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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 51

CERTIFIED MANAGEMENT ACCOUNTANTS ACT

HON. DR. REID

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 51

1987

CERTIFIED MANAGEMENT ACCOUNTANTS ACT

(Assented to _____, 1987)

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

Interpretation

1(1) In this Act,

(a) “audit” means

(i) an independent examination of records for the purpose of expressing an opinion, or

(ii) the preparation of a report or certificate or the expression of an opinion

as to whether financial information is presented fairly;

(b) “authorized entity” means a certified management accountant, a professional corporation, a student member and a person

who is a member of any other class or category of membership established under the by-laws;

(c) “certified management accountant” means an individual who is registered as a certified management accountant and maintains his registration in accordance with this Act, the regulations and the by-laws, but does not include an individual whose registration is suspended;

(d) “Council” means the Council of the Society;

(e) “exclusive accounting practice” means the performance of an audit or a review, but does not include activities related solely to record keeping, cost accounting or compilation services or the preparation of income tax information;

(f) “member of the public” means an individual who is not an authorized entity or a member of any other accounting organization;

(g) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(h) “permit” means a permit issued pursuant to section 26;

(i) “practice review” means a review of the practice of a certified management accountant or professional corporation;

(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) “register” means the register of certified management accountants, the register of student members or the register of professional corporations, as the context requires;

(m) “Registrar” means the Registrar appointed under section 10;

(n) “registration” means the registration of an individual as a certified management accountant or as a student member, as the context requires;

(o) “review” means, except where the context indicates otherwise,

(i) an independent review of records, or

(ii) the preparation of a report, certificate or comments or the expression of an opinion

for the purpose of determining whether financial information appears to be presented fairly;

(p) “Society” means the Society of Management Accountants of Alberta;

(q) “student member” means an individual who is registered in the register of student members;

(r) “Universities Co-ordinating Council” means the Universities Co-ordinating Council established under the *Universities Act*.

(2) In any other enactment enacted or made before, at or after the commencement of this section, a reference to a certified management accountant, whether referred to as a member of the Society of Management Accountants of Alberta, a certified management accountant or otherwise, shall be read as including a professional corporation unless otherwise provided.

PART 1

SCOPE OF PRACTICE AND USE OF NAME

Exclusive scope 2(1) No person shall engage in or purport to be able to engage in exclusive accounting practice on a fee for service basis unless

(a) he is a chartered accountant or professional corporation as those terms are defined in the *Chartered Accountants Act* and the Council of the Institute of Chartered Accountants of Alberta has declared its participation and continues to participate in the Joint Standards Directorate,

(b) he is a certified management accountant or professional corporation and the Council of the Society of Management Accountants of Alberta has declared its participation and continues to participate in the Joint Standards Directorate, or

(c) he is a certified general accountant or professional corporation as those terms are defined in the *Certified General Accountants Act* and the Board of the Certified General Accountants' Association of Alberta has declared its participation and continues to participate in the Joint Standards Directorate.

(2) Subsection (1) does not apply

(a) to a person who engages in exclusive accounting practice under the direct supervision of

(i) a chartered accountant as defined in the *Chartered Accountants Act*,

(ii) a certified management accountant, or

(iii) a certified general accountant as defined in the *Certified General Accountants Act*,

or

(b) to a person who engages in exclusive accounting practice that is not intended to be relied on by third parties.

Name protection **3(1)** Subject to the regulations, no person except a certified management accountant shall

(a) use the name “Certified Management Accountant” 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.M.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 certified management accountant or use any title, name, description, abbreviation, letter or symbol representing the name “Certified Management Accountant”.

(2) No person shall use the name “Registered Industrial Accountant” or the initials “R.I.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 registered industrial accountant.

Person under suspension or cancellation **4** Unless otherwise permitted under this Act, no certified management accountant, professional corporation or student member shall engage in exclusive accounting practice, directly or indirectly, with a person whose registration or permit is under suspension or has been cancelled under this Act or the by-laws or any predecessor to this Act.

Injunction **5** The Court of Queen’s Bench, on application by the Society 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 in respect of the contravention.

PART 2 SOCIETY

Corporation continued **6(1)** The Society of Management Accountants of Alberta incorporated under *The Society of Management Accountants of Alberta Act, 1944* is continued as a corporation with the same name.

(2) The Society has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

Council **7(1)** There is hereby established a governing body of the Society called the Council.

(2) The Council shall manage and conduct the business and affairs of the Society and exercise its powers in the name of and on behalf of the Society.

Composition
of Council

8(1) The Council shall consist of

(a) not fewer than 6 certified management accountants, or a greater number, not to exceed 24, that may be prescribed by or determined in accordance with the by-laws, each of whom shall be elected by and from among certified management accountants at the time, in the manner and for the period provided by the by-laws, and

(b) when the number of elected certified management accountants does not exceed 10, 1 member of the public, or when the number of elected certified management accountants is more than 10, 2 members of the public, who shall be appointed by the Minister for a 2-year term of office from a list of members of the public nominated by the Council.

(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.

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

(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.

(5) The powers, duties and operation of the Council 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 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.

(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.

Annual report

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 Society that the Minister requires.

(2) The Minister shall, on receipt of the annual report of the Society, 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**

Registrar

10 The Council shall appoint an individual as Registrar for the purposes of this Act.

Registers

11(1) There is hereby established a register of certified management accountants in which shall be entered the names of individuals who are approved for registration as certified management accountants and thereupon become members of the Society.

(2) There is hereby established a register of student members in which shall be entered the names of individuals who are approved for registration as student members.

