

# **LABOUR MOBILITY ACT**

# Statutes of Alberta, 2021 Chapter L-0.7

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#### Office Consolidation

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E-mail: kings-printer@gov.ab.ca Shop on-line at kings-printer.alberta.ca

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#### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

#### **Amendments Not in Force**

This document incorporates only those amendments in force on the current as of date shown on the cover. It does not include the following amendments:

2021 cL-0.7 s27 amends the Schedule.

### **LABOUR MOBILITY ACT**

## Chapter L-0.7

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

#### **Definitions**

- 1 In this Act,
  - (a) "auditor" means a person who conducts an audit referred to in section 12(2);
  - (b) "compliance order" means an order made under section 13;
  - (c) "domestic trade agreement" means a domestic trade agreement as defined in Schedule 6 to the *Government Organization Act*;
  - (d) "internal review or appeal" means a rehearing, reconsideration, review or appeal or similar process provided by a regulatory body in respect of a registration decision, without regard to the terminology used by the regulatory body to describe the process;
  - (e) "internal review or appeal decision" means a decision resulting from an internal review or appeal;
  - (f) "intergovernmental agreement" means an agreement as defined in section 11 of the *Government Organization Act*;
  - (g) "labour mobility applicant" means an individual who applies to the regulatory body of a regulated profession to

- be registered in the regulated profession who is currently registered with a body that regulates the same profession in a province or territory in Canada other than Alberta;
- (h) "legitimate objective" means a legitimate objective referred to in a domestic trade agreement or a prescribed intergovernmental agreement that has been approved and published by the Minister in accordance with the domestic trade agreement or prescribed intergovernmental agreement;
- (i) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- "prescribed intergovernmental agreement" means an intergovernmental agreement that has been prescribed in the regulations;
- (k) "register" means to grant membership or certification, with or without restrictions, limitations or conditions, in a regulated profession, whether by registration, admission, enrolment, issuance of a licence or certificate or other means, without regard to the terminology used by the regulatory body for the regulated profession to describe the process;
- (l) "registration decision" means a decision by a regulatory body, without regard to the terminology used by the regulatory body to describe the decision, to
  - (i) register a labour mobility applicant without restrictions, limitations or conditions,
  - (ii) refuse to register a labour mobility applicant, or
  - (iii) register a labour mobility applicant with one or more restrictions, limitations or conditions;
- (m) "regulated profession" means a profession regulated by a regulatory body identified in Schedule 1;
- (n) "regulatory body" means a body identified in Schedule 1 or a person identified in Schedule 2.

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# Part 1 Labour Mobility Registration Practices

#### Compliance with agreements

- **2(1)** A regulatory body shall ensure that its registration practices and registration decisions in respect of a labour mobility applicant to whom any domestic trade agreement that is in force in Alberta applies are consistent with that domestic trade agreement.
- (2) A regulatory body shall ensure that its registration practices and registration decisions in respect of a labour mobility applicant to whom a prescribed intergovernmental agreement applies are consistent with the prescribed intergovernmental agreement as required by the regulations.

#### Registration practices - general duty

**3** A regulatory body has a duty to carry out registration practices and registration decisions in respect of labour mobility applicants that are transparent, objective, impartial and procedurally fair.

#### **Duty to provide information**

- **4** A regulatory body shall provide information about the following matters, in a clear and understandable form, to individuals applying or intending to apply as labour mobility applicants for registration by the regulatory body:
  - (a) the regulatory body's registration practices, registration decision processes and internal review or appeal processes;
  - (b) the length of time that the registration process usually takes;
  - (c) the requirements for registration, any alternative means of meeting any of the requirements and the criteria used to assess whether the requirements have been met;
  - (d) any support the regulatory body provides to labour mobility applicants, or other available supports for labour mobility applicants of which the regulatory body is aware, with respect to the registration process;
  - (e) any fees relating to registration;
  - (f) any legitimate objectives that apply in the case of that regulatory body and any procedures that a labour mobility applicant may be required to follow relating to those legitimate objectives.

#### Qualifications for registration

- **5(1)** A regulatory body shall make information publicly available respecting
  - (a) the documents that are to accompany an application for registration as proof of the labour mobility applicant's qualifications, and
  - (b) any alternative proof of the labour mobility applicant's qualifications that may be acceptable to the regulatory body if a labour mobility applicant cannot obtain the documents referred to in clause (a) for reasons beyond the labour mobility applicant's control.
- (2) A regulatory body that assesses any information required by that regulatory body in respect of a labour mobility applicant shall do so in a way that is transparent, objective, impartial and procedurally fair.
- (3) A regulatory body that relies on a third party to assess any information required by that regulatory body in respect of a labour mobility applicant shall take reasonable measures to ensure that the third party conducts the assessment in a way that is transparent, objective, impartial and procedurally fair.

