

## Chapter 15

### CHARTERED PROFESSIONAL ACCOUNTANTS ACT

(Assented to November 8, 2018)

Whereas it is desirable, in the interests of the public, to empower the Organization of Chartered Professional Accountants of the Northwest Territories and Nunavut (CPA NWT/NU) to advance and maintain the standard of professional accounting and auditing carried on in Nunavut, to govern and regulate members offering services as accountants and auditors and to provide for the interests of the public and the profession;

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

#### INTERPRETATION

##### Definitions

1. (1) In this Act,

"Board" means the governing body of the CPA NWT/NU; (*conseil*)

"by-laws" means by-laws of the CPA NWT/NU; (*règlements administratifs*)

"CPA NWT/NU" means the Organization of Chartered Professional Accountants of the Northwest Territories and Nunavut established by subsection 2(1) of the *Chartered Professional Accountants Act* (Northwest Territories) and operating as CPA NWT/NU; (*CPA TNO/NU*)

"director" means a director of the Board; (*administrateur*)

"Discipline Committee" means the Discipline Committee referred to in subsection 50(1); (*comité de discipline*)

"elected director" means a director elected to the Board; (*administrateur élu*)

"lay director" means a director appointed to the Board; (*administrateur non professionnel*)

"licence" means a licence to engage in the public practice of the profession; (*licence*)

"member" means a person admitted as a member of the CPA NWT/NU under subsection 20(4); (*membre*)

"Practice Review Committee" means the Practice Review Committee referred to in subsection 31(1); (*comité d'inspection professionnelle*)

"profession" means the professional accounting profession as determined by the CPA NWT/NU; (*profession*)

"professional accounting firm" includes a professional corporation, a limited liability partnership and a sole proprietorship engaged in the public practice of professional accounting; (*cabinet d'expert-comptable*)

"public practice" means the public practice of the profession as described in section 14; (*exercice public*)

"Registrar" means the Registrar appointed under subsection 16(1). (*registraire*)

Expanded meaning: "Nunavut Court of Justice"

(2) A reference in this Act to the Nunavut Court of Justice and the *Rules of the Nunavut Court of Justice* shall, in the appropriate circumstances and with such modifications as the circumstances require, be read as a reference to the Supreme Court of the Northwest Territories and the *Rules of the Supreme Court of the Northwest Territories*.

## **PART 1**

### **POWERS OF THE ORGANIZATION**

Powers and functions of the Organization

2. The Organization has and may exercise, in Nunavut, the same powers and functions for the regulation of the professional accounting profession in Nunavut, including the discipline of members in relation to conduct in Nunavut, as the Organization has and may exercise in the Northwest Territories pursuant to the *Chartered Professional Accountants Act* (Northwest Territories).

## **PART 2**

### **PUBLIC PRACTICE**

Public practice of the profession

14. The public practice of the profession comprises one or more of the following services:

- (a) performing an audit engagement and issuing an auditor's report in accordance with the standards of professional practice published by Chartered Professional Accountants of Canada (CPA Canada), as amended from time to time, or an audit engagement or a report purporting to be performed or issued, as the case may be, in accordance with those standards;
- (b) performing any other assurance engagement and issuing an assurance report in accordance with the standards of professional practice published by Chartered Professional Accountants of Canada (CPA Canada), as amended from time to time, or an assurance engagement or a report purporting to be performed or issued, as the case may be, in accordance with those standards;

- (c) issuing any form of certification, declaration or opinion with respect to information related to a financial statement or any part of a financial statement, on the application of
  - (i) financial reporting standards published by Chartered Professional Accountants of Canada (CPA Canada), as amended from time to time, or
  - (ii) specified auditing procedures in accordance with standards published by Chartered Professional Accountants of Canada (CPA Canada), as amended from time to time;
- (d) performing a compilation engagement as defined in the CPA Canada Handbook issued by Chartered Professional Accountants of Canada (CPA Canada), as amended from time to time, provided that
  - (i) the compilation engagement is accompanied by a "notice to reader communication" as required under the compilation engagement provisions of the CPA Canada Handbook, and
  - (ii) a third party is relying on the financial information that is the subject of the compilation engagement.

#### Prohibited practice

**15.** (1) No person other than a member, acting in accordance with the member's licence, shall engage in the public practice of the profession.

#### Exceptions

- (2) Subsection (1) does not apply
  - (a) subject to the by-laws, to a student member under the direct supervision and control of a member;
  - (b) to an employee in relation to services provided to their employer or in their capacity as an employee of an employer that is not a professional accounting firm;
  - (c) to a person providing advice based directly on a declaration, certification or opinion of a member;
  - (d) to a person performing a service for academic research or teaching purposes and not for the purpose of providing advice to a particular person; or
  - (e) to a person acting under the authority of any other Act.

#### Prohibited activities

- (3) No person other than a member shall
  - (a) use or display
    - (i) the designation "chartered professional accountant" or the initials "CPA", or if applicable, the designation "Fellow Chartered Professional Accountant" or the initials "FCPA", or
    - (ii) any of the following designations, initials, names, or titles: "accredited public accountant", "certified accountant",

- "certified public accountant", "general accountant",  
"professional accountant", "registered industrial accountant"  
or the initials "AAPA", "ACA", "APA", "FAPA" or "RIA";
- (b) use any designation, initial, name, title or description similar to one referred to in paragraph (a), or use any other word or designation, abbreviated or otherwise, to imply that the person is a professional accountant of any type or is entitled to engage in the public practice of the profession; or
  - (c) in any other manner, hold themselves out as, or imply or represent that they are a professional accountant of any type or are entitled to engage in the public practice of the profession.

#### Prohibited employment or engagement

(4) No person shall knowingly employ or engage a person, other than a member, to provide the services described in section 14.

#### Injunction

(5) The Nunavut Court of Justice may, on the application of the CPA NWT/NU, grant an injunction restraining a person who contravenes subsection (1) or (3) from further contravention of that subsection.

## **PART 3**

### **MEMBERSHIP**

#### Registrar and Register

##### Registrar

**16.** (1) The Board shall appoint a Registrar.

##### Duties of Registrar

(2) The Registrar shall

- (a) receive applications for admission to, and renewal of, membership under this Act and ensure they are properly considered;
- (b) maintain a register of members of the profession;
- (c) receive complaints against members and ensure that those complaints are addressed in accordance with this Act; and
- (d) perform other duties assigned by this Act, the by-laws and the Board.

##### Register

**17.** (1) The Registrar shall, in the register of members of the profession, record the following information in respect of each member:

- (a) the person's full name;
- (b) the business address of the person's practice;
- (c) the class of membership of the person, and if applicable, the licence issued to the person;

- (d) the date of the person's registration;
- (e) where applicable, information about any conditions to which the person's membership and, if applicable, licence, is subject;
- (f) where applicable, information about the suspension, cancellation or reinstatement of the person's membership and, if applicable, licence;
- (g) where applicable, information about any order made by the Discipline Committee or the Board;
- (h) any other information set out in the by-laws.

#### Classes

(2) The Registrar may, in accordance with the by-laws, divide the register into classes or categories.

#### Inspection of register

(3) The register may, on reasonable notice to the Registrar, be inspected by members of the public.

#### Certificate of standing

**18.** (1) The Registrar shall, on the request of a member and on payment of the fee fixed in the by-laws, issue a certificate of standing in respect of the member.

#### Contents of certificate of standing

- (2) A certificate of standing shall, as of the date of the request,
- (a) summarize the information regarding the member contained in the register; and
  - (b) where applicable, state any information in respect of any complaint against the member that the Registrar considers appropriate.

### Admission to Membership

#### Eligibility requirements

**19.** (1) Subject to subsection (2), a person is eligible to be admitted as a member of the CPA NWT/NU if the person

- (a) is
  - (i) authorized to practice, without restriction, as a chartered professional accountant in another Canadian jurisdiction, and
  - (ii) in good standing with the organization or body governing the profession in that other Canadian jurisdiction; or
- (b) has
  - (i) passed the examination set out in the by-laws, and
  - (ii) completed the practical experience requirements set out in the by-laws.