(3) The Registrar shall maintain, in accordance with the by-laws, and subject to the direction of the Council,

(a) the registers described in this section, and

(b) a register for each other class or category of membership established under the by-laws.

Registration Committee

12(1) There is hereby established a Registration Committee composed of those certified management accountants appointed in accordance with the by-laws.

(2) The Registration Committee shall consider and decide on applications for registration under sections 13 and 14 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 the Registrar.

Eligibility for registration as student member

13 An application for registration as a student member shall be considered within 90 days after receipt by the Registration Committee of a complete application and shall be approved or not approved by the Registration Committee in accordance with the regulations.

Eligibility for registration as certified management accountant

14 An application for registration as a certified management accountant shall be considered within 90 days after receipt by the Registration Committee of a complete application and shall be approved or not approved by the Registration Committee in accordance with the regulations.

Decision on registration

15(1) If the Registration Committee approves an application for registration as a student member, the applicant shall be registered in the register of student members and the Registrar shall issue to the applicant an annual certificate of student membership, and the applicant thereupon becomes a student member.

(2) If the Registration Committee approves an application for registration as a certified management accountant, the Registration Committee shall cause the name of the applicant to be registered in the register of certified management accountants and the applicant thereupon becomes a certified management accountant.

(3) On entering the name of an applicant in the register of certified management accountants, the Registration Committee shall issue a certificate of membership and an annual certificate of registered membership to the applicant.

Application not approved

16 If the Registration Committee does not approve an application for registration as a student member or certified management 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 referred to in the regulations, refer the applicant to the Univers-

ities Co-ordinating Council for direction respecting the courses or examinations, or both, that the Universities Co-ordinating Council considers necessary, and

(c) notify the applicant of his right to a review by the Council.

Review by
Council

17(1) An applicant whose application for registration as a student member or certified management accountant is not approved by the Registration Committee may, within 30 days of receipt of a notice of refusal or within 30 days of a deemed refusal, request the Council in writing to review the decision, specifying the reasons for the request.

(2) For the purposes of subsection (1), if the Registration Committee fails to make a decision in respect of an application for registration within 90 days of the date on which an applicant provides the complete application, the application shall be deemed to have been refused.

(3) On receipt of a request for a review under subsection (1), the Council shall review the applicant's application for registration or appoint a special committee of Council members to do so.

(4) An applicant who requests a review pursuant to subsection (1)

(a) shall be notified in writing of the date, place and time when the Council or a special committee of Council will review the applicant's application, and

(b) is entitled to appear with counsel and make representations to the Council or a special committee of Council at the review of his application.

(5) A member of the Registration Committee who is also a member of the Council or special committee of Council may participate in but shall not vote on a decision of the Council.

(6) On reviewing an application under this section, the Council or special committee of Council may make any decision the Registration Committee could have made and shall notify the applicant of its decision.

Registration of
others as certified
management
accountants

18(1) In this section and section 19, "Special Registrations Committee" means a committee established to review applications for registration under this section, consisting of not fewer than 3 members of the Council appointed by the Council.

(2) A person is not eligible to apply for registration as a certified management accountant under this section if

(a) he is

(i) a certified general accountant as defined in the *Certified General Accountants Act*, or

(ii) a chartered accountant as defined in the *Chartered Accountants Act*,

or

(b) at any time prior to his application under this section he was a member of the Certified General Accountants' Association of Alberta or the Institute of Chartered Accountants of Alberta.

(3) Notwithstanding section 14, the Special Registrations Committee shall approve an application for registration as a certified management accountant if the applicant

(a) satisfies the Special Registrations Committee

(i) that he has earned in any 12-month fiscal period ending in the 2 years before July 1, 1987, from engaging in exclusive accounting practice, annual fees in an amount not less than the amount prescribed in the regulations, or

(ii) that the amount of fees that he earned from engaging in exclusive accounting practice in any 12-month fiscal period ending in the 2 years before July 1, 1987 was more than 50% of the gross annual fees earned by him from his total practice in the same fiscal year as a full-time practitioner,

(b) applies for registration as a certified management accountant under this section not later than 2 years after this section comes into force,

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

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

(e) establishes 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.

(4) An applicant for registration under this section who has practised as a partner in a public accounting practice prior to his application may satisfy the Special Registrations Committee that he meets the requirements of subsection (3)(a) if he uses as the basis of his calculations the average annual fees per partner in the public accounting practice.

(5) If the Special Registrations Committee approves an application for registration under this section, the Registrar shall cause the name of the applicant to be registered in the register of certified management accountants and the applicant thereupon becomes a certified management accountant.

(6) On entering the name of an applicant under this section in the register of certified management accountants, the Registration Committee shall issue a certificate of membership and an annual certificate of registered membership to the applicant.

(7) If the Special Registrations Committee does not approve an application under this section, the Special Registrations Committee shall

- (a) notify the applicant in writing giving reasons for its decision, and
- (b) notify the applicant of his right to a review by the Council.

Review by
Council

19(1) An applicant whose application under section 18 for registration as a certified management accountant is not approved by the Special Registrations Committee may, within 30 days of receipt of a notice of refusal or within 30 days of a deemed refusal, request the Council in writing to review the decision, specifying the reasons for the request.

(2) For the purposes of subsection (1), if the Special Registrations Committee fails to make a decision under section 18 within 90 days of the date on which an applicant provides the complete application, the application shall be deemed to have been refused.

(3) On receipt of a request for a review under subsection (1), the Council shall review the applicant's application for registration.

(4) An applicant who requests a review pursuant to subsection (1)

- (a) shall be notified in writing by the Council of the date, place and time when the Council will review the applicant's application, and
- (b) is entitled to appear with counsel and make representations to the Council at the review of his application.