#### **Application requirements**

- **6(1)** In order for a regulatory body to make a registration decision in relation to a labour mobility applicant, the regulatory body may
  - (a) require that labour mobility applicant to provide proof that the labour mobility applicant holds a certification in a Canadian jurisdiction, and
  - (b) require anything else prescribed in the regulations for the purpose of this section.
- (2) A regulatory body shall not require a labour mobility applicant to provide anything in order for the regulatory body to make a registration decision in relation to the labour mobility applicant that is not included in subsection (1).
- (3) If a regulation referred to in subsection (1)(b) provides differently for different regulatory bodies or different classes of regulatory bodies, a regulatory body shall not require a labour mobility applicant to provide anything for the regulatory body to make a registration decision in relation to that labour mobility applicant unless it is prescribed by the regulation for the purpose of that regulatory body or the class of regulatory bodies to which that regulatory body belongs.

#### Registration

7 Where a labour mobility applicant has provided proof of certification to a regulatory body and has met all of the other requirements imposed by the regulatory body that are permitted by section 6(1)(b), the regulatory body shall register that labour mobility applicant without restrictions, limitations or conditions, unless otherwise provided in the regulations and subject to any requirements in the regulations.

#### Timely decisions, responses and reasons

- **8(1)** A regulatory body shall, within 10 business days after receiving an application by a labour mobility applicant for registration, provide a written acknowledgment of receipt of the application.
- (2) Subject to subsection (3), a regulatory body shall, within 20 business days after receiving an application by a labour mobility applicant and everything required by the regulatory body in respect of the application for registration, make a registration decision in respect of that application for registration.
- (3) On request by a regulatory body at any time before the period referred to in subsection (2) expires, the Minister may provide an extension to that period of up to 10 business days as it applies to that regulatory body.
- (4) A regulatory body shall, within 10 business days after making a registration decision in respect of a labour mobility applicant,
  - (a) provide written communication of the registration decision to the labour mobility applicant,
  - (b) provide written reasons to the labour mobility applicant respecting any registration decision refusing to register the labour mobility applicant or registering the labour mobility applicant with any restrictions, limitations or conditions, and
  - (c) provide information to the labour mobility applicant respecting the labour mobility applicant's rights to any internal review or appeal, including the applicable procedures and deadlines.
- (5) A regulatory body shall, within 10 business days after making an internal review or appeal decision in respect of a labour mobility applicant,
  - (a) provide written communication of the internal review or appeal decision to the labour mobility applicant, and

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(b) provide written reasons to the labour mobility applicant respecting the internal review or appeal decision in respect of the labour mobility applicant.

#### Internal review or appeal

- **9(1)** A regulatory body shall provide a process for an internal review or appeal of a registration decision refusing to register a labour mobility applicant or registering a labour mobility applicant with any restrictions, limitations or conditions within a reasonable time after written reasons for the decision are provided to the labour mobility applicant.
- (2) A regulatory body shall provide an opportunity for the labour mobility applicant to make submissions orally, in writing or by electronic means.
- (3) A regulatory body shall ensure that no person who participated as a decision maker in respect of a registration decision participates as a decision maker in respect of an internal review or appeal of the decision.

#### **Training**

- **10(1)** A regulatory body that assesses any information required by that regulatory body in respect of a labour mobility applicant shall ensure that, before an individual assesses the information, the individual receives training with respect to an assessor's role.
- (2) A regulatory body that relies on a third party to assess any information required by that regulatory body in respect of a labour mobility applicant shall take reasonable measures to ensure that, before an individual assesses the information, the individual receives training with respect to an assessor's role.
- (3) A regulatory body shall ensure that, before an individual participates in making a registration decision or an internal review or appeal decision, the individual receives training that includes, where appropriate, training with respect to
  - (a) special considerations that may apply in the assessment of applications and the process for applying the considerations, and
  - (b) the conduct of hearings.

#### **Record of decisions**

**11(1)** A regulatory body shall retain a record of a registration decision and any written reasons for the registration decision for a period of 3 years from the date the registration decision is made.

