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# Bill 70

## **An Act respecting the regulation of Registered Professional Planners**

**Mr. L. Coe**

### **Private Member's Bill**

1st Reading      February 19, 2019

2nd Reading

3rd Reading

Royal Assent



## EXPLANATORY NOTE

The Bill repeals the *Ontario Professional Planners Institute Act, 1994* and enacts the *Registered Professional Planners Act, 2019*.

The new Act continues the Ontario Professional Planners Institute (hereinafter “Institute”), a corporation without share capital that governs and regulates its members.

*Definitions and Interpretation* (sections 1 and 2): The Act sets out definitions and states that it does not affect or interfere with the right of any person who is not a member of the Institute to practise in the field of professional planning.

*The Institute* (sections 3 to 7): The objects of the Institute are specified. The Institute is composed of its members.

*The Council* (sections 8 to 16): A Council of the Institute is provided to manage and administer the Institute’s affairs. The Council’s members include individuals appointed by the Lieutenant Governor in Council. The roles, duties and functions of the Council are set out.

*Membership* (sections 17 to 23): The Act provides a framework for membership in the Institute. It also establishes a limited continuing jurisdiction over former members respecting disciplinary matters.

*Prohibitions* (sections 24 to 28): The Act creates prohibitions and offences respecting the use of specified designations and initials by unauthorized persons. A limitation period of two years applies in respect of the offences.

*Complaints and Discipline* (sections 29 to 39): The Act sets out procedures for dealing with complaints against the Institute’s members and establishes a disciplinary process, including rights to appeal disciplinary orders.

*Capacity* (sections 40 to 43): The Act establishes procedures for determining whether a member of the Institute is incapacitated, including a committee process with a right of appeal.

*Investigation Powers* (sections 44 to 47): The Act provides for the appointment of investigators to conduct investigations under the Act and sets out their powers.

*Miscellaneous* (sections 48 to 54): The duties of the Registrar with respect to a register are set out. In addition, duties of confidentiality, the admissibility of specified documents and protection from liability are provided for.

*By-laws* (section 55): The Council’s by-law making powers are set out.

*Transitional Issues* (sections 56 to 59): The Act addresses various transitional issues.

*Consequential Amendments and Repeal* (sections 60 to 63): The Act repeals the *Ontario Professional Planners Institute Act, 1994* and makes other consequential amendments.

**An Act respecting the regulation of Registered Professional Planners**

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

#### DEFINITIONS AND INTERPRETATION

##### Definitions

##### 1 In this Act,

“alternative dispute resolution process” means mediation, conciliation, negotiation, or any other means of facilitating the resolution of issues in dispute; (“processus de règlement extrajudiciaire des différends”)

“appeal committee” means the appeal committee established by the by-laws; (“comité d’appel”)

“by-laws” means the by-laws made under this Act; (“règlements administratifs”)

“capacity committee” means the capacity committee established by the by-laws; (“comité de détermination de la capacité”)

“complaints committee” means the complaints committee established by the by-laws; (“comité des plaintes”)

“Council” means the board of directors of the Institute; (“conseil”)

“discipline committee” means the discipline committee established by the by-laws; (“comité de discipline”)

“document” includes data and information in electronic form; (“document”)

“Institute” means the Ontario Professional Planners Institute; (“Institut”)

“Minister” means the Minister of Municipal Affairs or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“professional planning” includes the scientific, aesthetic and orderly disposition of land, resources, facilities or services, with a view to securing physical, economic and social efficiency, a sound environment, health and well-being and “professional planner” has a corresponding meaning; (“urbanisme”, “urbaniste”)

“register” means the register established under section 48; (“tableau”)

“Registrar” means the Registrar of the Institute appointed by the Council. (“registrateur”)

##### Interpretation — rights not affected

2 This Act does not affect or interfere with the right of any person who is not a member of the Institute to practise in the field of professional planning.

## THE INSTITUTE

### **Institute continued**

**3** (1) The Ontario Professional Planners Institute is continued as a corporation without share capital under the name Ontario Professional Planners Institute in English and l'Institut des urbanistes de l'Ontario in French.

### **Composition**

(2) The Institute is composed of its members.

### **Powers, etc., of natural person**

(3) For the purpose of carrying out its objects, the Institute has the capacity and the rights, powers and privileges of a natural person.

### **Implied provisions do not apply**

(4) Section 92 (implied provisions for corporations) of the *Legislation Act, 2006* does not apply to the Institute.

### **Non-application**

(5) The *Corporations Information Act* does not apply to the Institute.

### **Same**

(6) The *Corporations Act* does not apply to the Institute.

### **Objects**

**4** The objects of the Institute are,

- (a) to promote and protect the public interest by governing and regulating the practice of members of the Institute in accordance with this Act and the by-laws, including,
  - (i) establishing, maintaining, developing and enforcing standards of qualification,
  - (ii) establishing, maintaining, developing and enforcing standards of practice,
  - (iii) establishing, maintaining, developing and enforcing standards of professional ethics,
  - (iv) establishing, maintaining, developing and enforcing standards of knowledge, skill and proficiency, and
  - (v) regulating the practice, competence and professional conduct of members of the Institute;
- (b) to promote and increase the knowledge, skill and proficiency of members of the Institute;
- (c) to promote and protect the welfare and interests of the Institute and of the planning profession;
- (d) to promote inter-professional collaboration with other professional bodies;
- (e) to promote and contribute to the study and practice of professional planning;
- (f) to participate in the development of public policy issues related to professional planning; and
- (g) to address any other matter that relates to professional planning or to the regulation of its members that the Council considers appropriate.