(5) A member of the Special Registrations Committee who is also a member of the Council may participate in but shall not vote on a decision of the Council under this section.

(6) On reviewing an application under this section, the Council may make any decision the Special Registrations Committee could have made and shall notify the applicant and the Special Registrations Committee of its decision.

(7) The Council may assess a fee against an applicant who requests a review under subsection (1) to cover the operating costs of the Council pursuant to this section.

Annual dues

20(1) Unless the Council otherwise provides, a certified management accountant and a student member shall pay to the Society annual dues at the time and in the manner prescribed in the by-laws.

(2) The registration of a certified management accountant or student member who fails to pay annual dues in accordance with the by-laws may be suspended or cancelled in accordance with the by-laws.

Removal of
registration on
request

21 A certified management accountant may make a written request to the Registrar that his name be removed from the register and the Registration Committee may, on receipt of the certified management accountant's certificate of membership, direct that his name be removed from the register.

Suspension of registration

22(1) The registration of a certified management accountant or student member 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 and the by-laws.

(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

(a) the period of the suspension or the conditions to be met before a suspension is removed, if any, and

(b) the reason for the suspension,

and provide notice of the suspension to the person whose registration or permit is suspended.

Cancellation of registration

23(1) The registration of a certified management accountant or student member 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 and the by-laws.

(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 and provide notice of the cancellation to the person whose registration or permit is cancelled.

(3) 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.

Register notations

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

Inspection of names

25 The Registrar shall maintain and, during regular office hours, permit any person to inspect a list of names of

(a) certified management accountants,

(b) student members, and

(c) professional corporations.

PART 4

PROFESSIONAL CORPORATIONS

Permit conditions

26(1) The 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 in the by-laws;

(c) satisfies the Registrar that it is a corporation in good standing with the Registrar as defined in the *Business Corporations Act*;

(d) satisfies the 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 Registrar that the name of the corporation is in accordance with the by-laws and contains the words “Professional Corporation”;

(f) satisfies the Registrar that the legal and beneficial ownership of all the issued shares of the corporation is vested in 1 or more certified management accountants and that all of the directors of the corporation are certified management accountants;

(g) satisfies the Registrar that

(i) a person who will carry on practice as a certified management accountant on behalf of the corporation is a certified management accountant, and

(ii) a person who is employed or engaged by a professional corporation is under the direction or supervision of a certified management 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 Registrar in accordance with the by-laws if any of the conditions specified in subsection (1) cease to be fulfilled.

(4) When the 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.

Failure to fulfil conditions

27(1) If a professional corporation ceases to fulfil any condition specified in section 26 by reason only of

(a) the death of a certified management accountant, or

(b) the cancellation, suspension or removal from the register under this Act or a predecessor to this Act of the registration of a certified management 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 certified management 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

28(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 certified management accountant.

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

Voting rights
not transferable

29 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 certified management accountant the authority to exercise the voting rights attached to any or all of his shares.

Relationship
to professional
corporation

30 The relationship of a certified management accountant 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.

Certified
management
accountant
and client
relationship

31(1) Nothing contained in this Part affects, modifies or limits any law applicable to the fiduciary, confidential and ethical relationships between a certified management accountant and a person receiving the professional services of a certified management accountant.

(2) The relationship between a professional corporation engaging in practice as a certified management accountant 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 certified management accountant and his client.

Name protection
re corporation

32 No person shall engage in practice as a certified management accountant under any name 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 practice as a certified management accountant 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

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

Powers of
Committee

34 The Practice Review Committee may

(a) conduct or oversee a practice review in accordance with the by-laws;

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

(c) 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 certified management accountant.

Requirement to produce records

35(1) A person conducting a practice review may require a certified management accountant, professional corporation or student member or an employer or employee, if applicable, of any of them to produce to him any records in his possession or under his control.

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

(a) directing a person described in subsection (1) 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

36 After each practice review, the Practice Review Committee may

(a) make recommendations to an authorized entity relating to its practice;

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

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

(d) if it is of the opinion that an act or omission of an authorized entity may constitute unprofessional conduct, refer the act or omission to the Registrar as a complaint under Part 7.

Costs

37 Costs ordered to be paid by an authorized entity under this Part are a debt due to the Society and may be recovered by the Society by civil action for debt.

Suspension or cancellation for non-payment

38 The registration or permit of an authorized entity that does not pay costs assessed or levied under section 36(c) in accordance with the direction of the Practice Review Committee may be suspended or cancelled in accordance with the by-laws.

Failure to co-operate in practice review

39 The failure or refusal of a certified management accountant, professional corporation or student member to co-operate in a practice review under this Part may be held to be unprofessional conduct.

PART 6

JOINT STANDARDS DIRECTORATE

Definitions

40 In this Part,

(a) "accountant" means a member of

(i) the Institute of Chartered Accountants of Alberta and includes a professional corporation as defined in the *Chartered Accountants Act*,

(ii) the Certified General Accountants' Association of Alberta and includes a professional corporation as defined in the *Certified General Accountants Act*, or

(iii) the Society of Management Accountants of Alberta and includes a professional corporation;

(b) "Directorate" means the Joint Standards Directorate.

Directorate
established

41(1) There is established under this Act, the *Certified General Accountants Act* and the *Chartered Accountants Act* one Joint Standards Directorate for the purposes under this Part of all of the accounting organizations named in section 40(a).

