or required in connection with any order mentioned in subsection (1) or (2) or may make any other order that it considers appropriate in the circumstances including that

(a) a further or new investigation be held into any matter,

(b) a hearing committee be convened to hear a complaint without a preliminary investigation,

(c) a matter be referred to the Practice Review Committee, or

(d) a complaint or conduct be referred to any other entity having jurisdiction to review complaints.

(4) If a hearing committee is satisfied that an investigated person has contravened an order under subsection (1) or (2) it may, without the necessity of a further hearing, cancel or suspend his registration or permit, as the case may be, subject to any terms it considers appropriate.

Costs and fines

63(1) A hearing committee may, in addition to or in place of dealing with the conduct of an investigated person in accordance with section 62, order that the investigated person pay

(a) all or part of the costs of the investigation, hearing or appeal determined in accordance with the by-laws,

(b) a fine not exceeding \$10 000 for each finding of conduct unbecoming a chartered accountant or a professional misdemeanour, or

(c) costs under clause (a) and a fine under clause (b),

to the Institute within the time set by the order.

(2) A hearing committee may, in addition to an order under subsection (1), order that the registration or permit of the investigated person be suspended until payment is made.

Sanctions
available to
the Council

64 If a chartered accountant or a student has been convicted of an indictable offence, the Council may, without notice or an investigation or hearing under this Act,

(a) suspend the registration of the chartered accountant or student or the permit of the professional corporation pending the determination of an appeal from the conviction or a proceeding to have the conviction quashed, or

(b) on the conclusion of an appeal from the conviction or a proceeding to quash the conviction, and whether or not a suspension has been ordered under clause (a),

(i) suspend the registration of the chartered accountant or student or the permit of the professional corporation for a stated period of time, or

(ii) order the cancellation of the registration of the chartered accountant or student or of the permit of the professional corporation.

Publication
of decision

65(1) If the registration of a chartered accountant or student or the permit of a professional corporation has been cancelled or suspended,

(a) 1 or more notices of the cancellation or suspension shall be published in the form and manner that the by-laws prescribe, and

(b) 1 or more notices of the cancellation or suspension may be posted in accordance with the by-laws.

(2) No notice shall be published in accordance with subsection (1) until

(a) an appeal has been heard and a decision made, or

(b) if no appeal is commenced, the time for commencing an appeal has expired.

Fine and costs
are debt

66 A fine or costs ordered to be paid by a complainant or investigated person under this Part are a debt due to the Institute and may be recovered by the Institute by civil action for debt.

Written decision

67 A hearing committee shall, within a reasonable time after the conclusion of a hearing, make a written decision on the matter, in which it shall

(a) describe each finding made by it of conduct unbecoming a chartered accountant or a professional misdemeanour,

(b) state the reasons for each finding made by it, and

(c) state any order made by it.

Service of
decision

68(1) A hearing committee shall forward to the Executive Director the decision and the record of the hearing, consisting of all the evidence received by it.

(2) The Executive Director shall, on receiving the decision of a hearing committee and the record of the hearing referred to in subsection (1),

(a) serve a copy of the decision on the investigated person,

(b) forward a notice of the decision to the complainant, if any, and

(c) forward a copy of the decision to the Professional Conduct Chairman.

(3) The investigated person and the Professional Conduct Chairman may examine the record or any part of the record of the proceedings before a hearing committee and hear any recording or examine any mechanical or handwritten form of record of evidence given before the committee.

Decision remains in effect

69(1) An order of a hearing committee remains in effect until the Appeals Committee or the Council makes a decision on an appeal.

(2) An investigated person may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the Executive Director, apply for an order staying the decision of a hearing committee pending the determination of the appeal.

Appeals Committee

70 There is hereby established the Appeals Committee composed of no fewer than 3 members of the Council designated by the Council.

Appeal to Appeals Committee or Council

71(1) An investigated person or the Professional Conduct Chairman may by notice in writing appeal

(a) to the Appeals Committee, a finding or order, or both, of a hearing committee, unless the order is a suspension or cancellation of a registration or of a permit, or

(b) to the Council, an order of suspension or cancellation of a registration or of a permit, or a finding on which the order is based, or both.

(2) A notice of appeal under subsection (1) shall

(a) describe the finding or order appealed, and

(b) state the reasons for the appeal.

