

2001 BILL 24

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First Session, 25th Legislature, 50 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 24

REGULATED FORESTRY PROFESSION  
AMENDMENT ACT, 2001

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MR. STRANG

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 24*  
*Mr. Strang*

## **BILL 24**

2001

### **REGULATED FORESTRY PROFESSION AMENDMENT ACT, 2001**

*(Assented to , 2001)*

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

Amends SA  
1999 cR-12.6

**1 The *Regulated Forestry Profession Act* is amended by  
this Act.**

**2 Section 3 is amended by adding the following after  
subsection (1):**

(1.1) A college may approve programs of study and  
education courses for the purposes of registration  
requirements.

**3 Section 13(2) is amended by striking out “to a list of” and  
substituting “as”.**

## Explanatory Notes

- 1 Amends chapter R-12.6 of the Statutes of Alberta, 1999.
- 2 Approval of programs and courses.
- 3 Section 13(2) presently reads:
  - (2) *The following are not eligible to be appointed to a list of public members:*
    - (a) *with respect to an appointment to a college, a person who is a regulated member of that college;*
    - (b) *a person who represents or is normally engaged in representing a group of employees who are regulated members in the negotiation of collective bargaining agreements or in any proceedings under a collective bargaining agreement with respect to regulated members or who negotiates or sets professional fees or guidelines on professional fees on behalf of regulated members of a college.*

**4 Section 22 is amended**

- (a) in subsection (1)(g) by adding** “and (4) and any other information required to be provided under the regulations” **after** “section 27(3)”;
- (b) in subsection (2)(b) by adding** “or the council” **after** “recognized by the regulations”.

**5 Section 24(3)(c) is amended by striking out** “on a registration” **and substituting** “on an approval”.

**6 Section 27 is amended**

- (a) in subsection (1)**
  - (i) in clause (a) by striking out** “regulated members” **and substituting** “regulated member”;
  - (ii) in clause (b) by striking out** “other members” **and substituting** “other member”;
- (b) in subsection (3) by adding the following after clause (b):**
  - (b.1)** whether the member’s registration is restricted to a period of time and, if so, the period of time;

**4** Section 22 presently reads in part:

*22(1) An application for registration as a regulated member is complete for the purpose of consideration under section 23(3) if it is in the required form and given to the registrar by the applicant along with*

*(g) any information required by the registrar for the purposes of section 27(3).*

*(2) An applicant must provide evidence of competence in the practice of the profession*

*(b) by being registered with a profession in another jurisdiction recognized by the regulations as having substantially equivalent competence and practice requirements and meeting the requirements for persons to be registered with that profession in that jurisdiction and by meeting any additional requirements set out in the regulations, or*

**5** Section 24(3)(c) presently reads:

*(3) On making a decision under subsection (1), the registrar, registration committee or competence committee must*

*(c) in the case of a decision to impose conditions on a registration, to defer a registration or to refuse an application, give reasons for the decision and notify the applicant as to how the applicant may request a review of the decision under section 25.*

**6** Section 27(1) and (3) presently read:

*27(1) A council*

*(a) must establish, in accordance with the regulations, a regulated members register for one or more categories of members who provide professional services of the regulated profession, and*

*(b) may, in accordance with the by-laws, establish other members registers for one or more categories of non-regulated members.*

*(3) The registrar must enter the following information for each regulated member in the appropriate category of register established under subsection (1)(a):*

*(a) the full name of the member;*

Suspension if  
application not  
made

**7 Section 33 is repealed and the following is substituted:**

**33** If a regulated member's application for renewal of a practice permit is not received by the registrar by the date established in the by-laws, the member's practice permit is suspended and the registrar may cancel the member's practice permit in accordance with section 37.

**8 Section 34(1) is amended by striking out "and" at the end of clause (c) and by repealing clause (d) and substituting the following:**

- (d) who provides the information required by the registrar for the purposes of section 27(3) and (4) and any other information required to be provided under the regulations, and
- (e) who has paid the practice permit fee provided for in the by-laws.