(2) The Directorate shall consist of

(a) 1 member of each of the Institute of Chartered Accountants of Alberta, the Certified General Accountants' Association of Alberta and the Society of Management Accountants of Alberta, appointed by the respective organization, whose governing body has declared its participation and continues to participate in the Joint Standards Directorate;

(b) not more than 7 and not fewer than 5 other members, appointed by the Minister on a prorated basis from the organizations named in clause (a) whose governing bodies have declared their participation and continue to participate in the Joint Standards Directorate, based on the number of members in each organization who engage in exclusive accounting practice;

(c) 3 members of the public appointed by the Minister.

(3) A member of the public appointed to the Directorate continues to hold office after the expiry of his term until he is reappointed or a successor is appointed.

(4) The Minister may revoke the appointment of a member appointed to the Directorate by the Minister.

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

(6) The failure of a member of the public appointed to the Directorate to attend a meeting of the Directorate does not affect or restrict the Directorate from exercising any powers or performing any duties under this Act, the regulations or the by-laws at that meeting.

Authority of
Directorate

42(1) Subject to subsection (2), the Directorate may conduct or oversee a review of the practice of an accountant in order to determine whether the standards of the profession of accounting are being complied with.

(2) The Directorate may exercise its authority under subsection (1) in respect of only

(a) an accountant who engages in exclusive accounting practice,

- (b) any aspect of exclusive accounting practice, and
- (c) any aspect of the practice of an accountant that relates to exclusive accounting practice.

(3) The Directorate may enter into an agreement with an accounting organization named in section 40(a) authorizing the accounting organization to conduct reviews of practices of persons who are members of the accounting organization, and the Directorate shall oversee the conduct of any reviews carried out pursuant to this subsection.

(4) Subsection (2) applies to an accounting organization that is authorized to conduct reviews of practices pursuant to an agreement described in subsection (3).

Requirement to produce records

43(1) The Directorate may require

- (a) an accountant or a student of an accounting organization named in section 40(a), or
- (b) an employer or employee, if applicable, of a person referred to in clause (a)

to produce to the Directorate any records in his possession or under his control.

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

- (a) directing a person referred to in subsection (1) to produce to the Directorate any records in his possession or under his control if it is shown that the person referred to in subsection (1) failed to produce them when required, or
- (b) directing any person to produce to the Directorate any records in his possession or under his control that are or may be related to the review being conducted.

Conclusion of review

44(1) After each review of a practice, the Directorate may

- (a) make recommendations to an accountant relating to his practice;
- (b) direct a further review of a practice at the times and for the purpose prescribed by it;
- (c) refer a complaint relating to the practice of an accountant to the accounting organization named in section 40(a) of which the accountant is a member.

(2) On the conclusion of an inquiry by an accounting organization to which a complaint has been referred under subsection (1)(c), the accounting organization to which the complaint was referred shall provide to the Directorate a report indicating the disposition of the matter and the reasons.

Status of Directorate to appeal

45(1) On receiving a report pursuant to section 44(2), the Directorate may in accordance with subsection (2) cause the matter to be appealed to any body or court having jurisdiction to hear the appeal, in accordance with this Act, the *Certified General Accountants Act* or the *Chartered Accountants Act*, as the case may be.

	(2) No appeal may be commenced by the Directorate under subsection (1) unless the decision to appeal is a unanimous decision of the Directorate.
Costs	<p>46(1) The Directorate may assess and levy its costs of operation against the accounting organizations named in section 40(a) in accordance with the regulations of the Lieutenant Governor in Council.</p> <p>(2) Costs assessed and levied pursuant to subsection (1) are a debt due to the Directorate and may be recovered by the Directorate by civil action for debt.</p>
Annual report	<p>47 The Directorate shall submit annually to the Minister and to each accounting organization named in section 40(a), in a form satisfactory to the Minister, a report including</p> <p>(a) a summary of the reviews conducted in the year to which the report relates and the outcomes of the reviews, and</p> <p>(b) any other matter that the Minister requires.</p>
Failure to co-operate in review	<p>48 The failure or refusal of a certified management accountant, professional corporation or student member to co-operate in a review of a practice under this Part may be held to be unprofessional conduct.</p>

PART 7 DISCIPLINE

Definitions	<p>49 In this Part,</p> <p>(a) “complaint” means a complaint made in writing about the conduct or alleged conduct of a certified management accountant, professional corporation or student member, signed by the person making it;</p> <p>(b) “conduct” includes an act or omission;</p> <p>(c) “hearing committee” means a hearing committee established in accordance with section 51;</p> <p>(d) “investigated person” means</p> <p>(i) a certified management accountant, professional corporation or student member, or</p> <p>(ii) in a case to which section 53(2) applies, a former certified management accountant, former professional corporation or former student member</p> <p>with respect to whose conduct an investigation is conducted or a hearing is held under this Part;</p> <p>(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;</p> <p>(f) “Professional Conduct Chairman” means the chairman of the Professional Conduct Committee and includes a vice-chairman.</p>
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Committee
established

50(1) There is hereby established a committee called the Professional Conduct Committee composed of

- (a) not fewer than 5 certified management 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) A member of the public appointed to the Professional Conduct Committee continues to hold office after the expiry of his term until he is reappointed or a successor is appointed.

(3) 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.

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

(5) 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.

(6) 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

51 The Council may establish any hearing committees it requires, each composed of not fewer than 3 certified management accountants appointed by the Council in accordance with the by-laws.