(3) A notice of appeal under this section shall be served on the Executive Director within 30 days after the date on which the decision of a hearing committee is

(a) served on the investigated person, if he appeals the decision, or

(b) forwarded to the Professional Conduct Chairman, if he appeals the decision.

(4) On receiving a notice of appeal under this section the Executive Director shall

(a) send a copy of it to the investigated person, if the Professional Conduct Chairman is the appellant,

(b) send a copy of it to the Professional Conduct Chairman, if the investigated person is the appellant, and

(c) give to each member of the Council or the Appeals Committee, as the case may be, a copy of the notice of appeal and make

	<p>the decision of the hearing committee and the record of the hearing available to each member of the Council or the Appeals Committee, as the case may be.</p>
Notice of appeal hearing	<p>72(1) At least 15 days before the date of the hearing, the Executive Director shall serve the investigated person and the Professional Conduct Chairman with a notice of hearing stating the date, time and place of the appeal.</p> <p>(2) The Council or the Appeals Committee shall commence hearing an appeal within a reasonable period after the service of the notice of appeal in accordance with section 71(3).</p>
Representation at appeal hearing	<p>73(1) The investigated person, the Institute and the Council or the Appeals Committee may each be represented at an appeal before the Council or Appeals Committee.</p> <p>(2) The Professional Conduct Chairman may, when he is the appellant, participate in an appeal before the Council or Appeals Committee.</p>
Powers of Appeals Committee or Council	<p>74(1) The appeal to the Council or Appeals Committee shall be founded on the decision of the hearing committee and the record of the proceedings before the hearing committee.</p> <p>(2) The Council or Appeals Committee on an appeal may</p> <ul style="list-style-type: none"> (a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Council or Appeals Committee, (b) on granting special leave for the purpose, receive further evidence, and (c) draw inferences of fact and make a decision or finding that, in its opinion, ought to have been made by the hearing committee. <p>(3) Sections 55 to 60 apply to proceedings before the Council or Appeals Committee, as the case may be.</p>
Decision on appeal	<p>75(1) The Council or the Appeals Committee shall, within a reasonable time after the conclusion of all proceedings before it,</p> <ul style="list-style-type: none"> (a) make any finding or order that in its opinion ought to have been made by the hearing committee, (b) quash, vary or confirm the finding or order of the hearing committee or substitute or make a finding or order of its own, subject to the same limitations on the order to be imposed that were on the committee from which the appeal was taken, or (c) refer the matter back to the hearing committee for further consideration in accordance with any direction that the Council or Appeals Committee may make. <p>(2) The Council or the Appeals Committee may make an award as to the costs of an appeal determined in accordance with the by-laws.</p>
Written decision	<p>76(1) The Council or the Appeals Committee shall, within a reasonable time after the conclusion of the proceedings before it, make a written decision on the matter.</p>

	<p>(2) The Executive Director shall, forthwith after the decision is made,</p> <p>(a) serve a copy of the decision on the investigated person, and</p> <p>(b) forward a copy of the decision to the Professional Conduct Chairman.</p> <p>(3) The decision of the Council or the Appeals Committee remains in effect until the Court of Appeal makes a decision on an appeal.</p> <p>(4) An investigated person may, by filing an originating notice with the Court of Queen's Bench, and serving a copy on the Executive Director, apply for an order staying the decision of the Council or the Appeals Committee pending the determination of his appeal to the Court of Appeal.</p>
Appeal to Court of Appeal	<p>77(1) An investigated person may appeal to the Court of Appeal any decision made by the Council or the Appeals Committee.</p> <p>(2) An appeal under this section shall be commenced</p> <p>(a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and</p> <p>(b) by serving a copy of the notice of appeal on the Executive Director,</p> <p>both within 30 days from the date on which the decision of the Council or Appeals Committee is served on the investigated person.</p>
Parties to appeal	<p>78 The Institute and the investigated person are the parties to an appeal under section 77.</p>
Appeal on the record	<p>79 The appeal to the Court of Appeal shall be founded on</p> <p>(a) the record of the proceedings before the Council or the Appeals Committee, and</p> <p>(b) the decision of the Council or the Appeals Committee.</p>
Power of Court on Appeal	<p>80(1) The Court of Appeal on hearing the appeal may</p> <p>(a) make any finding or order that in its opinion ought to have been made,</p> <p>(b) quash, vary or confirm the decision of the Council or the Appeals Committee or any part of it,</p> <p>(c) refer the matter back to the Council or the Appeals Committee, as the case may be, for further consideration in accordance with any direction of the Court, or</p> <p>(d) direct that a new trial of any mixed questions of law and fact relating to a finding or order or both a finding and an order of a hearing committee be held before the Court of Queen's Bench.</p> <p>(2) The Court of Appeal may make any award as to the costs of an appeal to it that the Court considers appropriate.</p>
Reinstatement	<p>81 If the registration of a chartered accountant or student or the permit of a professional corporation has been cancelled, the registra-</p>

tion or permit shall not be reinstated except by order of the Council or by a court of competent jurisdiction.