**9 Section 36 is repealed.**

- (b) *the member's unique registration number;*
- (c) *any conditions imposed on the member's practice permit;*
- (d) *the status of the member's practice permit, including whether it is suspended or cancelled;*
- (e) *information described in section 89(1) or required by regulation.*

**7** Section 33 presently reads:

*33 The registrar may, in accordance with section 37, cancel the practice permit of a regulated member who does not comply with section 32(1).*

**8** Section 34(1) presently reads:

*34(1) An application for a practice permit is complete for consideration under subsection (2) if it is in the form required and given to the registrar by a regulated member*

- (a) *whose registration is not suspended or cancelled,*
- (b) *who*
  - (i) *meets the requirements for continuing competence of applicants for a practice permit provided for in the regulations, or*
  - (ii) *is enrolled as a student in a program of studies provided for in the regulations or in a substantially equivalent program,*
- (c) *who provides evidence of having the amount and type of professional liability insurance required by the regulations, if insurance is required by the regulations, and*
- (d) *who has paid the practice permit fee provided for in the by-laws.*

**9** Section 36 presently reads:

*36 A practice permit may be*

- (a) *suspended in accordance with section 34,*
- (b) *cancelled in accordance with sections 33 and 37,*
- (c) *suspended or cancelled pursuant to an order under Part 4, or*

**10 Section 37 is amended**

**(a) in subsection (1) by adding “and registration” after “member’s practice permit”;**

**(b) in subsection (3)**

**(i) by striking out “is cancelled” and substituting “and registration are cancelled”;**

**(ii) by adding “and reinstate the registration” after “reissue the practice permit”;**

**(c) by adding the following after subsection (5):**

**(6)** The registrar may cancel the registration and practice permit of a regulated member on receipt of proof satisfactory to the registrar that the member is deceased.

**11 Section 39 is repealed and the following is substituted:**

Reinstatement

**39(1)** A regulated member whose practice permit or registration, or both, are cancelled under this Act other than under Part 4 may apply for the practice permit to be reissued or the registration to be reinstated, or both, in accordance with the by-laws.

**(2)** A person whose practice permit or registration, or both, are cancelled under Part 4 may apply for the practice permit to be reissued and the registration to be reinstated in accordance with the regulations.

**12 Section 40(1)(b)(ii) is amended by striking out “and students” and substituting “or students”.**



*(d) cancelled on a request under section 37(5).*

**10** Section 37 presently reads:

*37(1) If a regulated member does not apply for a practice permit under section 32(1), is in default of payment of the practice permit fee or fails to pay a penalty, costs or any other fees, levies or assessments due under this Act or the by-laws, the registrar, after 30 days or a greater number of days, as set out in the notice, after giving notice to the regulated member, may cancel the regulated member's practice permit.*

*(2) The notice under subsection (1) must state that the registrar may cancel the registration and practice permit of the regulated member unless a complete application for a practice permit is received, the practice permit fee is paid, and any other penalties, costs, fees, levies or assessments are paid, as indicated in the notice.*

*(3) If a practice permit is cancelled under subsection (2) only because the practice permit fee or a penalty, cost, fee, levy or assessment is not paid, the registrar may, on its payment, issue or reissue the practice permit.*

*(4) If the registrar is satisfied that a regulated member has not complied with conditions imposed under section 34(2) within the time specified, the registrar may refer the matter to the registration committee or competence committee as provided for in the by-laws, and the registration committee or competence committee, on being satisfied that the conditions have not been complied with, may direct the registrar to cancel the member's registration and practice permit.*

*(5) The registrar may cancel the registration or practice permit of a regulated member and cancel the registration of an other member on the member's request.*

**11** Section 39 presently reads:

*39(1) A regulated member whose practice permit is cancelled under this Act, other than under Part 4, may apply for it to be reissued in accordance with the by-laws.*

*(2) A person whose practice permit is cancelled under Part 4 may apply for it to be reissued in accordance with the regulations.*

**12** Section 40(1) presently reads:

*40(1) A person must apply for registration if the person*

**13 Section 43 is amended**

- (a) by repealing subsection (1) and substituting the following:**

Continuing  
competence  
program

**43(1)** A council must establish, by regulation, a continuing competence program within 5 years from the date that this Act comes into force.

