

BILL

No. 81

An Act respecting labour mobility and fair registration practices

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(Assented to)

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

PART 1 Preliminary Matters

Short title

1 This Act may be cited as *The Labour Mobility and Fair Registration Practices Act*.

Definitions

2 In this Act:

“**applicant**” means an individual who applies to a regulatory body of a regulated profession to be registered in the regulated profession and includes a labour mobility applicant and an internationally-trained applicant;

“**compliance order**” means an order made pursuant to section 15;

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“internal review or appeal” means a rehearing, reconsideration, review or appeal or similar process provided by a regulatory body with respect to a registration decision, without regard to the terminology used by the regulatory body to describe the process;

“internal review or appeal decision” means a decision resulting from an internal review or appeal;

“internationally-trained applicant” means an individual who:

- (a) applies to a regulatory body of a regulated profession to be registered in the regulated profession; and
- (b) gained the relevant qualifications for the regulated profession outside of Canada;

“labour mobility applicant” means an individual who:

- (a) applies to a regulatory body of a regulated profession to be registered in the regulated profession; and
- (b) is currently registered with a body that regulates the same profession in a province or territory in Canada other than Saskatchewan;

“minister” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“ministry” means the ministry over which the minister presides;

“office” means The Labour Mobility and Fair Registration Practices Office established pursuant to section 14;

“prescribed” means prescribed in the regulations;

“professional standard” means the skills, knowledge and abilities required for a profession as established by a regulatory body and against which the qualifications of an individual in that profession are assessed;

“register” means to grant membership or certification in a regulated profession, whether by registration, admission, enrolment, issuance of a licence or certificate or by other means, without regard to the terminology used by the regulatory body for the regulated profession to describe the process;

“registration decision” means a decision by a regulatory body, without regard to the terminology used by the regulatory body to describe the decision, to:

- (a) register an applicant;
- (b) refuse to register an applicant; or
- (c) register an applicant with one or more restrictions, limitations or conditions;

“regulated profession” means a profession regulated by a regulatory body;

“regulatory body” means a person or other body, whether or not a governmental entity, that has been granted authority pursuant to an Act to set or implement measures related to any of the following:

- (a) establishing professional standards or registration requirements;
- (b) assessing qualifications of individuals against established professional standards or registration requirements;
- (c) officially recognizing that an individual meets established professional standards or registration requirements;

and includes any other person or body designated in the regulations;

“trade agreement” means the following:

- (a) the Canadian Free Trade Agreement entered into by the governments of Canada, the provinces and the territories on or about April 6, 2017, including amendments to that agreement;
- (b) the New West Partnership Trade Agreement entered into by the governments of British Columbia, Alberta and Saskatchewan on or about April 30, 2010, including amendments to that agreement;
- (c) any other agreement designated in the regulations, including amendments to the agreement.

PART 2

Registration Practices

General duty

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

Registration practices re labour mobility applicants and trade agreements

4(1) A regulatory body shall ensure that its registration practices, with respect to a labour mobility applicant to whom a trade agreement that is in force in Saskatchewan applies, are consistent with the trade agreement.

(2) Notwithstanding any other Act or law, in order to comply with subsection (1), a regulatory body may waive or modify any requirements for registration that have been established by the regulatory body for a regulated profession.

Duty to provide information

5 A regulatory body shall provide information about the following matters, in a clear and understandable form, to individuals applying or intending to apply for registration by the regulatory body:

- (a) the regulatory body’s registration practices and internal review or appeal processes;
- (b) the length of time that the registration process usually takes;
- (c) the requirements for registration, any alternative means of meeting any of the requirements and the criteria used to assess whether the requirements have been met;

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- (d) any support the regulatory body provides to applicants, or other available supports for applicants of which the regulatory body is aware, with respect to the registration process;
- (e) any fees relating to registration;
- (f) any other prescribed information.

