

*Bill 17*  
*Mr. Danyluk*

## **BILL 17**

2005

### **AGROLOGY PROFESSION ACT**

*(Assented to , 2005)*

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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) “alternative complaint resolution process” means a process to help the complainant, the Institute and the investigated person settle a complaint;
- (b) “Chair” means the Chair of the council of the Institute;
- (c) “code of ethics” means a code of ethics adopted by the council under Part 8;
- (d) “competence” means the combined knowledge, skills, abilities and judgment required to provide professional services;
- (e) “competence committee” means a competence committee established under this Act;
- (f) “complaint review committee” means a complaint review committee established under Part 1;
- (g) “complaints director” means the complaints director of the Institute;
- (h) “conduct” includes an act or omission;
- (i) “continuing competence program” means a program of continuing competence provided for in the regulations;
- (j) “council” means the council of the Institute;
- (k) “document” includes recorded information in written, photographic, magnetic, electronic or other form;
- (l) “former Act” means the *Agrologists Act*;
- (m) “former member” means a person who
  - (i) has had but no longer has a practice permit under this Act,
  - (ii) has been but has ceased to be a regulated member pursuant to this Act, or
  - (iii) was a member under the former Act but is not a regulated member pursuant to this Act;
- (n) “hearing tribunal” means a hearing tribunal established under Part 1;

- (o) “hearings director” means the hearings director of the Institute;
- (p) “Institute” means the Alberta Institute of Agrologists;
- (q) “investigated person” means a person with respect to whom
  - (i) a complaint has been made under Part 4, or
  - (ii) information has been treated as a complaint in accordance with section 49,the proceedings with respect to which have not been concluded;
- (r) “investigator” means the complaints director or other person who conducts an investigation under Part 4;
- (s) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (t) “Ombudsman” means the Ombudsman appointed under the *Ombudsman Act*;
- (u) “other member” means a non-regulated member of the Institute registered in a register established under section 27(1)(b);
- (v) “practice of agrology” means the development, acquisition or application of or advising on scientific principles and practices relating to the cultivation, production, utilization and improvement of plants and animals and the management of associated resources and includes
  - (i) the certification of compliance with Acts, regulations, directives, standards and guidelines related to agrology,
  - (ii) the conducting of economic, statistical, financial, sociological and other studies related to agrology,
  - (iii) the production, processing, marketing and protection of agricultural and related products and supplies,



- (iv) the analysis, classification and evaluation of land and water systems,
- (v) the undertaking of agricultural design and advising on the use of buildings, structures, machinery and equipment,
- (vi) the conservation, decommissioning, reclamation, remediation and improvement of soils, land and water systems, and
- (vii) the development, management and use of waste treatment and ecological systems;
- (w) “practice permit” means a practice permit issued to a regulated member under Part 2;
- (x) “professional service” means a service provided by a regulated member of the Institute that comes within the practice of agrology;
- (y) “public member” means a person appointed as a public member under this Act;
- (z) “ratified settlement” means a settlement ratified under section 52(2);
- (aa) “record of the hearing” means a record described in section 76(1)(b);
- (bb) “registrar” means the registrar of the Institute;
- (cc) “registration committee” means a registration committee established under Part 1;
- (dd) “regulated member” means a person who is registered as a member in the register established under section 27(1)(a);
- (ee) “standards of practice” means standards of practice adopted by the council under Part 8;
- (ff) “unprofessional conduct” means any or all of the following:
  - (i) displaying a lack of knowledge of or lack of skill or judgment in the provision of professional services;

- (ii) contravention of this Act, the code of ethics or standards of practice;
- (iii) contravention of another enactment that applies to the profession;
- (iv) representing or holding out that a person was a regulated member and in good standing while the person's registration or practice permit was suspended or cancelled;
- (v) representing or holding out that a person's registration or practice permit is not subject to conditions when it is, or misrepresenting the conditions;
- (vi) failure or refusal to comply with the requirements of a continuing competence program;
- (vii) failure or refusal
  - (A) to comply with an agreement that is part of a ratified settlement,
  - (B) to comply with a request of or co-operate with an investigator, or
  - (C) to comply with a notice to attend or a notice to produce under Part 4;
- (viii) contravening an order under Part 4 or conditions imposed on a practice permit;
- (ix) carrying on the practice of agrology with a person who is contravening an order under Part 4 or conditions imposed on a practice permit pursuant to Part 2 or 4;
- (x) conduct that harms the integrity of the agrology profession.

**(2)** In this Act,

- (a) a reference to "this Act" includes the regulations under this Act;

- (b) a reference to a power and duty includes the power and duty to make a decision;
- (c) a reference to conditions includes restrictions and limitations.

## **Part 1 Administration**

### **Institute**

#### **Institute continued**

**2** The Alberta Institute of Agrologists, continued as a corporation under the former Act, is hereby continued as a corporation under the same name that

- (a) consists of its regulated members and other members, and
- (b) has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

#### **Institute's role**

**3(1)** The Institute must

- (a) carry out its activities and govern its regulated members in a manner that protects and serves the public interest,
- (b) provide direction to and regulate the practice of agrology by its regulated members,
- (c) establish, maintain and enforce standards of practice, registration and continuing competence for the practice of agrology,
- (d) establish, maintain and enforce a code of ethics, and
- (e) carry on the activities of the Institute and perform other duties and functions by the exercise of the powers conferred by this Act.

**(2)** The Institute may approve programs of study and education courses for the purposes of registration requirements.

(3) The Institute must not set professional fees, provide guidelines for professional fees or negotiate professional fees on behalf of its regulated members.

(4) Neither the Institute nor the council or a committee of the Institute may be a certified bargaining agent as defined in the *Labour Relations Code*.

#### **Annual report**

**4(1)** The Institute must submit to the Minister an annual report of its activities in a form acceptable to the Minister that contains the information requested by the Minister, including but not restricted to

- (a) a statement respecting the number of complaints made and their disposition, including the number of hearings closed to the public in whole or in part, the number of appeals and the number of regulated members dealt with under Part 4;
- (b) information respecting registration;
- (c) a description of and information about the Institute's continuing competence program;
- (d) a statement respecting the committees and tribunals established under this Act;
- (e) audited financial information or financial information presented in a form and manner satisfactory to the Minister.

(2) On receipt of a report under subsection (1), the Minister must lay a copy of it before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

(3) The Minister may, to ensure that the requirements of this Act are met, require reports from the Institute in addition to the annual report under subsection (1).

#### **Council, Chair and Registrar**

##### **Council established**

**5(1)** The governing body of the Institute is the council.

- (2) The council consists of the Chair and
- (a) the regulated members provided for in the bylaws,
  - (b) the non-voting members, if any, provided for in the bylaws, and
  - (c) subject to section 12(1), the public members appointed by the Lieutenant Governor in Council.
- (3) The Chair and the members described in subsection (2)(a) and (c) are the voting members of the council.
- (4) A member described in subsection (2)(a), (b) or (c) continues to hold office after the expiry of the member's term until the member is reappointed or re-elected or a successor is appointed or elected.
- (5) Despite section 12, if a member described in subsection (2)(a), (b) or (c) is not capable of carrying out the powers and duties of a member, the council may continue to carry out its powers and duties until a successor is appointed or elected.

#### **Council's role**

**6** The council manages and conducts the activities of the Institute, exercises the rights, powers and privileges and carries out the duties of the Institute in the name of and on behalf of the Institute and carries out the powers and duties of the council under this Act and the bylaws.

#### **Council Chair**

**7** The council must appoint or elect or provide for the appointment or election of an individual to be Chair of the council for the purposes of this Act.

#### **Registrar**

**8** The council must appoint or provide for the appointment of an individual as registrar for the purposes of this Act.

## **Committees and Tribunals**

### **Registration committee**

#### **9(1)** The council

- (a) may establish a registration committee consisting of no fewer than 3 members, the majority of whom must be regulated members, and
- (b) if a registration committee is established, must designate a member of that committee to act as chair of the registration committee.

**(2)** A member of the registration committee continues to hold office after the expiry of the member's term until the member is reappointed or a successor is appointed.

**(3)** Despite subsection (1), if a member of the registration committee is not capable of carrying out the powers and duties of a member, the registration committee may continue a review of an application in which the member was participating and may carry out its powers and duties with respect to that review.

**(4)** The registration committee may,

- (a) if provided for in the bylaws, review an application for registration or for a practice permit, and
- (b) undertake any other power or duty given to it under this Act or the bylaws.

### **Competence committee**

#### **10(1)** The council

- (a) may establish a competence committee consisting of no fewer than 3 members, the majority of whom must be regulated members, and
- (b) if a competence committee is established, must designate a member of that committee to act as chair of the competence committee.

**(2)** The council may, by bylaw, direct the registration committee to carry out the powers and duties of a competence committee.

(3) A member of the competence committee continues to hold office after the expiry of the member's term until the member is reappointed or a successor is appointed.

(4) Despite subsection (1), if a member of the competence committee is not capable of carrying out the powers and duties of a member, the competence committee may continue a review of an application in which the member was participating and may carry out its powers and duties with respect to that review.

(5) The competence committee

- (a) may make recommendations to the council on continuing competence requirements and the assessment of those requirements,
- (b) may assess applications for practice permits, and
- (c) may undertake any other power or duty given to it under this Act or the bylaws.

#### **Competence committee appointees**

**11** The competence committee may appoint a person or persons who have technical expertise or other relevant knowledge to inquire into and report to the competence committee with respect to any matter related to any power or duty of the competence committee.

#### **Required public members**

**12(1)** Twenty-five percent of the voting members of the council, a complaint review committee and a hearing tribunal and of a panel of any of them must be public members, but with the consent of the council the percentage of public members may be greater than 25%.

(2) Despite the bylaws governing quorum, the number of public members required by subsection (1) must be present at an appeal under Part 4 before the council, a ratification of a settlement and a review by a complaint review committee and a hearing by a hearing tribunal.

(3) Despite subsections (1) and (2), the powers and duties of the council, a complaint review committee or a hearing tribunal or a panel of any of them are not affected by a vacancy in the office of a

public member for up to 2 years from the date that this Act comes into force.

