



BILL NO. 211

Government Bill

*2nd Session, 60th General Assembly
Nova Scotia
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An Act to Ensure Fair Registration Practices by Regulating Bodies

CHAPTER 38
ACTS OF 2008

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 25, 2008**

The Honourable Mark Parent
Minister of Labour and Workforce Development

*Halifax, Nova Scotia
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An Act to Ensure Fair Registration Practices by Regulating Bodies

1 This Act may be cited as the *Fair Registration Practices Act*.

2 In this Act,

(a) “internal review” means a rehearing, reconsideration, review or appeal or other process provided by a regulating body in respect of the merits of a registration decision, regardless of the terminology used to describe the process;

(b) “internal review decision” means a decision in an internal review;

(c) “Minister” means the Minister of Labour and Workforce Development;

(d) “personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*;

(e) “record” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*;

(f) “registration” means the end result of a process by which an applicant seeks authority to

(i) engage in the practice of an occupation governed by a regulating body, whether such practice is independent, conditional or under supervision, or

(ii) use a designation or certification granted by a regulating body,

but does not include periodic renewals;

(g) “registration decision” means, irrespective of the terminology used by a regulating body, a decision to grant registration to an applicant or not grant registration to an applicant;

(h) “registration practices” means the administrative steps taken by a regulating body to process an application for registration, but does not include the standards and objective requirements set by a regulating body to assess the qualifications of individuals applying for registration;

(i) “regulating body” means a body listed in Schedule A to this Act or a person listed in Schedule B to this Act;

(j) “regulations” means the regulations made under this Act unless the context indicates otherwise;

(k) “third-party assessor” means a body external to a regulating body relied on by the regulating body to assess the equivalence of the qualifications of an applicant for registration.

3 This Act recognizes the commitments the Government of the Province has made under the Agreement on Internal Trade between the Government of Canada and the governments of all the provinces of Canada that came into force on July 1, 1995, to facilitate the free movement of persons, goods, service and investments throughout Canada, as implemented by the Province under the *Internal Trade Agreement Implementation Act*.

- 4 The Minister is responsible for the administration of this Act.

FAIR REGISTRATION PRACTICES CODE

5 This Section and Sections 6 to 12 may be referred to as the *Fair Registration Practices Code*.

6 A regulating body has a duty to carry out registration practices that are transparent, objective, impartial and procedurally fair.

7 A regulating body shall provide information in a clear and understandable form to individuals, including individuals who received their qualifications outside of Canada, applying or intending to apply for registration by the regulating body, and shall provide

- (a) information about its registration practices and internal review processes;
- (b) information about the length of time that the registration process for that regulating body usually takes;
- (c) the requirements for registration by the regulating body;
- (d) a description of the criteria used to assess whether the requirements for registration have been met;
- (e) information about any support the regulating body provides to applicants during the registration process; and
- (f) information setting out any fees for registrations.

8 A regulating body shall

- (a) respond to inquiries from applicants for registration within a reasonable time;
- (b) where registration is granted, provide written confirmation within a reasonable time to applicants;
- (c) where registration is not granted, provide written decisions that include reasons to applicants within a reasonable time respecting registration decisions; and
- (d) provide, where practical, information respecting measures or programs that may be available to assist unsuccessful applicants in obtaining registration at a later date.

9 A regulating body shall

- (a) make information publicly available on what documentation of qualifications must accompany an application; and
- (b) where documentation cannot be obtained by an applicant for reasons beyond the applicant's control, advise the applicant what alternative information may be supplied by the applicant that may be acceptable to the regulating body.

10 (1) Where a regulating body does not grant registration to an applicant, the regulating body shall provide an internal review process within a reasonable time and shall inform the

applicant of the internal review process and of the procedures and time frames for the internal review.

(2) A regulating body shall provide an applicant for registration an opportunity to provide new information and to make submissions with respect to an internal review in such manner as determined by the internal review decision-maker.

(3) An internal review decision-maker shall provide an applicant with a written decision that includes reasons within a reasonable time.

(4) A regulating body may specify how submissions in respect of an internal review are to be submitted.

(5) No one who acted as a decision-maker in respect of a registration decision may act as a decision-maker in an internal review in respect of that registration decision.

11 A regulating body shall ensure that individuals acting as decision-makers in internal reviews receive training on conducting on an internal review.

12 (1) Upon the written request of an applicant for registration by a regulating body, the regulating body shall provide the applicant with access to records held by it that are related to the application.