### **Annual meetings**

**5** The Institute shall hold an annual meeting of the members of the Institute in accordance with the by-laws.

### **Surplus**

**6** Any surplus obtained from carrying on the business of the Institute shall be solely devoted to and applied towards promoting and carrying out its objects in accordance with this Act and the by-laws and shall not be divided among its members.

### **Benevolent or charitable fund**

**7** The Institute may establish and administer a benevolent or charitable fund, and for that purpose may make or receive contributions.

## THE COUNCIL

### **Council**

**8** (1) The Institute shall have a Council that shall be its governing body and board of directors and that shall manage and administer the Institute's affairs in accordance with this Act and the by-laws.

**Composition**

- (2) The Council shall be composed of,
- (a) at least nine and no more than 11 individuals, as fixed by the by-laws, who are members of the Institute and who are elected by members of the Institute in accordance with the by-laws; and
  - (b) at least one and no more than three individuals appointed by the Lieutenant Governor in Council, each of whom,
    - (i) is not a member of the Institute,
    - (ii) is not a public servant employed under Part III of the *Public Service of Ontario Act, 2006*, and
    - (iii) has no personal, financial or other interest in the practice of professional planning or a profession related to planning that could give rise to a conflict of interest.

**Deemed reappointment**

- (3) An individual whose appointment under clause (2) (b) expires is deemed to have been reappointed until his or her successor takes office.

**Council appointments**

- (4) Until the first appointment of an individual to the Council by the Lieutenant Governor in Council under clause (2) (b), the Council may appoint as members of the Council one or more individuals who are not members of the Institute, for the term or terms that the Council specifies.

**Same**

- (5) The appointment of an individual appointed under subsection (4) expires on the earlier of,
- (a) the day on which the individual's term expires; and
  - (b) the day on which the Lieutenant Governor in Council makes a first appointment under clause (2) (b).

**Vacancy**

- 9** (1) If the seat of an elected member of the Council becomes vacant, the Council shall fill the vacancy for the remainder of the member's term in accordance with the by-laws.

**Same**

- (2) For the purposes of subsection (1), an elected member's seat becomes vacant,
- (a) if the member dies or resigns;
  - (b) if the member is removed from the Council in accordance with the by-laws; or
  - (c) for any other reason specified by the by-laws.

**Same**

- (3) If one or more vacancies occur in the membership of the Council, the members remaining on the Council shall constitute the Council so long as their number is not fewer than the quorum established by section 10.

**Quorum**

- 10** At any meeting of the Council, a majority of the members of the Council constitutes a quorum.

**Officers**

- 11** (1) The Council shall elect from among its members the officers specified by the by-laws to be elected.

**Same**

- (2) The Council shall appoint as officers of the Institute a Registrar and any other officers specified by the by-laws to be appointed.

**Powers and duties**

- (3) In addition to the powers and duties that are set out in this Act and the by-laws, an officer of the Institute has the powers and duties that are granted or assigned to him or her by the Council.

**Committees**

- 12** (1) The Council shall by by-law establish a complaints committee, a discipline committee, a capacity committee and an appeal committee, and may establish additional committees as it considers appropriate.

**Panels**

- (2) The by-laws may authorize a committee to sit in panels for the purposes of exercising its powers and performing its duties under this Act, and for any other purpose.

**Same**

(3) A decision of a panel of a committee constitutes the decision of the committee.

**Vacancies in committees**

13 If one or more vacancies occur in the membership of a committee of the Council, the members remaining on the committee constitute the committee so long as their number is not fewer than the quorum established in the by-laws.

**Member ceasing to be on committee during hearing**

14 If, after a committee commences a hearing into a matter, a member of the committee ceases to be a member of the committee, the member shall be deemed, for the purposes of dealing with that matter, to remain a member of the committee until the final disposition of the matter.

**Incapacity of member during hearing**

15 If, after a committee commences a hearing into a matter, a member of the committee becomes incapacitated, the remaining members of the committee may continue to hear the matter and to render a decision with respect to the matter.

**Delegation of powers and duties****Council may delegate**

16 (1) The Council may delegate any of its powers or duties under this Act, except the power to make by-laws, to one or more committees, the Registrar or any other officer of the Institute, subject to any restrictions or conditions that the Council may specify.

**Registrar may delegate**

(2) The Registrar may delegate any of his or her powers or duties under this Act to one or more employees of the Institute identified by the Council for the purpose, subject to any restrictions or conditions that are specified by the Registrar or the Council.

**MEMBERSHIP****Membership**

17 (1) The Registrar shall admit as a member of the Institute any individual who meets the requirements and qualifications for membership that are specified by the by-laws and who applies for membership in accordance with the by-laws.

