

1980

c 405 Public Accountancy Act

Ontario

© Queen's Printer for Ontario, 1980

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

Bibliographic Citation

Public Accountancy Act, RSO 1980, c 405

Repository Citation

Ontario (1980) "c 405 Public Accountancy Act," *Ontario: Revised Statutes*: Vol. 1980: Iss. 6, Article 45.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1980/iss6/45>

This Statutes is brought to you for free and open access by the Statutes at Osgoode Digital Commons. It has been accepted for inclusion in Ontario: Revised Statutes by an authorized administrator of Osgoode Digital Commons.

CHAPTER 405

Public Accountancy Act

1. In this Act,

Interpre-
tation

- (a) "Council" means The Public Accountants Council for the Province of Ontario;
- (b) "prescribed" means prescribed by the regulations made by the Council under this Act;
- (c) "public accountant" means a person who either alone or in partnership engages for reward in public practice involving,
 - (i) the performance of services which include causing to be prepared, signed, delivered or issued any financial, accounting or related statement, or
 - (ii) the issue of any written opinion, report or certificate concerning any such statement,

where, by reason of the circumstances or of the signature, stationery or wording employed, it is indicated that such person or partnership acts or purports to act in relation to such statement, opinion, report or certificate as an independent accountant or auditor or as a person or partnership having or purporting to have expert knowledge in accounting or auditing matters, but does not include a person who engages only in bookkeeping or cost accounting or in the installation of bookkeeping, business or cost systems or who performs accounting or auditing functions exclusively in respect of,

- (iii) any public authority or any commission, committee or emanation thereof, including a Crown company,
- (iv) any bank, loan or trust company,
- (v) any transportation company incorporated by Act of the Parliament of Canada, or

(vi) any other publicly-owned or publicly-controlled public utility organization;

(d) "qualifying body" means The Institute of Chartered Accountants of Ontario. R.S.O. 1970, c. 373, s. 1.

Council
continued

2. The Public Accountants Council for the Province of Ontario is continued under that name as a body corporate with power to acquire, hold and dispose of land. R.S.O. 1970, c. 373, s. 2.

Composition
of the
Council

3.—(1) The Council shall consist of fifteen members,

(a) twelve of whom shall be appointed by the council of the qualifying body; and

(b) three of whom shall be elected in the prescribed manner by vote of the persons who are licensed under this Act but who are not members of the qualifying body.

Qualification
of members

(2) No person shall be appointed or elected a member of the Council unless he holds a licence under this Act. R.S.O. 1970, c. 373, s. 3.

Certification
of appointed
members

4.—(1) The secretary of the qualifying body shall certify in writing the names of the persons appointed to the Council.

of elected
members

(2) The election of persons to Council shall be certified in writing in the prescribed manner.

Certificate
as evidence

(3) Every such certificate is for all purposes sufficient evidence of the appointment or election of the persons named therein. R.S.O. 1970, c. 373, s. 4.

Term of
office

5.—(1) Every member of the Council shall hold office for a term of two years from the date of his appointment or election.

Idem

(2) Every member shall hold office until his successor is appointed or elected.

Re-
appointment
and
re-election

(3) A retiring member of the Council is eligible for reappointment or re-election.

Vacancies

(4) Any vacancy in the office of a member of the Council, where more than four months of the term remain, shall be filled for the remainder of the term by the appointment of a member by the qualifying body or by the election of a member in the manner mentioned in clause 3 (1) (b), as the case requires.