Unprofessional
conduct

52 Any conduct of a certified management accountant, professional corporation or student member that, in the opinion of a hearing committee,

- (a) is detrimental to the best interest of the public or members of the Society,
- (b) contravenes this Act, the regulations or the by-laws,
- (c) harms or tends to harm the standing of the profession of accounting generally, or

	<p>(d) displays a lack of knowledge of or lack of skill or judgment in practice as a certified management accountant,</p> <p>whether or not that conduct is disgraceful or dishonourable, may be found by a hearing committee to constitute unprofessional conduct.</p>
Complaint	<p>53(1) A person may make a complaint to the Registrar and the complaint shall be dealt with in accordance with this Part.</p> <p>(2) If, after the registration of a certified management accountant or student member is removed, suspended or cancelled or the permit of a professional corporation is removed, suspended or cancelled under this Act or the by-laws or any predecessor to this Act,</p> <p>(a) a complaint is made about the former certified management accountant, student member or professional corporation, and</p> <p>(b) the complaint relates to conduct occurring before the removal, suspension or cancellation occurred,</p> <p>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.</p>
Mediation	<p>54(1) A person designated by the Council as a mediator may assist in settling a complaint made to the Registrar if the complainant and the certified management accountant, professional corporation or student member about whose conduct the complaint is made agree.</p> <p>(2) If, within 45 days of the date of receipt of a complaint by the Registrar, 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.</p>
Referral to Professional Conduct Chairman	<p>55(1) If mediation is not agreed to by the persons referred to in section 54(1), the Registrar shall refer the complaint to the Professional Conduct Chairman forthwith.</p> <p>(2) Notwithstanding that a settlement is reached under this section or that a complaint is withdrawn, the Registrar may refer the complaint to the Professional Conduct Chairman.</p>
Preliminary investigation	<p>56(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 preliminary investigation.</p> <p>(2) An investigator may require the investigated person or any other certified management accountant, professional corporation or student member to produce to him any records in his possession or under his control and may require the attendance at the investigation of the certified management accountant, professional corporation or student member who is the subject of the complaint and any other certified management accountant, professional corporation or student member or an employer or employee of any of them.</p>

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

(a) directing a person referred to in subsection (2) to produce to an investigator any records in his possession or under his control if it is shown that the person 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 certified management accountant, professional corporation or student member 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 unprofessional conduct.

(5) An investigator may investigate any other matter relating to 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.

(6) 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

57(1) The Professional Conduct Chairman, on concluding a preliminary investigation and a report or on receiving a report under section 56(6), shall refer the report to the Professional Conduct Committee.

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

(a) refer the matter to a hearing committee, or

(b) if it is of the opinion that

(i) the complaint is frivolous or vexatious, or

(ii) there is insufficient evidence of unprofessional conduct to warrant a referral to a hearing committee under this Part,

direct that no further action be taken.

(3) A member of the Professional Conduct Committee may participate in and vote on a decision made under subsection (2), notwithstanding that he may have conducted the preliminary investigation of the complaint.

(4) 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

58(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 Registrar, 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, or
- (b) there is insufficient evidence of unprofessional conduct 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 certified management accountant, professional corporation or student member, or
- (b) to be paid in accordance with the regulations, if the complainant is any other person.

Temporary suspension

59(1) Notwithstanding anything in this Act, the Professional Conduct Chairman may suspend the registration of a certified management accountant or student member or the permit of a professional corporation pending the conclusion of a preliminary investigation or the decision of a hearing 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 Registrar, 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

60(1) The investigated person may be represented by counsel at a hearing before a hearing committee.

(2) A hearing committee and the Society 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

61(1) 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 120 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 Registrar 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

62 If any other matter concerning the conduct of the investigated person arises in the course of a preliminary 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.

Evidence

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

Compellable witness

64(1) The investigated person and any other person who, in the opinion of the hearing committee, have knowledge of the matter being heard 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 8 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

65 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 Society, 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.

Notice to attend and produce records

66(1) The attendance of witnesses before a hearing committee and the production of records may be enforced by a notice issued by the Registrar 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.

(2) On the written request of the investigated person or of his counsel or agent, the Registrar 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.

(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.

Civil contempt proceedings

67(1) Proceedings for civil contempt of court may be brought against a witness

(a) who fails

(i) to attend before a hearing committee in compliance with a notice to attend, or

(ii) to produce records in compliance with a notice to produce them,

or

(b) who refuses to be sworn or to answer any question that he is directed to answer by a hearing committee.

(2) The chairman of a hearing committee may make a complaint with respect to the failure or refusal of a certified management accountant or student member under subsection (1), and the failure or refusal may be held to be unprofessional conduct.

Proceedings in absence of investigated person

68 A hearing committee, on proof of service in accordance with this Act 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 and decide on the matter being heard in the same way as if the investigated person were in attendance.

Finding of hearing committee

69 A hearing committee may find that the conduct of an investigated person constitutes or does not constitute unprofessional conduct.

Orders of hearing committee

70(1) If a hearing committee finds that the conduct of an investigated person constitutes unprofessional conduct, the hearing committee may make 1 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) the investigated 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 is appropriate in the opinion of the Professional Conduct Committee or any other committee established under this Act, the regulations or the by-laws;
 - (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 hearing committee is satisfied that an investigated person has contravened an order under subsection (1) or section 83 or 88, it may, without the necessity of a further hearing, cancel or suspend, in accordance with the by-laws, his registration or permit, as the case may be, subject to any terms it considers appropriate.