**Public members appointed, lists**

**13(1)** Subject to subsection (2), the Lieutenant Governor in Council

- (a) may, after the Minister has consulted with the council, appoint and rescind the appointment of public members to the council, and
- (b) may appoint persons to a list of public members for the purpose of establishing complaint review committees and hearing tribunals.

**(2)** The following are not eligible to be appointed as public members:

- (a) a regulated member of the Institute;
- (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 for professional fees on behalf of regulated members of the Institute.

**(3)** The public members of a complaint review committee and a hearing tribunal are the persons designated by a hearings director from the list of public members established under subsection (1)(b).

**(4)** A public member may be appointed to a list of public members for a term of up to 3 years and may be reappointed, but may not be appointed for more than 6 years.

**(5)** A member of the council appointed under subsection (1)(a) continues to be an appointed member after the expiry of the term of the appointment until the member is reappointed, the member's appointment is rescinded or a successor is appointed.

**(6)** The Minister may, at the rates prescribed by the Lieutenant Governor in Council, pay public members under this section



remuneration for their services and reimburse them for reasonable living and travelling expenses incurred in the course of their duties as members.

#### **Hearings director, complaints director**

**14(1)** The council must provide for the appointment of an individual as a hearings director for the purposes of this Act.

**(2)** A hearings director may not chair or participate in a hearing, review or appeal under Part 4.

**(3)** The council must provide for the appointment of an individual as a complaints director for the purposes of this Act.

#### **Membership list**

**15(1)** The council must appoint members to a membership list consisting of no fewer than 4 regulated members to be used for appointing members to both complaint review committees and hearing tribunals.

**(2)** Only regulated members are eligible to be appointed to a list referred to in subsection (1).

#### **Tribunal and complaint review committee established**

**16(1)** The hearings director may establish a hearing tribunal and a complaint review committee consisting of

- (a) 2 or more members from the membership list established under section 15, and
- (b) the number of public members required by section 12(1) from the membership list established under section 13,

and if a hearing tribunal or complaint review committee is established, the hearings director must designate a member of that tribunal or committee to act as chair of that tribunal or committee.

**(2)** Despite section 13(4), a member of a hearing tribunal or of a complaint review committee continues to hold office after the expiry of the member's term until the member is reappointed or a successor is appointed.

**(3)** Despite section 12(2), if any member of a hearing tribunal or of a complaint review committee is not capable of carrying out the powers and duties of a member,

- (a) the hearing tribunal may continue to hold a hearing in which the member was participating and may carry out its powers and duties with respect to that hearing, and
- (b) the complaint review committee may continue to review and ratify a settlement under section 52 and to conduct a review under section 60 in which the member was participating and may carry out its powers and duties with respect to that settlement or review.

**(4)** All members of a hearing tribunal or of a complaint review committee are voting members.

**(5)** The hearings director may direct one or more hearing tribunals or complaint review committees established under this section to carry out any power or duty that a hearing tribunal or complaint review committee may carry out under this Act.

#### **Powers and duties of tribunals and committees**

**17(1)** A hearing tribunal's powers and duties include holding hearings under this Act.

**(2)** A complaint review committee's powers and duties include reviewing and ratifying settlements under section 52 and conducting reviews under section 60.

### **Panels**

#### **Council and committee panels**

**18(1)** Subject to section 12,

- (a) a person or committee designated by the council may designate 3 or more members of the council to sit as a panel of the council and designate a member of the panel to act as chair of the panel,
- (b) the chair of the registration committee may designate 3 or more members of the registration committee to sit as a panel of the registration committee and designate a member of the panel to act as chair of the panel, and

- (c) the chair of the competence committee may designate 3 or more members of the competence committee to sit as a panel of the competence committee and designate a member of the panel to act as chair of the panel.
- (2) A person or committee designated by the council may direct a panel of the council to carry out the powers and duties of the council with respect to a review under Part 2 and an appeal under Part 4.
- (3) The chair of the registration committee and the chair of the competence committee may direct a panel of the registration committee or of the competence committee to carry out any power or duty that the registration committee or competence committee may carry out under this Act.
- (4) If a member designated under subsection (1) is not capable of carrying out the powers and duties of a member, the panel may continue an appeal or a review of an application in which the member was participating and may carry out its powers and duties with respect to that appeal or review.
- (5) A power or duty carried out by a panel of the council, of the registration committee or of the competence committee is a power or duty carried out by the council, registration committee or competence committee.
- (6) Two or more panels of the council, of the registration committee or of the competence committee may carry out their powers and duties simultaneously.
- (7) Any reference in this Act or any other enactment to the council, registration committee or competence committee is deemed to be also a reference to a panel of the council, a panel of the registration committee or a panel of the competence committee.

## **Delegation**

### **Council delegation**

- 19(1)** The council may delegate any of its powers and duties to one or more persons, panels or committees, except the power to make regulations or bylaws or to adopt a code of ethics or standards of practice.
- (2) The council may impose conditions on a delegation under subsection (1).

(3) When the council delegates a power or duty, it may authorize the person, panel or committee to further delegate the power or duty, subject to any conditions imposed by the council.

(4) Despite subsections (1) and (3), the council and a panel of the council may not delegate its powers or duties with respect to a review or appeal under Part 4.

(5) Any reference in this Act or any other enactment to the council is deemed to be also a reference to a delegate and to a delegate of the delegate under this section.

#### **Person, committee delegation**

**20(1)** Subject to the bylaws, a person or committee to whom a power or duty is given under this Act or the bylaws may delegate the power or duty to one or more other persons or committees.

(2) A person or committee making a delegation under subsection (1) may impose conditions on the delegation.

(3) Despite subsection (1),

- (a) the powers and duties of both a complaints director and a hearings director may not be delegated to the same person, and
- (b) a complaint review committee and a hearing tribunal may not delegate its powers or duties with respect to a review or appeal under Part 4.

(4) Any reference in this Act or any other enactment to a person or committee to whom a power or duty is given under this Act is deemed to be also a reference to a delegate of the person or committee under this section.

#### **Officials directory**

**21(1)** The council must establish and keep up to date a directory that contains the names of, and how to contact,

- (a) the complaints director and any delegate;
- (b) the hearings director and any delegate;
- (c) the registrar and any delegate;

- (d) the Chair and any delegate;
  - (e) the council and any delegate and any delegate of the delegate.
- (2) The information under subsection (1) must, on request,
- (a) be made available to the public during regular business hours, and
  - (b) be provided to the Minister.

## **Part 2 Registration**

### **Applying for Registration**

#### **Application for registration**

**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

- (a) evidence of meeting the requirements for competence in the practice of the profession as required by subsection (2),
- (b) the fees provided for in the bylaws,
- (c) evidence of having the required amount and type of professional liability insurance, if insurance is required by the regulations,
- (d) evidence of being a Canadian citizen or a person lawfully permitted to work or study in Canada, if required by the regulations,
- (e) evidence of having good character and reputation, if required by the regulations,
- (f) evidence of meeting standards of language proficiency, if required by the regulations, and
- (g) any 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.

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

- (a) by meeting the education requirements set out in the regulations and by fulfilling one or both of the following as required by the regulations:
  - (i) experience requirements;
  - (ii) successful completion of examinations,
- (b) by being registered with a professional association in another jurisdiction recognized by the regulations or the council as having substantially equivalent competence and practice requirements, meeting the requirements for persons to be registered with that professional association in that jurisdiction and meeting any additional requirements set out in the regulations, or
- (c) by satisfying the registration committee of having, as determined in accordance with the regulations, a combination of education, experience, practice or other qualifications that demonstrates the competence required for registration as a regulated member.

#### **Receipt of application**

**23(1)** The registrar must, as soon as reasonably possible on receipt of an application for registration as a regulated member, give notice to the applicant that the application has been received, whether it is complete and, if it is not complete, how it is not complete.

(2) When an incomplete application is made complete by the applicant the registrar must, as soon as reasonably possible, give notice to the applicant that the complete application has been received.

(3) On receipt of a complete application, the registrar, registration committee or competence committee, as provided for in the bylaws, must consider the application and make a decision under section 24 and notify the applicant of the decision as soon as reasonably possible.

(4) An application for registration as an other member under section 27(1)(b) must be considered by the Institute in accordance with the bylaws.

### **Decision on application**

**24(1)** On considering a complete application for registration as a regulated member, the registrar, the registration committee or the competence committee, as provided for in the bylaws, must

- (a) approve the application,
- (b) defer registration if in the opinion of the registrar, registration committee or competence committee it is in the best interest of the public to defer the registration of the applicant until the applicant complies with conditions imposed by the registrar, registration committee or competence committee, or
- (c) refuse the application for registration.

**(2)** The registrar, registration committee or competence committee may impose conditions on an approval under subsection (1)(a) that in the opinion of the registrar, registration committee or competence committee are in the best interest of the public.

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

- (a) give notice of the decision to the applicant,
- (b) in the case of the registration committee or competence committee, give notice of the decision to the registrar, and
- (c) in the case of a decision to impose conditions on an approval, 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.

**(4)** An applicant may, on request, review the documents used by and created by the registrar, registration committee or competence committee when considering the applicant's application.

**(5)** If the applicant is not notified of the decision under this section by the date that is 120 days after notice was given under section 23 that the complete application for registration was received, the applicant may request a review under section 25.

### **Request for review**

**25(1)** An applicant whose application for registration is accepted subject to conditions or whose registration is deferred or whose application is refused by the registrar, registration committee or competence committee may, within 30 days after being given a copy of the decision, request a review by the council in accordance with subsection (3).

**(2)** An applicant who is not notified of a decision by the date described in section 24(5) may, within 30 days from that date, request a review by the council in accordance with subsection (3).

**(3)** A request for a review must

- (a) be in writing,
- (b) set out the reasons why the application for registration should be approved with or without conditions, and
- (c) be given to the registrar, who must give a copy of the request to the council.

**(4)** On being given a request for a review, the registrar must, within 30 days, notify the applicant of the date, time and place at which the council will conduct the review.

