

1950

c 302 Public Accountancy Act

Ontario

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CHAPTER 302

The Public Accountancy Act**1. In this Act,**Interpre-
tation.

- (a) "Council" means The Public Accountants Council for the Province of Ontario;
- (b) "licensing date" means the 1st day of August, 1950;
- (c) "prescribed" means prescribed by regulations made by the Council under this Act;
- (d) "public accountancy" means the investigation or audit of accounting records or the preparation of or reporting on balance sheets, profit and loss accounts or other financial statements, but does not include bookkeeping or cost accounting or the installation of bookkeeping, business and cost systems;
- (e) "public accountant" means a person who, alone or in partnership with others, carries on the practice of public accountancy and in connection with that practice offers his services for reward to members of the public, but does not include a person by reason of his practising public accountancy in respect of,
 - (i) any public authority or any commission, committee or emanation thereof, including a Crown company,
 - (ii) any bank, loan or trust company,
 - (iii) any transportation company incorporated by Act of the Parliament of Canada, or
 - (iv) any other publicly-owned or publicly-controlled public utility organization;
- (f) "qualifying body" means The Institute of Chartered Accountants of Ontario or The Certified Public Accountants Association of Ontario. 1950, c. 60, s. 1, *amended*.

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. 1950, c. 60, s. 2, *amended*. Council
continued.

- Constitution of the Council. **3.**—(1) The Council shall consist of 15 members,
- (a) eight of whom shall be appointed by The Institute of Chartered Accountants of Ontario;
 - (b) five of whom shall be appointed by The Certified Public Accountants Association of Ontario; and
 - (c) two of whom shall be elected in the prescribed manner by vote of the public accountants who are licensed under this Act and are not members of either qualifying body. 1950, c. 60, s. 3 (1).
- Qualification of members. (2) No person shall be appointed or elected a member of the Council unless he holds a licence under this Act. 1950, c. 60, s. 3 (2), *amended*.
- Elected members. (3) No person who is a member of either qualifying body shall be elected under clause *c* of subsection 1. 1950, c. 60, s. 3 (3).
- Certification of appointment; of election. **4.**—(1) The secretary of each body by whom a member or members of the Council is or are to be appointed shall certify in writing the name or names of the member or members so appointed.
- (2) The election of a member shall be certified in writing in the prescribed manner.
- Certificate as evidence. (3) Every such certificate shall for all purposes be sufficient evidence of the appointment or election of the member or members named therein. 1950, c. 60, s. 4.
- Exercise of power of appointment. **5.** The council or other governing authority of a body may exercise the power of appointment hereby conferred on that body. 1950, c. 60, s. 5.
- Term of office. **6.**—(1) Every member of the Council shall hold office for a term of two years from the date of his appointment or election which shall be effective from the first ordinary meeting of the Council held in the term for which he was appointed or elected. 1950, c. 60, s. 6 (1), *amended*.
- 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 shall be eligible for re-appointment or re-election.
- Vacancies. (4) Any vacancy in the office of a member of the Council shall be filled for the remainder of the term by the body which appointed him or by an election in the manner prescribed in clause *c* of subsection 1 of section 3, as the case requires.

(5) The Council may act notwithstanding a vacancy in its number occurring from any cause. 1950, c. 60, s. 6 (2-5). Effect of vacancy.

7.—(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. 1950, c. 60, s. 7. Removal of member.

8. It shall be 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 shall 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 department 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. 1950, c. 60, s. 8.

9.—(1) The Council shall meet at such times and places as it may from time to time determine; provided that the Meetings of the Council.

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. 1950, c. 60, s. 10.

Voting at meetings of the Council.

10.—(1) Except as otherwise expressly provided by this section, all matters which 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 *h* or *i* of section 8;
- (b) the making of regulations under section 32;
- (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 2 of section 15 from any of the conditions of section 15, or the approval of conditions subject to which such exemption shall be granted,

shall be 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 shall be 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. 1950, c. 60, s. 11.

Officers.

11.—(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 may deem necessary.

Election of officers.

(2) The election of officers shall take place annually at the first ordinary meeting of the Council in each calendar year when all officers then in office shall retire but if otherwise qualified shall be 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. 1950, c. 60, s. 12 (1, 2).

Term of office.

(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. 1950, c. 60, s. 12 (3), *amended*.

(4) Every vacancy occurring in any office by reason of the ^{vacancies.} 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. 1950, c. 60, s. 12 (4).

12. At all meetings of the Council eight members shall ^{Quorum} constitute a quorum. 1950, c. 60, s. 13.

13.—(1) The Council may from time to time appoint ^{Committees.} committees from among its members.

(2) The Council may delegate to any such committee, ^{Delegation to committees.} subject to such restrictions or conditions as the Council may think fit, any of its power or duties, other than those referred to in subsection 2 of section 10, and may dissolve any such committee. 1950, c. 60, s. 14.

14.—(1) The Council shall maintain a roll to be called ^{Roll of public accountants.} "The Roll of Public Accountants in Ontario". 1950, c. 60, s. 15 (1), *amended*.

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

- (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. 1950, c. 60, s. 15 (2).

15.—(1) Any person shall, on application to the Council ^{Qualifications for licence.} in the prescribed manner and upon payment of the prescribed fee, be entitled to be licensed under this Act if the Council is satisfied,

- (a) that on the licensing date the applicant was a member of a qualifying body; or
- (b) that on the licensing date the applicant was carrying on the practice of public accountancy and in that connection maintained in Ontario, either alone or in

partnership with others, a place of business at which his services as a public accountant could be engaged, and was of good repute and had been in practice as a public accountant for one year before the licensing date; or

(c) that the applicant is a member of a qualifying body, having taken the regular courses and passed the final examinations of such body or of a body recognized by it for purposes of affiliation; or

(d) that the applicant has passed an examination deemed by the Council to be not less than equivalent to the intermediate examination of a qualifying body and has practised or been employed in public accountancy in Ontario for a period of not less than three years.