Costs and fines	<p>71(1) A hearing committee may, in addition to dealing with the conduct of an investigated person in accordance with section 70, order that the investigated person pay</p> <ul style="list-style-type: none"> (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 unprofessional conduct, or (c) costs under clause (a) and a fine under clause (b), <p>to the Society within the time and in accordance with the conditions set by the order.</p> <p>(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 or cancelled in accordance with the by-laws if payment of the costs or fine, or both, is not made.</p>
Conviction of indictable offence	<p>72 If a certified management accountant, professional corporation or a student member has been convicted of an indictable offence, the Professional Conduct Committee may, without notice or an investigation or hearing under this Act,</p> <ul style="list-style-type: none"> (a) suspend the registration of the certified management accountant or student member 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), <ul style="list-style-type: none"> (i) suspend the registration of the certified management accountant or student member or the permit of the professional corporation for a stated period of time, or (ii) order the cancellation of the registration of the certified management accountant or student member or of the permit of the professional corporation.
Publication of decision	<p>73(1) If the registration of a certified management accountant or student member or the permit of a professional corporation has been cancelled or suspended,</p> <ul style="list-style-type: none"> (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. <p>(2) No notice shall be published in accordance with subsection (1) until</p> <ul style="list-style-type: none"> (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	74 A fine or costs ordered to be paid by a complainant or investigated person under this Part are a debt due to the Society and may be recovered by the Society by civil action for debt.
Written decision	<p>75 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</p> <ul style="list-style-type: none"> (a) describe each finding made by it of unprofessional conduct, (b) state the reasons for each finding made by it, and (c) state any order made by it.
Service of decision	<p>76(1) A hearing committee shall forward to the Registrar</p> <ul style="list-style-type: none"> (a) the decision, and (b) the record of the hearing, consisting of all evidence presented before it, including <ul style="list-style-type: none"> (i) all exhibits, (ii) all documents, and (iii) a transcript of all testimony given before it, whether recorded electronically, mechanically or in handwritten form. <p>(2) The Registrar shall, on receiving the decision of a hearing committee and the record of the hearing referred to in subsection (1),</p> <ul style="list-style-type: none"> (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. <p>(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 record of evidence given before the hearing committee.</p>
Decision remains in effect	<p>77(1) An order of a hearing committee remains in effect until the Appeals Committee or the Council makes a decision on an appeal.</p> <p>(2) An investigated person may apply to the Council for an order staying the decision of a hearing committee pending the determination of the appeal.</p>
Appeals Committee	78 There is hereby established the Appeals Committee composed of not fewer than 3 members of the Council designated by the Council.
Appeal to Appeals Committee or Council	<p>79(1) An investigated person, the Professional Conduct Chairman or, subject to section 45, the Joint Standards Directorate may by notice in writing to the Registrar appeal</p> <ul style="list-style-type: none"> (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 or both being appealed, and

(b) state the reasons for the appeal.

(3) A notice of appeal under this section shall be served on the Registrar 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 or the Joint Standards Directorate, if the Professional Conduct Chairman or the Joint Standards Directorate appeals the decision.

(4) On receiving a notice of appeal under this section, the Registrar shall

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

(b) send a copy of it to the Professional Conduct Chairman, if the investigated person or the Joint Standards Directorate 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 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.

Notice of
appeal hearing

80(1) At least 15 days before the date of the hearing, the Registrar shall serve the investigated person, the Professional Conduct Chairman and the Joint Standards Directorate, if it appeals under section 79, with a notice of hearing stating the date, time and place of the appeal.

(2) The Council or the Appeals Committee shall commence hearing an appeal within 90 days after the service of the notice of appeal in accordance with section 79(3) or within a longer period that is agreed to by the appellant.

Representation
before appeal
hearing

81(1) The investigated person, the Society, the Joint Standards Directorate and the Council or the Appeals Committee may each be represented at an appeal before the Council or Appeals Committee.

(2) The Professional Conduct Chairman may, when he is the appellant, participate in an appeal before the Council or Appeals Committee but may not vote on a decision of the Council or Appeals Committee.

Powers of
Appeals
Committee or
Council

82(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.

- (2) The Council or Appeals Committee on an appeal may
- (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.
- (3) Sections 63 to 71 apply to proceedings before the Council and the Appeals Committee.

Decision on appeal

- 83(1)** The Council or the Appeals Committee shall after the conclusion of all proceedings before it,
- (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, 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.
- (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.

Written decision

- 84(1)** The Council or the Appeals Committee shall, within 60 days after the conclusion of the proceedings before it, make a written decision on the matter and shall forward the decision to the Registrar.
- (2) The Registrar shall, forthwith after the decision is received,
- (a) serve a copy of the decision on the investigated person, and
 - (b) forward a copy of the decision to the Professional Conduct Chairman and, if applicable, to the Joint Standards Directorate.
- (3) The decision of the Council or the Appeals Committee remains in effect until the Court of Appeal makes a decision on an appeal.
- (4) An investigated person may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the Registrar, 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.

Appeal to Court of Appeal

- 85(1)** An investigated person or, subject to section 45, the Joint Standards Directorate may appeal to the Court of Appeal any decision made by the Council or the Appeals Committee.
- (2) An appeal under this section shall be commenced
- (a) by filing a notice of appeal with the Registrar of the Court at Edmonton or Calgary, and

	(b) by serving a copy of the notice of appeal on the Registrar, within 30 days from the date on which the decision of the Council or Appeals Committee is served on the investigated person.
Parties to appeal	86 The Society, the investigated person and, if applicable, the Joint Standards Directorate are the parties to an appeal under section 85.
Appeal on the record	87 The appeal to the Court of Appeal shall be founded on (a) the record of the proceedings before the Council or the Appeals Committee, and (b) the decision of the Council or the Appeals Committee.
Power of Court on appeal	88(1) The Court of Appeal on hearing the appeal may (a) make any finding or order that in its opinion ought to have been made, (b) quash, vary or confirm the decision of the Council or the Appeals Committee or any part of it, (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 (d) direct that a new trial of any mixed questions of law and fact relating to a finding or order, or both, of the Council or the Appeals Committee under section 83 be held before the Court of Queen's Bench. (2) The Court of Appeal may make any award as to the costs of an appeal to it that the Court considers appropriate.
Reinstatement	89 If the registration of a certified management accountant or student member or the permit of a professional corporation has been cancelled, the registration or permit shall not be reinstated except by order of the Council or by a court of competent jurisdiction.
Employer to recognize sanctions	90 No employer or other person shall knowingly require a certified management accountant, professional corporation or student member to perform a service or undertake any work that would result in the certified management accountant, professional corporation or student member 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	91 If the registration of a certified management accountant, professional corporation or student member is suspended or cancelled or the practice of a certified management accountant, professional corporation or student member 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 private	92 Except when otherwise provided, all proceedings before a committee, board or other body established under this Act, the regulations or the by-laws shall be held in private.