**(5)** A review must be commenced not later than 60 days after the registrar is given the request for a review.

**(6)** The Institute may, in accordance with the regulations, charge a fee for a review.

### **Review of registration decision**

**26(1)** An applicant and the registrar, registration committee or competence committee may appear with or without counsel and make representations to the council at a review.

**(2)** On reviewing a decision pursuant to a request for a review under section 25, the council may

- (a) confirm, reverse or vary the decision of the registrar, registration committee or competence committee and make any decision that the registrar, registration committee or competence committee could have made, or



- (b) refer the matter back to the registrar, registration committee or competence committee and direct the registrar, registration committee or competence committee to make a further assessment of the application and make a decision under section 24 on the application,

and may make any further order the council considers necessary for the purposes of carrying out the decision.

**(3)** The council must conduct the review as soon as reasonably possible and on making a decision must give the applicant and the registrar a copy of its decision with the reasons for the decision.

## **Registration**

### **Registers of members**

**27(1)** The council

- (a) must establish, in accordance with the regulations, a register of regulated members for one or more categories of members who provide professional services, and
- (b) may, in accordance with the bylaws, establish registers of other members for one or more categories of non-regulated members.

**(2)** The name of a regulated member who is suspended remains in the register.

**(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;
- (b) the member's unique registration number;
- (c) whether the member's registration is restricted to a period of time and, if so, the period of time;
- (d) any conditions imposed on the member's practice permit;
- (e) the status of the member's practice permit, including whether it is suspended or cancelled;

- (f) information described in section 92(1) or required by the regulations.
- (4) The registrar may, in accordance with the regulations,
  - (a) enter in a register described in subsection (1)(a) information in addition to that required by subsection (3), and
  - (b) remove information from a register.
- (5) The registrar may, if authorized by the bylaws, enter in a register and remove from the register information about members registered under subsection (1)(b).

#### **Register information**

**28(1)** If a member of the public, during regular business hours, requests information in the register respecting a named regulated member, the Institute must provide the information described in section 27(3) with respect to that member.

(2) The Institute may, in accordance with the regulations, disclose information about its members in addition to the information referred to in subsection (1).

#### **Errors in register**

**29(1)** The council, a hearing tribunal, the registration committee, the complaint review committee or the competence committee may direct the registrar to correct or remove any entry made in error in a register and the registrar must correct or remove the entry.

(2) The registrar, on becoming aware of an entry made in error in a register, may correct or remove that entry.

(3) If the registrar corrects or removes an entry under subsection (1) or (2) that contains personal information about a regulated member or other member the registrar must notify the regulated member or other member as soon as reasonably possible.

#### **Registration of regulated members**

**30(1)** If an application for registration as a regulated member has been approved, the registrar must assign that member a unique

registration number and enter the information required by section 27(3) in the appropriate register.

(2) On entering the name of a member in the register of regulated members, the registrar must issue the member a practice permit.

(3) A practice permit must include

- (a) the full name of the regulated member;
- (b) the regulated member's unique registration number;
- (c) a statement that the practice permit is issued by the Institute pursuant to the *Agrology Profession Act*;
- (d) any conditions imposed on the regulated member's practice permit;
- (e) the category of registration if the Institute has more than one category of regulated member;
- (f) the expiry date of the practice permit.

(4) If the Institute issues a registration document in addition to a practice permit, the Institute must clearly state on the registration document that it is not a practice permit.

(5) A regulated member must

- (a) display the member's practice permit where the member provides professional services, or
- (b) on request, make the member's practice permit available for inspection.

#### **Corporations, partnerships not members**

**31** A corporation or partnership may not be registered as a regulated member or as an other member.

#### **Practice Permits**

##### **Application date for practice permit**

**32(1)** A regulated member must submit a complete application for a practice permit to the registrar periodically by the date provided for in the bylaws.

(2) On receipt of an application for a practice permit, the registrar, registration committee or competence committee, as provided for in the bylaws, must, as soon as possible, consider the application and make a decision under section 34(2) and notify the applicant of the decision.

(3) A regulated member's practice permit continues in force if an application for a practice permit has been received by the registrar but a decision on the application has not been made.

#### **Suspension if application not made**

**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 bylaws, the member's practice permit is suspended and the registrar may cancel the member's practice permit in accordance with section 36.

#### **Applying for practice permit**

**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 study 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,
- (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 bylaws.

**(2)** The registrar, registration committee or competence committee, as provided for in the bylaws, must consider an application for a practice permit and decide whether

- (a) to approve the application if the regulated member meets the requirements set out in subsection (1) and issue the member a practice permit subject to any conditions imposed by the registrar, registration committee or competence committee,
- (b) to issue a practice permit but to impose conditions for the completion of the continuing competence requirements set out in the regulations within the time specified in the conditions,
- (c) to suspend the practice permit of the regulated member until the member has successfully completed the continuing competence requirements set out in the regulations or is enrolled in a program of study provided for in the regulations or a substantially equivalent program, or
- (d) to refuse the application for a practice permit,

and must give the regulated member and, in the case of the registration committee or competence committee, give the registrar, a copy of the decision with the reasons for the decision if the application has been refused or if the practice permit has been suspended or has conditions imposed on it, and the registrar may, or the registration committee or competence committee may direct the registrar to, issue the practice permit or suspend the practice permit in accordance with the decision and notify the regulated member as to how to request a review under section 35.

#### **Review by council**

**35(1)** An applicant whose practice permit is issued subject to conditions or suspended or whose application for a practice permit is refused by the registrar, registration committee or competence committee may, within 30 days after being given a copy of the decision, request a review by giving the registrar a written request for a review that sets out the reasons why the application should be approved with or without conditions.

**(2)** On being given a request for a review, the registrar must, within 30 days, notify the applicant of the date, time and place at which the council will conduct the review.

**(3)** A review must be commenced not later than 60 days after the registrar is given the request for a review.

**(4)** A regulated member whose practice permit is suspended under this Part may apply to the registrar for a stay of the suspension until the council makes a decision under subsection (6), and the person or committee designated by the council must consider and make a decision on the application.

**(5)** The applicant and the registrar, registration committee or competence committee may appear with or without counsel and make representations to the council at a review.

**(6)** On completing a review, the council may

- (a) confirm, reverse or vary the decision of the registrar, registration committee or competence committee and make any decision that the registrar, registration committee or competence committee could have made, or
- (b) refer the matter back to the registrar, registration committee or competence committee and direct the registrar, registration committee or competence committee to make a further assessment of the application for a practice permit and make a decision under section 34(2) on the application,

and may make any further order the council considers necessary for the purposes of carrying out the decision.

**(7)** The council must give the applicant and the registrar a written copy of its decision under subsection (6) with the reasons for the decision.

**(8)** The Institute may, in accordance with the regulations, charge a fee for a review.

## **Suspension, Cancellation and Reinstatement**

### **Cancellation of practice permit and registration**

**36(1)** If a regulated member does not apply for a practice permit in accordance with 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 bylaws, the registrar, after 30 days or a greater number of days, as set out in the notice, after giving notice to the member, may cancel the member's practice permit and registration.

**(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 and registration are 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 and reinstate the registration.

**(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 bylaws, 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.

**(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.

### **Return of suspended or cancelled practice permit**

**37** If the practice permit of a regulated member is suspended or cancelled under this Part or under an order under Part 4, that person must, on request, send the practice permit to the registrar.

### **Reinstatement**

**38(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 bylaws.

**(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.

### **Suspension of practice permit**

**39** A regulated member whose practice permit is suspended shall not provide professional services unless

- (a) the Institute notifies the regulated member that the suspension is lifted, or
- (b) the suspension has expired.

## **Registration Required**

### **Mandatory registration**

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

- (a) is qualified to meet the requirements of section 22(2) for registration as a regulated member, and
- (b) intends to provide professional services to the public or to supervise regulated members who provide professional services to the public.

**(2)** If the registrar is of the opinion that a person who is not a regulated member meets or may meet the requirements referred to in subsection (1)(a) and provides any or all services described in subsection (1)(b), the registrar may give that person a written request to apply for registration.



(3) A person who receives a request under subsection (2) must give a complete application for registration, except the application fee, to the registrar within 30 days after receiving the request, and the application fee must be paid before registration.

(4) This section does not apply to a person who

- (a) is a student of the agronomy profession,
- (b) is authorized to provide any services referred to in subsection (1) pursuant to another enactment, or
- (c) provides the professional services on land in which the person has a direct or indirect interest.

#### **Offence**

**41(1)** A person who meets the requirements of section 40(1) but does not comply with a request under section 40(3) is guilty of an offence.

(2) A person who is guilty of an offence under this section is 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 a fine and imprisonment.

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

#### **Injunction**

**42** The Court of Queen's Bench, on application by the Institute by way of originating notice, may grant an injunction enjoining any person who meets the requirements of section 40(1)(a) from providing any or all services described in section 40(1)(b) if the person is not a regulated member and is not authorized to provide the services pursuant to another enactment.

## **Part 3 Continuing Competence**

### **Continuing competence program**

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

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

### **Referral to complaints director**

**44(1)** The competence committee must make a referral to the complaints director if, on the basis of information obtained from a continuing competence program, the competence committee is of the opinion that a regulated member has intentionally provided false or misleading information respecting participation in a continuing competence program.

**(2)** The 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.

### **Confidentiality**

**45(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 disclose to the complaints director the name of a regulated member and the grounds for a referral under section 44,
- (c) released or disclosed to the regulated member or the counsel of that member in connection with proceedings respecting that member under this Part, Part 2 or Part 4,
- (d) provided to an individual in accordance with Division 1 of Part 3 of the *Personal Information Protection Act* if the information is personal information about that individual, and
- (e) provided to the Office of the Information and Privacy Commissioner for the purposes of a review, investigation or inquiry under the *Personal Information Protection Act*.

(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**

**46** A person who knowingly publishes, releases or discloses information in contravention of section 45 is guilty of an offence and liable to a fine of not more than \$10 000.

## **Part 4 Professional Conduct**

### **Division 1 Complaints**

#### **Making a complaint**

**47(1)** A person may give a written, signed complaint to the complaints director regarding

(a) a regulated member, or

(b) a former member.