### Ineligibility

(2) A person is not eligible to be admitted as a member of the CPA NWT/NU if the person is an undischarged bankrupt.

### Application for membership

**20.** (1) A person may apply to the Registrar for admission as a member of the CPA NWT/NU and, if applicable, for the issuance of a licence.

### Application requirements

(2) An application under subsection (1) must

- (a) be in a form approved by and made in a manner approved by the Board;
- (b) include the following:
  - (i) evidence satisfactory to the Board that the applicant is eligible to be admitted,
  - (ii) evidence satisfactory to the Board of the applicant's identity,
  - (iii) subject to the by-laws, evidence satisfactory to the Board of the applicant's good character,
  - (iv) if applicable, proof of professional liability insurance, issued by a company authorized to carry on business in Canada, in the minimum amount considered satisfactory by the Board,
  - (v) information about any investigation, proceeding or adverse finding in respect of the conduct or competence of the applicant related to the applicant's practice of the profession in a province, another territory or other jurisdiction,
  - (vi) a statement by the applicant authorizing the Registrar, or a person designated by the Registrar, to make inquiries of any person, government or body with respect to the evidence or information provided by the applicant in the application form or supporting material, and authorizing any person to whom inquiries are made to provide the information requested,
  - (vii) any other evidence, information or supporting material set out in the by-laws or requested by the Board; and
- (c) be accompanied by the fee fixed in the by-laws.

### Exemption

(3) The Board, on being satisfied that it is warranted in the circumstances, may exempt an applicant from complying with an application or eligibility requirement.

### Membership granted

(4) The Board, on being satisfied that the applicant has complied with the application requirements and meets the eligibility requirements, shall direct the Registrar

- (a) to admit the applicant as a member and to register the applicant in

- the register; and
- (b) if applicable, to issue a licence to the applicant.

#### Conditions

- (5) If the Board is satisfied that it is appropriate in the circumstances, the Board
- (a) may, in accordance with the by-laws, impose conditions on an applicant's membership and, if applicable, licence; and
  - (b) after doing so, shall give the applicant written notice of and reasons for the conditions, and written notice of the right to appeal under section 29.

#### Notice of denial

- (6) If the Board is not satisfied that the application requirements and eligibility requirements are met, the Board shall
- (a) deny the application for membership; and
  - (b) give the applicant written notice of and reasons for the denial, and written notice of the right to appeal under section 29.

#### Duty to notify

- 21.** A member shall notify the Registrar as soon as practicable, but no later than 15 days after
- (a) declaring bankruptcy;
  - (b) being notified of the initiation of an investigation or proceeding in respect of the conduct or competence of the member related to the member's practice of the profession in a province, another territory or other jurisdiction, and being subject to an adverse finding in that proceeding; or
  - (c) being convicted for an offence under the *Criminal Code*.

#### Expiry and Renewal of Membership or Licence

##### Expiry of membership and licence

- 22.** A member's membership and, if applicable, licence, expires on the earlier of
- (a) a date fixed by the by-laws; and
  - (b) a date specified by the Registrar.

##### Eligibility for renewal

- 23.** A member is eligible to have their membership and, if applicable, licence, renewed unless
- (a) their previous membership and, if applicable, licence,
    - (i) is, at the time of the application, suspended, or
    - (ii) was cancelled; or
  - (b) they
    - (i) are prohibited from applying for a renewed membership and, if applicable, licence,
    - (ii) have not satisfactorily completed the continuing

- competency requirements set out in the by-laws, have not maintained the record of those requirements as set out in the by-laws or have not satisfactorily completed other renewal requirements as set out in the by-laws, or
- (iii) no longer meet an eligibility requirement for membership.

#### Application for renewal

**24.** (1) A member who intends to continue to engage in the practice of the profession shall, subject to the by-laws, apply annually to the Registrar for renewal of the member's membership and, if applicable, licence.

#### Application requirements

(2) An application for renewal must

- (a) be made on or before the date of expiry of the applicant's membership and, if applicable, licence;
- (b) be made in a form approved by the Board;
- (c) include the following:
  - (i) evidence satisfactory to the Board that the applicant is eligible to have their membership and, if applicable, licence, renewed,
  - (ii) information about any investigation, proceeding or adverse finding in respect of the conduct or competence of the applicant related to the applicant's practice of the profession in a province, another territory or other jurisdiction,
  - (iii) any other evidence, information or supporting material set out in the by-laws or requested by the Board; and
- (d) be accompanied by the fee fixed in the by-laws.

#### Late application

(3) Notwithstanding paragraph (2)(a), the Registrar may, in accordance with the by-laws, allow the applicant, on payment of the late fee fixed in the by-laws, to apply for renewal of their membership and, if applicable, licence, after the date of expiry, if the Registrar is satisfied that there is a reasonable explanation for the delay in submitting the application for renewal.

#### Exemption

(4) The Board, on being satisfied that it is warranted in the circumstances, may exempt an applicant from complying with an application or eligibility requirement.

#### Renewal

(5) The Registrar shall, on being satisfied that the applicant has complied with the application requirements and is eligible for renewal, renew the applicant's membership and, if applicable, licence.



### Conditions

- (6) If the Board is satisfied that it is appropriate in the circumstances, the Board
- (a) may impose conditions on an applicant's renewed membership and, if applicable, licence; and
  - (b) after doing so, shall give the applicant written notice of and reasons for the conditions, and written notice of the right to appeal under section 29.

### Notice of denial

- (7) If the Board is not satisfied that the application requirements and eligibility requirements for renewal are met, the Board shall
- (a) deny the application for renewal; and
  - (b) give the applicant written notice of and reasons for the denial, and written notice of the right to appeal under section 29.

### Denial, Suspension or Cancellation

#### Grounds for denial

**25.** An application for membership or for the renewal of a member's membership and, if applicable, licence, may be denied if the Board is satisfied that

- (a) the applicant's or member's entitlement to practise the profession in a province, territory or other jurisdiction has been cancelled or suspended;
- (b) an investigation or other proceeding in a province, another territory or other jurisdiction regarding the applicant's or member's entitlement to practise the profession in that jurisdiction has been commenced;
- (c) the applicant or member has been convicted of an offence under this Act or an offence under the *Criminal Code*, the nature of which is relevant to their suitability to engage in the practice of the profession;
- (d) the applicant or member is an undischarged bankrupt; or
- (e) the denial is warranted for any other reason related to protecting the public.

#### Grounds for suspension

**26.** (1) A member's membership and, if applicable, licence, may be suspended if the Board is satisfied that

- (a) any of the criteria set out in paragraphs 25(a) to (d) exist; or
- (b) the suspension is warranted for any other reason related to protecting the public.

#### Notice of suspension

(2) The Board shall, immediately after imposing a suspension under subsection (1), give the member written notice of and reasons for the decision, and written notice of the right to appeal under section 29.

#### Effect of suspension

(3) A member whose membership and, if applicable, licence, is suspended shall not engage in the public practice of the profession until the suspension ends.

#### No longer warranted

##### (4) The Board

- (a) may, on request or on its own initiative, revoke a suspension imposed under subsection (1) and direct the Registrar to reinstate the member's membership and, if applicable, licence, if the Board is satisfied that the suspension is no longer warranted for any reason related to protecting the public; and
- (b) after doing so, shall give the member written notice of the decision.

#### Grounds for removal from register

**27.** (1) A member's name may be removed from the register for the profession and the member's membership and, if applicable, licence, may be cancelled if the Registrar is satisfied that

- (a) the registration and admission were made in error; or
- (b) the registration and admission were made on the basis of false or misleading information.

#### Grounds for cancellation

(2) A member's membership and, if applicable, licence, shall be cancelled in the following circumstances:

- (a) on the request of the member;
- (b) on receipt of evidence showing that the member is deceased;
- (c) in accordance with an agreement reached after the filing of a complaint.

#### Notice

(3) If the Registrar cancels a member's membership and, if applicable, licence, under paragraph (1)(b), the Registrar shall give the member written notice of and reasons for the cancellation, and written notice of the right to appeal under section 29.