Qualifications for registration

- 6(1) A regulatory body shall make information publicly available respecting:
- (a) the documents that are to accompany an application for registration as proof of the applicant's qualifications; and
 - (b) any alternative proof of the applicant's qualifications that may be acceptable to the regulatory body if an applicant cannot obtain the documents mentioned in clause (a) for reasons beyond the applicant's control.
- (2) A regulatory body that assesses the qualifications of an applicant shall do so in a way that is transparent, objective, timely, impartial and procedurally fair.
- (3) A regulatory body that relies on a third party to assess the qualifications of an applicant shall take reasonable measures to ensure that the third party conducts the assessment in a way that is transparent, objective, timely, impartial and procedurally fair.

Labour mobility application requirements

- 7(1) In order for a regulatory body to make a registration decision in relation to a labour mobility applicant, the regulatory body may require a labour mobility applicant to do the following:
- (a) provide proof that the labour mobility applicant holds a registration in a Canadian jurisdiction;
 - (b) any other prescribed thing for the purposes of this section.
- (2) A regulatory body shall not require a labour mobility applicant to provide anything in order for the regulatory body to make a registration decision in relation to the labour mobility applicant that is not required pursuant to subsection (1).
- (3) If a regulation made for the purposes of clause (1)(b) provides differently for different regulatory bodies or different classes of regulatory bodies, a regulatory body shall not require a labour mobility applicant to do anything unless that thing is prescribed for the purpose of that regulatory body or the class of regulatory bodies to which that regulatory body belongs.

Registration re labour mobility applicant

- 8 If a labour mobility applicant has provided proof of registration to a regulatory body and has met all of the other requirements imposed by the regulatory body pursuant to subsection 7(1), the regulatory body shall register that labour mobility applicant without restrictions, limitations or conditions:
- (a) unless otherwise provided in this Act or the regulations; and
 - (b) subject to any requirements in this Act or the regulations.

Registration re internationally-trained applicants

9(1) A regulatory body, to the extent possible and practical, shall not require an internationally-trained applicant to complete additional training, experience, examinations, or assessments as a condition of registration for areas in which the internationally-trained applicant has already demonstrated competence to the satisfaction of a regulatory body or a third party that assesses applicants' qualifications on the regulatory body's behalf.

(2) If a regulatory body requires an internationally-trained applicant to complete additional training, experience, examinations, or assessments as a condition of registration, the regulatory body shall provide the internationally-trained applicant with written notice of the decision together with reasons.

Timely decisions, responses and reasons

10 A regulatory body shall:

- (a) ensure that it makes registration decisions within the period determined by the minister;
- (b) provide written responses to applicants within the period determined by the minister;
- (c) provide written notice of a decision together with written reasons to applicants within the period determined by the minister with respect to all registration decisions and internal review or appeal decisions; and
- (d) provide, if practical, information respecting measures or programs that may be available to assist unsuccessful applicants in obtaining registration at a later date.

Internal review or appeal

11(1) A regulatory body shall provide a process for an internal review or appeal of a registration decision refusing to register an applicant or registering an applicant with any restrictions, limitations or conditions, within the period determined by the minister, after written reasons for the registration decision are provided to the applicant.

(2) A regulatory body shall provide an opportunity for the applicant to make submissions orally, in writing or by electronic means.

(3) A regulatory body shall ensure that no person who participated as a decision-maker with respect to a registration decision participates as a decision-maker with respect to an internal review or appeal of the decision.

Record of decisions

12(1) A regulatory body shall retain a record of a registration decision and any written reasons for the registration decision for a period of 3 years from the date the registration decision is made.

(2) A regulatory body shall retain a record of an internal review or appeal decision, the written reasons for the internal review or appeal decision and any records of the internal review or appeal process for a period of 3 years from the date the internal review or appeal decision is made.