(2) A complaint under subsection (1) is not affected by the person about whom the complaint is made ceasing to be a regulated member before the proceedings with respect to the complaint are completed.

(3) Despite subsection (1)(b), a complaint cannot be made about a former member if 2 years has elapsed since the person became a former member.

(4) Despite subsection (1)(b), a complaint about a former member who was a member under the former Act but has not been a regulated member under this Act may be made under this Part only if discipline proceedings under the former Act could be commenced if that Act were still in force.

(5) If information or a referral is treated as a complaint under section 49 and acted on under section 48, the information or referral is deemed to be a complaint.

#### **Acting on a complaint**

**48(1)** Within 30 days after being given a complaint or treating information as a complaint, the complaints director must give notice to the complainant of the action taken with respect to it.

(2) The complaints director

(a) may encourage the complainant and the investigated person to communicate with each other and resolve the complaint,

(b) may, with the consent of the complainant and the investigated person, attempt to resolve the complaint,

(c) may make a referral to an alternative complaint resolution process under Division 2,

(d) may request an expert to assess and provide a written report on the subject-matter of the complaint,

(e) may conduct, or appoint an investigator to conduct, an investigation,

- (f) if satisfied that the complaint is trivial or vexatious, may dismiss the complaint, and
- (g) if satisfied that there is insufficient or no evidence of unprofessional conduct, may dismiss the complaint.

**(3)** If the complaints director dismisses the complaint, the complaints director must, within 30 days, give notice to the complainant of the dismissal and the right to apply for a review by the complaint review committee under section 60.

#### **Aware of unprofessional conduct**

**49** Despite not receiving a complaint under section 47, but subject to section 47(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 section 44,

the complaints director may treat the information as a complaint and act on it under section 48.

## **Division 2 Alternative Complaint Resolution**

#### **Process**

**50(1)** The complaints director may, with the agreement of the complainant and the investigated person, refer the complainant and the investigated person to an alternative complaint resolution process provided for in the regulations at any time before the commencement of a hearing by a hearing tribunal.

**(2)** If the complaints director makes a referral under subsection (1), a regulated member of the Institute must participate in or conduct the alternative complaint resolution process.

**(3)** A person who conducts an alternative complaint resolution process must be impartial and must act impartially.

**(4)** If a report has been prepared under section 48(2)(d) with respect to the complaint, the complaints director must submit a

copy of the report to the person conducting the alternative complaint resolution process.

**(5)** A person who conducts an alternative complaint resolution process may request an expert to assess and submit a written report on the subject-matter of the complaint or matters arising during the alternative complaint resolution process.

**(6)** A person who conducts an alternative complaint resolution process may assist in settling a complaint, but if

- (a) in the opinion of that person a settlement is not likely to occur, or
- (b) the complaints review committee does not ratify the settlement under section 52,

the person must notify the complaints director.

**(7)** If during the alternative complaint resolution process information is introduced that causes the person conducting the alternative complaint resolution process to believe that the matter is substantially different from the original complaint, the person must notify the complaints director, and the complaints director must decide whether the alternative complaint resolution process may continue or whether the matter must be processed under subsection (8).

**(8)** On being notified under subsection (6) or section 52(7)(b) or on deciding under subsection (7) to process a matter under this subsection, the complaints director must

- (a) if an investigation has not been commenced, commence an investigation under Division 3,
- (b) if an investigation has been commenced but no report of the investigation has been made, refer the complaint back to the investigator, if available, or appoint another investigator to complete the investigation regarding the complaint and make a report,
- (c) dismiss the complaint, or
- (d) in all other cases, refer the matter to the hearings director for a hearing.

### **Evidence**

**51(1)** A person who conducts an alternative complaint resolution process must keep any records relating to the process separate from the Institute records except a ratified settlement.

**(2)** Any document prepared or generated for the purposes of an alternative complaint resolution process belongs to the person who prepared or generated the document.

**(3)** Except information described in section 50(7) or information that is part of a ratified settlement or a report prepared pursuant to a request under section 50(5), any communication and evidence arising from anything said, evidence of anything said or evidence of an admission or communication made in the course of an alternative complaint resolution process is confidential and not admissible in any proceedings under this or any other Act or in any action, matter or proceedings before a court

- (a) without the written consent of the investigated person and the complainant, and
- (b) in the case of written evidence, without the written consent of the person who prepared the written evidence, the investigated person and the complainant.

### **Settlement**

**52(1)** If the complainant and the investigated person agree, in writing, to a proposed settlement of a complaint in an alternative complaint resolution process, the person conducting the alternative complaint resolution process must report the settlement to the complaint review committee.

**(2)** The complaint review committee may, on reviewing a proposed settlement of a complaint referred to it under subsection (1),

- (a) ratify the settlement,
- (b) with the written consent of the complainant and the investigated person, amend the settlement and then ratify the settlement, or
- (c) refuse to ratify the settlement.

**(3)** The complaint review committee must notify the complaints director of its actions under subsection (2).

**(4)** On becoming aware of information that a ratified settlement is not complied with, the complaints director may treat it as a complaint and

- (a) act on it under section 48, or
- (b) refer it to the hearings director for a hearing.

**(5)** If the complaints director makes a referral under subsection (4)(b), the information is deemed to be a complaint and the complaints director must notify the complainant and the investigated person of the action taken with respect to it.

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

- (a) may publish, in accordance with the bylaws, 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.

**(7)** Subject to subsections (4) and (6), if a ratified settlement

- (a) relates to all the matters complained of or that arose during the alternative complaint resolution process, no further proceedings under this Part may be taken with respect to those matters, or
- (b) relates to only part of the matters complained of or that arose during the alternative complaint resolution process, the person who conducted the alternative complaint resolution process must notify the complaints director of the matters that do not form part of the ratified settlement, and the complaints director must act on those matters under section 50(8).



## **Division 3 Investigations**

### **Notice of investigation**

**53(1)** If an investigation is to be conducted under this Part, the complaints director

- (a) must give the complainant the name of the investigator, and
- (b) must, unless it would significantly harm the investigation, give the investigated person the name of the investigator and reasonable particulars of the complaint to be investigated.

**(2)** If the investigated person is not given the information referred to in subsection (1)(b) when an investigation is to be conducted, the complaints director must give the information to the investigated person

- (a) when there would be no significant harm to the investigation, or
- (b) before the investigation is completed,

whichever is earlier.

### **Investigation scope**

**54(1)** An investigator may investigate a complaint.

**(2)** In the course of an investigation under subsection (1), an investigator may investigate matters that are related to the conduct of the investigated person that could give rise to a finding of unprofessional conduct.

### **Investigation powers**

**55(1)** An investigator

- (a) may, at any reasonable time,
  - (i) require any regulated member or former member to answer any relevant questions and direct the regulated member or former member to answer the questions under oath, and

- (ii) require any regulated member or former member to give to the investigator any document, substance or thing relevant to the investigation that the regulated member or former member possesses or that is under the control of the regulated member or former member,
- (b) may require any regulated member or former member to give up possession of any document described in clause (a) to allow the investigator to take it away to copy it, in which case the investigator must return it within a reasonable time of being given it and in any case must return it no later than on the completion of the hearing,
- (c) may require any regulated member or former member to give up possession of any substance or thing described in clause (a) to allow the investigator to take it away to examine it and perform tests on it, in which case the investigator must return it, if appropriate and possible, within a reasonable time of being given it and in any case must return it, if appropriate and possible, no later than on the completion of the hearing, and
- (d) may, at any reasonable time, enter and inspect any work site where a regulated member or former member provides professional services, but if the work site contains a private dwelling place may not enter any part of the work site that is designed to be used as and is being used as a permanent private dwelling place.

**(2)** The investigator may copy and keep copies of anything given under subsection (1).

**(3)** The complaints director, on the request of an investigator or without a request if the complaints director is the investigator, may apply to the Court of Queen's Bench for

- (a) an order directing any person
  - (i) to give to the investigator any documents, substances or things relevant to the investigation in the person's possession or under the person's control,
  - (ii) to give up possession of any document described in subclause (i) to allow the investigator to take it away to copy it, in which case the investigator must return

it within a reasonable time after receiving it and in any case must return it no later than on the completion of the hearing, or

(iii) to give up possession of any substance or thing described in subclause (i) to allow the investigator to take it away, examine it and perform tests on it, in which case the investigator must return it, if appropriate and possible, within a reasonable time of being given it and in any case must return it, if appropriate and possible, no later than on the completion of the hearing;

(b) an order directing any person to attend before the investigator to answer any relevant questions the investigator may have relating to the investigation.

(4) An application for an order under subsection (3) may be made without notice if the Court is satisfied that it is proper to make the order in the circumstances.

(5) A person may comply with a request to give documents under subsection (1)(a)(ii) or an order under subsection (3)(a)(i) by giving copies of the documents to the investigator.

(6) If a person gives copies under subsection (5), the person must on the request of the investigator allow the investigator to compare the copies with the original documents.

(7) An investigator who makes a comparison under subsection (6) may take away the original documents to make tests on them and must return them within a reasonable time of taking them and in any case must return them no later than on the completion of the hearing.

#### **Proceedings delayed**

**56** If during the investigation the complaints director refers the complainant and the investigated person to an alternative complaint resolution process in accordance with this Part, the investigation and hearing must not proceed unless the complaints director is notified as described in section 50(6) or makes a decision under section 50(7).

### **Conditions, suspension during proceedings**

**57(1)** On the recommendation of the complaints director or a hearing tribunal, a person or committee designated by the council may

(a) impose conditions on an investigated person's practice permit generally or with respect to any area of the practice of agrology, including the condition that the investigated person

(i) practise under supervision, or

(ii) practise with one or more other regulated members,

or

(b) suspend the practice permit of an investigated person,

until the completion of proceedings under this Part.

**(2)** The investigated person may apply for an order of the Court of Queen's Bench to stay a decision by a person or committee under subsection (1) by filing an originating notice with the Court and giving a copy to the registrar.