### Reinstatement

#### Application for reinstatement

**28.** (1) A member whose membership and, if applicable, licence, has been suspended or cancelled under this Act may apply to the Registrar for reinstatement of the member's membership and, if applicable, licence.

#### Application requirements

- (2) An application for reinstatement under subsection (1) must
  - (a) be made in a form approved by the Board;
  - (b) include the evidence and information referred to in paragraph 20(2)(b); and
  - (c) be accompanied by the fee fixed in the by-laws.

### Exemption

(3) The Board, on being satisfied that it is warranted in the circumstances, may exempt an applicant from complying with an application or eligibility requirement.

### Timing of application

(4) An application under subsection (1) may not be made

- (a) in the case of a suspension for a specified period, before the expiry of that period;
- (b) in the case of a suspension where conditions accompanying the suspension were imposed, before the member has complied with those conditions;
- (c) in the case of a cancellation where the member was prohibited from reapplying for membership and, if applicable, a licence, for a fixed period, before the expiry of that period;
- (d) in the case of a cancellation where the member was prohibited from reapplying for membership and, if applicable, a licence, until specified requirements had been met, before the member has complied with those requirements; or
- (e) in the case of a cancellation where neither paragraph (c) nor (d) applies, before four years or such other period as may be provided in the by-laws after the day on which the membership and, if applicable, licence, was cancelled.

### Reinstatement after suspension

(5) In the case of a suspension, the Registrar shall reinstate the member's membership and, if applicable, licence, if the Registrar is satisfied that the conditions accompanying the suspension have been complied with, that the application requirements have been complied with and that the member continues to meet the eligibility requirements.

### Reinstatement after cancellation

(6) In the case of a cancellation, the Registrar shall register the member, reinstate the member's membership and, if applicable, issue a licence to the member, if the Registrar is satisfied that the requirements prohibiting the member from reapplying for membership and, if applicable, a licence, have been met, that the application requirements have been complied with and that the member continues to meet the eligibility requirements.

### Notice of denial

(7) If the Registrar is not satisfied that the conditions accompanying the suspension have been complied with or that the requirements prohibiting the member from reapplying for membership and, if applicable, a licence, have been met, the Registrar shall

- (a) deny the application for reinstatement; and
- (b) give the member written notice of and reasons for the denial.

## Appeal

### Appeal of denial, conditions or suspension

**29.** (1) Any of the following persons aggrieved by a decision of the Board or the Registrar may, within 30 days after receiving written reasons for the decision, appeal the decision to the Nunavut Court of Justice in accordance with the *Rules of the Nunavut Court of Justice*:

- (a) a person whose application for membership is denied;
- (b) a member whose application for the renewal of their membership and, if applicable, licence, is denied;
- (c) a member whose name was removed from the register and whose membership and, if applicable, licence, was cancelled on the basis of false or misleading information;
- (d) a member whose membership and, if applicable, licence, is subject to the imposition of conditions;
- (e) a member whose membership and, if applicable, licence, is suspended.

### Decision by court

(2) On hearing an appeal, the Nunavut Court of Justice may

- (a) confirm the decision of the Board or the Registrar and dismiss the appeal;
- (b) in the case where the Court finds that a denial was unreasonable,
  - (i) refer the matter back to the Board for further consideration in accordance with any direction of the Court, or
  - (ii) require the Registrar to register the person, admit the person to membership and, if applicable, issue a licence to the person, or to renew a member's membership and, if applicable, licence;
- (c) in the case where the Court finds that the imposition of conditions or the suspension was unreasonable,
  - (i) refer the matter back to the Board or the Registrar for further consideration in accordance with any direction of the Court, or
  - (ii) require the Board to reverse the imposition of any or all of the conditions or the suspension; or
- (d) in the case where the Court finds that the cancellation of a member's membership and, if applicable, licence, was unreasonable,
  - (i) refer the matter back to the Board for further consideration in accordance with any direction of the Court, or
  - (ii) require the Registrar to register the member, reinstate the member's membership and if applicable, issue a licence to the member.

Ancillary order

(3) In making a decision under subsection (2), the Nunavut Court of Justice may make any further order it considers appropriate in the circumstances.

Costs

(4) The Nunavut Court of Justice may make any order as to costs that it considers appropriate.

No further appeal

(5) There is no appeal from the decision of the Nunavut Court of Justice.

## **PART 4**

### **PROFESSIONAL CONDUCT**

Rules of professional conduct

**30.** (1) The Board may make or adopt rules of professional conduct for members, including

- (a) ethical and professional standards of conduct;
- (b) rules regulating the maintenance and administration of trust funds;
- (c) rules respecting the professional names, titles or designations that members may use; and
- (d) rules respecting the organization and conduct of members' practice, including restrictions on practice arrangements and practice associations.

Publicly available

(2) The Board shall make publicly available the rules of professional conduct and any requirements, standards, codes of conduct or rules referred to in subsection (3).

Adoption of requirements, standards, codes or rules

(3) A rule made or adopted under subsection (1) may by reference incorporate requirements, standards and codes of conduct or rules published by another professional body or government agency, in whole or in part and with such changes as are considered necessary, as amended from time to time.

## **PART 5**

### **PRACTICE REVIEW**

Composition of Practice Review Committee

**31.** (1) The Practice Review Committee established by the Board is composed of at least three members appointed by the Board.

#### Mandate of Practice Review Committee

(2) The mandate of the Practice Review Committee is to implement a public practice review program designed to

- (a) promote high standards of public practice by members; and
- (b) generally maintain and improve the competency of the profession.

#### Ineligibility

(3) A member of the Discipline Committee is not eligible to be a member of the Practice Review Committee.

#### Duties

- 32.** (1) The Practice Review Committee shall establish and periodically review
- (a) a practice review checklist;
  - (b) guidelines respecting practice reviews, including the frequency for conducting practice reviews and the contents of practice review reports; and
  - (c) education and experience qualifications for practice reviewers.

#### Practice reviewers

(2) The Practice Review Committee shall appoint practice reviewers who meet the qualifications set out in paragraph (1)(c).

#### Practice review

**33.** (1) Subject to the by-laws, each member licensed to engage in public practice shall be periodically reviewed by a practice reviewer applying the guidelines referred to in paragraph 32(1)(b).

#### Powers of practice reviewers

(2) In reviewing a member's public practice, a practice reviewer has the powers of an investigator under subsection 45(1), and subsections 45(2) to (4) apply, with such modifications as the circumstances require, to a practice review.

#### Report

(3) At the conclusion of the review, the practice reviewer shall prepare a report and provide the report to the Practice Review Committee.

#### Fees

(4) The fees, costs and expenses of the practice reviewer shall be paid by the member whose public practice is the subject of the practice review.

#### Failure to pay fees, costs and expenses

(5) The Registrar may suspend the membership and, if applicable, licence, of a member who fails, within the time fixed by the Practice Review Committee, to pay the fees, costs and expenses of the practice reviewer.

#### Recovery of fees, costs and expenses

(6) The fees, costs and expenses of the practice reviewer payable under this section are a debt due to the CPA NWT/NU and may be recovered by a civil action for debt.

#### Action

**34.** (1) After considering the practice review report, the Practice Review Committee may do one or more of the following:

- (a) recommend practice improvements, practical experience or the engagement of a mentor;
- (b) direct a follow-up practice review, on the conditions, at the time or times and for the purpose specified by the Practice Review Committee;
- (c) direct the establishment and implementation of a professional development plan or a plan to maintain and improve professional standards;
- (d) direct that courses, examinations, tutorials or other forms of professional development or skills training be taken;
- (e) make a formal complaint of professional misconduct to the Registrar.

#### Notice of action and copy of report

(2) The Practice Review Committee shall, immediately after making a recommendation under paragraph (1)(a) or a direction under paragraphs (1)(b) to (d), provide to the member

- (a) a copy of the practice review report;
- (b) written reasons for the Committee's decision; and
- (c) written notice of the right to appeal under subsection 35(1).

#### Sharing report

(3) The Practice Review Committee may share the practice review report, or a portion of the report, with the Registrar.

#### Right to appeal

**35.** (1) A member who is directed under paragraph 34(1)(c) or (d) to undertake specified measures may, within 30 days after receiving the Practice Review Committee's written reasons, appeal that direction to the Board.