- (b) in subsection (2) by striking out “Continuing competence requirements” and substituting “A continuing competence program”.**

**14 The following is added after section 43:**

Referral to  
complaints  
director

**43.1(1)** A competence committee, registration committee or registrar must make a referral to the complaints director if, on the basis of information obtained from a continuing competence program, the competence committee, registration committee or registrar is of the opinion that a regulated member has intentionally provided false or misleading information respecting participation in a continuing competence program.

**(2)** A competence committee must make a referral to the complaints director if, on the basis of information obtained from a continuing competence program, it is of the opinion that

- (a)** the regulated member displays a lack of competence in the provision of professional services that has not been remedied by participating in the continuing competence program, or
- (b)** the conduct of the regulated member constitutes unprofessional conduct that cannot be readily remedied by means of the continuing competence program.

- (a) is qualified to meet the requirements of section 22(2) for registration as a regulated member, and*
- (b) intends to provide any or all of the following:*
  - (i) professional services on public land;*
  - (ii) the teaching of the practice of a regulated profession to regulated members and students of the regulated profession;*
  - (iii) the supervision of regulated members who provide professional services on public land.*

**13** Section 43 presently reads:

*43(1) A council must provide, by regulation, continuing competence requirements within 5 years from the date that this Act comes into force.*

*(2) Continuing competence requirements must provide for regulated members to maintain competence and to enhance the provision of professional services.*

**14** Referral to complaints director, confidentiality and offence.

Confidentiality

**43.2(1)** Information related to participation in a continuing competence program under this Part is confidential, and any person who has access to or comes into possession of such information shall not publish, release or disclose the information in any manner except as is necessary to carry out powers and duties under this Part.

(2) Despite subsection (1), information obtained under this Part may be

- (a) provided or published by the competence committee in summarized or statistical form if the information is provided or published in such a manner that it is not possible to relate the information to any particular identifiable person,
- (b) used by the competence committee to give to the complaints director the name of a regulated member and the grounds for a referral under section 43.1, and
- (c) released or disclosed to the counsel of the regulated member in connection with proceedings under this Part, Part 2 or Part 4.

(3) If any person publishes, releases or discloses information in contravention of this section, that information may not be used in proceedings under any other Part of this Act, in any arbitration, inquiry, action or matter, or in any proceedings before a court.

Offence

**43.3** A person who knowingly publishes, releases or discloses information in contravention of section 43.2 is guilty of an offence and liable to a fine of not more than \$10 000.

**15 Section 45(2) is amended by adding the following after clause (a):**

- (a.1) may, with the consent of the complainant and the investigated person, attempt to resolve the complaint,

**15** Section 45(2) presently reads:

*(2) The complaints director*

- (a) may encourage the complainant and the investigated person to communicate with each other and resolve the complaint,*
- (b) may make a referral to an alternative complaint resolution process under Division 2,*
- (c) may request an expert to assess and provide a written report on the subject-matter of the complaint,*

Aware of  
unprofessional  
conduct

**16 Section 46 is repealed and the following is substituted:**

**46** Despite not receiving a complaint under section 44, but subject to section 44(3) and (4), if the complaints director

- (a) has reasonable grounds to believe that the conduct of a regulated member or former member constitutes unprofessional conduct, or
- (b) has received a referral under Part 3,

the complaints director may treat the information as a complaint and act on it under section 45.

**17 Section 49 is amended**

**(a) in subsection (4)(a) by striking out “acted on” and substituting “and act on it”;**

**(b) by repealing subsection (6) and substituting the following:**

**(6)** The college must retain a copy of a ratified settlement and must release information related to the complaint, investigated person and ratified settlement as required by this Act and

- (a) may publish, in accordance with the by-laws, information respecting a complaint and a ratified settlement, and
- (b) may reveal the identity of the investigated person or the complainant, or both, if it is authorized to do so by the ratified settlement.