### **Report of investigation**

**58(1)** When an investigator concludes an investigation, the investigator must make a report within a reasonable time and, if the investigator is not the complaints director, submit the report to the complaints director.

**(2)** If, on reviewing a report made under this section, the complaints director determines that the report is not complete or that the investigation was not properly conducted, the complaints director

(a) must direct the investigator, or appoint another investigator, to undertake a further investigation and make a report and submit it to the complaints director, and

(b) may request an expert to assess and prepare a written report on the subject-matter of the complaint or matters arising from the investigation of the complaint.

**(3)** If on reviewing a report prepared under this section the complaints director determines that the investigation is concluded, the complaints director must

- (a) refer the matter to the hearings director for a hearing, or
- (b) dismiss the complaint if in the opinion of the complaints director
  - (i) the complaint is trivial or vexatious, or
  - (ii) there is insufficient or no evidence of unprofessional conduct.

**(4)** Despite subsection (3)(a), if the hearing tribunal has not commenced a hearing and the complaints director learns of new evidence that causes the complaints director to be of the opinion that the complaint is trivial or vexatious or that there is insufficient or no evidence of unprofessional conduct, the complaints director may withdraw the complaint from the hearings director and the hearing tribunal and dismiss the complaint.

#### **Notification of action taken**

**59** The complaints director must notify the complainant and the investigated person in writing of the action taken under section 58(3) and, if the complaint is dismissed,

- (a) must give the reasons, and
- (b) must notify the complainant in writing of the right to apply to the hearings director for a review under section 60.

#### **Review of dismissal of complaint**

**60(1)** A complainant may apply, in writing with reasons, to the hearings director for a review of the dismissal of a complaint within 30 days after being notified of the dismissal under section 48 or 59.

**(2)** Despite section 14(2), on receipt of an application under subsection (1), the hearings director must notify the investigated person, give a copy of the application to a complaint review committee and direct the complaints director to give a copy of the reports made under section 58 to the complaint review committee.

(3) Within 60 days after receipt of a report under subsection (2), the complaint review committee must commence a review of the report and the decision to dismiss the complaint.

(4) A complaint review committee may determine whether the submissions to it by the complainant and the investigated person with respect to a review under subsection (3) must be written, oral or both.

(5) The complaint review committee, on completing a review under subsection (3), must

- (a) refer the matter to the hearings director for a hearing,
- (b) direct the complaints director to either conduct or appoint an investigator to conduct a further investigation and to prepare a report on the further investigation and submit it to the complaint review committee for its consideration before it acts under clause (a) or (c), or
- (c) confirm that the complaint is dismissed if in the opinion of the complaint review committee
  - (i) the complaint is trivial or vexatious, or
  - (ii) there is insufficient or no evidence of unprofessional conduct.

(6) The complaint review committee must give the complainant and the investigated person written notification, with reasons, of any action taken under subsection (5).

#### **Hearing to be scheduled**

**61** Within 90 days after receiving a referral for a hearing, the hearings director must set a date for a hearing with respect to the complaint unless

- (a) the complaints director dismisses the complaint under section 58(4),
- (b) a person or committee designated by the council grants an extension on reasonable grounds on application by the hearings director, or

- (c) the complaints director and the investigated person agree to an extension.

#### **Admission of unprofessional conduct**

**62(1)** At any time after a complaint has been made but before a hearing tribunal has made a decision as to whether unprofessional conduct has occurred, an investigated person may submit a written admission of unprofessional conduct to the hearings director.

**(2)** An admission under subsection (1) may not be acted on unless it is acceptable in whole or in part to the hearing tribunal.

**(3)** If an admission under subsection (1) is accepted in whole or in part by the hearing tribunal, any investigation of the complaint and any alternative complaint resolution process with respect to the complaint are suspended, and the hearing tribunal may hold a hearing to decide

- (a) whether the admitted conduct is unprofessional conduct, and

- (b) whether any orders are to be made under section 74(1).

**(4)** Despite subsection (3), if an admission under subsection (1) does not relate to all the matters complained of or investigated, the remaining matters may be submitted to the complaints director to be treated as information received under section 49.

## **Division 4 Hearings and Decisions**

### **Bias Prevention**

#### **Bias prevention**

**63** Any person who has investigated, reviewed or made a decision on a complaint or matters related to a complaint may not subsequently sit as a member of the council, hearing tribunal or committee while it is holding a hearing or a review with respect to that complaint.

## Witnesses

### Investigated person at hearing

**64(1)** The investigated person must appear and may be represented by counsel at a hearing before the hearing tribunal.

**(2)** The investigated person or counsel for the investigated person may examine any witness appearing before the hearing tribunal.

### Investigated person's witnesses

**65** The investigated person may call any person, including the complainant, as a witness and may cause any person, including the complainant, to be given a notice to attend or a notice to attend and a notice to produce at the hearing any document, substance or thing related to the subject-matter of the hearing.

### Institute's witnesses

**66** The complaints director may request that any person, including the complainant and the investigated person, who in the opinion of the complaints director has knowledge of the subject-matter of the hearing be called as a witness and be given a notice to attend or a notice to attend and a notice to produce any document, substance or thing related to the subject-matter of the hearing.

### Notice

**67** A notice under section 65 or 66 must be signed by the hearings director and the Institute must retain a copy of the notice.

### Rights and obligations of witnesses

**68(1)** A witness, including the investigated person, may be examined under oath, may give evidence on all matters relevant to the hearing before the hearing tribunal and is not excused from answering a question because the answer may

- (a) tend to incriminate the witness,
- (b) subject the witness to orders under this Part, or
- (c) tend to establish the witness's liability in a civil proceeding or a prosecution under this Act or any other enactment.



(2) If an answer given under subsection (1) by a witness could

- (a) incriminate the witness, or
- (b) establish the witness's liability in a civil proceeding or proceedings under any enactment,

that answer may not be used or received against the witness in a civil proceeding, a prosecution under this Act or proceedings under any other Act, but that answer may be used or received against the witness in proceedings in respect of perjury or giving contradictory evidence under this Act.

(3) A witness must be advised that the hearing is open to the public unless the hearing tribunal directs that the hearing be closed.

(4) If a person who has been given a notice to attend or a notice to attend and a notice to produce in accordance with section 65 or 69 fails

- (a) to attend the hearing,
- (b) to produce the items set out in the notice to produce, or
- (c) to be sworn or to answer any question that the hearing tribunal directs the person to answer,

the Institute or the investigated person may apply to the Court of Queen's Bench for an order directing the person to comply with the notice and to be sworn and answer questions.

(5) An application for an order under subsection (4) may be made without notice to the other party if the Court is satisfied that it is proper to make the order in the circumstances.

(6) If a witness is outside Alberta, a judge of the Court of Queen's Bench may, on an application made by the Institute or the investigated person, without notifying the witness, direct the issuing of a commission for the obtaining of evidence from the witness, but the commission may be issued only, and the evidence must be taken, in the same manner as under the *Alberta Rules of Court*.

## Hearings

### Institute's duties in respect of hearing

**69** The hearings director must

- (a) at least 30 days before the hearing, give the investigated person a notice to attend and give reasonable particulars of the subject-matter of the hearing,
- (b) prior to the hearing, give the complainant reasonable notice of the date, time and location of the hearing,
- (c) as requested under section 66, give any person a notice to attend, and
- (d) as requested under section 66, give any person who is to produce documents or any substance or thing a notice to attend and a notice to produce.

### Access to hearing

**70(1)** A hearing is open to the public unless

- (a) the hearing tribunal holds the hearing or part of the hearing in private on its own motion or on an application of any person that the hearing or part of the hearing should be in private
  - (i) because of probable prejudice to a civil action or a prosecution of an offence,
  - (ii) to protect the safety of the person or of the public,
  - (iii) because not disclosing a person's confidential personal, health, property or financial information outweighs the desirability of having the hearing open to the public,
  - (iv) because not disclosing confidential agrology industry information outweighs the desirability of having the hearing open to the public,
  - (v) because the presence of the public or the complainant could compromise the ability of a witness to testify, or

(vi) because of other reasons satisfactory to the hearing tribunal,

or

(b) another Act requires that the hearing or part of the hearing be held in private.

(2) If a hearing or part of a hearing is held in private, the hearing tribunal must state the reason why and must include the reason in the record.

(3) Even if a hearing is held in private,

(a) the investigated person and the investigated person's counsel may attend,

(b) the complainant may attend unless the hearing tribunal directs otherwise, and

(c) the complaints director and counsel for the hearing tribunal, complaints director and Institute may attend.

(4) Even if a hearing is open to the public, a witness, except the investigated person, may be excluded from the hearing until the witness has given evidence and has been released or dismissed from the hearing.

#### **Tribunal at hearing**

**71(1)** If the hearing tribunal is advised by counsel acting on behalf of the tribunal at a hearing, that counsel must not lead or present evidence at the hearing on behalf of the Institute or act as counsel for the complaints director.

(2) The hearing tribunal may request an expert to assess and prepare a written report on any matter that in the opinion of the hearing tribunal is relevant to the subject-matter of the hearing.

(3) The hearing tribunal may hear evidence on any other matter that arises in the course of a hearing, but the hearing tribunal must give the investigated person notice of its intention to hear the evidence and on the request of the investigated person must grant an adjournment before hearing the evidence.

(4) If the hearing tribunal is of the opinion that a separate hearing is required with respect to a matter described in subsection (3), the hearing tribunal may

- (a) refer the matter as information to the complaints director under section 49, or
- (b) refer the matter to the hearings director for a hearing to be scheduled under section 61.

(5) Evidence may be given before the hearing tribunal in any manner that it considers appropriate, and it is not bound by the rules of law respecting evidence applicable to judicial hearings.

(6) Despite section 64(1), if the investigated person does not appear at a hearing and there is proof that the investigated person has been given a notice to attend, the hearing tribunal may

- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act or decide on the matter being heard in the absence of the investigated person.

## **Decisions and Records**

### **Tribunal decision**

**72(1)** The hearing tribunal may decide that the conduct of an investigated person does or does not constitute unprofessional conduct.