#### Decision by Board

(2) On hearing an appeal, conducted in accordance with the principles of natural justice, the Board may

- (a) confirm the direction of the Practice Review Committee and dismiss the appeal; or
- (b) in the case where the Board determines that the imposition of the direction was unreasonable, revoke or vary all or part of the direction of the Practice Review Committee.

Finality

(3) A decision of the Board made under subsection (2) is final and is not subject to appeal to any court.

**PART 6**

**REVIEW OF CONDUCT**

Interpretation

Definitions

**36.** (1) In this Part,

"complainant" means a person who makes a complaint under section 38; (*plaignant*)

"hearing" means a hearing into a complaint conducted by the Discipline Committee under subsection 52(1); (*audience*)

"respondent" means a member against whom a complaint has been made. (*intimé*)

Extended meaning: "respondent"

(2) In this Part, "respondent" includes a person who, at the time of the complaint, is no longer registered or licensed under this Act.

Meaning: "unprofessional conduct"

(3) For the purpose of this Part, the term "unprofessional conduct" includes but is not limited to an act or omission by a member that

- (a) demonstrates a lack of knowledge, skill or judgment in the carrying on of the profession;
- (b) is, or is likely to be, harmful to the best interest of a client or to the public;
- (c) lowers or tends to lower the reputation or standing of the profession;
- (d) contravenes this Act or the by-laws;
- (e) does not comply with ethical and professional standards of conduct adopted under section 30;
- (f) constitutes engaging in the public practice of the profession when the member knew or ought to have known that their capacity to do so was impaired by a disability or condition;
- (g) constitutes engaging in misrepresentation or fraud;
- (h) results or resulted in a conviction for an offence under the *Criminal Code*, the nature of which is relevant to their suitability to engage in the practice of the profession;
- (i) contravenes the conditions imposed on the member's membership and, if applicable, licence;



- (j) constitutes failing or refusing to make a complaint under subsection 38(3);
- (k) constitutes failing or refusing to cooperate during the course of an investigation under this Part;
- (l) contravenes an undertaking made in the course of an agreement to resolve a complaint to the mutual satisfaction of the complainant and the respondent;
- (m) contravenes a notice issued under subsection 55(2) or an order or decision made under subsection 57(2) or (3), 60(1) or (3) or 61(3) to (5); or
- (n) is defined as unprofessional conduct in the by-laws.

### Prohibition

#### Prohibition

**37.** A member shall not engage in unprofessional conduct.

### Complaints

#### Making complaint

**38.** (1) Any person may make a complaint to the Registrar alleging that an act or omission of a member constitutes unprofessional conduct.

#### Complaint by Registrar

(2) The Registrar may, on the Registrar's own initiative, make a complaint if the Registrar has reasonable grounds to believe that an act or omission of a member may constitute unprofessional conduct.

#### Complaint by Member

(3) A member shall make a complaint to the Registrar if that member has reason to believe that another member

- (a) is unfit or incapable of carrying on the public practice of the profession; or
- (b) has engaged in misrepresentation or fraud.

#### Complaint by Employer

(4) A professional accounting firm which terminates the employment of a member on the grounds of unprofessional conduct shall report the termination to the Registrar.

#### Complaint against former member

(5) A complaint respecting the conduct of a respondent who, at the time of the complaint, is no longer registered under this Act may be dealt with under this Part as long as it is made within seven years after the day on which the respondent ceased to be registered.

Formality

(6) A complaint made under this section must be in writing and signed by the person making the complaint.

Notice of complaint

**39.** On receiving a complaint, the Registrar shall provide a copy of the complaint to the respondent.

Initial review of complaint

**40.** (1) The Registrar shall, within a reasonable period, review and inquire into the complaint to the extent the Registrar considers warranted.

Assistance

(2) In reviewing a complaint, the Registrar may engage the services of any person whom the Registrar considers necessary.

Acting on complaint

- (3) On reviewing and inquiring into the complaint, the Registrar may
- (a) in accordance with the by-laws, attempt to resolve the complaint to the mutual satisfaction of the complainant and the respondent; or
  - (b) conduct, or appoint an investigator to conduct, an investigation of the complaint in accordance with subsection 44(1).

Dismissal of complaint

**41.** (1) The Registrar may, at any time before the commencement of a hearing, dismiss a complaint if the Registrar is satisfied that

- (a) the complaint does not relate to conduct regulated under this Act;
- (b) the complaint is trivial or vexatious; or
- (c) there is insufficient evidence of unprofessional conduct to provide a reasonable basis to continue with the complaints process.

Notice of dismissal

(2) On dismissing a complaint under subsection (1), the Registrar shall give the complainant and the respondent written notice of and reasons for the dismissal.

Measures to Protect the Public

Temporary conditions or suspension

**42.** (1) If, on reviewing a complaint, the Registrar determines that it is necessary to protect the public, the Registrar may

- (a) impose conditions on the respondent's membership and, if applicable, licence; or
- (b) suspend the respondent's membership and, if applicable, licence.

#### Expiry

(2) A condition imposed under paragraph (1)(a) or a suspension imposed under paragraph (1)(b) expires on the completion of the complaints process.

#### Notice of temporary conditions or suspension

- (3) The Registrar shall, immediately after making a decision under subsection (1),
- (a) give the complainant and the respondent written notice of and reasons for the decision; and
  - (b) give the respondent written notice of the right to appeal under subsection 43(1).

#### Effect of temporary conditions or suspension

(4) A respondent shall comply with a decision made under subsection (1), and if applicable, shall not engage in the public practice of the profession until the suspension ends.

#### No longer necessary

- (5) The Registrar
- (a) may vary or revoke a decision made under subsection (1) if the Registrar is satisfied that the conditions or the suspension is no longer necessary to protect the public; and
  - (b) after doing so, shall give the complainant and the respondent written notice of the decision.

#### Appeal

**43.** (1) A respondent whose membership and, if applicable, licence, is subject to the imposition of conditions or is suspended under subsection 42(1) may, within 30 days after receiving the written reasons for the decision, appeal that decision to the Board.

#### Decision by Board

(2) On hearing an appeal, conducted in accordance with the principles of natural justice, the Board may

- (a) confirm the decision of the Registrar and dismiss the appeal; or
- (b) in the case where the Board finds that the imposition of the conditions or the suspension was unreasonable,
  - (i) refer the matter back to the Registrar for further consideration in accordance with a direction of the Board, or
  - (ii) revoke or vary all or part of the decision of the Registrar.

#### Finality

(3) A decision of the Board made under subsection (2) is final and is not subject to appeal to any court.

## Investigations

### Investigation

- 44.** (1) The Registrar shall conduct, or may, in accordance with the by-laws, appoint an investigator to conduct, an investigation of a complaint unless that complaint was
- (a) dismissed under subsection 41(1); or
  - (b) resolved in accordance with an agreement reached under paragraph 40(3)(a).

### Ineligibility

(2) A member of the Discipline Committee is not eligible to be appointed as an investigator.

### Notice of investigation

- (3) The Registrar shall give written notice to the respondent
- (a) indicating that an investigation will be conducted; and
  - (b) identifying the investigator.

### Powers on investigation

- 45.** (1) For the purposes of investigating a complaint, an investigator may
- (a) make oral or written inquiries of any person who has or may have information relevant to the complaint;
  - (b) demand the production for examination of documents, records and other materials in a person's possession or under a person's control that are or may be relevant to the complaint;
  - (c) make copies of a document, record or other material produced for examination; and
  - (d) with the approval of the Registrar, engage the services of any person, including legal counsel, whom the investigator considers necessary to assist in the exercise of a power or the performance of a duty under this Act.

### Duty to cooperate

(2) Every person to whom an inquiry or demand is made under paragraph (1)(a) or (b) shall, to the best of their ability, comply with that inquiry or demand, as the case may be.

### Professional privilege and confidentiality

(3) A member may not refuse, on the grounds of professional privilege or confidentiality, to respond to oral or written inquiries from an investigator, or to produce for examination a document, record or other material.