**18 Section 71(1)(h) is amended by adding “or both” after “hearing”.**

- (d) may conduct, or appoint an investigator to conduct, an investigation,*
- (e) if satisfied that the complaint is trivial or vexatious, may dismiss the complaint, and*
- (f) if satisfied that there is insufficient or no evidence of unprofessional conduct, may dismiss the complaint.*

**16** Section 46 presently reads:

*46 Despite not receiving a complaint under section 44, but subject to section 44(3) and (4), if the complaints director has reasonable grounds to believe that the conduct of a regulated member or former member constitutes unprofessional conduct, the complaints director may treat the information as a complaint and act on it under section 45.*

**17** Section 49(4) and (6) presently read:

*(4) On being aware that a ratified settlement is not complied with, the complaints director may*

- (a) treat it as information acted on under section 45, or*
- (b) treat it as a complaint and refer it to the hearings director for a hearing.*

*(6) The college may publish, in accordance with the by-laws, information respecting a complaint and a ratified settlement but may reveal the identity*

- (a) of the complainant, only with the consent of the complainant and the investigated person, or*
- (b) of the investigated person, only with the consent of the complainant,*

*and the college must retain a copy of the ratified settlement.*

**18** Section 71(1)(h) presently reads:

*71(1) If the hearing tribunal decides that the conduct of an investigated person constitutes unprofessional conduct, the hearing tribunal may make any one or more of the following orders:*

- (h) direct, subject to the regulations, that the investigated person pay within the time set in the order all or part of the expenses of the investigation or hearing;*

**19 Section 75(4) is amended by striking out “unless the Court,” and substituting “unless the Court of Appeal,”.**

**20 Section 89 is amended**

**(a) in subsection (1)**

**(i) by striking out “permit, or if the by-laws authorize release of information when a regulated member receives a reprimand or fine under Part 4” and substituting “permit”;**

**(ii) by repealing clause (a);**

**(iii) in clause (b) by striking out “information” and substituting “conditions imposed, if any,”;**

**(iv) by repealing clause (c) and substituting the following:**

(c) must provide the information to a person who employs the regulated member to provide professional services on a full-time or part-time basis as a paid or unpaid employee, consultant, contractor or volunteer,

**(v) by repealing clause (d);**

**(vi) by repealing clause (g) and substituting the following:**

(g) subject to the by-laws, may publish or distribute the information referred to in this subsection and information respecting the imposition of a reprimand or fine under Part 4.

**(b) in subsection (3) by striking out “30(3), 49(6)” and substituting “27(3)”.**

**21 Section 91(c) is amended by adding “complete” before “registration”.**



**19** Section 75(4) presently reads:

*(4) A decision of the council remains in effect pending an appeal to the Court of Appeal unless the Court, on application, stays the decision pending the appeal.*

**20** Section 89(1) and (3) presently read:

*89(1) If under Part 2 or Part 4 a regulated member's practice permit is suspended or cancelled, or if conditions are imposed on a regulated member's practice permit, or if the by-laws authorize release of information when a regulated member receives a reprimand or fine under Part 4, the registrar*

- (a) must enter the information on the register,*
- (b) must enter the information on the regulated member's practice permit,*
- (c) must provide the information to the regulated member's employer, if any,*
- (d) must provide the information to any Minister who, or an organization specified in the regulations that, administers the payment of fees for the professional services that the regulated member provides,*
- (e) may provide the information to another college if the registrar knows that the regulated member is also a member of that college,*
- (f) may provide the information to the governing bodies of any similar profession in other provinces, and*
- (g) subject to the by-laws, may publish or distribute the information.*