(2) If the hearing tribunal is of the opinion that there are reasonable and probable grounds to believe that the investigated person has committed a criminal offence, the hearing tribunal must direct the hearings director to send a copy of the written decision under section 75 to the Minister of Justice and Attorney General and on the request of the Minister of Justice and Attorney General also send a copy of the record of the hearing.

### **Previous decisions**

**73** If the hearing tribunal decides that the conduct of an investigated person constitutes unprofessional conduct, the hearing tribunal may request the Institute to provide it with a copy of any previous decision of unprofessional conduct with respect to the

investigated person and a copy of the record of the previous hearing.

**Orders of tribunal**

**74(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:

- (a) caution the investigated person;
- (b) reprimand the investigated person;
- (c) impose conditions on the investigated person's practice permit generally or in any area of the practice of agrology, including conditions that the investigated person
  - (i) practise under supervision,
  - (ii) practise with one or more other regulated members,
  - (iii) not practise agrology until the investigated person has completed a specific program of study or obtained supervised practical experience of a type described in the order,
  - (iv) not practise in an area of the practice of agrology, or
  - (v) report on specific matters to the hearing tribunal, the council or a committee or individual specified in the order;
- (d) direct that within the time set by the order the investigated person must pass a specific course of study, obtain supervised practical experience of a type described in the order or satisfy the hearing tribunal or a committee or individual specified in the order as to the investigated person's competence generally or in an area of the practice of agrology;
- (e) suspend the practice permit of the investigated person for a stated period or until
  - (i) the investigated person has successfully completed a specific course of studies or obtained supervised

practical experience of a type described in the order,  
or

- (ii) the hearing tribunal or a committee or individual specified in the order is satisfied as to the competence of the investigated person generally or in a specified area of the practice of agrolgy;
- (f) cancel the registration and practice permit of the investigated person;
- (g) if, in the opinion of the hearing tribunal, the investigated person's fees for professional services were improper or inappropriate or the professional services that the investigated person provided were improperly rendered, direct the investigated person to waive, reduce or repay fees for professional services provided by the investigated person;
- (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 the hearing or both;
- (i) direct that the investigated person pay to the Institute within the time set in the order a fine not exceeding \$5000 for each finding of unprofessional conduct and not exceeding an aggregate fine of \$25 000 for all findings of unprofessional conduct arising out of the hearing;
- (j) any order that the hearing tribunal considers appropriate for the protection of the public.

**(2)** The hearing tribunal may, in an order under subsection (1), stay the order or a portion of the order on conditions set out in the order.

**(3)** If the complaints director is satisfied that a person has not complied with an order under this section or under section 81(5)(b), the complaints director may

- (a) treat the failure to comply as information under section 49,
- (b) refer the matter to the hearings director to schedule a hearing before the hearing tribunal, or

- (c) in the case of non-payment of a fine described in subsection (1)(i) or expenses described in subsection (1)(h) or section 81(6), suspend the practice permit of the person until the fine or expenses are paid in full or the complaints director is satisfied that they are being paid in accordance with an agreement entered into with the person.

**(4)** A fine or expenses ordered to be paid under this section are a debt due to the Institute and may be recovered by the Institute by an action in debt.

#### **Written decision**

**75** The hearing tribunal must, within a reasonable time after the conclusion of a hearing before it, make a written decision on the matter in which it

- (a) describes each finding made by it,
- (b) states the reasons for each finding made by it, and
- (c) states any order made under this Part.

#### **Service of decision and record of hearing**

**76(1)** The hearing tribunal must forward to the hearings director

- (a) the written decision under section 75, and
- (b) the record of the hearing, consisting of all evidence presented before it, including
  - (i) the reports, exhibits and documents presented before it, and
  - (ii) a record of the evidence, including all testimony given before it, however recorded.

**(2)** The hearings director must, on receiving the decision and the record described in subsection (1), give a copy of the decision to

- (a) the complaints director and the registrar,
- (b) the complainant,

- (c) the investigated person, and
- (d) the Minister of Justice and Attorney General, if so directed under section 72(2),

and notify the investigated person of the right to appeal the decision to the council.

#### **Examination of record**

**77(1)** The investigated person may examine the record of the hearing and, on paying the reasonable costs of transcribing, copying and delivering the record, receive a copy of it.

**(2)** The complainant may examine the record of the hearing, except the part of the record that relates to a part of the hearing that the complainant was directed by the hearing tribunal, under section 70(3)(b), not to attend, and on paying the reasonable costs of transcribing, copying and delivering that record may receive a copy of it.

**(3)** The public may examine the decision and the record of the hearing except the part of the record that relates to a part of the hearing that was held in private and, on paying the reasonable costs of transcribing, copying and delivering that decision and record, may receive a copy of them.

### **Division 5 Appeals**

#### **Stay pending appeal**

**78(1)** A decision of the hearing tribunal remains in effect pending an appeal to the council unless the person or committee designated by the council, on written application, stays the decision pending the appeal.

**(2)** The investigated person may make a written submission with respect to an application under subsection (1).

**(3)** If the person or committee designated by the council

- (a) decides not to stay the decision of the hearing tribunal, or
- (b) does not make a decision within 10 days, excluding holidays, of the date of the application,



the applicant may apply to the Court of Queen's Bench for a stay of the decision of the hearing tribunal pending an appeal to the council.

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

### **Appeal Within Institute**

#### **Appeal to council**

**79(1)** An investigated person or the complaints director, on behalf of the Institute, may commence an appeal to the council of a decision of a hearing tribunal by a written notice of appeal that

- (a) identifies the appealed decision, and
- (b) states the reasons for the appeal.

(2) A notice of appeal must be given to the hearings director within 30 days after the date on which the decision of the hearing tribunal is given to the investigated person.

(3) The hearings director must, on being given a notice of appeal,

- (a) give a copy of the notice of appeal, and make a copy of the decision and record of the hearing available, to each member of the council or of the panel of the council hearing the appeal,
- (b) ensure that the complaints director, the investigated person and the complainant are given a notice of the hearing of the appeal that states the date, time and place at which the council will hear the appeal, and
- (c) ensure that the investigated person and the complaints director are given a copy of the record of the hearing.

#### **Scheduling appeal**

**80(1)** The council must,

- (a) if conditions have been imposed on the practice permit of the investigated person under section 74(1)(c)(i), (ii), (iii) or (iv) or if the practice permit of the investigated person has been suspended or cancelled under section 74(1)(e) or

(f), schedule the appeal within 45 days after the date of service of the notice of appeal, and

(b) in all other cases, schedule the appeal within 90 days after the date of service of the notice of appeal.

**(2)** The council may, on the written request of the investigated person or the complaints director, extend the periods referred to in subsection (1) for one or more additional periods, but

(a) in a case to which subsection (1)(a) applies, no extension may be granted without the consent of the investigated person, and

(b) in a case to which subsection (1)(b) applies, no extension may be granted without the consent of the investigated person and the complaints director.

#### **Council's powers on appeal**

**81(1)** The complaints director and the investigated person may appear and be represented by counsel at an appeal before the council.

**(2)** Subject to subsection (4)(b), an appeal to the council must be based on the record of the hearing and the decision of the hearing tribunal.

**(3)** Subject to subsection (4)(b), sections 63, 64(1), 69(a) and (b), 70, 71(1), (5) and (6) and 72 to 77 apply with all necessary modifications to appeal proceedings before the council.

**(4)** The council 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, but no adjournment may be granted without the consent of the investigated person if that person's practice permit is suspended or cancelled,

(b) on hearing an application for leave to introduce new evidence, direct the hearing tribunal that held the hearing to hear that evidence and to reconsider its decision and to quash, confirm or vary the decision, and

- (c) draw inferences of fact and make a determination or finding that, in its opinion, should have been made by the hearing tribunal.

(5) The council must, within 90 days from the date of the conclusion of the appeal before it, make a decision and, by order, do any or all of the following:

- (a) make any finding that in its opinion should have been made by the hearing tribunal,
- (b) quash, confirm or vary any finding or order of the hearing tribunal or substitute or make a finding or order of its own,
- (c) refer the matter back to the hearing tribunal to receive additional evidence for further consideration in accordance with any direction that the council may make, or
- (d) refer the matter to the hearings director to schedule it for rehearing before another hearing tribunal, composed of persons who were not members of the hearing tribunal that heard the matter.

(6) Subject to the regulations, if the investigated person is the appellant, the council may direct the investigated person to pay, within the time set by the council, all or part of the expenses of the appeal in addition to the expenses referred to in section 74(1)(h).

(7) A fine or expenses ordered or directed to be paid under this section are a debt due to the Institute and may be recovered by the Institute by an action in debt.

## **Appeal to the Court**

### **Court of Appeal**

**82(1)** An investigated person may appeal to the Court of Appeal any finding, order or direction of the council under section 81.

(2) An appeal under this section may be commenced

- (a) by filing a notice of appeal with the clerk of the Court at Edmonton or Calgary, and

- (b) by giving a copy of the notice of appeal to the complaints director and the complainant

within 30 days from the date on which the decision of the council is given to the investigated person.

#### **Appeal on record**

**83(1)** The appeal to the Court of Appeal must be based on the record of the hearing before the council and the council's decision, including the reasons for the decision, all of which must be certified by the hearings director.

(2) The hearings director, at the expense of the appellant, must arrange for the preparation of the record of the hearing before the council.

(3) If part of the hearing was held in private, the hearings director must ensure that the part of the record that relates to it is sealed.

(4) The part of a record that is sealed under subsection (3) may be reviewed by the Court of Appeal, and the Court of Appeal may direct that it remain sealed or that it be unsealed in whole or in part.

#### **Power of Court on appeal**

**84(1)** The Court of Appeal on hearing an appeal may

- (a) make any finding that in its opinion should have been made;
- (b) quash, confirm or vary the finding or order of the council or any part of it;
- (c) refer the matter back to the council for further consideration in accordance with any direction of the Court;
- (d) if the appeal is wholly or partly successful, direct that all or part of the cost of preparation of the record referred to in section 83 be repaid by the Institute to the appellant or be applied to reduce the amount of penalties or costs otherwise payable to the Institute by the appellant.