### Duty to return materials

(4) An investigator shall return any document, record or other material provided under paragraph (1)(b) within a reasonable period, but in no case later than 14 days, after the completion of a hearing into the complaint.

#### Order requiring compliance

**46.** If a person fails, within a reasonable period, or refuses to respond to an inquiry or to provide a document, record or other material under subsection 45(1), the Registrar may apply to the Nunavut Court of Justice for an order requiring the person to respond to the inquiry or to provide the document, record or other material.

#### Additional matters

**47.** (1) An investigator may investigate any matter, in addition to the complaint, that arises in the course of the investigation which may constitute unprofessional conduct by the respondent or by another member.

#### Notice of additional matters

- (2) On investigating an additional matter, an investigator shall
- (a) provide to the Registrar, the respondent and if applicable, the other member, a summary of the additional matter under investigation;
  - (b) provide the respondent with an opportunity to present information in respect of the additional matter; and
  - (c) if applicable, provide the other member with an opportunity to present information in respect of the additional matter.

#### Meaning: "another member"

(3) For greater certainty, in this section, "another member" includes a member who, at the time of the investigation, is no longer registered or licensed under this Act, as long as the investigation occurs not more than seven years after the day on which that member ceased to be registered.

#### Investigation report

**48.** An investigator shall, within 30 days after completing an investigation, prepare a written investigation report and provide it to the Registrar.

#### Acting on investigation report

- 49.** (1) On considering an investigation report, the Registrar may
- (a) dismiss the complaint if satisfied that there is insufficient evidence of unprofessional conduct to provide a reasonable basis to continue with the complaints process;
  - (b) in accordance with the by-laws, attempt to resolve the complaint to the mutual satisfaction of the complainant and the respondent; or
  - (c) refer the complaint to the Discipline Committee to conduct a hearing, and in doing so, the Registrar may add further allegations to the complaint arising from the investigation.

#### Notice of decision

(2) The Registrar shall give the complainant and the respondent written notice of and reasons for the decision made under subsection (1).

Copy of report

(3) In the case of a decision to refer a complaint to the Discipline Committee, the Registrar shall give the respondent a copy of the investigation report.

Discipline Committee

Composition of Discipline Committee

**50.** (1) The Discipline Committee established by the Board is composed of at least three members appointed by the Board, including

- (a) at least one person who is a member of the CPA NWT/NU;
- (b) at least at least one lay director or some other person who is neither a member, nor eligible to be a member of the CPA NWT/NU; and
- (c) if necessary, one person who is eligible to engage in the practice of the profession in a province or another territory.

Chairperson

(2) The Board shall designate one member of the Discipline Committee as chairperson.

Alternate member

(3) If a member of the Discipline Committee should not act in respect of a complaint due to a conflict of interest or in the event of another reasonable cause, the Board may appoint an alternate member.

Hearings

Scheduling hearing

**51.** (1) On the referral of a complaint to the Discipline Committee, the chairperson of the Discipline Committee shall

- (a) schedule a hearing to be held as soon as practicable; and
- (b) at least 30 days before the date of the hearing, serve the complainant, the respondent and the Registrar with a written notice of hearing setting out the time, date and place of the hearing.

Adjournment or change of venue

(2) On request by the Registrar or the respondent, the chairperson of the Discipline Committee may, on the terms the chairperson considers appropriate, adjourn the hearing date or change the place of the hearing.

Absence of member

(3) If a person appointed as a member of the Discipline Committee becomes unable to continue with the conduct of a hearing, the Committee may, in the absence of that member, continue with and complete the hearing.

Full and proper hearing

**52.** (1) The Discipline Committee shall conduct a hearing into the complaint and may do all things necessary to provide a full and proper hearing of the complaint.

Rules of procedure

(2) Subject to this Act and the by-laws, the Discipline Committee may establish rules of procedure respecting the conduct of hearings.

Natural justice

(3) Hearings must be conducted in accordance with the principles of natural justice.

Non-attendance at hearing

(4) If a respondent does not attend a hearing into a complaint against him or her, the Discipline Committee may, on proof of service of the written notice of hearing on the respondent, proceed with the hearing and take any action authorized by this Act without further notice to the respondent.

Legal assistance

**53.** (1) The Discipline Committee may engage, at the expense of the CPA NWT/NU, legal counsel to advise the Committee in respect of a matter.

Presentation of case

(2) The Registrar, or the Registrar's legal counsel, shall present the case against the respondent at a hearing.

Respondent's rights

(3) The respondent has the right to appear at a hearing, and, at the respondent's expense, to be represented by legal counsel and to examine and cross-examine witnesses.

Complainant's rights

(4) The complainant has the right to attend and be heard at a hearing, and, at the complainant's expense, to be represented by legal counsel.

Rules of evidence

**54.** (1) A hearing under this Part is not subject to the rules of evidence applicable to judicial proceedings and evidence may be given in any manner that the Discipline Committee considers appropriate, including by teleconference, video conference or other means of communication.

Public hearings

(2) A hearing under this Part must be open to the public, unless the Discipline Committee is of the opinion that

- (a) the personal, financial or other interests of a person, other than the respondent, may be detrimentally affected if all or part of the hearing is held in public; and
- (b) the privacy interests of the person described in paragraph (a) outweigh the public interest in the hearing being open to the public.

#### Protection of witness' identity

(3) On request by a witness whose testimony is of a confidential or personal and sensitive nature, the chairperson of the Discipline Committee may order that no person may publish the identity of the witness or any information that could disclose the identity of the witness.

#### Compellable witness

**55.** (1) The respondent and any other person whom the Discipline Committee considers may have knowledge relevant to a complaint, is a compellable witness at a hearing into that complaint.

#### Enforcement of attendance

(2) The attendance of a witness before a hearing and the production of a document, record or other material may be directed by a written notice issued by the chairperson of the Discipline Committee and served on the witness, requiring the witness

- (a) to attend at the time, date and place specified; and
- (b) where applicable, to produce the document, record or other material listed.

#### Issuance of notice

(3) The chairperson of the Discipline Committee shall

- (a) in respect of a notice issued at the request of the Discipline Committee, cause the notice to be served on the witnesses; and
- (b) in respect of a notice issued at the request of the Registrar or the respondent, provide the notice, without charge, to the person who requested it to facilitate service on the witnesses.

#### Witness fees

(4) A witness, other than the respondent who has been served with a notice to attend or for the production of documents, is entitled to be paid by the CPA NWT/NU the same fees as are payable to a witness in an action in the Nunavut Court of Justice.

#### Administration of oath or affirmation

(5) A member of the Discipline Committee has the power to administer an oath or affirmation to a witness who is to give evidence before the Committee.

#### Testimony of witness in the Northwest Territories

(6) For greater certainty, the Discipline Committee may, in accordance with the equivalent legislation in the Northwest Territories, compel and hear the testimony of a witness in the Northwest Territories.

#### Testimony of non-resident witness

(7) For the purpose of obtaining testimony of a witness who is outside Nunavut and the Northwest Territories, the Nunavut Court of Justice, on *ex parte* application by the chairperson of the Discipline Committee, may, in accordance with the *Rules of the Nunavut Court of Justice*, and with such modifications as the circumstances require, make an order appointing an examiner to obtain testimony of a witness.



### Examination

(8) A witness at a hearing may be examined on oath or affirmation on all matters relevant to the hearing, and is not excused from answering a question on the grounds that the answer might

- (a) tend to incriminate the witness;
- (b) subject the witness to punishment under this Act; or
- (c) tend to establish the liability of the witness
  - (i) in a civil proceeding, or
  - (ii) to a prosecution under any Act.

### Limitation on use

(9) An answer given under subsection (8) may not be used or received against the witness in any civil proceedings or in any proceedings under any other Act except in a prosecution for, or proceedings in respect of, perjury or the giving of contradictory evidence.

### Civil contempt

(10) Proceedings for civil contempt may, on application to the Nunavut Court of Justice in accordance with the *Rules of the Nunavut Court of Justice*, be brought against a witness

- (a) who fails, after being served with a written notice under subsection (2),
  - (i) to attend a hearing of the Discipline Committee as required,
  - (ii) to produce a document, record or other material as required, or
  - (iii) to comply in any other way with the notice; or
- (b) who refuses to be sworn or affirmed, or to answer any question allowed by the Discipline Committee conducting the hearing.