(5) The Council may act notwithstanding a vacancy in its number occurring from any cause. R.S.O. 1970, c. 373, s. 5. ^{Effect of vacancy}

6.—(1) A member of the Council may at any time resign his office by giving notice to the Council. ^{Resignation of member}

(2) The Council may of its own motion and shall, in the case of an appointed member if so requested by the body by which the member was appointed, remove a member from his office for any prescribed cause. R.S.O. 1970, c. 373, s. 6. ^{Removal of member}

7. It is the duty of the Council to administer the provisions of this Act and in particular, but without limiting the generality of the foregoing, the functions of the Council include, ^{Functions of Council}

- (a) the grant or refusal of licences, in accordance with this Act;
- (b) the maintenance and, if thought fit, the publication of a roll of the persons for the time being licensed under this Act;
- (c) the prescription of the fees payable on the grant or renewal of licences under this Act;
- (d) the maintenance and improvement of the status and standards of professional qualifications of public accountants practising as such in Ontario;
- (e) the consideration of matters of common interest and concern to public accountants, and the submission of representations to any government ministry or public authority with reference to any such matters;
- (f) the provision of scholarships for students in public accountancy and of maintenance grants for such students whose means appear to the Council to be insufficient to enable them to pursue their studies;
- (g) the conduct and encouragement, whether by means of financial assistance or otherwise, of research in accountancy;
- (h) the exercise of the disciplinary powers conferred by this Act; and
- (i) the prosecution of offences under this Act. R.S.O. 1970, c. 373, s. 7; 1972, c. 1, s. 2.

**Meetings of
the Council**

8.—(1) The Council shall meet at such times and places as it may from time to time determine, provided that the Council shall hold at least one meeting in every period of three months to consider and determine applications for licences under this Act.

**Extra-
ordinary
meetings**

(2) The president of the Council may at any time convene an extraordinary meeting of the Council at such time and place as he may, by notice to the members of the Council, direct, and the conditions as to giving such notice shall be as may be prescribed. R.S.O. 1970, c. 373, s. 8.

**Voting at
meetings of
the Council**

9.—(1) Except as otherwise expressly provided by this section, all matters that arise for decision at any meeting of the Council shall be decided by a majority of votes of members present and voting by show of hands.

**Assent
required
for certain
resolutions**

(2) No resolution of the Council relating to,

- (a) any of the functions of the Council referred to in clause 7 (*h*) or (*i*);
- (b) the making of regulations under section 31;
- (c) the revocation or non-renewal of a licence granted under this Act; or
- (d) the granting of an exemption to any person pursuant to subsection 14 (2) from any of the conditions of section 14, or the approval of conditions subject to which such exemption shall be granted,

is valid unless approved by the votes of at least three-quarters of the members of the Council present and voting thereon.

Notice

(3) No resolution of the Council relating to any of the matters mentioned in subsection (2) is valid unless the notice calling the meeting at which the resolution is moved has specified the general nature of the business to be transacted thereat. R.S.O. 1970, c. 373, s. 9.

Officers

10.—(1) The officers to be elected from among the members of the Council shall be a president, a vice-president, a secretary and such other officers as the Council considers necessary.

**Election of
officers**

(2) The election of officers shall take place annually at the first ordinary meeting of the Council in each financial

year when all officers then in office shall retire but if otherwise qualified are eligible for re-election, and in the event of a tie vote for the election of the president or vice-president, the issue shall be decided by lot.

(3) Subject to the provisions of this section, any officer elected by the Council shall continue in office for a term of one year and until his successor is elected. Term of office

(4) Every vacancy occurring in any office, by reason of the incumbent dying, resigning or otherwise ceasing to be a member of the Council during his term of office, shall be filled for the remainder of his term by the Council from among its members. Vacancies

(5) The Council may appoint a registrar who need not be a member of the Council and who shall perform such duties as are prescribed by the Council from time to time. Registrar
R.S.O. 1970, c. 373, s. 10.

11. At all meetings of the Council, eight members constitute a quorum. Quorum R.S.O. 1970, c. 373, s. 11.

12.—(1) The Council may from time to time appoint committees from among its members. Committees

(2) The Council may delegate to any such committee, subject to such restrictions or conditions as the Council may think fit, any of its powers or duties, other than those referred to in subsection 9 (2), and may dissolve any such committee. Delegation to committees R.S.O. 1970, c. 373, s. 12.