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PART 3

**Power and Duties of the Minister and Establishment of
the Labour Mobility and Fair Registration Practices Office**

Powers and duties of the minister

13(1) The minister may:

- (a) give information and advice to regulatory bodies about the requirements of this Act and the regulations;
 - (b) for the purposes of determining compliance with this Act and the regulations, review the registration and assessment practices of regulatory bodies to assess the qualifications of applicants;
 - (c) make recommendations to regulatory bodies about their duties pursuant to this Act and the regulations;
 - (d) advise regulatory bodies, government ministries, government agencies, Crown corporations, third parties relied on by regulatory bodies to assess applicant qualifications, community organizations, post-secondary institutions or any other bodies as the minister considers appropriate about matters governed by this Act and the regulations;
 - (e) perform any other prescribed duty or function for the purpose of administering this Act.
- (2) The minister may give notice to a regulatory body that an audit must be conducted, in accordance with the regulations, with respect to its registration practices and its compliance with this Act and the regulations.
- (3) A regulatory body shall cooperate with:
- (a) the minister in the conduct of a review mentioned in clause (1)(b); and
 - (b) an auditor in the conduct of an audit mentioned in subsection (2).
- (4) The minister shall not become involved in an interim registration decision, a registration decision or an internal review or appeal decision on behalf of an applicant.

Office established

14(1) The Labour Mobility and Fair Registration Practices Office is established within the ministry.

- (2) The minister shall appoint an employee of the ministry as the director of the office.
- (3) The office is responsible for assisting the minister in the exercise of the minister's powers and performance of the minister's duties and functions pursuant to this Act and the regulations.

PART 4
Compliance Orders

Compliance order

15 If there are reasonable grounds to believe, following consultations with a regulatory body, that the regulatory body has contravened this Act or the regulations, the minister may issue an order to the regulatory body requiring compliance with this Act or the regulations.

Notice of order

16(1) Before making a compliance order with respect to a regulatory body, the minister shall serve written notice on the regulatory body.

- (2) A notice pursuant to subsection (1) must include information about:
- (a) the nature of the proposed compliance order;
 - (b) the steps that the regulatory body must take to comply with the proposed compliance order;
 - (c) the right of the regulatory body to make a written submission to the minister with respect to the proposed compliance order; and
 - (d) the period within which a written submission must be made.
- (3) A regulatory body may make written submissions with respect to a proposed compliance order within 30 days after the notice is served on the regulatory body or within any longer period specified in the notice.
- (4) The minister may extend the period mentioned in subsection (3).
- (5) Subsections (1) to (4) apply if the minister proposes to vary a compliance order.

Service of order or notice

17(1) A compliance order must be served on the regulatory body that is the subject of the order without delay after the compliance order is issued or varied.

- (2) A compliance order or a notice pursuant to subsection 16(1) may be served on a regulatory body by delivering it to a representative of the regulatory body:
- (a) by personal delivery;
 - (b) by courier or mail;
 - (c) by electronic means.
- (3) Service of an order or a notice pursuant to subsection (2) is presumed to be effected:
- (a) if the compliance order or notice is delivered by courier or mail, when the acknowledgment of receipt is signed; or
 - (b) if the compliance order or notice is delivered by electronic means, when it is transmitted, unless it is proved that the electronic transmission was not received by the representative of the regulatory body.

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Regulatory body must comply with order

18 The regulatory body must comply with a compliance order.

Regulations, rule or bylaws re compliance orders

19 If a compliance order requires the regulatory body to make, amend or repeal a regulation, rule or bylaw and the regulatory body does not do so within 60 days after the order is served on the regulatory body, the Lieutenant Governor in Council may, by order, make, amend or repeal the regulation, rule or bylaw.

PART 5
Exemptions

Exemptions

20(1) A regulatory body may apply to the minister in the form and manner specified by the minister for an exemption from the requirements in this Act or the regulations.

(2) For the purposes of its application pursuant to subsection (1), the regulatory body shall submit to the minister supporting documentation and provide reasons for requesting the exemption.