**Certificate**

(2) The Registrar shall give to every individual admitted as a member of the Institute a certificate of membership in the form determined by the Council.

**Same**

(3) Every member of the Institute who resigns his or her membership or whose membership is suspended or revoked shall return his or her certificate of membership to the Institute, unless the Council determines otherwise.

**Register**

18 For the purposes of this Act and the by-laws, an individual is not a member of the Institute unless the register indicates that he or she is a member.

**Restrictions, conditions**

19 The right of a member of the Institute to practise in the field of professional planning is subject to any restrictions or conditions imposed under this Act.

**Designations and initials**

20 Subject to the by-laws, a member of the Institute has the right to use the designations “professional planner”, “Registered Professional Planner”, “urbaniste” and “urbaniste professionnel certifié”, and to use the initials “RPP” and “UPC”.

**Refusal, restrictions or conditions****Refusal of membership**

21 (1) An applicant who is refused membership in the Institute may appeal the decision to the person or body appointed by the by-laws to hear the appeal.

**Restrictions or conditions**

(2) An applicant whose membership in the Institute is granted subject to restrictions or conditions on his or her right to practise in the field of professional planning may appeal the decision to the person or body appointed by the by-laws to hear the appeal.

**Parties**

(3) The parties to an appeal under subsection (1) or (2) are the Institute and the applicant or member, as the case may be.

**Powers**

(4) On hearing the appeal, the person or body appointed to hear the appeal may confirm or vary the decision being appealed, or may substitute his, her or its own decision for that of the Council.

**Decision final**

(5) The decision of the person or body appointed to hear the appeal is final.

**Suspension, revocation of membership**

**22** (1) The Council may, in accordance with the by-laws, suspend or revoke the membership of a member of the Institute for,

- (a) failure to pay all or part of any fee, penalty or other amount that is payable to the Institute;
- (b) failure to provide information or produce documents or other materials required under this Act to be provided or produced;
- (c) failure to make declarations required under this Act to be made; or
- (d) any other reason that is specified by the by-laws.

**Appeal**

(2) An individual whose membership is suspended or revoked under clause (1) (d) may appeal the decision to the person or body specified by the by-laws as having authority to hear the appeal.

**Parties**

(3) The parties to an appeal under subsection (2) are the Institute and the individual.

**Powers**

(4) On hearing the appeal, the person or body may confirm or vary the decision being appealed, or may substitute his, her or its own decision for that of the Council.

**Decision final**

(5) The decision made by the person or body under subsection (4) is final.

**Continuing jurisdiction****Former member**

**23** (1) An individual who resigns as a member of the Institute or whose membership is revoked or otherwise terminated remains subject to the continuing jurisdiction of the Institute in respect of an investigation or disciplinary proceeding arising from his or her conduct while a member.

**Suspended member**

(2) A member whose membership is suspended remains subject to the continuing jurisdiction of the Institute for all purposes under this Act.

**PROHIBITIONS****Prohibitions**

**24** (1) No person, other than a member of the Institute, shall,

- (a) take or use the designation “professional planner”, “Registered Professional Planner”, “urbaniste” or “urbaniste professionnel certifié”, or the initials “RPP” or “UPC”, or any other abbreviation of those designations, alone or in combination with other words or abbreviations; or
- (b) take or use any term, title, initials, designation or description, or any abbreviation thereof, implying that the person is a member of the Institute.

**Exceptions**

(2) Clauses (1) (a) and (b) do not apply to a person in any of the following circumstances:

- 1. The person uses a term, title, initials, designation or description when making reference to his or her membership in a comparable organization in a jurisdiction other than Ontario in,
  - i. a speech or other presentation given at a professional or academic conference or other similar forum,



- ii. an application for employment or a private communication respecting the retainer of the person's services, if the reference is made to indicate the person's educational background and the person expressly indicates that he or she is not a member of the Institute and is not governed by the Institute, or
  - iii. a proposal submitted in response to a request for proposals, if the reference is made to demonstrate that the person meets the requirements for the work to which the request for proposals relates.
2. The person uses a term, title, initials, designation or description as authorized by the by-laws.

**Same**

(3) For the purposes of subparagraph 1 ii of subsection (2), stating the name of the jurisdiction from which the qualifications were obtained after the term, title, initials, designation or description is not sufficient to expressly indicate that the person is not a member of the Institute and is not governed by the Institute.

**Offence and penalty**

**25** (1) Every person who contravenes section 24 is guilty of an offence and on conviction is liable to a fine of not more than \$15,000.

**Application to corporation**

(2) If a corporation is guilty of an offence under subsection (1), every director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is deemed to be a party to and guilty of the offence and on conviction is liable to a fine of not more than \$15,000.

**Probation orders**

(3) On conviction of a person for an offence under this section, the court may prescribe as a condition of a probation order any of the following:

- 1. That the person pay compensation or make restitution to any person who suffered a loss as a result of the offence.
- 2. That the person shall not contravene section 24.

**Costs**

**26** (1) In addition to the fine, on conviction for an offence under section 25, a court may order that the convicted person pay to the Institute some or all of the costs reasonably incurred by it in prosecuting the offence and in undertaking any investigation related to the subject matter of the prosecution.