13.—(1) The Council shall maintain a roll to be called "The Roll of Public Accountants in Ontario". Roll of public accountants

(2) The Council shall from time to time cause to be entered on the roll the name and address of every person licensed under this Act and shall cause to be removed therefrom, Entries on and erasures from roll

(a) the name of every person licensed under this Act who has made application to the Council in the prescribed manner requesting the Council to remove his name from the roll; and

(b) the name of every person whose licence under this Act has been revoked or has not been renewed in accordance with this Act,

and shall cause any other necessary alterations or corrections to be made therein. R.S.O. 1970, c. 373, s. 13.

Qualifica-
tions for
licence

14.—(1) Any person, on application to the Council in the prescribed manner and upon payment of the prescribed fee, is entitled to be licensed under this Act if the Council is satisfied that the applicant is of good character and,

- (a) that he is a member of the qualifying body; or
- (b) that he was at any time licensed under this Act or a predecessor of this Act; or
- (c) that he is a member of the Certified General Accountants Association of Ontario,
 - (i) who has taken the course of instruction and passed the final examinations of that Association, and
 - (ii) who has had at least three years experience in public accountancy in Ontario, and
 - (iii) who was on the 1st day of April, 1962, a member or a student of that Association.

Exemption
from
conditions

(2) The Council may, in special circumstances and subject to subsections 9(2) and (3), either unconditionally or subject to such conditions as it may think fit, exempt any person from one or more of the conditions set forth in subsection (1).

Licensees
from other
jurisdictions

(3) The Council may by regulation prescribe the terms and conditions upon which any licensee of a state or province other than Ontario may be exempted from one or more of the conditions set forth in subsection (1), but no such regulation shall be made, amended or repealed unless approved by the votes of at least two-thirds of the members of the Council present and voting thereon. R.S.O. 1970, c. 373, s. 14.

Period of
licence

15. Every licence granted or renewed under this Act becomes effective on and shall bear the date as of which it is granted or renewed and, unless revoked, remains in force until the date prescribed by the Council. R.S.O. 1970, c. 373, s. 15.

Renewal of
licence

16. Any person who is licensed under this Act and who applies to the Council in the prescribed manner and pays the prescribed fee is entitled to have his licence renewed, but nothing in this section prejudices or affects the power of the Council to revoke any licence in accordance with this Act. R.S.O. 1970, c. 373, s. 16.

17. Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations requiring the payment of fees for the grant or renewal of licences and prescribing the amounts thereof. 1979, c. 47, s. 1.

18.—(1) If a person licensed under this Act,

Fees
Powers as to
revocation
of licence

- (a) has been convicted of a criminal offence;
- (b) becomes of unsound mind;
- (c) has been adjudged bankrupt or has made arrangement with his creditors; or
- (d) has been found on inquiry held by the Council to be guilty of conduct disgraceful to him in his capacity as a public accountant,

the Council may, subject to the provisions of this section, revoke his licence.

(2) Where the Council intends to revoke any licence in pursuance of clause (1) (a), (b) or (c), the Council shall first cause a written notice of its intention to be served on such person in the prescribed manner and shall, on application made by such person within one month from the date of the service of the notice, consider any representations with regard to the matter that may be made by him to the Council, either in person or by counsel.

Notice of
intention
to revoke
and hearing

(3) In any case in which it appears to the Council that a person licensed under this Act has been guilty of conduct disgraceful to him in his capacity as a public accountant, the Council may cause an inquiry to be held.

Inquiry

(4) Where an inquiry is to be held under this section, the Council shall forthwith cause to be served on the person concerned a written notice of the proposed inquiry specifying the time and place at which it is to be held and the subject-matter thereof, and the person concerned is on application entitled to be heard at the inquiry either in person or by counsel. R.S.O. 1970, c. 373, s. 18.

Notice of
inquiry

19. Where the Council refuses the application of any person for the grant or renewal of a licence, or revokes any licence granted to any person, it shall forthwith cause written notice of such refusal or revocation to be served on such person. R.S.O. 1970, c. 373, s. 19.