(2) The Court of Appeal may make any award as to the costs of an appeal to it that it considers appropriate.

#### **Application to vary order**

**85** If the time for filing an appeal under this Part has passed or if, due to a change in circumstances, an order under this Part is impossible to carry out, the person to whom the order is directed or the complaints director may apply to the council for a variation of the order.

### **Division 6 General**

#### **Non-prejudicial orders**

**86** A hearings director may make any order with respect to clerical and administrative matters that the hearings director considers necessary to prevent prejudice to the investigated person.

#### **Commissioner for oaths**

**87** A complaints director, a person appointed by the complaints director to conduct an investigation and each member of a hearing tribunal, the council or a complaint review committee is conferred with the powers of a commissioner for oaths under the *Commissioners for Oaths Act* for the purposes of an investigation, hearing, review or appeal under this Part.

### **Part 5 Business Arrangements**

#### **Conducting a Practice**

#### **Practice arrangements**

**88(1)** A regulated member is responsible, for the purposes of this Act, the code of ethics and the standards of practice, for how the member provides professional services and complies with this Act, the code of ethics and the standards of practice, and that responsibility is not affected, modified or diminished by the practice arrangements of the regulated member.

**(2)** Without restricting the generality of practice arrangements, practice arrangements include providing professional services as, in relationship to or on behalf of

- (a) a self-employed individual,
- (b) an employee,

- (c) a partner,
- (d) a partnership,
- (e) a shareholder,
- (f) a director,
- (g) a corporation, or
- (h) an employer.

**Municipal, settlement licence exemption**

**89** No municipality or Metis settlement has the power to require

- (a) a regulated member to obtain a licence from the municipality or Metis settlement to engage in the practise of agrology, or
- (b) a corporation or a partnership owned by regulated members to obtain a licence from the municipality or Metis settlement to engage in the practise of agrology.

**Advertising**

**90** A regulated member shall not engage in advertising that is untruthful, inaccurate or otherwise capable of misleading or misinforming the public.

**Part 6  
Other Matters**

**Exemption**

**Exemption of veterinarians and pharmacists**

**91** Nothing in this Act applies to or affects

- (a) a person registered with the Alberta Veterinary Medical Association as a registered veterinarian or permit holder, or
- (b) a person registered as a member or, on and after the coming into force of Schedule 19 to the *Health*

*Professions Act*, a regulated member, of the Alberta  
College of Pharmacists

in the practice of the person's profession.

### **Notices and Information**

#### **Access to regulated member's information**

**92(1)** If under Part 2 or 4 a regulated member's practice permit is suspended or cancelled, or if conditions are imposed on a regulated member's practice permit, the registrar

- (a) must enter the conditions imposed, if any, on the regulated member's practice permit,
- (b) 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, on the request of that person,
- (c) may provide the information to the governing bodies of any similar profession in other provinces or territories, and
- (d) subject to the bylaws, may publish or distribute the information referred to in this subsection and information respecting the imposition of a reprimand or fine under Part 4.

**(2)** If a regulated member applies for a review of a decision under Part 2 or appeals a decision under Part 4 and a cancellation or suspension is reversed, imposed conditions are varied or removed or a reprimand is removed, the registrar must provide that information in the same manner as the information on the cancellation, suspension, conditions or reprimand was provided in under subsection (1).

**(3)** If a member of the public, during regular business hours, requests from the Institute information referred to in this section or section 27(3) or 77(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, then, subject to the regulations respecting the period of time during which the Institute is obliged to provide information under this subsection, the Institute must

provide the information with respect to that regulated member, subject to payment of the costs referred to in section 77(3).

### **Notices**

**93(1)** A notice to attend and a notice to produce must include the date, time and place at which attendance or production is required.

**(2)** The person who gives a notice to attend or a notice to produce may at any time amend the notice to correct errors or omissions of a minor or clerical nature.

**(3)** When this Act or the bylaws require that a document or notice be given to any person, the document or notice is sufficiently given if it is given by personal service to that person or sent to that person by certified or registered mail at that person's address last shown on the register or record of the registrar or, if that is not reasonably possible, then by publishing the document or notice 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 in the records of the Institute.

### **Record retention**

**94** The Institute must keep, for at least 10 years,

- (a) a copy of ratified settlements and admissions of unprofessional conduct,
- (b) records of investigations and hearings, and
- (c) records of complete registration applications and reviews.

## **Evidence**

### **Evidence of registration**

**95(1)** A certificate purporting to be signed by the registrar that states that, according to the records of the Institute under this Act or the former Act, a named person was or was not, on a specified day or during a specified period, a regulated member, other member or former member, including the category of membership, is admissible in evidence as proof of those facts, in the absence of evidence to the contrary, without proof of the registrar's appointment or signature.



(2) When proof of registration under this Act or the former Act is required, a printed copy of or extract from the register certified by the registrar is admissible in evidence instead of the original register.

(3) A certificate purporting to be signed by a person in that person's capacity as registrar and bearing the seal of the Institute is admissible in evidence as proof of the facts stated in the certificate, in the absence of evidence to the contrary, without proof of the signature of the registrar or the registrar's appointment.

(4) When

- (a) proof that a person is a regulated member under this Act whose practice permit is not suspended or cancelled is required to validate a witness's evidence, and
- (b) a copy of the register or extract from the register certified by the registrar is not available and the production of the original register is not feasible without prejudicial delay to the case or the parties interested,

the evidence of the person under oath claiming to be a regulated member whose practice permit is not under suspension or cancelled is admissible in evidence as proof of those facts, in the absence of evidence to the contrary.

#### **Burden of proof**

**96** In a prosecution under this Act, the burden of proving that a person is a regulated member or former member is on the accused.

#### **Records, evidence not admissible**

**97(1)** Despite any other Act or law except the *Personal Information Protection Act* or the *Ombudsman Act*,

- (a) the Institute,
- (b) a person who is or was an officer, employee or agent of the Institute,
- (c) a person who is conducting 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 the council or a committee or hearing tribunal of the Institute

shall not be required in any proceedings to give evidence relating to any matter that arose in any proceedings under this Act or the bylaws, or to produce any record or thing adduced in evidence in proceedings under this Act or the bylaws or forming part of the records of the Institute that relate to proceedings under Part 4, except in proceedings under this Act, or in a prosecution with respect to perjury or the giving of contradictory evidence.

(2) Subsection (1) does not apply to information described in section 92.

(3) Despite any other Act or law except the *Personal Information Protection Act* or 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.

## **Liability**

### **Liability exemption**

**98(1)** No action lies against any of the following in respect of anything done or omitted to be done in good faith pursuant to this Act, the bylaws or any direction of the council:

- (a) the Institute or a person who is or was an officer, employee or agent of the Institute;
- (b) a person who conducts or has conducted an investigation or an alternative complaint resolution process under Part 4;
- (c) the council or a person who is or was a member of the council, a committee or a hearing tribunal of the Institute;
- (d) a person who acts on the instructions of and under the supervision of a person referred to in clauses (a) to (c).

(2) No action for defamation may be founded on a communication regarding the conduct of a regulated member if the communication is made or is published in accordance with this Act by the Institute, a person described in subsection (1) or the council, a committee or a hearing tribunal in good faith and in the course of any proceedings under this Act or the bylaws relating to that conduct.

## **Ombudsman**

### **Complaints to Ombudsman**

**99(1)** Subject to section 55(4) of the *Personal Information Protection Act*, any person may make a complaint with respect to anything under this Act in accordance with the *Ombudsman Act*.

(2) The Institute, the council or a panel, a committee, a hearing tribunal, the registrar, the president, the complaints director or the hearings director of the Institute or any officer, investigator or person engaged by the Institute may, on the recommendation of the Ombudsman,

- (a) rehear any matter and reconsider any decision or recommendation made by that person or body, and
- (b) quash, confirm or vary the decision or recommendation or any part of it.

(3) If a matter is reheard or reconsidered pursuant to subsection (2), the provisions of this Act governing the original hearing or consideration apply to the rehearing or reconsideration.

## **Part 7 Protected Words and Abbreviations**

### **Protected words, abbreviations**

**100(1)** No person or group of persons shall represent or imply that the person is a regulated member or that the group of persons consists of regulated members unless the person is a regulated member or the group of persons consists of regulated members.

(2) No person or group of persons shall use the name of the Institute, alone or in combination with other words, in a manner that states or implies that the person is a regulated member or other member unless the person is a regulated member or other member

or that the group of persons consists of regulated members or other members unless the group of persons consists of regulated members or other members.

(3) No regulated member shall use the word “registered” or “regulated” in a manner that states or implies that the member is a regulated member except in accordance with the regulations.

(4) No person other than a regulated member shall use a title, an abbreviation or initials set out in the regulations in a manner that states or implies that the person is a regulated member.

(5) No person or group of persons shall use the word “professional”, “registered”, “regulated” or “agrologist”, alone or in combination with other words, in a manner that states or implies that the person is a regulated member or that the group of persons consists of regulated members unless the person or group of persons

- (a) is a regulated member or a group that consists of regulated members, or
- (b) is a person or group of persons authorized by another enactment to use the word “professional”, “registered”, “regulated” or “agrologist” in connection with the practice of agrology.

#### **Penalty**

**101** A person who contravenes section 100 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 a fine and imprisonment.

#### **Injunction**

**102** The Court of Queen’s Bench, on application by the Institute by way of originating notice, may grant an injunction enjoining any person from doing any act that contravenes section 100, despite any

penalty that may be provided for by section 101 in respect of that contravention.