**Same**

(2) Costs payable under subsection (1) are deemed to be a fine for the purpose of enforcing payment.

**Limitation**

**27** No prosecution for a contravention of section 24 shall be commenced more than two years after the time when the subject matter of the prosecution arose.

**Compliance order**

**28** If it appears to the Institute that a person does not comply with this Act or the by-laws, despite the imposition of a penalty in respect of that non-compliance and in addition to any other rights it may have, the Institute may apply to a judge of the Superior Court of Justice for an order directing the person to comply with the provision, and the judge may make the order or any other order the judge thinks fit.

**COMPLAINTS AND DISCIPLINE**

**Complaints committee**

**29** (1) Subject to the by-laws, the complaints committee shall review every complaint regarding the conduct of a member of the Institute, including complaints made by,

- (a) a member of the public, including a member of the Institute; or
- (b) the Registrar.

**Same**

(2) Subject to the by-laws, if the complaint contains information suggesting that the member may be guilty of professional misconduct as defined in the by-laws, the committee shall investigate the matter.

**Alternative dispute resolution process**

**30** (1) The Registrar may, with the consent of both the complainant and the member, refer the complainant and the member to an alternative dispute resolution process,

- (a) if the matter has not yet been referred to the discipline committee under section 31; and

(b) if the complainant is not the Registrar.

#### **Notice of resolution**

(2) If the complainant and the member reach a resolution of the complaint through alternative dispute resolution, they shall notify the Registrar.

#### **Ratification of resolution**

(3) The Registrar shall promptly advise the complaints committee of a resolution after receiving the notice referred to in subsection (2), and the committee may,

- (a) cease its investigation of the complaint and adopt the proposed resolution; or
- (b) continue with its investigation of the complaint.

#### **Decision of complaints committee**

**31** Following the investigation of a complaint by the complaints committee, the committee may do one or more of the following:

- 1. Direct that the matter be referred, in whole or in part, to the discipline committee.
- 2. Direct that the matter not be referred to the discipline committee.
- 3. Require the person complained against to appear before the complaints committee to be cautioned.
- 4. Take any action that it considers appropriate in the circumstances and that is not inconsistent with this Act or the by-laws, but not including any action described in subsection 33 (4).

#### **Review of complaints committee decision**

**32** (1) If the complaints committee does not direct that a matter be referred, in whole or in part, to the discipline committee, the complainant may request a review of the committee's decision by the appeal committee in accordance with the by-laws.

#### **Powers**

(2) Following a review under subsection (1), the appeal committee may,

- (a) in the circumstances set out in the by-laws, refer the matter back to the complaints committee; or
- (b) direct that no further action be taken.

#### **Decision final**

(3) The decision of the appeal committee under subsection (2) is final.

#### **Same**

(4) If the appeal committee refers a matter back to the complaints committee for reconsideration, the decision of the complaints committee in respect of the matter is final.

#### **Discipline committee**

**33** (1) The discipline committee shall hear every matter referred to it by the complaints committee.

#### **Parties**

(2) The parties to a hearing under subsection (1) are the Institute and the member of the Institute who is the subject of the complaint.

#### **Professional misconduct**

(3) The discipline committee may find a member guilty of professional misconduct if in the committee's opinion the member is guilty of professional misconduct as defined in the by-laws.

#### **Powers, professional misconduct**

(4) If the discipline committee finds a member guilty of professional misconduct, it may by order do one or more of the following:

- 1. Revoke the member's membership.
- 2. Suspend the member's membership for a period not to exceed 24 months.
- 3. Despite section 20, direct that a member whose membership is suspended refrain from using any term, title, initials, designation or description implying that the member is a member of the Institute or is authorized to use the term, title, initials, designation or description during the period of suspension.
- 4. Determine the timing and manner of the return of a certificate of membership to the Institute by an individual whose membership is suspended or revoked.

5. Impose restrictions or conditions on the right of the member to practise in the field of professional planning.
6. Issue a reprimand and, if the committee considers it appropriate, direct that the reprimand be recorded in the register.
7. Direct the member to take any specified rehabilitative measure, including requiring the member to successfully complete specified professional development courses or to seek specified counselling or treatment.
8. Direct the member to pay a fine and specify the timing and manner of payment.
9. Direct that the imposition of a measure under this subsection be postponed for a specified period or on specified terms, including the successful completion of specified courses of study.
10. Direct that a failure to comply with the committee's order shall result in the revocation of the member's membership.
11. Make any other order that the committee considers appropriate in the circumstances.

### **Effect**

(5) Unless the discipline committee orders otherwise, a final decision or order of the committee under this section takes effect on the day on which the time to appeal under subsection 35 (1) expires, if no notice of appeal is filed with the appeal committee in accordance with that subsection.

### **Combining proceedings**

(6) If two or more proceedings before the discipline committee involve the same member or the same or similar questions of fact, law or policy, the committee may, without the consent of the parties, combine the proceedings or any part of them or hear the proceedings at the same time.