Employer to recognize sanctions

82 No employer or other person shall knowingly require a chartered accountant or student to perform a service or undertake any work that would result in the chartered accountant's or student's contravening an order or direction of the Professional Conduct Committee, a hearing committee, the Appeals Committee, the Council or a court of competent jurisdiction.

Notice to employer

83 If the registration of a chartered accountant or student is suspended or cancelled or the practice of a chartered accountant or student is ordered to be limited, the person who is the subject of the cancellation, suspension or limitation shall forthwith notify his employer of the cancellation, suspension or limitation.

Proceedings in camera

84 Except when otherwise provided, all proceedings before the Registration Committee, the Council, a special committee of the Council, the Professional Conduct Committee, a hearing committee, the Appeals Committee and the Practice Review Committee shall be held in camera.

PART 7

OFFENCES AND PENALTIES

Penalties

85(1) Every person and every officer, employee or agent of a corporation or firm who contravenes this Act is guilty of an offence and liable

(a) for a first offence, to a fine of not more than \$2000,

(b) for a 2nd offence, to a fine of not more than \$4000, and

(c) for a 3rd and every subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months, or to both fine and imprisonment.

(2) A prosecution under this section may be commenced within 2 years after the commission of the alleged offence, but not afterwards.

PART 8

GENERAL

Certificate of Registrar

86 A certificate purporting to be signed by the Registrar and stating that a named person was or was not, on a specified day or during a specified period,

(a) a chartered accountant, student or professional corporation, or

(b) an officer of the Institute or a member of the Council or of a committee established under this Act, the regulations or the by-laws,

shall be admitted as prima facie proof of the facts stated in it without proof of the Registrar's appointment or signature.

Protection from liability

87(1) No action lies against

(a) a Registrar, an investigator, a member of a committee established by or under this Act, the regulations or the by-laws, the Council, the Institute or any person acting on the instructions of any of them, or

(b) any member, officer or employee of the Institute

for anything done by him in good faith and in purporting to act under

(c) this Act,

(d) the regulations, or

(e) a by-law that relates to or is incidental to a professional matter or a matter of public interest that is or may be the subject of a regulation under section 92.

(2) No action for defamation may be founded on a communication that consists of or pertains to the conduct of a chartered accountant, student or professional corporation if the communication is published to or by

(a) the Institute,

(b) a member of the Council or of a committee established under this Act, the regulations or the by-laws,

(c) an investigator,

(d) an officer or employee of the Institute, or

(e) a person acting on the instructions of any person or entity referred to in clauses (a) to (d),

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

Service of documents

88 When this Act, the regulations or the by-laws require that a document or notice be served on any person, the document or notice is sufficiently given or served

(a) if it is served personally on that person or sent to him by registered mail at his address last shown on the Membership Register or register of professional corporations, or

(b) if personal service or service by mail is not reasonably possible, then by publishing the document at least twice, and not more than a week apart, in a local newspaper circulating at or near the address last shown for that person on the appropriate register.

Commissioner for oaths

89 For the purpose of an investigation, hearing or review under this Act, an investigator and a member of the Professional Conduct Committee, a hearing committee, the Appeals Committee and the Council are conferred with the power of a commissioner for oaths under the *Commissioners for Oaths Act*.

Action for fees

90 A professional 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.

Custodian

91(1) If

- (a) the registration of a chartered accountant or the permit of a professional corporation is suspended or cancelled,
- (b) a chartered accountant dies,
- (c) a chartered accountant becomes mentally incapacitated,
- (d) a chartered accountant becomes ill or for some other reason is unable to engage in the practice of accounting,
- (e) a chartered accountant absconds or is otherwise improperly absent from his practice, or has neglected his practice for an extended period of time, or
- (f) sufficient other grounds exist,

a judge of the Court of Queen's Bench may, on application by the Institute, either ex parte or on such notice as the judge may require, by order appoint the Institute, a person nominated by it or another person as custodian to have custody of the property of the chartered accountant or professional corporation for the purpose of managing, winding up or selling the practice of the chartered accountant or professional corporation.