*(3) If a member of the public, during regular business hours, requests from a college information referred to in this section or section 30(3), 49(6) or 74(3), or information as to whether a hearing is scheduled to be held or has been held under Part 4 with respect to a named regulated member, the college must provide the information with respect to that regulated member subject to the payment of costs referred to in section 74(3) and the period of time provided for in the regulations.*

**21** Section 91(c) presently reads:

*91 A college must keep, for at least 10 years,*

**22 Section 94 is amended by adding the following after subsection (2):**

(3) Despite any other Act or law except the *Ombudsman Act*, a regulated member who is participating or has participated in a continuing competence program shall not be required in any proceedings to give evidence relating to any matter under Part 3 or to produce any record or thing that relates to any matter under Part 3 except in

- (a) proceedings under this Act, or
- (b) a prosecution with respect to perjury or the giving of contradictory evidence.

**23 Section 100(1) is amended**

**(a) by repealing clause (b) and substituting the following:**

(b) respecting the evaluation of education, training, experience, practice and competence required of applicants for registration as regulated members and of applicants for practice permits, including regulations establishing or designating an entity that may conduct all or part of an evaluation;

**(b) in clause (g) by adding “, restricting the time periods of registration and practice permits of categories of members and restricting renewal of registration and practice permits of categories of members” after “regulated members”;**

**(c) by adding the following after clause (g):**

*(c) records of registration applications and reviews.*

**22** Section 94 presently reads:

*94(1) Despite any other Act or law except the Ombudsman Act,*

- (a) a college,*
- (b) a person who is or was an officer, employee or agent of a college,*
- (c) a person who conducts or has conducted an investigation or an alternative complaint resolution process under Part 4, or*
- (d) a person who is or was a member of a council or a committee or hearing tribunal of a college*

*shall not be required in any proceedings to give evidence relating to any matter that arose in any proceedings under this Act or the by-laws, or to produce any record or thing adduced in evidence in proceedings under this Act or the by-laws or forming part of the records of the college that relate to proceedings under Part 4, except in*

- (e) proceedings under this Act, or*
- (f) a prosecution with respect to perjury or the giving of contradictory evidence.*

*(2) Subsection (1) does not apply to information described in section 89.*

**23** Section 100(1) presently reads in part:

*100(1) A council may make regulations*

- (b) respecting the evaluation of and establishing or designating the entity that may evaluate the education, training, experience, practice and competence required of applicants for registration as regulated members and of applicants for practice permits;*
- (g) imposing conditions on categories of regulated members;*
- (j) respecting information to be provided to the registrar by regulated members;*

(g.1) respecting reissuing practice permits and reinstating registration;

**(d) in clause (j) by adding** “and by applicants for registration” **after** “members”.

**24 Section 101(1) is amended**

**(a) in clause (h)**

**(i) by adding** “renewal of” **before** “practice permits and”;

**(ii) by adding** “reissuance of” **after** “registration and”;

**(b) in clause (k) by striking out** “for any review” **and substituting** “costs, fees, levies and assessments for any accreditation, review”.

**25 The following is added after section 101:**

Approval of  
program and  
courses

**101.1** Before a college approves or removes the approval from a program of study or an education course under section 3(1.1), the college must consult with the Minister of Human Resources and Employment and the Minister of Learning and must consider the comments received from those Ministers.

**26 Section 102(5) is amended by striking out** “other”.

**24** Section 101(h) and (k) presently read:

*101(1) A council may make by-laws*

*(h) establishing the date by which regulated members are to apply for practice permits and providing for reinstatement of registration and practice permits cancelled under this Act except those cancelled under Part 4;*

*(k) respecting costs, fees, levies and assessments to be paid by regulated members and applicants with respect to registration, practice permits and late payment fees under this Act or the by-laws and for any review, appeal, thing or service provided by the college under this Act or the by-laws;*

**25** Consultation required.

**26** Section 102(5) presently reads:

*(5) The college must ensure that copies of the code of ethics and other standards of practice adopted under subsection (3) are readily available to the public and regulated members, and the copies may be distributed in the manner directed by the council.*