### **Preliminary suspension, restrictions**

**34** At any time after a matter respecting a complaint against a member is referred to it by the complaints committee and before making a final decision or order under section 33, the discipline committee may order that the member's membership be suspended, or be subject to any restrictions or conditions that the committee may specify, pending the outcome of the hearing, if there are reasonable grounds to believe that to do otherwise may result in harm to any member of the public.

### **Appeal committee**

**35** (1) A party to a proceeding before the discipline committee may appeal a final decision or order of the committee under section 33 or an order under section 34 to the appeal committee by filing a notice of appeal within the time and in the manner set out in the by-laws.

### **Jurisdiction, powers**

(2) The appeal committee may determine any question of law or mixed fact and law that arises in an appeal under subsection (1) and may do one or more of the following:

1. Make any decision or order that could have been made by the discipline committee.
2. Order a new hearing before the discipline committee.
3. Dismiss the appeal.

### **Effect**

(3) A decision or order of the appeal committee under paragraph 1 of subsection (2) takes effect on the day it is made, unless the committee orders otherwise.

### **Decision, order final**

(4) A decision or order of the appeal committee under subsection (2) is final.

### **Costs**

**36** (1) The discipline committee may award the costs of a proceeding before it under section 33 against the member who is the subject of the proceeding, in accordance with its procedural rules.

### **Same**

(2) The appeal committee may award the costs of a proceeding before it under section 35 against the member who is the subject of the proceeding, in accordance with its procedural rules.

### **Inclusion of Institute's costs**

(3) The costs ordered under subsection (1) or (2) may include costs incurred by the Institute arising from the investigation, prosecution, hearing and, if applicable, appeal of the matter that is the subject of the proceeding and any other costs specified by the by-laws.

**Application**

(4) This section applies despite section 17.1 of the *Statutory Powers Procedure Act*.

**Power of Council to rescind or alter orders**

37 (1) At any time after an order of the discipline committee under section 33 or of the appeal committee under paragraph 1 of subsection 35 (2) to suspend or revoke a member's membership has become effective, the Council may by special resolution rescind or alter the order.

**Notice**

(2) The Council shall give notice of a special resolution under subsection (1), with reasons, to the members of the Institute.

**Application to former members**

38 Sections 29 to 37 apply with necessary modifications in respect of an individual who resigns as a member of the Institute or whose membership is revoked or otherwise terminated.

**Publication of decision summaries**

39 (1) The Council,

- (a) shall publish a summary of every decision of the discipline committee in an annual report; and
- (b) may publish a summary of every decision of the discipline committee in any other publication produced by the Institute.

**Publication of member's name**

(2) In publishing a decision under subsection (1), the Council shall not publish the name of the member who was the subject of the proceeding unless the member has been found guilty of professional misconduct or unless the member requests the publication of his or her name.

## CAPACITY

**Interpretation — “incapacitated”**

40 A member of the Institute is incapacitated for the purposes of sections 41 to 43 if, by reason of physical or mental illness, condition or disorder, other infirmity or addiction to or excessive use of alcohol or drugs,

- (a) the member is unfit to continue to carry out his or her professional responsibilities; or
- (b) restrictions or conditions on the member's right to practise in the field of professional planning should be imposed.

**Investigation**

41 If the Institute receives information suggesting that a member is incapacitated, the Registrar may investigate the matter.

**Application**

42 (1) Following an investigation under section 41, the Registrar may apply to the capacity committee for a determination of whether the member is incapacitated.

**Parties**

(2) The parties to an application under subsection (1) are the Institute and the member.

**Medical or psychological examination**

(3) If the capacity committee determines that it is necessary to obtain the opinion of a physician or psychologist in order to determine whether a member is incapacitated, the committee may, on its own or on motion, order the member to undergo a medical or psychological examination.

**Examining physician, psychologist**

(4) The examining physician or psychologist shall be specified by the capacity committee after giving the parties an opportunity to make recommendations.

**Failure to comply**

(5) If the member fails to comply with an order under subsection (3), the capacity committee may make an order suspending his or her membership until he or she complies.

**Assessment**

(6) Following the examination of a member, the physician or psychologist shall provide to the capacity committee,

- (a) an assessment of whether the member is incapacitated;
- (b) an assessment of the extent of any incapacity; and

- (c) any further information respecting the medical or psychological issues in the case.

#### **Admissibility**

(7) Information provided by a member to a physician or psychologist during a medical or psychological examination is not admissible in evidence except in the application, including any appeal, and in any proceeding in court arising from or relating to the application.

#### **Powers**

(8) If the capacity committee determines that the member is incapacitated, the committee may by order do one or more of the following:

1. Suspend the member's membership.
2. Impose restrictions or conditions on the member's right to practise in the field of professional planning.
3. Make any other order, other than revoking the member's membership, that the committee considers necessary to protect the public interest.

#### **Appeal**

**43** (1) A party to the application may appeal a decision or order under section 42, or a refusal to make an order under that section, to the appeal committee by filing a notice of appeal within the time and in the manner set out in the by-laws.

#### **Jurisdiction, powers**

(2) The appeal committee may determine any question of law or mixed fact and law that arises in an appeal under subsection (1) and may do one or more of the following:

1. Make any decision or order that could have been made by the capacity committee.
2. Refer the matter back to the capacity committee.
3. Dismiss the appeal.