## **Part 8 Regulations, Bylaws, Code of Ethics and Standards of Practice**

### **Council regulations**

**103(1)** The council may make regulations

- (a) respecting requirements for and applications for registration and practice permits, including but not restricted to
  - (i) education, experience, enrolment in programs of study, successful completion of examinations and holding of degrees, certificates and diplomas;
  - (ii) recognizing professions in other jurisdictions for the purposes of section 22(2)(b);
  - (iii) requirements for the purposes of section 22(2)(b);
  - (iv) carrying professional liability insurance and governing the minimum amount and type of insurance required to be carried;
  - (v) providing evidence of being a Canadian citizen or a person lawfully permitted to work or study in Canada;
  - (vi) providing evidence of having good character and reputation;
  - (vii) providing evidence respecting meeting standards of language proficiency;
  - (viii) for the purposes of section 22(2)(c), determining the combination of education, experience, practice and other qualifications that demonstrates the competence required for registration as a regulated member;

- (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;
- (c) respecting conditions on practice permits;
- (d) establishing and respecting continuing competence programs, including the requirements of those programs;
- (e) respecting reinstatement of registration and reissuance of practice permits cancelled under Part 4;
- (f) respecting the establishment of a register of regulated members and the entry of information in the register and the removal of that information from the register;
- (g) respecting categories of regulated members and respecting the establishment of registers for categories of regulated members;
- (h) imposing conditions on categories of regulated members, restricting the time periods of registration and practice permits of categories of regulated members and restricting renewal of registration and practice permits of categories of regulated members;
- (i) respecting reissuing practice permits and reinstating registration;
- (j) respecting the use of titles, abbreviations and initials and the use of the words “professional”, “registered”, “regulated” and “agrologist” by a regulated member or a category of regulated members;
- (k) respecting information to be provided to the registrar by regulated members and by applicants for registration;
- (l) respecting the disclosure of information for the purposes of section 28(2);
- (m) respecting alternative complaint resolution processes;

- (n) respecting the period of time during which the Institute is obliged to provide information under section 92(3);
- (o) respecting other matters related to this Act.

(2) A regulation under this section does not come into force unless it has been approved by the Lieutenant Governor in Council.

### **Bylaws**

**104(1)** The council may make bylaws

- (a) respecting the governance of the Institute and the management and conduct of its affairs, including the management and carrying out of powers and duties by the council, committees, hearing tribunals, panels and other entities;
- (b) respecting the appointment, election, establishment and removal of officers, employees, committees, hearing tribunals, panels and other entities and their members, and their powers and duties;
- (c) establishing the council and, subject to section 12(1), respecting the number and selection or election of the voting and non-voting members of the council, their terms of office, removal from office and the filling of vacancies;
- (d) respecting quorum, procedures at meetings and the holding of meetings of the council, committees, hearing tribunals and other entities by mail, telephone conference or audiovisual or other electronic means;
- (e) establishing how or by whom expenses and remuneration payable to members of the council, committees, hearing tribunals and other entities are determined;
- (f) respecting the establishment of registers of other members and the entry of information in the registers and the removal of that information;
- (g) respecting other members, including transitional provisions respecting such members under the former Act;
- (h) establishing the date by which regulated members are to apply for renewal of practice permits and providing for

reinstatement of registration and reissuance of practice permits cancelled under this Act except those cancelled under Part 4;

- (i) respecting benefits programs and educational incentives;
- (j) respecting forms and notices;
- (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 bylaws and costs, fees, levies and assessments for any accreditation, review, appeal, thing or service provided by the Institute under this Act or the bylaws;
- (l) respecting the publication and distribution of information described in sections 52(6) and 92(1);
- (m) respecting the approval of bylaws;
- (n) respecting the development of or adoption of a code of ethics and standards of practice.

(2) The *Regulations Act* does not apply to bylaws under this section.

#### **Approval of program and courses**

**105** Before the Institute approves or removes the approval from a program of study or an education course under section 3(2), the Institute must consult with the Minister of Human Resources and Employment and the Minister of Advanced Education and must consider the comments received from those Ministers.

#### **Code of ethics, standards of practice**

**106(1)** The council may, in accordance with procedures set out in the bylaws, develop or propose the adoption of a code of ethics and standards of practice for the agrology profession.

(2) The Institute must provide, for review and comment, a copy of a proposed code of ethics and proposed standards of practice to

- (a) its regulated members,



(b) the Minister, and

(c) any other persons the council considers necessary.

(3) The council may adopt a code of ethics and standards of practice after it has reviewed and considered the comments received in a review described in subsection (2).

(4) The *Regulations Act* does not apply to a code of ethics and standards of practice approved under this section.

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

#### **Lieutenant Governor in Council regulations**

**107** The Lieutenant Governor in Council may make regulations

(a) respecting expenses for the purposes of sections 74(1)(h) and 81(6);

(b) respecting fees under sections 25(6) and 35(8).

#### **Transitional regulations**

**108(1)** The Lieutenant Governor in Council may make regulations

(a) respecting the conversion to this Act of anything from the former Act, including the interpretation of any transitional provision in this Act;

(b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act from the former Act.

(2) A regulation made under subsection (1) may be made retroactive to the extent set out in the regulation.

(3) A regulation made under subsection (1) is repealed on the earliest of

(a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act;

- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) 2 years after the regulation comes into force.

(4) The repeal of a regulation under subsection (3)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

## **Part 9 Transitional Provisions, Consequential Amendments, Repeal and Coming into Force**

### **Transitional Provisions**

#### **Transitional**

**109** On the coming into force of this Act,

- (a) the members of the council under the former Act continue as members of the council under this Act for the same terms of office unless their terms are terminated earlier under this Act;
- (b) the registrar under the former Act continues as the registrar under this Act for the same term of office unless the term is terminated earlier under this Act;
- (c) the president under the former Act continues as the Chair under this Act for the same term of office unless the term is terminated earlier under this Act.

#### **Transitional**

**110** On the coming into force of this Act, a person who is registered as a member under the former Act is deemed to be registered as a regulated member and to have been issued a practice permit by the registrar under this Act until the practice permit expires or is cancelled under this Act.

**Transitional**

**111(1)** On the coming into force of this Act, an application for registration as a member or for reinstatement as a member made under the former Act that has not been concluded must be concluded in accordance with that Act.

**(2)** For the purposes of subsection (1), the powers and duties

- (a) of the registrar under the former Act are vested in and may be exercised by the registrar under this Act and any reference to the registrar in the former Act or the regulations under that Act is deemed to be a reference to the registrar under this Act;
- (b) of the Board of Examiners, the Examinations Board and the Universities Co-ordinating Council under the former Act and the regulations under that Act are vested in and may be exercised by the registration committee under this Act, and any reference to the Board of Examiners, the Examinations Board or the Universities Co-ordinating Council in the former Act or the regulations under that Act is deemed to be a reference to the registration committee under this Act;
- (c) of the council under the former Act are vested in and may be exercised by the council under this Act, and any reference to the council in the former Act or the regulations under that Act is deemed to be a reference to the council under this Act.

**(3)** A person who is registered or reinstated as a member under this section is deemed to be registered as a regulated member and to have been issued a practice permit by the registrar under this Act until the practice permit expires or is cancelled under this Act.

**Transitional**

**112(1)** Any complaint made on or after the coming into force of this Act that relates to conduct occurring all or partly before the coming into force of this Act must be dealt with under this Act.

**(2)** On the coming into force of this Act, any proceedings with respect to a complaint made before the coming into force of this Act under the former Act that have not been concluded must be concluded in accordance with that Act.

(3) For the purposes of subsection (2), and subject to subsection (4), the powers and duties of the council under sections 27 and 29 of the former Act are vested in and may be exercised by the council under this Act, and any reference to the council in section 27 or 29 of the former Act is deemed to be a reference to the council under this Act.

(4) For the purposes of subsection (2), if on the coming into force of this Act the council under the former Act has commenced but not concluded a hearing, the members of the council under the former Act continue as members of the council for the purposes of the hearing until it is concluded as if this Act had not come into force and the former Act had not been repealed.

(5) For the purposes of subsection (2), the powers and duties of the president or vice-president under section 27 of the former Act are vested in and may be exercised by the Chair under this Act, and any reference to the president or vice-president in section 27 of the former Act is deemed to be a reference to the Chair under this Act.

(6) For the purposes of subsection (2), the powers and duties of the registrar under section 28 of the former Act are vested in and may be exercised by the registrar under this Act, and any reference to the registrar in section 28 of the former Act is deemed to be a reference to the registrar under this Act.

(7) For the purposes of subsection (2), a reference in section 27 of the former Act to suspension or expulsion of a member is deemed to be a reference to the suspension or cancellation of the registration and practice permit of that member under this Act.

(8) Any decision and order made by the council pursuant to this section is deemed to be a decision and order of a hearing tribunal or the council under this Act.

### **Consequential Amendments**

#### **Amends RSA 2000 cA-22**

**113 The *Alberta Heritage Foundation for Science and Engineering Research Act* is amended in section 2(1)(f) by striking out “registered member” and substituting “regulated member”.**

**Amends RSA 2000 cO-8**

**114 The *Ombudsman Act* is amended in section 1**

**(a) in clause (b) by striking out “and” at the end of subclause (iv), by adding “and” at the end of subclause (v) and by adding the following after subclause (v):**

(vi) when used in reference to an agrology association means the registrar as defined in the *Agrology Profession Act*;

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

(c.1) “agrology association” means

(i) the Alberta Institute of Agrologists, and

(ii) a council, panel, committee, hearing tribunal, registrar, Chair, complaints director and hearings director under the *Agrology Profession Act*, and any officer, investigator or person engaged by the Alberta Institute of Agrologists;

**(c) in clause (h) by striking out “and” at the end of subclause (iii), by adding “and” at the end of subclause (iv) and by adding the following after subclause (iv):**

(v) an agrology association;

**Repeal and Coming into Force**

**Repeal**

**115** The *Agrologists Act* is repealed.

**Coming into force**

**116** This Act comes into force on Proclamation.

**Explanatory Notes**

**113** Amends chapter A-22 of the Revised Statutes of Alberta 2000. Section 2(1)(f) presently reads:

*2(1) A corporation called the “Alberta Heritage Foundation for Science and Engineering Research” is established consisting of the following individuals appointed by the Lieutenant Governor in Council as trustees, each for a term of not more than 5 years:*

*(f) one registered member of the Alberta Institute of Agrologists;*

**114** Amends chapter O-8 of the Revised Statutes of Alberta 2000. Adds a definition and adds to definitions.

**115** Repeals chapter A-13 of the Revised Statutes of Alberta 2000.

**116** Coming into force.