(2) Notwithstanding subsection (1), a regulating body may refuse access to a record if

(a) the record or any information in the record is subject to a legal privilege that restricts disclosure of the record or the information, as the case may be;

(b) another enactment, including an Act of the Parliament of Canada or a regulation made pursuant to such an Act, or a court order or order of a quasi-judicial tribunal prohibits disclosure of the record or any information in the record in the circumstances;

(c) granting the access could reasonably be expected to lead to the identification of a person who provided information in the record to the regulating body explicitly or implicitly in confidence, and the regulating body considers it appropriate in the circumstances that the identity of the person be kept confidential;

(d) granting the access could reasonably be expected to threaten or harm the mental or physical health or the safety of another person; or

(e) granting the access could negatively affect public safety or could undermine the integrity of the registration process.

(3) Notwithstanding subsection (2), an applicant has a right of access to that part of a record that can reasonably be severed from the part to which the applicant does not have a right of access by reason of that subsection.

(4) A regulating body shall establish a process under which requests for access to records will be considered.

(5) A regulating body may charge an applicant a fee for making records available, which fee must not exceed the amount of reasonable cost recovery.

REVIEW OFFICER

13 A Review Officer and any other employees required for administration of this Act shall be appointed pursuant to the *Civil Service Act*.

14 (1) The Review Officer shall carry out the powers and duties assigned to the Review Officer under this Act and the regulations, including

- (a) the provision of information and advice to regulating bodies to assist them in meeting their obligations under this Act and the regulations, including establishing guidelines to assist regulating bodies in preparing reports;
- (b) the provision of information and advice to regulating bodies, government agencies, community agencies, colleges and universities, and others as the Minister may direct respecting matters under this Act and the regulations;
- (c) the assessment of the registration practices of regulating bodies based on their obligations under this Act and the regulations;
- (d) the provision of information and advice to departments of Government respecting matters under this Act and the regulations;
- (e) the provision of information and advice to the Minister on matters related to the administration of this Act; and
- (f) the provision of formal reports to the Minister on registration practices of a regulating body and to other ministers of the Crown respecting those practices as they relate to a regulating body that falls under the jurisdiction of their respective departments.

(2) The Review Officer, with respect to the registration practices of a regulating body, may

- (a) recommend to a regulating body that legislation be made, amended or revoked or that it make, amend or revoke regulations that the regulating body has the authority to make, amend or revoke under an Act that governs the regulating body; and
- (b) recommend to a minister of the Crown responsible for the regulating body that the minister exercise any power that the minister has to request or require the regulating body to make, amend or revoke legislation or regulations.

(3) Where a report is made under clause (1)(f), a copy of the report shall be provided to the regulating body to which the report relates by the Review Officer.

(4) In exercising the obligations under this Act or the regulations, the Review Officer shall not request or accept personal information.

(5) The Review Officer shall not become involved in a registration decision or an internal review decision on behalf of an applicant or potential applicant for registration.

15 (1) The Review Officer shall prepare and submit to the Minister an annual report on the implementation and effectiveness of this Act and the regulations in helping to ensure that the registration practices of regulating bodies are transparent, objective, impartial and fair.

(2) The Minister shall table the annual report under subsection (1) in the House of Assembly within fifteen days of receiving it or, if the Assembly is not then sitting, within fifteen days after the Assembly next sits.

(3) The annual report under subsection (1) must be made available to the public by the Review Officer and a copy provided to the regulating bodies.

16 (1) In this Section, “reporting period” means the period of time under subsection (8).

(2) Every regulating body shall review its registration practices in accordance with this Section and shall file a report on the results of the review with the Review Officer for the reporting period.

(3) The report required under subsection (2) must include all of the following information respecting the registration practices of the regulating body:

- (a) requirements for registration;
- (b) an explanation of how the requirements for registration are to be met;
- (c) acceptable alternative information to be provided by an applicant who cannot obtain documentation of qualifications for reasons beyond the applicant’s control;
- (d) the fees charged for registration;
- (e) copies of blank application forms for registration;
- (f) the number of completed applications received and the number approved or rejected;
- (g) how the requirements for registration are made available to potential applicants;
- (h) a description of existing accommodation practices for applicants with a physical disability or mental disability;
- (i) an outline of the role of third-party assessors;
- (j) a description of the process under which requests for access to records are considered;
- (k) information about any support the regulating body provides to applicants during the registration process;
- (l) information about the length of time, commencing from the date of receipt of a completed application, that the registration practices for that regulating body usually take;

(m) a description of the internal review process available to applicants who are not granted registration, including opportunities provided to an applicant to make submissions respecting such review;

(n) a statement that no one who acted as a decision-maker in respect of a registration decision acted as a decision-maker in an internal review;

(o) the number of internal reviews carried out in the reporting period and the time lines for making the those decisions on those reviews;

(p) a description of the training provided to individuals who make internal review decisions; and

(q) all of the following information concerning individuals qualified outside of the Province:

(i) the number of applicants who received their qualifications outside of the Province but within Canada and a listing of the provinces of Canada where such qualifications were obtained,

(ii) the number of applicants who received their qualifications outside of Canada and a listing of the countries where such qualifications were obtained, and

(iii) the number of applicants identified in subclauses (i) and (ii) accepted and rejected for registration during the reporting period.