(2) An order under subsection (1) may direct the sheriff of any judicial district in Alberta to seize and remove and place in the custody of the custodian all property of the person who is the subject of the order, and the order may authorize the sheriff to enter on any premises or open any safety deposit box or other receptacle if there are grounds for believing that property of the person who is the subject of the order may be found on it or in it.

(3) Unless otherwise directed, the order shall be promptly served on the person in respect of whom it is made.

(4) On the receipt by a person of notice that an order has been made pursuant to this section, he shall not dispose of any property of a chartered accountant or professional corporation until directed by the custodian or by order of the Court as to the disposition of it.

(5) A judge of the Court of Queen's Bench may in an order under subsection (1) or at any time and from time to time by a subsequent order made ex parte or on notice required by the judge,

- (a) direct a bank or other depository of property of the person in respect of whom the order is made to deal with, hold, pay over or dispose of that property to the custodian, or some other person the judge considers proper,
- (b) remove any custodian appointed by the order and appoint another custodian,
- (c) give directions and advice to the custodian as to the disposition of the property in his hands or any part or parts of it, or

- (d) give any directions or make any further orders that the situation requires.
- (6) The person in respect of whom an order under subsection (1) is made may apply to have the order modified or terminated at any time.
- (7) The fees, costs and expenses of the custodian shall be paid out of the property over which the custodian has authority subject to such order or direction as the Court may impose.

PART 9
REGULATIONS AND BY-LAWS

Regulations of
the Council

92(1) The Council may make regulations

- (a) establishing and providing for the publishing of a code of ethics respecting the practice of accounting, the maintenance of the dignity and honour of the profession of accounting and the protection of the public interest;
- (b) providing for academic requirements or courses of instruction to be satisfactorily completed by applicants for registration;
- (c) respecting any arrangements with the Universities Co-ordinating Council that are considered necessary or desirable;
- (d) respecting the evaluation of the academic qualifications of an applicant for registration;
- (e) providing for the determination as to whether an applicant for registration is academically eligible for registration;
- (f) requiring a person to pass examinations or take 1 or more courses of study in order to establish academic qualifications for registration;
- (g) respecting the administration, development, setting and marking of examinations or any other matter respecting examinations and appeals from decisions on examinations;
- (h) governing the eligibility of individuals who wish to become students, by whom they are to be trained, the nature and period of the training and the conduct expected of them;
- (i) prescribing or adopting, or both, standards for the practice of chartered accountants;
- (j) prescribing restrictions, conditions or limitations on the practice of chartered accountants or students;
- (k) respecting the manner of determining the amount of costs payable by a person referred to in section 49(4)(b);
- (l) governing the names under which chartered accountants may engage in practice;
- (m) respecting the establishment and operation by the Council or a committee or board established or designated by the Council of a professional development program for chartered accountants

including the times at which or within which the program must be completed and the nature and contents of it.

- (2) A regulation under subsection (1) does not come into force unless
- (a) it is approved by a majority of chartered accountants who vote at a general meeting or in a mail vote conducted in accordance with the by-laws, and
 - (b) it is approved by the Lieutenant Governor in Council.

By-laws

93(1) The Council may make by-laws

(a) for the government of the Institute and the management and conduct of its affairs;

(a.1) determining the location of the head office of the Institute;

(b) respecting the calling of and conduct of meetings of the Institute and the Council;

(b.1) defining what constitutes a meeting of the Council for purposes of this Act, the regulations and the by-laws;

(c) respecting the nomination, election, number and term of office of Council members and officers of the Institute, the filling of vacancies on the Council and any committee or board established by the Council, the appointment of individuals as ex officio members of the Council and of any committee or board established by the Council and prescribing the powers, duties and functions of those members, officers and ex officio members;

(c.1) providing for the appointment of acting members of the Council and procedures for the election of chartered accountants and the nomination of members of the public for appointment by the Minister;

(d) governing, subject to this Act, the appointment and procedure of the Professional Conduct Committee and the Practice Review Committee, the nomination of members of the public for appointment to the Professional Conduct Committee by the Minister, the designation of chairmen and vice-chairmen, the appointment of acting members and the procedure for filling vacancies on either Committee and the appointment of ex officio members of either Committee, and prescribing the powers, duties and functions of persons so designated or appointed;