ely obtained
stration

93(1) If the Council is satisfied, after a hearing on the matter, that a person whose registration is entered in a register obtained registration by means of a fraudulent representation or declaration, either oral or written, the Council shall order that the registration be cancelled.

(2) The procedures at a hearing before a hearing committee in this Part apply to a hearing held by the Council under subsection (1).

PART 8

OFFENCES AND PENALTIES

alties

94(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 9

GENERAL

rtificate of
gistrar

95 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 certified management accountant, student member or professional corporation, or

(b) an officer of the Society or a member of the Council, the Joint Standards Directorate or of a committee or board 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.

rotection
om liability

96(1) No action lies against

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

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

for anything done by him in good faith and in purporting to act under this Act, the regulations or the by-laws.

(2) No action for defamation may be founded on a communication

that consists of or pertains to an act or omission of a certified management accountant, professional corporation or student member if the communication is published to or by

- (a) the Society or the Joint Standards Directorate or an officer or employee of either,
- (b) a member of the Council or of a committee established under this Act, the regulations or the by-laws,
- (c) an investigator, or
- (d) a person acting on the instructions of any person or entity referred to in clauses (a) to (c),

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

97 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 or courier at the address last shown for that person on the appropriate register, or
- (b) if personal service or service by mail is not reasonably possible, 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

98 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 Practice Review Committee, the Joint Standards Directorate, 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

99 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

100(1) If

- (a) the registration of a certified management accountant or the permit of a professional corporation is suspended or cancelled,
- (b) a certified management accountant dies,
- (c) a certified management accountant becomes mentally incapacitated,
- (d) a certified management accountant becomes ill or for some other reason is unable to engage in practice as a certified management accountant,

(e) a certified management 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 Society, either ex parte or on such notice as the judge may require, by order appoint the Society or a person nominated by it as custodian to have custody of the property of the certified management accountant or professional corporation for the purpose of managing, winding up or selling the practice of the certified management 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 certified management 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 to 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 of the certified management accountant or professional corporation in respect of whose practice the custodian is appointed and over which the custodian has authority subject to any order or direction that the Court may impose.

Examination and disposal of property

101(1) If property has been placed in the custody of a custodian under section 100, the persons designated by the Professional Conduct Chairman shall examine the property and the custodian shall, by notice as he thinks proper, including publication in a newspaper if he thinks fit, inform clients of the person whose property has been placed in custody

(a) that the property is in the custody of the custodian and that an examination of it indicates that the client or other person appears to have an interest in it, and

(b) that the client or other person may apply to the custodian in person or by solicitor or agent for the delivery to him of the property in which he appears to have an interest or for leave to make copies of any documents and papers among the property that he thinks necessary to copy, in respect of any transactions or dealings he had with the certified management accountant or professional corporation.

(2) If the custodian is satisfied that a person is entitled to any property in his custody, he may deliver the property to the person claiming it.

Exemption from municipal licence

102 No municipality has the power to require

(a) a certified management accountant or professional corporation to obtain a licence from the municipality to carry on practice as a certified management accountant, or

(b) a student member to obtain a licence from the municipality to perform any act or service authorized by this Act, the regulations or the by-laws to be performed by a student member.

PART 10

REGULATIONS AND BY-LAWS

Regulations of Council

103(1) The Council may make regulations

(a) providing for the publishing of a code of ethics respecting practice as a certified management accountant, 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 student members, by whom they are to be trained, the nature and period of the training and the conduct expected of them;
 - (i) respecting or adopting standards for practice as a certified management accountant;
 - (j) prescribing an amount for the purposes of section 18(3)(a)(i);
 - (k) prescribing restrictions, conditions or limitations on the practice of certified management accountants, professional corporations or student members;
 - (l) respecting the manner of determining the amount of costs payable by a person referred to in section 58(4)(b);
 - (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 certified management accountants including the times at which or within which the program must be completed and the nature and contents of it;
 - (n) governing the circumstances under which the Registration Committee may approve or otherwise deal with an application for registration under section 13 or 14.
- (2) A regulation under subsection (1) does not come into force unless
- (a) it is approved by a majority of certified management 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.

104(1) The Council may make by-laws

- (a) for the government of the Society and the management and conduct of its affairs;
- (b) determining the location of the head office of the Society;
- (c) respecting the calling of and conduct of meetings of the Society and the Council;
- (d) defining what constitutes a meeting of the Council for purposes of this Act, the regulations and the by-laws;
- (e) respecting the nomination, election, number and term of office of Council members and officers of the Society, 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;
- (f) providing for the appointment of acting members of the Council and procedures for the election of certified management

accountants and the nomination of members of the public for appointment by the Minister;

(g) governing, subject to this Act, the appointment and procedure of a committee or board established under this Act, the nomination of members of the public for appointment by the Minister to a committee or board, the designation of chairmen and vice-chairmen, the appointment of acting members and the procedure for filling vacancies on a committee or board and the appointment of ex officio members of a committee or board, and prescribing the powers, duties and functions of persons so designated or appointed;