#### **Decision, order final**

(3) A decision or order of the appeal committee under subsection (2) is final.

### **INVESTIGATION POWERS**

#### **Investigators**

**44** (1) The complaints committee or the Registrar may appoint investigators for the purposes of section 29.

#### **Same**

(2) The Registrar may appoint investigators for the purposes of section 41.

#### **Proof of appointment**

**45** Every investigator who exercises powers under this Act shall, on request, produce written proof of his or her appointment under section 44.

#### **Powers**

**46** In conducting an investigation under this Act, an investigator may,

- (a) at any reasonable time, enter and inspect the business premises of the individual under investigation, other than any part of the premises used as a dwelling, without the consent of the owner or occupier and without a warrant;
- (b) question and require the individual or anyone who works with the individual to provide information that the investigator believes is relevant to the investigation;
- (c) require the production of and examine any document or thing that the investigator believes is relevant to the investigation, including a client file;
- (d) on giving a receipt for it, remove any document or thing that the investigator believes is relevant to the investigation for the purposes of making copies or extracts of any document or information, but the making of the copies or extracts shall be carried out with reasonable dispatch, taking into account the scope and complexity of the work involved in making the copies or extracts, and the document or thing shall afterwards be returned promptly to the person from whom it was taken; and
- (e) use any data storage, processing or retrieval device or system used in carrying on business on the premises in order to produce a document in readable form.

**No obstruction**

47 (1) No person shall obstruct an investigator executing his or her duties or withhold from him or her or conceal, alter or destroy any document or thing relevant to the investigation.

**Offence and penalty**

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

**Application to corporation**

(3) If a corporation is guilty of an offence under subsection (2), every director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is deemed to be a party to and guilty of the offence and on conviction is liable to a fine of not more than \$25,000.

## MISCELLANEOUS

**Register**

48 (1) The Registrar shall establish and maintain a register of the members of the Institute, and the register shall contain the information required by the by-laws to be included.

**Publication on website**

(2) The Council shall publish an online version of the register on its website.

**Registrar's certificate as evidence**

49 Any statement containing information from the register purporting to be certified by the Registrar is admissible in evidence as proof, in the absence of evidence to the contrary, of the information in the statement, without proof of the Registrar's appointment or signature.

**Duty of confidentiality**

50 (1) Every person employed, retained or appointed for the purposes of the administration of this Act and the by-laws, and every member of a Council or committee of the Institute shall keep confidential all information that comes to his or her knowledge or possession in the course of his or her duties under this Act, and shall not communicate any such information to any other person except,

- (a) to his or her counsel;
- (b) with the consent of the person to whom the information relates;
- (c) to the extent that the information is available to the public;
- (d) as may be required in connection with the administration of this Act and the by-laws or with any proceeding under this Act or the by-laws; or
- (e) as may otherwise be required by law.

**Offence and penalty**

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

**Costs**

(3) In addition to the fine, on conviction for an offence under this section, a court may order that the convicted person pay to the Institute some or all of the costs reasonably incurred by it in prosecuting the offence and in undertaking any investigation related to the subject matter of the prosecution.

**Same**

(4) Costs payable under subsection (3) are deemed to be a fine for the purpose of enforcing payment.

**Limitation**

(5) No prosecution for a contravention of subsection (1) shall be commenced more than two years after the time when the subject matter of the prosecution arose.

**Disclosure to public authority**

51 (1) The Institute may apply to the Superior Court of Justice for an order authorizing the disclosure to a public authority of any information that a person to whom subsection 50 (1) applies would otherwise be prohibited from disclosing under that subsection.

### **Restrictions**

(2) The court shall not make an order under this section if the information sought to be disclosed came to the knowledge of the Institute as a result of,

- (a) the making of an oral or written statement by a person in the course of an investigation or proceeding that may tend to criminate the person or establish the person's liability to civil proceedings, unless the statement was made at a hearing held under this Act;
- (b) the making of an oral or written statement disclosing matters that the court determines to be subject to solicitor-client privilege; or
- (c) the examination of a document that the court determines to be subject to solicitor-client privilege.

### **Documents and other things**

(3) An order under this section that authorizes the disclosure of information may also authorize the delivery of documents or other things that are in the Institute's possession and that relate to the information.

### **Non-compellability**

**52** No member or appointee of the Council or of a committee of the Institute shall be compelled to give testimony in any civil proceeding, other than a proceeding under this Act or a judicial review relating to a proceeding under this Act, with regard to matters that come to his or her knowledge in respect of the work of the Council or a committee of the Institute.

### **Documents not admissible**

**53** No record of a proceeding under this Act and no report, document or thing prepared for or statement given at such a proceeding and no decision or order made in such a proceeding is admissible in any civil proceeding, other than a proceeding under this Act or a judicial review relating to a proceeding under this Act.

### **Protection from liability**

**54** No action or other proceeding shall be instituted against the Institute, the Council or any committee, any member or former member of the Council or of a committee, or any officer, employee, agent or appointee of the Institute or of the Council for any act done in good faith in the exercise or performance or the intended exercise or performance of any power or duty under this Act or for any neglect or default in the exercise or performance in good faith of such power or duty.