(d.1) respecting the making of rules and guidelines to explain and illustrate the code of ethics and professional conduct;

(e) respecting the procedure for a practice review and the appointment of persons to conduct the review;

(e.1) respecting the manner of determining the amount and payment of costs respecting proceedings associated with professional conduct or practice reviews;

(f) respecting reviews of the practice of any chartered accountant by the Practice Review Committee or a person authorized by that Committee;

- (f.1) establishing specialties of accounting practice and prohibiting a chartered accountant from holding out that he is entitled to engage in a specialty of accounting practice as established in the regulations unless that person is registered in a specialty register;
- (g) prescribing terms and conditions of registration and maintaining registration in a specialty register;
- (g.1) designating specialty names, initials or abbreviations that may be used by a chartered accountant registered in a specialty register;
- (h) providing for the division of the Province into electoral districts and prescribing the number of Council members to be elected from each district;
- (h.1) establishing classes or categories of members of the Institute including honorary members and life members, and prescribing the privileges and obligations of the classes or categories established;
- (i) respecting the procedure and quorum of the Professional Conduct Committee, hearing committees, Appeals Committee, Council, Practice Review Committee and Registration Committee or delegating that authority to the entity concerned;
- (i.1) requiring chartered accountants to carry professional liability insurance and governing the minimum coverage required to be carried by all chartered accountants or any category of them;
- (j) providing for the appointment and tenure of the Registrar and the Executive Director and their additional duties, powers and functions, and the appointment of an individual as an acting Registrar or acting Executive Director who has all of the powers and performs all of the duties of the Registrar or Executive Director, as the case may be, under this Act, the regulations and the by-laws when the Registrar or Executive Director is absent or unable to act or when there is a vacancy in the office;
- (j.1) establishing the number of members that constitutes a quorum at meetings of the Institute, the Council or any committee established under this Act;
- (k) providing for the delegation of any powers or duties of the Council under this Act, the regulations or the by-laws with or without conditions to a committee established or appointed by the Council or an individual;
- (k.1) prescribing fees and expenses payable to members of the Council and of committees and boards established under this Act, the regulations or the by-laws for attending to the business of the Institute;
- (l) respecting the establishment of and payment of sums of money for scholarships, fellowships and any other educational incentive or benefit program that the Council considers appropriate;
- (l.1) respecting fees, dues and levies payable to the Institute by chartered accountants, professional corporations, students and applicants for registration;

- (m) respecting the establishment, contents and maintenance of registers and records to be kept by the Registrar;
- (m.1) respecting the removal from the registers and records of any memorandum or entry made in them under this Act, the regulations or the by-laws;
- (n) requiring chartered accountants to maintain a business address and to inform the Registrar in writing of that address and of any change in that address forthwith after the change occurs;
- (n.1) authorizing the Council to prescribe the form of a certificate of registration, a permit, an annual certificate and any other form or document that may be required for the purposes of this Act, the regulations or the by-laws;
- (o) prescribing the manner of proof as to matters required by this Act to be proven by applicants and any conditions to be met by applicants for registration;
- (o.1) providing that the permit of a professional corporation is suspended without notice or investigation on 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;
- (p) respecting reinstatement of a person as a chartered accountant or student and providing for the re-issuance of a certificate or permit suspended or cancelled under this Act, the regulations or the by-laws and prescribing the terms and conditions on which reinstatement or re-issuance of a certificate or permit may be granted;
- (p.1) providing for the creation and maintenance of a record of professional corporations, the recording of current professional corporations, and requiring the filing of periodic returns by those corporations and prescribing the contents of those returns;
- (q) providing for the annual renewal of permits and prescribing the terms and conditions on which renewal may be granted;
- (q.1) setting out the business that may be carried on and the powers that may be exercised by a professional corporation under this Act;
- (r) respecting the holding of votes by mail in respect of any matter relating to the Institute;
- (s) respecting any matters ancillary to registration, permits, certificates and the practice of a chartered accountant generally;
- (t) prescribing the manner of proof as to matters required to be proven by applicants for permits;
- (u) fixing the fees payable for the issuance of permits and the fees payable annually by professional corporations;
- (v) prescribing the types of names by which
 - (i) a professional corporation,