(h) establishing a code of ethics respecting

(i) practice as a certified management accountant,

(ii) the maintenance of the dignity and honour of the profession of accounting, and

(iii) the protection of the public interest;

(i) authorizing the making of rules and guidelines to explain and illustrate the code of ethics and professional conduct;

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

(k) respecting a practice review;

(l) establishing specialties of accounting practice and prohibiting a certified management accountant or professional corporation from holding out that he or it is entitled to engage in a specialty of accounting practice unless the certified management accountant or professional corporation is registered in a specialty register;

(m) prescribing terms and conditions of registration and maintaining registration in a specialty register;

(n) designating specialty names, initials or abbreviations that may be used by a certified management accountant or professional corporation registered in a specialty register;

(o) providing for the division of Alberta into electoral districts and prescribing the number of Council members to be elected from each district;

(p) establishing classes or categories of members of the Society including honorary members and life members, and prescribing the privileges and obligations of the classes or categories established;

(q) requiring certified management accountants and professional corporations to carry professional liability insurance and governing the minimum coverage required to be carried by all certified management accountants and professional corporations or any category of them;

- (r) providing for the appointment and tenure of the Registrar and his additional duties, powers and functions, and the appointment of an individual as an acting Registrar who has all of the powers and performs all of the duties of the Registrar under this Act, the regulations and the by-laws when the Registrar is absent or unable to act or when there is a vacancy in the office;
- (s) establishing the number of members that constitutes a quorum at meetings of the Society, the Council or any committee established under this Act;
- (t) providing for the delegation of any powers or duties of the Council under this Act, the regulations or the by-laws except the power to make regulations and by-laws, with or without conditions, to a committee established or appointed by the Council or an individual;
- (u) 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 Society;
- (v) 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;
- (w) respecting fees, dues and levies payable to the Society by certified management accountants, professional corporations, student members and applicants for registration and providing for the suspension or cancellation of a registration or permit for non-payment of the fees, dues or levies;
- (x) respecting the establishment, contents and maintenance of registers and records to be kept by the Registrar;
- (y) 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;
- (z) requiring certified management accountants and professional corporations 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;
- (aa) 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;
- (bb) 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;
- (cc) 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;

- (dd) respecting reinstatement of a person as a certified management accountant, professional corporation or student member and providing for the reissuance of a certificate or permit suspended or cancelled under this Act or the by-laws and prescribing the terms and conditions on which reinstatement or reissuance of a certificate or permit may be granted;
- (ee) 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 professional corporations and prescribing the contents of those returns;
- (ff) providing for the annual renewal of permits and prescribing the terms and conditions on which renewal may be granted;
- (gg) setting out the business that may be carried on and the powers that may be exercised by a professional corporation under this Act;
- (hh) respecting the holding of votes by mail in respect of any matter relating to the Society;
- (ii) respecting any matters ancillary to registration, permits, certificates and the practice of a certified management accountant generally;
- (jj) prescribing the manner of proof as to matters required to be proven by applicants for permits;
- (kk) governing the names under which certified management accountants and professional corporations may engage in practice;
- (ll) 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 certified management accountants,
 may be known;
- (mm) prescribing conditions or rules with respect to the mediation of complaints;
- (nn) respecting fees or charges for any service or thing provided or performed by or on behalf of the Society;
- (oo) respecting publication of orders made by a hearing committee or the Council;
- (pp) respecting delegation by the Registrar of his authority under this Act, the regulations and the by-laws;
- (qq) requiring members of the Society to keep books of account and records containing particulars and information as to money received, held or paid for or on account of clients, requiring the furnishing of evidence that those accounts and records are being kept and maintained and providing for the inspection of those books and records from time to time by the officers, auditors or agents of the Society;

(rr) respecting the appointment of members of the Registration Committee.

(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 Society and, in default of confirmation by certified management accountants at that meeting, it ceases to be in force.

(3) The *Regulations Act* does not apply to the by-laws of the Society.

105 The Lieutenant Governor in Council may make regulations

(a) prescribing how the costs of the Joint Standards Directorate may be assessed and levied;

(b) respecting the procedures of the Joint Standards Directorate that ensure that anonymity of a person whose practice is reviewed by the Joint Standards Directorate is maintained;

(c) requiring the final step of a review by the Joint Standards Directorate, before a referral of a complaint, to be carried out by a member of the accounting organization of which the person being reviewed is a member;

(d) respecting any other matter considered necessary to carry out the objects of Part 6.

PART 11

TRANSITIONAL AND REPEAL

106(1) *In this section and in sections 107, 108 and 109, "former Society" means The Society of Management Accountants of Alberta as incorporated under The Society of Industrial Accountants of Alberta Act, 1944.*

(2) *An individual who is a registered member of the former Society is deemed to be registered as a certified management accountant under this Act.*

(3) *An individual who is registered as a student member of the former Society is deemed to be registered as a student member under this Act.*

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

108 *An application for membership made under the by-laws of the former Society but not concluded before the coming into force of this Act shall be dealt with as an application for registration under this Act.*

109(1) *Any complaint made or discipline proceedings commenced but not concluded before the coming into force of this Act shall be concluded under the by-laws of the former Society as though this Act had not come into force.*

(2) A complaint made or discipline proceedings commenced after the coming into force of this Act when the complaint or proceedings relate to conduct occurring all or partly before the coming into force of this Act shall be dealt with under this Act.

Repeal

110 *The Society of Industrial Accountants of Alberta Act, 1944, being chapter 79 of the Statutes of Alberta, 1944, is repealed.*

Coming
into force

111 *This Act comes into force on Proclamation.*