## **BY-LAWS**

### **By-laws**

**55** (1) The Council may make by-laws necessary or desirable to conduct the business and carry out the objects of the Institute.

### **Same**

- (2) Without limiting the generality of subsection (1), the Council may make by-laws with respect to the following matters:
1. Governing the admission of individuals to membership in the Institute, including specifying the requirements and qualifications for each class of members and governing applications for each class of members.
  2. Governing members of the Institute, including,
    - i. establishing standards of practice,
    - ii. governing the imposition of restrictions and conditions on a member's right to practise in the field of professional planning,
    - iii. establishing classes of members,
    - iv. governing the rights, privileges, restrictions and conditions of any class of members,
    - v. governing the granting, renewal, suspension and revocation of memberships,
    - vi. respecting the ways in which members may advertise their services to the public,
    - vii. prescribing operating requirements for members, including record-keeping requirements,
    - viii. respecting mandatory reporting of acts prohibited under this Act to the Registrar, and
    - ix. specifying information that members are required to provide to the Registrar for the purposes of this Act.
  3. Governing the calling, holding and conducting of Council meetings and respecting the duties of Council members.
  4. Governing the calling, holding and conducting of meetings of the members of the Institute, including specifying and limiting the matters that may be considered at an annual meeting.

5. Governing the use of terms, titles, initials, designations and descriptions by members of the Institute, and by individuals for the purposes of paragraph 2 of subsection 24 (2), including specifying the requirements and qualifications to use the designations, initials, terms, titles or descriptions.
6. Governing the nomination and election of members of the Institute to the Council, including fixing the number of elected members, setting out the qualifications that a member must meet in order to be elected to and serve on the Council, setting out terms of office, setting out the requirements for members to be able to vote, establishing electoral districts, and providing for election recounts.
7. Governing the election and appointment of officers of the Institute and setting out their powers and duties.
8. Establishing the committees required by this Act and any additional committees, governing the names, composition, powers, duties and quorums of the committees, governing the appointment of individuals to the committees, and authorizing and governing the composition, practices and procedures of, and quorum for, panels of committees.
9. Delegating any of the Council's powers or duties under this Act to one or more committees or to the Registrar or any other officer of the Institute, and specifying restrictions or conditions on the delegation.
10. Governing the resignation of members of the Institute.
11. Governing the reinstatement or readmission of individuals who have resigned or whose membership is suspended or revoked.
12. Governing the conduct of members of the Institute, including,
  - i. establishing a code of ethics,
  - ii. providing for rules of professional conduct, and
  - iii. governing complaints and discipline, including defining professional misconduct for the purposes of this Act and the by-laws, specifying requirements for the making of complaints, specifying circumstances under which a complaint may not be reviewed or investigated, and specifying orders that may be made for the purposes of paragraph 11 of subsection 33 (4).
13. Governing investigations under this Act.
14. Governing the accreditation of preparatory and qualifying programs respecting professional planning by the Institute.
15. Governing continuing education and professional development, including providing for the development or approval of continuing education and professional development programs for members of the Institute and requiring members to successfully complete or participate in such programs, and governing the provision of professional development and related services to members and to non-members.
16. Authorizing the Institute to make arrangements for the indemnity of members of the Institute against professional liability and providing levies to be paid by members.
17. Requiring members of the Institute to have professional liability insurance that satisfies the requirements specified in the by-laws or to belong to a specified organization that provides protection against professional liability and requiring members to give proof of the insurance or membership to the Institute in the manner set out in the by-laws.
18. Establishing and governing the payment of fees, fines and other amounts that must be paid to the Institute, including the payment of penalties for late payment of any fee, fine or other amount, and exempting any class of person from all or part of any fee, fine or amount.
19. Respecting matters of procedure for any meeting, process or proceeding under this Act, including,
  - i. providing for procedural rules for proceedings before committees under this Act,
  - ii. governing the procedures for making, amending and revoking by-laws,
  - iii. prescribing the ways in which and the time within which notice must be given of meetings held under this Act, and
  - iv. prescribing and governing how information and documents are to be given or served under this Act, such as prescribing rules governing deemed receipt of documents.
20. Prescribing forms and providing for their use.
21. Respecting the designation of life or honorary members of the Institute and prescribing their rights and privileges.
22. Governing the organization of members into local groups for purposes including holding local meetings and organizing activities for members.
23. Providing for the training and recognition of members as specialists, including,