(3) If a regulatory body applies for an exemption pursuant to subsection (1), the minister may:

(a) grant the exemption if the minister is satisfied, on the basis of the documentation and reasons provided, that it is necessary and in the public interest to grant the exemption for one or more of the following purposes:

- (i) public security and safety;
- (ii) public order;
- (iii) protection of human, animal, or plant life or health;
- (iv) protection of the environment;
- (v) consumer protection;
- (vi) protection of the health, safety, and well-being of workers;
- (vii) provision of adequate social or health services to all geographic regions in Saskatchewan;
- (viii) programs for disadvantaged groups;
- (ix) any other prescribed purpose; or

(b) subject to subsection (4), refuse to grant the exemption.

(4) If the minister refuses to approve an application pursuant to clause (3)(b), the minister shall provide the applicant with written notice of the decision together with reasons.

(5) The minister shall cause notice of any exemptions granted pursuant to this section to be published on the ministry's website and made available to the public in any other manner that the minister considers appropriate.

PART 6 General Provisions

Report to minister

21 A regulatory body shall, at any time that the minister directs, submit a report respecting any matters governed by this Act or the regulations to the minister in the form and with the contents required by the minister, including any prescribed information.

Conflict with other Acts and regulations

22 If a provision of this Act or of a regulation made pursuant to this Act conflicts with a provision of another Act or a regulation made pursuant to another Act, the provision of this Act or the regulation made pursuant to this Act prevails to the extent of the conflict.

Immunity

23 No action or proceeding lies or shall be commenced against the Crown, the minister, the ministry, an employee or agent of the ministry or any other person acting pursuant to the authority of this Act, the regulations or an order made pursuant to this Act, for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

Act binds Crown

24 This Act binds the Crown.

Offences and penalties

25(1) No person shall:

- (a) contravene any provision of this Act, the regulations or an order of the minister pursuant to this Act or the regulations;
- (b) refuse or fail to provide information as required by this Act or the regulations, or provide false or misleading information to any person acting pursuant to this Act or the regulations; or
- (c) obstruct or fail to cooperate with any person acting pursuant to this Act or the regulations in the exercise of the powers or the performance of duties or functions pursuant to this Act or the regulations.

(2) Any individual who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not more than \$35,000.

(3) Any corporation that contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine not more than \$75,000.

(4) If a corporation commits an offence pursuant to this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.

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Limitation on prosecution

26 No prosecution for a contravention of this Act or the regulations is to be commenced more than 2 years after the facts on which the alleged contravention is based first came to the knowledge of the minister.

Regulations

27 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of the definition of “regulatory body”:
 - (i) designating any person or body as a regulatory body; or
 - (ii) excluding any person or body from the definition;
- (c) for the purposes of the definition of “trade agreement”, designating any other agreement as a trade agreement;
- (d) for the purposes of clause 5(f), prescribing other information;
- (e) for the purposes of clause 7(1)(b), prescribing other things a labour mobility applicant may be required to do;
- (f) respecting additional powers, duties and functions of the minister for the purposes of administering this Act;
- (g) for the purposes of subclause 20(3)(a)(ix), prescribing other purposes for which an exemption may be granted;
- (h) respecting the activities to be performed by a regulatory body pursuant to this Act;
- (i) respecting the records and other information to be provided by the regulatory body pursuant to this Act;
- (j) requiring regulatory bodies to conduct, or permit the conduct of, audits of their registration practices and of their compliance with this Act and the regulations;
- (k) respecting audit standards, the scope of audits, the persons or classes of persons authorized to conduct audits, the powers and duties of auditors, the duties of, and the records of other information to be provided by, regulatory bodies with respect to audits, reporting requirements for audits and requiring a regulatory body to pay an auditor’s fees and expenses;
- (l) respecting the collection, use and disclosure of information obtained by the minister for the purposes of this Act and the regulations;
- (m) respecting the powers, duties and functions of The Labour Mobility and Fair Registration Practices Office established pursuant to section 14;
- (n) for the purposes of section 21, prescribing information to be included in a report;

- (o) respecting appeals from a decision or order of the minister made pursuant to this Act;
- (p) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (q) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

PART 7
Coming into Force

Coming into force

28 This Act comes into force on assent.