(4) Where the Review Officer believes that information in addition to that required under subsection (3) is necessary in order to assess the registration practices of a regulating body, the Review Officer may require the regulating body to provide such additional information at such reasonable times as are specified by the Review Officer.

(5) Not earlier than six months after this Act comes into force or when a regulating body is added to Schedule A or B of this Act, the Review Officer shall specify a reasonable date when the first report required by subsection (2) is to be filed by a regulating body and shall immediately notify to the regulating body of that filing date.

(6) In determining the date for the first report to be filed by a regulating body, the Review Officer shall take into consideration the particular circumstances of the regulating body, including the capacity of the regulating body to meet its obligations under this Act, the degree of public risk involved and the registration year of the regulating body.

(7) The Review Officer may exempt a regulating body from any requirements of subsection (3).

(8) A report under this Section must be filed every two years after the date specified by the Review Officer for the first report under subsection (5), unless the Review Officer, based on an assessment of the information provided in a report, specifies a more frequent reporting.

(9) Notwithstanding any provision in this Act, no report or other document prepared and submitted by any person for the purposes of this Section may contain personal information.

(10) Any report required by this Section must be signed by a person with authority to sign on behalf of the regulating body.

(11) The Review Officer shall make all reports required to be filed under this Section by a regulating body available to the public.

17 (1) Where the Review Officer, following consultations with a regulating body, concludes that the regulating body has contravened this Act or the regulations, the Review Officer may make such orders requiring compliance with this Act or the regulations as the Review Officer considers appropriate.

(2) No order shall be made under subsection (1) if the governing legislation of a regulating body does not permit the regulating body to comply with this Act or the regulations.

18 (1) Before making an order under Section 17, the Review Officer shall give notice of the proposed order to the regulating body that is the subject of the proposed order.

(2) A notice given under subsection (1) must inform the regulating body of

- (a) the nature of the proposed order;
- (b) the steps that the regulating body must take in order to comply with the proposed order;
- (c) the right of the regulating body to make written submissions to the Review Officer in respect of the proposed order; and
- (d) the time within which the submission must be made.

(3) Within thirty days after the day it receives notice of the proposed order or within such longer period of time as may be specified in the notice, a regulating body may make oral or written submissions to the Review Officer to explain an alleged contravention of this Act or the regulations.

(4) The Review Officer may review an order made under Section 17 and vary or rescind it and, where the Review Officer proposes to vary an order, subsections (1) and (3) apply.

19 An order by the Review Officer under Section 17 is subject to review by the Supreme Court of Nova Scotia.

20 (1) A regulating body that

- (a) fails to file a report required under Section 16;
- (b) furnishes false or misleading information in the report required by Section 16 or other report or record filed with the Review Officer under this Act or otherwise provides false or misleading information to the Review Officer;
- (c) fails to comply with an order made by the Review Officer under this Act;
- (d) obstructs the Review Officer or a person employed by the Review Officer in exercising powers or performing duties under this Act; or

(e) contravenes subsection (2),
is guilty of an offence.

(2) No regulating body shall intimidate, coerce, penalize or discriminate against another person because that person

(a) has co-operated or may co-operate with the Review Officer or person employed by the Review Officer in exercising powers or performing duties under this Act; or

(b) has provided, or may provide, records or other information in the course of an activity or proceeding under this Act.

(3) Every regulating body that is guilty of an offence under this Section is liable on summary conviction to a fine of not more than ten thousand dollars.

21 (1) In this Section,

(a) “legal proceeding” means any civil proceeding, discovery, inquiry, arbitration, proceeding before a tribunal, board or commission, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include an application for judicial review by an applicant respecting a decision by a regulating body or any proceeding conducted pursuant to this Act or the regulations;

(b) “witness” includes every person who, in the course of a legal proceeding, is examined for discovery or is cross-examined upon an affidavit made by that person, answers any interrogatories or makes an affidavit as to documents or is called upon to answer any questions or produce any document, whether under oath or not.