Notice of
refusal or
revocation
of licence

Effect of
revocation

20.—(1) No person whose licence has been revoked shall, except as provided in this section, be granted a licence under this Act.

New licence
after
revocation

(2) A person whose licence has been revoked may, either on his application or on motion of the Council and after inquiry, be granted a new licence and his name may be restored to the roll at the discretion of the Council either without payment of a fee or on payment of such fee as the Council may determine. R.S.O. 1970, c. 373, s. 20.

Appeal

21. Where the Council,

- (a) refuses to grant a licence or a new licence;
- (b) refuses to renew a licence; or
- (c) revokes a licence,

the person aggrieved may, within three months from the day on which notice thereof was served on him, appeal to the Divisional Court and, upon due cause shown, the court may make an order directing the Council to grant the licence, renew the licence or cancel the revocation of the licence, as the case may be, or may make such other order as may be warranted by the facts, and the Council shall forthwith comply with such order and such order is final. R.S.O. 1970, c. 373, s. 21.

Obtaining
licence by
false repre-
sentation

22. If any person wilfully procures, or attempts to procure, the granting to him of a licence under this Act, or the renewal of such licence, by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either orally or in writing, he is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$250. R.S.O. 1970, c. 373, s. 22.

Failure to
surrender
licence

23.—(1) If any person ceases to be licensed under this Act, he shall, within fourteen days thereafter, transmit his licence to the Council for cancellation, and, if he fails to do so, he is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$25, and to a further fine of not less than \$3 and not more than \$5 for every day on which the offence continues after conviction.

Abuse of
licence

(2) Any person who,

- (a) uses a licence issued under this Act to another person; or

- (b) allows a licence issued to him under this Act to be used by any other person; or
- (c) not being licensed under this Act, uses or has in his possession any document purporting to be a licence issued to him under this Act,

is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$100 and, in the case of a continuing offence, to a further fine of not less than \$15 and not more than \$25 for every day on which the offence continues after conviction. R.S.O. 1970, c. 373, s. 23.

24.—(1) Subject to the provisions of this section, no person who is not licensed under this Act shall, within Ontario,

Restriction
on use of
title or
carrying on
business
of public
accountant

- (a) take or use the name or title of "Public Accountant";
- (b) practise as a public accountant; or
- (c) hold himself out as being licensed as a public accountant or use any designation or initials indicating or implying that he is licensed as a public accountant.

(2) Notwithstanding anything in this section, the Council may permit any person who is a non-resident of Ontario to practise as a public accountant within Ontario without a licence under this Act, subject to any terms and conditions that may from time to time be prescribed.

Permission
for
non-resident
to practise

(3) Any person who contravenes any provision of this section, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$250 for a first offence and to a fine of not less than \$200 and not more than \$500 for any subsequent offence.

Offence

(4) Where a contravention of this section by any person is occasioned by the fact that his licence has been revoked, it is a good defence to any proceedings in respect of such contravention to prove that, at the time when such contravention is alleged to have been committed, notice of the revocation had not been served in accordance with this Act or the regulations hereunder, or that the time for appealing from the revocation had not expired or an appeal therefrom had been brought and had not been determined. R.S.O. 1970, c. 373, s. 24.

Defence

Prohibition
against a
body
corporate
carrying on
business
as public
accountant

25.—(1) It is not lawful for a body corporate to practise as a public accountant and any body corporate that contravenes the provisions of this subsection, without prejudice to any other proceedings that may be taken, is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$250 for a first offence and to a fine of not less than \$200 and not more than \$500 for any subsequent offence.

Liability
of directors
and officers

(2) If a body corporate is guilty of an offence under subsection (1), every director or officer of the body corporate who consented to, or connived at or was responsible for the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to be proceeded against and fined accordingly. R.S.O. 1970, c. 373, s. 25.