### Decision

**56.** (1) The Discipline Committee shall, within 30 days after the completion of a hearing, prepare a written decision setting out

- (a) the findings of fact made by the Discipline Committee;
- (b) where applicable, any findings of unprofessional conduct;
- (c) the reasons for the decision; and
- (d) where applicable, any order made by the Discipline Committee under subsection 57(2).

### Service on respondent

(2) The chairperson of the Discipline Committee shall cause the following to be served on the respondent:

- (a) a copy of the written decision;
- (b) a notice of the right to request a review under subsection 59(1).

Copy to complainant and Registrar

(3) The chairperson of the Discipline Committee shall cause a copy of the written decision to be provided to the complainant and the Registrar.

Publicly available

(4) The chairperson of the Discipline Committee shall, in accordance with the by-laws, make every decision containing a finding of unprofessional conduct publicly available, subject to ensuring the confidentiality of the portion of the record of the hearing entered during a closed portion of a hearing in accordance with subsection 54(2).

Dismissal of complaint

**57.** (1) The Discipline Committee shall dismiss the complaint if the Discipline Committee determines that the conduct under review at the hearing was not unprofessional conduct.

Sanction

(2) The Discipline Committee may order one or more of the following actions if the Discipline Committee determines that an act or omission of a respondent constitutes unprofessional conduct:

- (a) reprimand the respondent;
- (b) impose any conditions on the respondent's membership and, if applicable, licence, that the Discipline Committee determines are necessary to protect the public, for a fixed period or until the chairperson of the Discipline Committee or a person named in the order is satisfied that the conditions are no longer necessary;
- (c) require the respondent to attend specified counselling or to undergo specified treatment;
- (d) require the respondent to complete a specified course of studies or training;
- (e) where practicable, require the respondent to complete a period of supervised practical experience of a type specified in the order;
- (f) suspend the respondent's membership and, if applicable, licence
  - (i) for a fixed period,
  - (ii) until the respondent provides evidence satisfactory to the chairperson of the Discipline Committee or a person named in the order that the respondent has completed the specified course of studies or training, completed the specified type of supervised practical experience or otherwise met specified requirements respecting the respondent's competence to engage in the public practice of the profession, or
  - (iii) until the respondent provides evidence satisfactory to the chairperson of the Discipline Committee or a person named in the order that a disability or condition has been, or is being, successfully treated, or that the disability or

- condition does not impair the respondent's capacity to engage in the public practice of the profession;
- (g) prohibit the respondent from applying for renewal of the member's membership and, if applicable, licence, for a fixed period or until the respondent provides evidence satisfactory to the chairperson of the Discipline Committee or a person named in the order that the respondent has met specified requirements of the order;
  - (h) cancel the respondent's registration and membership and, if applicable, licence, and where appropriate, prohibit the respondent from applying for membership and, if applicable, a licence, in accordance with paragraph (g);
  - (i) make any other order that the Discipline Committee considers appropriate.

#### Costs and fine

- (3) The Discipline Committee may, in addition to the orders that may be made under subsection (2), order the respondent to pay to the CPA NWT/NU
- (a) the costs of the investigation and hearing in an amount and within a time fixed by the Board;
  - (b) a fine not exceeding \$50,000 payable, within a time fixed by the Board, to the CPA NWT/NU; or
  - (c) both costs and a fine.

#### Failure to pay fine

(4) The Registrar may suspend the membership and, if applicable, licence, of a respondent who fails, within the time fixed in the order, to pay the costs or fine ordered under subsection (3), and the respondent's membership and, if applicable, licence, shall remain suspended until full payment is made.

#### Recovery of fine or costs

(5) A fine or costs ordered to be paid under this section is a debt due to the CPA NWT/NU and may be recovered by a civil action for debt.

#### Effect of sanction

(6) The respondent shall comply with an order made under subsection (2) and a respondent whose registration, membership and, if applicable, licence, is suspended or cancelled shall not engage in the public practice of the profession until the suspension ends or the respondent's registration, membership and, if applicable, licence, is reinstated.

#### Record of hearing

**58.** (1) After completing a hearing, the Discipline Committee shall provide to the Registrar a record of the hearing and all exhibits entered as evidence at the hearing.

#### Respondent's rights

(2) The respondent may examine and obtain a copy of the record of the hearing.

#### Ensuring confidentiality

(3) The Registrar shall take all reasonable steps to ensure the confidentiality of the portion of the record of the hearing entered during a closed portion of a hearing in accordance with subsection 54(2) and any portion of the written decision relating to the closed portion of the hearing.

#### Preserving record of hearing

(4) The Registrar shall take all reasonable steps to preserve the record of a hearing for a period of seven years, unless a court orders otherwise.

### Review by Board

#### Review

**59.** (1) A respondent who is the subject of an order under subsection 57(2) may, within 30 days after being served with a copy of the Discipline Committee's decision, request a review of the decision by the Board by sending to the Registrar

- (a) a written request for a review; and
- (b) written reasons setting out the grounds for the review.

#### No stay of decision

(2) A decision of the Discipline Committee remains in effect pending a request for a review unless the Board, on request, stays all or part of the order.

#### Disqualification

(3) A member of the Board who is a member of the Discipline Committee shall not participate in the review.

#### Materials provided to Board

- (4) On receiving a request for a review, the Registrar shall provide to the Board
- (a) the complaint received under section 38 and the investigation report made under section 48;
  - (b) the record of the hearing and all exhibits entered as evidence at the hearing; and
  - (c) the decision and order of the Discipline Committee.

#### Decision by Board

**60.** (1) On conducting a review, in accordance with the principles of natural justice, the Board may

- (a) confirm the decision or order of the Discipline Committee;
- (b) refer the matter, or any issue, back to the Discipline Committee for further consideration;
- (c) vary all or part of the decision or order of the Discipline Committee; or
- (d) substitute its own decision for the decision of the Discipline Committee.

#### Decision

(2) The Board shall, within 30 days after the completion of a review, prepare a written decision setting out the reasons for its decision.

#### Costs

(3) The Board may make any order as to costs that it considers appropriate.

#### Service on respondent

(4) The Board shall cause the following to be served on the respondent:

- (a) a copy of the written decision;
- (b) a notice of the right to appeal under subsection 61(1).

#### Copy to complainant and Registrar

(5) The Board shall cause a copy of the written decision to be provided to the complainant and the Registrar.

#### Effect of sanction

(6) The respondent shall comply with the decision of the Board, and subsections 57(4) to (6) apply, with such modifications as the circumstances require, to a decision of the Board.

#### Publicly available

(7) The Board shall, in accordance with the by-laws, make every decision containing a finding of unprofessional conduct publicly available.

### Appeal to Court

#### Appeal

**61.** (1) A respondent who is the subject of an order under subsection 60(1) may, within 30 days after being served with a copy of the Board's written decision, appeal the decision to the Nunavut Court of Justice in accordance with the *Rules of the Nunavut Court of Justice*.

#### No stay of order

(2) A decision or order of the Board remains in effect pending an appeal unless the Nunavut Court of Justice, on application, stays all or part of the decision or order.

#### Decision by court

(3) On hearing an appeal, the Nunavut Court of Justice may

- (a) make any finding of fact that it considers should have been made by the Discipline Committee;
- (b) confirm the decision or order of the Discipline Committee or Board;
- (c) refer the matter, or any issue, back to the Discipline Committee for further consideration in accordance with any direction of the Court;
- (d) vary or revoke all or part of the decision or order by the Discipline Committee or Board; or

- (e) substitute its own decision for the decision of the Discipline Committee or Board.

Ancillary order

(4) In making an order under subsection (3), the Nunavut Court of Justice may make any further order it considers warranted in the circumstances.

Costs

(5) The Nunavut Court of Justice may make any order as to costs that it considers appropriate.

No further appeal

(6) There is no appeal from the decision of the Nunavut Court of Justice.