Exemption
from
conditions.

(2) The Council may, in special circumstances and subject to subsections 2 and 3 of section 10, 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. 1950, c. 60, s. 16.

Period of
licence.

16. Every licence granted or renewed under this Act shall become effective on and shall bear the date as of which it is granted or renewed and, unless revoked, shall remain in force until the date prescribed by the Council. 1950, c. 60, s. 17.

Renewal of
licence.

17. Any person who is, and is entitled to be, licensed under this Act and who applies to the Council in the prescribed manner and pays the prescribed fee shall be entitled to have his licence renewed, but nothing in this section shall prejudice or affect the power of the Council to revoke any licence in accordance with this Act. 1950, c. 60, s. 18.

Fees.

18.—(1) The fee payable for the grant or renewal of a licence shall not exceed \$25.

Recovery
of fees.

(2) The Council may sue for and recover any unpaid fees in any court of competent jurisdiction. 1950, c. 60, s. 19.

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

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 *a*, *b* or *c* of subsection 1, 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 which 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 shall on application be entitled to be heard at the inquiry either in person or by counsel. 1950, c. 60, s. 20.

Notice of
inquiry.

20. 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. 1950, c. 60, s. 21.

Notice of
refusal or
revocation
of licence.

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

Effect of
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. 1950, c. 60, s. 22.

New licence
after
revocation.

Appeal.

22. 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, apply to a judge of the Supreme Court who upon due cause shown 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 shall be final. 1950, c. 60, s. 23.

Obtaining licence by false representation.

23. 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 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$250. 1950, c. 60, s. 24.

Failure to surrender licence.

24.—(1) If any person ceases to be licensed under this Act, he shall, within 14 days thereafter, transmit his licence to the Council for cancellation, and, if he fails to do so, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$25, and to a further penalty 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,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$100 and, in the case of a continuing offence, to a further penalty of not less than \$15 and not more than \$25 for every day on which the offence continues after conviction. 1950, c. 60, s. 25.

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

- (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.
- 1950, c. 60, s. 26 (1), *amended*.

Restriction on use of title or carrying on business of 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 contravening the provisions of this section shall, without prejudice to any other proceedings which may be taken, be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$250 for first offence and to a penalty of not less than \$200 and not more than \$500 for any subsequent offence.

Penalties.

(4) Where a contravention of this section by any person is occasioned by the fact that his licence has been revoked, it shall be 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. 1950, c. 60, s. 26 (2-4).

Defence.

26.—(1) It shall not be lawful for a body corporate to practise as a public accountant and any body corporate contravening the provisions of this subsection shall, without prejudice to any other proceedings which may be taken, be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$250 for a first offence and to a penalty of not less than \$200 and not more than \$500 for any subsequent offence. 1950, c. 60, s. 27 (1), *amended*.

Prohibition against a body corporate carrying on business as public accountant.

(2) If a corporate body 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 shall be liable to be proceeded against and fined accordingly. 1950, c. 60, s. 27 (2).

Liability of directors and officers.

No costs,
etc.,
recoverable
by
unlicensed
person.

27. After the licensing date no person shall be entitled to recover any costs incurred or charges made as a public accountant after that date 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. 1950, c. 60, s. 28.

Finances.

28.—(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. 1950, c. 60, s. 29 (1), *amended*.

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. 1950, c. 60, s. 29 (2-4).

Payment of
expenses,
salaries and
pensions.

29.—(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 and on retirement or death, such pensions and gratuities,

as the Council may determine.

Dependants
of
employees.

(2) The Council may make provision for the dependants of any of its employees. 1950, c. 60, s. 30.

Audit of
accounts.

30. 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; provided that a member of the Council or a person who is in partnership with such a member shall not be eligible for appointment as auditor under this section. 1950, c. 60, s. 31, *amended*.

Accounts to
be furnished
to qualifying
bodies, etc.

31.—(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 each qualifying body and to the Provincial Secretary.

(2) Any person licensed under this Act shall be entitled ^{Copies.} upon demand to receive a copy of the audited accounts. 1950, c. 60, s. 32.

32.—(1) Subject to the provisions of this Act, the Council ^{Regulations, etc.} shall or may, as the case may be, prescribe by regulation anything which 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.

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

(3) The Lieutenant-Governor in Council may annul any ^{Annulment.} regulation made by the Council under this Act. 1950, c. 60, s. 33.

33. Every regulation, licence, notice or other document ^{Authen- tication of regulations and other documents.} made, granted or issued by the Council for any purpose whatsoever may be signed on behalf of the Council by the secretary 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 shall be *prima facie* evidence of such regulation, licence, notice or other document. 1950, c. 60, s. 34.

34.—(1) Any notice or document required to be given by ^{Service of documents.} or for the purposes of this Act may be sent by prepaid post and when so sent shall be deemed to be properly addressed if addressed to the person or body for whom intended at the last address of such person or body appearing in the roll or records of the Council.

(2) Any notice relating to, Idem.

(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 post. 1950, c. 60, s. 35.

35. Nothing in this Act shall preclude a registered member ^{Saving.} 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, and from designating himself as such. 1950, c. 60, s. 36.

Freedom
from action.

36. 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. 1950, c. 60, s. 37.