(2) No legal proceeding may be commenced against the Review Officer or any other employees required for the administration of this Act for any act done or omitted in good faith in the execution or intended execution of the Review Officer’s duties under this Act or the regulations.

(3) No legal proceeding may be commenced against a regulating body or any officer, member, committee, council, board, agent or employee thereof for any act done or omitted in good faith in the execution or intended execution of the regulating body’s obligations under this Act or the regulations.

(4) Neither the Review Officer nor any other employee required for the administration of this Act is a competent or compellable witness in a legal proceeding in connection with anything done under this Act or the regulations, and the Review Officer shall not answer any question or produce documents or records gathered in the course of the Review Officer’s duties under this Act or the regulations.

(5) No officer, member, employee, agent or any person acting on behalf of a regulating body is a competent or compellable witness in a legal proceeding in connection with anything done under this Act or the regulations, and an officer, member, employee, agent or any person acting on behalf of a regulating body shall not answer any question or produce documents

or records gathered in the course of the execution or intended execution of the regulating body's obligations under this Act or the regulations.

(6) Subsections (4) and (5) do not apply to documents or records that have been made available to the public by the Review Officer or the regulating body in accordance with this Act or the regulations.

22 (1) The Governor in Council may make regulations

- (a) amending the Schedules to this Act in any way;
- (b) governing the form of reports and other documents to be provided to the Review Officer for the purpose of this Act;
- (c) respecting the functions, duties and powers of the Review Officer;
- (d) exempting any regulating body from any provision of this Act or the regulations;
- (e) defining any word or expression used but not defined in this Act;
- (f) further defining any word or expression defined in this Act;
- (g) respecting any transitional matters necessary for the effective implementation of this Act and the regulations;
- (h) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Where a provision of a regulation conflicts with a matter specified by the Review Officer or with a decision of the Review Officer, the regulation prevails.

(3) A regulation may be general or specific in its application and may be limited as to time and place.

(4) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

23 The public shall be consulted before any new regulations are made or any substantive amendment to the regulations is made.

24 The Minister shall appoint an advisory committee to review this Act within five years of the coming into force of this Act.

25 Notwithstanding anything in this Act, the Review Officer does not have the authority to set a regulating body's standards or objective requirements to assess the qualifications of individuals applying for registration.

26 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

SCHEDULE A

Association of Interior Designers of Nova Scotia
 Association of Nova Scotia Land Surveyors
 Association of Professional Engineers of the Province of Nova Scotia
 Association of Professional Geoscientists of Nova Scotia
 Board of Registration of Embalmers and Funeral Directors
 Certified General Accountants Association of Nova Scotia
 College of Licensed Practical Nurses of Nova Scotia
 College of Occupational Therapists of Nova Scotia
 College of Physicians and Surgeons of Nova Scotia
 College of Registered Nurses of Nova Scotia
 Cosmetology Association of Nova Scotia
 Denturist Licensing Board
 Institute of Chartered Accountants of Nova Scotia
 Nova Scotia Association of Architects
 Nova Scotia Association of Medical Radiation Technologists
 Nova Scotia Association of Real Estate Appraisers
 Nova Scotia Association of Social Workers
 Nova Scotia Barristers' Society
 Nova Scotia Board of Examiners in Psychology
 Nova Scotia College of Chiropractors
 Nova Scotia College of Dispensing Opticians
 Nova Scotia College of Medical Laboratory Technologists
 Nova Scotia College of Optometrists
 Nova Scotia College of Pharmacists
 Nova Scotia College of Physiotherapists
 Nova Scotia College of Respiratory Therapists
 Nova Scotia Dental Technicians Association
 Nova Scotia Dietetic Association
 Nova Scotia Institute of Agrologists
 Nova Scotia Real Estate Commission
 Nova Scotia Registered Barbers Association
 Nova Scotia Veterinary Medical Association
 Provincial Dental Board of Nova Scotia
 Public Accountants Board of the Province of Nova Scotia
 Registered Professional Foresters Association of Nova Scotia
 Society of Certified Engineering Technicians and Technologists of Nova Scotia
 Society of Management Accountants of Nova Scotia

SCHEDULE B

Minister of Education for the purpose of issuance of teachers' certificates or teachers' permits
 Minister of Health for the purpose of registration of paramedics and emergency medical dispatchers

Minister of Natural Resources for the purpose of issuance of licences and permits for hunting and fishing guides under the *Wildlife Act*

Registrar under the *Direct Sellers' Regulation Act* for the purpose of granting permits to direct sellers of hearing aids

Superintendent of Insurance for the purpose of issuance of licenses to carry on the business of insurance under the *Insurance Act*

Director of Apprenticeship and Trades Qualifications