Effect of sanction

(7) The respondent shall comply with the decision of the Court, and subsections 57(4) to (6) apply, with such modifications as the circumstances require, to a decision of the Court.

Publicly available

(8) The Board shall, in accordance with the by-laws, make every Court decision containing a finding of unprofessional conduct publicly available.

## **PART 7**

### **CUSTODIANSHIP**

Definition: "member"

**62.** In this Part, "member" includes a person who is no longer registered or, if applicable, licensed, under this Act.

Application for custodial order

**63.** (1) The CPA NWT/NU may apply to the Nunavut Court of Justice for an order appointing a person as custodian of the property or practice of a member for the purpose of providing for the temporary management, winding up or sale of that practice under the circumstances referred to in subsection (2).

Custodial order

(2) The Court may appoint a custodian of the property or practice of a member if the Court is satisfied that

- (a) the member consents to the appointment;
- (b) the member's membership or registration is suspended or has been cancelled;
- (c) the member is deceased;
- (d) the member has become mentally or physically incapacitated or for some other reason is unable to carry on the practice of the profession; or
- (e) the member has absconded or is otherwise improperly absent from the practice or has neglected the practice.

#### Notice of application

(3) An application for a custodial order may be made without notice to the member or on such notice as the Court directs.

#### Custodian

(4) The Court may appoint the following as a custodian:

- (a) the CPA NWT/NU;
- (b) a person nominated by the CPA NWT/NU;
- (c) any other suitable person.

#### Additional orders

**64.** In addition to appointing a custodian, the Court may issue a warrant to

- (a) direct a sheriff to seize, remove and place in the custody of the custodian any or all of the property, documents, records and other things relating to the practice of the member who is the subject of the order; and
- (b) authorize the sheriff to enter on land or premises or open any safety deposit box or other receptacle if there is reason to believe that property, documents or records relating to the practice of the member who is the subject of the order may be found on the land or premises or in the receptacle.

#### Ancillary order

**65.** The Court may, in a custodial order or on application at any later time, without notice or on notice required by the Court,

- (a) direct a financial institution or other holder of property of the member who is the subject of the order to deal with, hold, pay over or give the property to the custodian or to some other person the Court considers proper;
- (b) remove a custodian appointed by the order and appoint another custodian;
- (c) give directions and advice to the custodian about the disposition of any or all of the property held by the custodian;
- (d) give directions as to the payment of the custodian's fees and the person by whom or property out of which they are to be paid; or
- (e) give directions or make further orders that the situation requires.

#### Application for variance or revocation

**66.** A member who is the subject of a custodial or ancillary order may apply to the Court at any time to have the order varied or revoked.

#### Service

**67.** (1) A custodial or ancillary order shall be promptly served on the member who is the subject of the order, unless the Court directs otherwise.

### Disposal

(2) The member who is the subject of the order shall not dispose of any property covered by the order until directed by the custodian or by order of the Court.

### Information to clients

**68.** (1) A custodian shall make reasonable attempts to provide information to clients of the member whose practice or property is under the control of the custodian, including

- (a) notice that the custodian has been appointed;
- (b) information regarding the effect of the appointment and how the clients' needs will be met; and
- (c) if appropriate, information that they are entitled to claim property.

### Delivering property

(2) The custodian may deliver any property that is the subject of the custodial order to the person whom the custodian is satisfied is entitled to that property.

### Fees, costs and expenses

**69.** (1) The fees, costs and expenses of the custodian must be paid out of the property of the member who is the subject of the order, unless the Court directs otherwise.

### Recovery of fees, costs and expenses

(2) If the CPA NWT/NU paid any of the fees, costs and expenses of the custodian, and if the property of the member is insufficient to repay those fees, costs and expenses, the amount unpaid is a debt due to the CPA NWT/NU and may be recovered in a civil action for debt.

## **PART 8**

### **GENERAL**

#### General

### Members bound

**70.** (1) Every member shall comply with this Act and the by-laws.

### Ensuring others bound

(2) Every member shall ensure that all other people who are associated with the member in the public practice of the profession, whether as employees or partners, comply with this Act and the by-laws.

### Evidence of membership

**71.** An excerpt from the register duly certified by the Registrar is, in the absence of evidence to the contrary, proof that a person whose name is entered in the register is a member, and that a person whose name is not entered in the register is not a member.



#### Method of service

- 72.** (1) A notice or document required to be served under this Act may be
- (a) served personally;
  - (b) sent by registered mail to
    - (i) the last known address of the person being served,
    - (ii) an address for service provided by the person, or
    - (iii) in the case of the Registrar, the office of the Registrar; or
  - (c) sent by electronic mail to an address for service provided by the person.

#### Deemed receipt

(2) A notice or document served by registered mail is deemed to have been received on the 14<sup>th</sup> day following the day of its mailing, unless the person to whom the notice or document was mailed establishes that, through no fault of that person, they did not receive the notice or document or received it at a later date.

#### Confidentiality

- 73.** (1) A person acting under this Act who receives confidential information shall not disclose that information except
- (a) with the consent of the person to whom the information relates;
  - (b) as authorized by this Act or by-laws; or
  - (c) as authorized by an order of a court.

#### Compellability

- (2) A person shall not give, or be compelled to give, evidence in a court or in a proceeding concerning confidential information received in the exercise of a power or in the performance of a duty under this Act unless
- (a) the proceedings are under this Act; or
  - (b) disclosure of the information is authorized under subsection (1).

### Liability

#### Limitation of liability

**74.** (1) No action or proceeding may be brought against any person acting under the authority of this Act for anything done or not done by that person in good faith in the exercise of their powers or the performance of their duties.

#### Liability respecting disclosure of information

(2) No person disclosing information in a complaint made under subsections 38(1) to (4) or during an investigation under section 45 shall be subject to any liability as a result thereof unless the Discipline Committee or the Board determines that the disclosure was made maliciously and without foundation in fact.

## Injunction

### Injunction

**75.** The Nunavut Court of Justice may, on application by the CPA NWT/NU, grant an injunction restraining a person from doing any act or thing to contravene this Act, notwithstanding any penalty that may be provided under this Act in respect of that contravention.

## Offence and Punishment

### False or misleading information

**76.** No person shall provide false or misleading information in an application under this Act, or make a false or misleading statement to a person exercising a power or performing a duty under this Act.

### Obstruction

**77.** No person shall hinder or obstruct a person in the lawful exercise of a power or the lawful performance of a duty under this Act.

### Unauthorized practice

**78.** (1) No person whose application for membership and, if applicable, a licence, under this Act has been denied shall engage in the public practice of the profession.

### Unauthorized practice: member

(2) No person who is a member of the CPA NWT/NU and whose membership and, if applicable, licence, has expired, been suspended or cancelled shall engage in the public practice of the profession until the suspension ends or the member's membership and, if applicable, licence, is reinstated.

### Unauthorized practice: conditions

(3) No person who is a member of the CPA NWT/NU and whose membership and, if applicable, licence, is subject to conditions shall contravene those conditions.

### Offences and punishment

**79.** (1) Every person who contravenes section 15, 76, 77 or 78 is guilty of an offence and liable, on summary conviction,

- (a) for a first offence, to a fine not exceeding \$10,000;
- (b) for a second offence, to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding one year, or to both; and
- (c) for each subsequent offence, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding one year, or to both.

### Limitation period

(2) A prosecution for an offence under this Act may not be commenced more than two years after the day on which the offence comes to the attention of the Board.

Liability of directors and others

**80.** (1) Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for the offence, whether or not the corporation has been prosecuted or convicted for the offence.

Liability of corporation

(2) Nothing in subsection (1) relieves the corporation or the person who actually committed the offence from liability for the offence.

Order to comply

**81.** If a person is convicted of an offence under this Act, a court may, in addition to any other punishment it may impose, order that person to comply with this Act.

Burden of proof

**82.** (1) In a prosecution for an offence under this Act, the burden of proof as to the entitlement of a person to engage in the public practice of the profession or to use a designation reserved for members of the profession is on the person accused.

Proof of practice

(2) In a prosecution for an offence under this Act, proof of the performance of one act in the public practice of the profession on one occasion is sufficient to establish engaging in the public practice of the profession.