- (ii) a partnership of 2 or more professional corporations, or
 - (iii) a partnership of 1 or more professional corporations and 1 or more individual chartered accountants,
- may be known;
- (w) prescribing conditions or rules with respect to the mediation of complaints;
 - (x) respecting fees or charges for any service or thing provided or performed by or on behalf of the Institute;
 - (y) respecting publication of orders made by a hearing committee or the Council;
 - (z) respecting delegation by the Executive Director of his authority under this Act, the regulations and the by-laws.
- (2) A by-law made by the Council is effective from the date it is enacted or any later date specified in the by-law but remains in effect only until the next annual meeting of the Institute and, in default of confirmation by chartered accountants at that meeting, it ceases to be in force.
- (3) The *Regulations Act* does not apply to the by-laws of the Institute.

PART 10
TRANSITIONAL AND CONSEQUENTIAL

Independent
Accounting
Review Board

- 94(1)** *Notwithstanding section 14, the Registration Committee shall enter in the Membership Register the name of an applicant whose application for registration as a chartered accountant is approved in accordance with this section.*
- (2) *The Minister shall appoint a board to be known as the Independent Accounting Review Board.*
- (3) *Subject to subsection (4), the Board shall consist of the following persons:*
- (a) *1 chartered accountant;*
 - (b) *1 certified general accountant;*
 - (c) *1 registered member as defined in the Management Accountants Act;*
 - (d) *1 employee of the Department of the Auditor General;*
 - (e) *1 employee of the Treasury Department;*
 - (f) *1 employee of the Government responsible for professions and occupations;*
 - (g) *1 member of the public appointed by the Minister;*
- all of whom shall hold office for a 3-year term.*
- (4) *Not more than 2 members of the Board may be members of any one of the following bodies:*
- (a) *the Institute;*

(b) *the Society of Management Accountants of Alberta;*

(c) *the Certified General Accountants of Alberta.*

(5) *A person who is, at the date this Act comes into force,*

(a) *a certified general accountant, or*

(b) *a registered member as defined in the Management Accountants Act*

and meets the requirements set out in the regulations under this section may apply to the Board for registration as a chartered accountant.

(6) *An application under subsection (5) may be made only within 3 years after this section comes into force.*

(7) *The Board shall make a decision in accordance with the regulations under this section on an application under subsection (5).*

(8) *The Lieutenant Governor in Council may make regulations*

(a) *respecting the requirements that an applicant for registration under this section must meet;*

(b) *respecting the criteria upon which the Independent Accounting Review Board may make a decision under this section;*

(c) *governing the procedures of the Independent Accounting Review Board, the designation of a chairman and a vice-chairman, the appointment of acting members of the Board and the procedure for filling vacancies on the Board;*

(d) *prescribing the powers, duties and functions of the members of the Independent Accounting Review Board;*

(e) *respecting the number of members that constitutes a quorum of the Independent Accounting Review Board;*

(f) *prescribing fees and expenses payable to members of the Independent Accounting Review Board, other than employees of the Government, for carrying out the functions of the Board.*

Registration
continued

95(1) *An individual who is a member of the Institute of Chartered Accountants of Alberta under the former Act is deemed to be a chartered accountant under this Act.*

(2) *A professional corporation that is the holder of a permit under the former Act is deemed to be a professional corporation under this Act.*

(3) *An individual who is a student of the Institute of Chartered Accountants of Alberta under the former Act is deemed to be a student under this Act.*

Council
continued

96 *The members of the Council elected under the former Act are deemed to be members of the Council under this Act, elected for the same period and holding the same offices.*

Application for
registration
continued

97 *An application for registration made under the former Act but not concluded before the coming into force of this Act shall be dealt with under the former Act as though this Act had not come into force.*

Practice review
continued

98 *A practice review that was commenced but not concluded before the coming into force of this Act shall be concluded under the former Act as though this Act had not come into force.*

Discipline
proceedings
continued

99(1) *Any complaint made or discipline proceedings that were commenced but not concluded before the coming into force of this Act shall be concluded under the former Act as though this Act had not come into force.*

(2) Any complaint made after the coming into force of this Act when the complaint relates to conduct occurring all or partly before the coming into force of this Act shall be dealt with under this Act.

Repeal

100 *The Chartered Accountants Act, chapter C-5 of the Revised Statutes of Alberta 1980, is repealed.*

Coming
into force

101 *This Act comes into force on Proclamation.*