- i. specifying the requirements and qualifications for recognition of specialist status,
  - ii. respecting the applications for recognition of specialist status, and
  - iii. respecting the renewal, expiration, suspension and revocation of the recognition of specialist status.
24. Providing for the affiliation of the Institute with a university, college, school, corporation or other entity that supports the Institute's objects.
  25. Respecting membership of the Institute in a national organization of bodies with similar functions, the payment of annual assessments and representation at meetings.
  26. Governing the participation of the Institute in the establishment and maintenance of foundations or other entities whose work supports the Institute's objects, including providing for the payment of funds by the Institute to such a foundation or other entity.
  27. Providing for the making of grants or donations by the Institute to any individual or entity for any purpose that may tend to advance knowledge and education in professional planning, improve standards of practice in the field of professional planning or support or encourage public information about and interest in the past and present roles of professional planners in society.
  28. Governing the retention and destruction of information and documents in the possession of the Institute or any officer of the Institute, the Council or any committee.
  29. Governing the register that the Registrar is required to establish and maintain, including prescribing the information that must be kept in the register, authorizing the removal of information from the register and requiring members of the Institute to provide the Institute with information necessary for establishing and maintaining the register and for establishing and maintaining records necessary for the proper functioning of the Institute.
  30. Authorizing the Registrar to conduct quality assurance programs in relation to the administration of this Act or the by-laws and to use the information collected under this Act for the purpose of those programs.
  31. Respecting the Institute's newsletters or other publications.
  32. Prescribing a code of conduct for Council members and committee members, including conflict of interest rules for Council members and committee members.
  33. Respecting the remuneration and expenses of Council members and committee members.
  34. Governing the acquisition, management and disposition of the Institute's real and personal property.
  35. Providing for the receipt, management and investment of contributions, donations and bequests from members of the Institute and others for benevolent and charitable purposes, including the establishment and administration of a fund or funds related thereto and the making of contributions.
  36. Providing for the audit of the accounts and transactions of the Institute.
  37. Respecting other administrative matters of the Institute, including use of the corporate seal, execution of documents, banking arrangements and the selection of auditors.
  38. Exempting any member or class of members of the Institute from a by-law made under this section.
  39. Respecting indemnification by the Institute of Council members, committee members, and officers and employees of the Institute.
  40. Respecting any matter that this Act refers to as a matter that the by-laws may specify, set out, determine or otherwise deal with.
  41. Addressing any transitional issues that arise from the repeal of the *Ontario Professional Planners Institute Act, 1994*.

**General or particular**

- (3) A by-law made under this section may be general or particular in its application.

**Same**

- (4) Without limiting the generality of subsection (3), a by-law may be limited in its application to any class of members of the Institute.

**Meetings by telecommunications, etc.**

- (5) A by-law made under paragraph 3 or 4 of subsection (2) may provide for the meetings to be held in any manner that allows all the persons participating to communicate with each other simultaneously and instantaneously.

**Unanimous by-laws**

(6) A by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council called, constituted and held for the purpose.

**When by-law effective**

(7) A by-law made by the Council shall be posted on the Institute's website and, unless otherwise provided in the by-law, is effective on and after the day it is made.

**Publicly available**

(8) The Council shall ensure that every by-law made under this section is available to the public for as long as it remains in effect.

**Examinations permitted**

(9) A by-law made under paragraph 1 of subsection (2) may authorize the Registrar to assess the qualifications or competency of potential members by examinations or other means.

## TRANSITIONAL ISSUES

**Definitions**

**56** In sections 57 to 59,

“transition day” means the day on which this section comes into force.

**Members**

**57** (1) Every individual who is a member of the Institute immediately before the transition day is deemed on the transition day to become a member of the Institute under this Act.

**Same**

(2) For the purposes of subsection (1), if the member is in a class of members immediately before the transition day, the member is deemed on the transition day to become a member of the same class of members and is subject to the same rights, privileges, restrictions and conditions as were applicable to the member and the member's class immediately before the transition day.

**Council members**

**58** Despite subsection 8 (2), the members of the Council who are in office immediately before the transition day shall continue in office as members of the Council until the expiration of the terms for which they were elected or appointed or until the office otherwise becomes vacant.

**By-laws**

**59** Every by-law made by the Council under the *Ontario Professional Planners Institute Act, 1994* that is in force immediately before the transition day is deemed on the transition day to be a by-law of the Institute under this Act and shall remain in force, to the extent that it does not conflict with this Act, until it is amended or revoked by by-law under this Act.

## CONSEQUENTIAL AMENDMENTS AND REPEAL

**Amendment**

**60** (1) Subsection 3 (6) of the Act is repealed and the following substituted:

**Application of *Not-for-Profit Corporations Act, 2010***

(6) The *Not-for-Profit Corporations Act, 2010* does not apply to the Institute, except as may be prescribed by regulation.

(2) The Act is amended by adding the following section immediately before the heading “By-Laws”:

**Regulations**

**54.1** The Lieutenant Governor in Council may make regulations prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Institute.

**Repeal**

**61** The *Ontario Professional Planners Institute Act, 1994* is repealed.

***Fair Access to Regulated Professions and Compulsory Trades Act, 2006***

**62** Section 1 of Schedule 1 to the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* is amended by adding the following paragraph:

16. The Ontario Professional Planners Institute.

*Ontario Labour Mobility Act, 2009*

**63 (1) Item 24 of Table 1 of the *Ontario Labour Mobility Act, 2009* is repealed.**

**(2) Table 1 of the Act is amended by adding the following item:**

39.1.1	<i>Registered Professional Planners Act, 2019</i>	Ontario Professional Planners Institute
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**COMMENCEMENT AND SHORT TITLE****Commencement**

**64 This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.**

**Short title**

**65 The short title of this Act is the *Registered Professional Planners Act, 2019*.**