No costs,
etc.,
recoverable
by
unlicensed
person

26. No person is entitled to recover any costs incurred or charges made as a public accountant unless such person was licensed under this Act at the time when such costs were incurred or when the services were rendered in respect of which such charges were made. R.S.O. 1970, c. 373, s. 26.

Finances

27.—(1) The Council shall maintain a fund into which all moneys received by the Council shall be paid and out of which shall be paid all administrative and establishment expenses of the Council and all expenses incurred by the Council in carrying out its functions under this Act and all other liabilities properly incurred by the Council.

Management
of fund

(2) The Council shall manage, administer and keep proper accounts of the fund.

Investment
of moneys

(3) The Council may invest any moneys standing to the credit of the fund in any security in which trustees are authorized to invest.

Borrowing
powers

(4) The Council may from time to time borrow any moneys required for the purposes of the Council and may mortgage, hypothecate, charge or pledge any or all of its property and assets to secure the amount so borrowed. R.S.O. 1970, c. 373, s. 27.

Payment of
expenses,
salaries and
pensions

28.—(1) The Council shall pay,

(a) to the members of the Council such allowances for travelling and subsistence expenses incurred in the discharge of their functions; and

(b) to the secretary and any other officers and employees of the Council such salaries and remuneration.

ation and on retirement or death, such pensions and gratuities,

as the Council may determine.

(2) The Council may make provision for the dependants of any of its employees. R.S.O. 1970, c. 373, s. 28. Dependants of employees

29. The accounts of the Council and of its officers and of any committee appointed by the Council shall be audited annually by a person licensed under this Act and appointed annually by the Council, who shall not be a member of the Council or a person who is in partnership with such a member. R.S.O. 1970, c. 373, s. 29. Audit of accounts

30.—(1) Within three months after the end of each financial year, the Council shall forward a copy of the audited accounts of the Council for that year to the qualifying body and to the Attorney General. Accounts to be furnished to qualifying bodies, etc.

(2) Any person licensed under this Act is entitled upon demand to receive a copy of the audited accounts. R.S.O. 1970, c. 373, s. 30. Copies

31.—(1) Subject to the provisions of this Act, the Council shall or may, as the case may be, prescribe by regulation anything that is by this Act required or authorized to be prescribed and may make such further provisions as may seem to the Council necessary or desirable for carrying out or facilitating any of the purposes of this Act. Regulations, etc.

(2) The Council shall on receipt of the prescribed charges supply a copy of any regulation made under this Act and of any forms prescribed by such regulation to any person applying therefor. Copies

(3) The Lieutenant Governor in Council may annul any regulation made by the Council under this Act. R.S.O. 1970, c. 373, s. 31. Annulment

32. Every regulation, licence, notice or other document made, granted or issued by the Council for any purpose whatsoever may be signed on behalf of the Council by the secretary or registrar or by such other officer of the Council as may from time to time be authorized by the Council so to do, and when so signed is *prima facie* evidence of such regulation, licence, notice or other document. R.S.O. 1970, c. 373, s. 32. Authentication of regulations and other documents

Service of documents

33.—(1) Any notice or document required to be given by or for the purposes of this Act may be sent by prepaid mail and when so sent shall be deemed to be properly addressed if addressed to the person or body for whom intended at the latest address of such person or body appearing in the roll or records of the Council.

Idem

(2) Any notice relating to,

(a) the refusal to grant or renew a licence;

(b) the revocation of a licence; or

(c) the removal of the name of any person from the roll,

shall be sent by registered mail. R.S.O. 1970, c. 373, s. 33.

Saving

34. Nothing in this Act precludes a registered member of the Society of Industrial and Cost Accountants of Ontario, or any other person, from practising as an industrial accountant, cost accountant or cost consultant, from designating himself as such or from issuing statements, opinions, reports or certificates in connection with such practice. R.S.O. 1970, c. 373, s. 34.

Freedom from action

35. No action shall be brought against the Council or any member or former member thereof that is based on the refusal of the Council to grant or renew a licence or that is based on the revocation by the Council of a licence. R.S.O. 1970, c. 373, s. 35.