## PART 10

### TRANSITIONAL, CONSEQUENTIAL, REPEALS AND COMMENCEMENT

#### Definitions

**86.** In sections 87 to 90,

**"former Act" means**

- (a) the *Certified General Accountants Act*, S.N.W.T. 1998,c.38,s.1,
- (b) the *Chartered Accountants Act*, S.N.W.T. 1998,c.38,s.2, or
- (c) the *Management Accountants Act*, S.N.W.T. 1998,c.38,s.3; (*loi antérieure*)

**"legacy regulatory body" means**

- (a) the **Certified General Accountants Association of the Northwest Territories,**
- (b) the **Institute of Chartered Accountants of the Northwest Territories, and**
- (c) the **Society of Management Accountants of the Northwest Territories,**

**as those bodies existed immediately before the coming into force of this Act.**  
(*organisme de réglementation d'origine*)

### **Dissolution**

**87. (1) The Certified General Accountants Association of the Northwest Territories, the Institute of Chartered Accountants of the Northwest Territories and the Society of Management Accountants of the Northwest Territories are dissolved.**

### **Assets and Liabilities**

**(2) The assets and liabilities of the legacy regulatory bodies are transferred to and vest in the CPA NWT/NU.**

### **Agreements**

**(3) Agreements entered into by the legacy regulatory bodies are assigned to the CPA NWT/NU.**

### **Legal proceedings**

**(4) An action, appeal, application or other proceeding being carried on or power or remedy being exercised with respect to the operations of a legacy regulatory body shall not be discontinued or abated on account of this Act, but may be continued in the name of the CPA NWT/NU, and the CPA NWT/NU has the same rights, is subject to the same liabilities and shall pay or receive the same costs as if the action, appeal, application or other proceeding had been commenced or defended in the name of the CPA NWT/NU.**

### **Interim Board**

**88. (1) On the coming into force of this Act, the interim Board of directors consists of**

- (a) two directors appointed by the Board of the Certified General Accountants Association of the Northwest Territories;**
- (b) two directors appointed by the Board of the Institute of Chartered Accountants of the Northwest Territories;**
- (c) two directors appointed by the Board of the Society of Management Accountants of the Northwest Territories;**
- (d) one lay director appointed in accordance with subsection 6(8);**  
**and**
- (e) one lay director appointed in accordance with subsection 6(9).**

### **Good standing**

**(2) A director appointed under paragraphs (1)(a) to (c) must have been, on the day immediately preceding the coming into force of this Act, a member in good standing of the legacy regulatory body which appointed the member.**

### **Term**

**(3) The directors of the Board, other than the lay directors appointed under paragraphs (1)(d) and (e), hold office for two years or until the second annual general meeting of the CPA NWT/NU, whichever is sooner.**

**Continuation**

- 89. (1) On the coming into force of this Act,**
- (a) a person registered as a member under a former Act**
    - (i) is deemed to be registered, admitted as a member and, if applicable, licensed under this Act,**
    - (ii) continues to be subject to any conditions imposed under the former Act, and**
    - (iii) is authorized to perform the same functions and required to perform the same duties as were authorized or required under the former Act;**
  - (b) a complaint, investigation and proceeding against a member of a legacy regulatory body commenced under a former Act continues under and in conformity with this Act, to the extent that the proceeding can be adapted to this Act; and**
  - (c) every employee of a legacy regulatory body continues as an employee of the CPA NWT/NU.**

**Legacy designations: certified general accountants**

- 90. (1) A person who was a member of the Certified General Accountants Association of the Northwest Territories under the *Certified General Accountants Act* on the day immediately preceding the coming into force of this Act may, for a period of 10 years or such other period as may be provided in the by-laws after the coming into force of this Act, use**
- (a) the designation "certified general accountant" and the initials "CGA"; and**
  - (b) if applicable, the designation "fellow certified general accountant" and the initials "FCGA".**

**Legacy designations: chartered accountants**

- (2) A person who was a member of the Institute of Chartered Accountants of the Northwest Territories under the *Chartered Accountants Act* on the day immediately preceding the coming into force of this Act may, for a period of 10 years or such other period as may be provided in the by-laws after the coming into force of this Act, use**
- (a) the designation "chartered accountant" and the initials "CA"; and**
  - (b) if applicable, the designation "fellow chartered accountant" and the initials "FCA".**

**Legacy designations: certified management accountants**

- (3) A person who was a member of the Society of Management Accountants of the Northwest Territories under the *Management Accountants Act* on the day immediately preceding the coming into force of this Act may, for a period of 10 years or such other period as may be provided in the by-laws after the coming into force of this Act, use**
- (a) the designation "certified management accountant" and the initials "CMA"; and**

- (b) **if applicable, the designation "fellow certified management accountant" and the initials "FCMA".**

## CONSEQUENTIAL AMENDMENTS

### *Cities, Towns and Villages Act*

**91. (1) The *Cities, Towns and Villages Act* is amended by this section.**

**(2) Paragraph 144(3)(c) is amended by striking out "Canadian Institute of Chartered Accountants" and substituting "Chartered Professional Accountants of Canada (CPA Canada)".**

### *Hamlets Act*

**92. (1) The *Hamlets Act* is amended by this section.**

**(2) Paragraph 144(3)(c) is amended by striking out "Canadian Institute of Chartered Accountants" and substituting "Chartered Professional Accountants of Canada (CPA Canada)".**

### *Northern Employee Benefits Services Pension Plan Act*

**93. Subsection 26(2) of the *Northern Employee Benefits Services Pension Plan Act* is repealed and the following is substituted:**

#### Qualifications

(2) An auditor appointed under subsection (1) must be entitled to engage in public practice under the *Chartered Professional Accountants Act*.

### *Qulliq Energy Corporation Act*

**94. Section 1 of the *Qulliq Energy Corporation Act* is amended by striking out "CICA Handbook of the Canadian Institute of Chartered Accountants" in the definition "equity" and substituting "CPA Canada Handbook issued by the Chartered Professional Accountants of Canada (CPA Canada), as amended from time to time".**

### *Nunavut Employees Union Act*

**95. Section 12 of the *Nunavut Employees Union Act* is amended by striking out "a chartered accountant" and substituting "a person entitled to engage in public practice under the *Chartered Professional Accountants Act*".**

### *Arbitration Act*

**96. Subsection 41(2) of the *Arbitration Act* is amended by striking out "chartered accountants, certified general accountants" and substituting "entitled to engage in public practice under the *Chartered Professional Accountants Act*".**

***Risk Capital Investment Tax Credits Act***

**97. Paragraph 55(1)(c) of the *Risk Capital Investment Tax Credits Act* is amended by striking out "a chartered accountant, a certified general accountant or a certified management accountant" and substituting "a person entitled to engage in public practice under the *Chartered Professional Accountants Act*".**

***Legal Profession Act***

**98. (1) The *Legal Profession Act* is amended by this section.**

**(2) Section 47 is amended by striking out "chartered accountant or a certified general accountant" and substituting "person entitled to engage in public practice under the *Chartered Professional Accountants Act*".**

**(3) Section 48 is amended by striking out "chartered accountant or certified general accountant" and substituting "person entitled to engage in public practice under the *Chartered Professional Accountants Act*".**

***Credit Union Act***

**99. (1) The *Credit Union Act* is amended by this section.**

**(2) Subsection 73(3) is amended by striking out "chartered accountants, certified general accountants" and substituting "persons entitled to engage in public practice under the *Chartered Professional Accountants Act*".**

**REPEAL**

***Certified General Accountants Act***

**100. The *Certified General Accountants Act*, S.N.W.T. 1998,c.38,s.1, is repealed.**

***Chartered Accountants Act***

**101. The *Chartered Accountants Act*, S.N.W.T. 1998,c.38,s.2, is repealed.**

***Management Accountants Act***

**102. The *Management Accountants Act*, S.N.W.T. 1998,c.38,s.3, is repealed.**

**COMMENCEMENT**

**Coming into force**

**103. This Act or any provision of this Act comes into force on a day or days to be fixed by order of the Commissioner.**