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

# Part 2 Powers and Duties of the Minister

#### Powers and duties of the Minister

- **12(1)** The Minister shall
  - (a) give information and advice to regulatory bodies about the requirements of this Act and the regulations,
  - (b) for the purposes of determining compliance with this Act and the regulations, review the registration and assessment practices of regulatory bodies, including the use of third parties to assess the information required by regulatory bodies in respect of labour mobility applicants,
  - (c) make recommendations to regulatory bodies about their duties under this Act and the regulations, and
  - (d) perform any other duty or function provided for in the regulations.
- (2) The Minister may give notice to a regulatory body that an audit must be conducted, in accordance with the regulations, in respect of its registration practices, registration decision processes and internal review or appeal processes and its compliance with this Act and the regulations.
- (3) A regulatory body shall cooperate with
  - (a) the Minister in the conduct of a review referred to in subsection (1)(b), and
  - (b) an auditor in the conduct of an audit referred to in subsection (2).
- (4) The Minister shall not become involved in a registration decision or an internal review or appeal decision on behalf of a labour mobility applicant, but the Minister may review a registration decision or an internal review or appeal decision relating to a labour mobility applicant in accordance with this Act or the regulations after an internal review or appeal decision has been made with respect to that applicant.

# Part 3 Compliance Orders

#### Compliance order

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

#### **Notice of order**

- **14(1)** Before making a compliance order in respect of a regulatory body, the Minister shall serve written notice on the regulatory body.
- (2) A notice under subsection (1) must include information about
  - (a) the nature of the proposed compliance order,
  - (b) the steps that the regulatory body must take to comply with the proposed compliance order,
  - (c) the right of the regulatory body to make a written submission to the Minister in respect of the proposed compliance order, and
  - (d) the time period within which a written submission must be made.
- (3) A regulatory body may make written submissions in respect of a proposed compliance order within 30 days after the notice is served on the regulatory body or within any longer period specified in the notice.
- (4) The Minister may extend a time period referred to in subsection (3).
- **(5)** Subsections (1) to (4) apply if the Minister proposes to vary a compliance order.

#### Service of order or notice

- **15(1)** A compliance order must be served on the regulatory body that is the subject of the order without delay after the compliance order is issued or varied.
- (2) A compliance order or a notice under section 14(1) may be served on a regulatory body by delivering it to a representative of the regulatory body
  - (a) by personal delivery,

- (b) by courier or mail, if receipt of the notice is acknowledged in writing, or
- (c) by electronic means, if it is possible to make a copy of the notice from the electronic transmission.
- (3) Service of a compliance order or a notice under subsection (2) is presumed to be effected
  - (a) if the compliance order or notice is delivered by courier or mail, when the acknowledgment of receipt is signed, or
  - (b) if the compliance order or notice is delivered by electronic means, when it is transmitted, unless it is proved that the electronic transmission was not received by the representative.

#### **Judicial review**

- **16(1)** An application by a regulatory body to the Court of King's Bench for judicial review of a compliance order may be made not later than 30 days from the day that the compliance order is served on the regulatory body.
- (2) If an application for judicial review is made under subsection (1), the Court may stay the compliance order until the Court makes a decision on the application.

2021 cL-0.7 s16;AR 217/2022

## Part 4 General

#### **Audit powers**

- **17(1)** For the purposes of conducting an audit referred to in section 12(2), an auditor may
  - (a) enter and inspect the premises of a regulatory body, and
  - (b) require the production for examination of any documents or records in the possession of the regulatory body and make copies of them or temporarily remove them for the purpose of making copies.
- (2) A person who removes documents or records under subsection (1) shall
  - (a) give a receipt for the documents or records to the person from whom they were taken,

- (b) on request, provide a copy of the documents or records removed to the person from whom they were taken or to a person who is entitled to custody of them, and
- (c) return the documents or records removed without delay to the person from whom they were taken when they have served the purpose for which they were taken.
- (3) If a person prevents an auditor from exercising powers under subsection (1) or obstructs or hinders an auditor in the exercise of the powers, a judge of the Court of King's Bench may, on application, make any order that the judge considers necessary to permit the auditor to exercise the powers.
- (4) An application under subsection (3) may be made without notice if the judge considers it proper in the circumstances.

  2021 cL-0.7 s17;AR 217/2022

#### **Report to Minister**

**18** A regulatory body shall submit an annual report respecting matters relating to this Act and the regulations to the Minister in the form and with the content required by the Minister.

#### Conflict with other enactments

- **19(1)** A provision of this Act or the regulations prevails to the extent of any inconsistency or conflict with a provision of any other enactment.
- (2) If there is any inconsistency or conflict with a provision of this Act and the *Fair Registration Practices Act*, this Act prevails to the extent of the inconsistency or conflict.

#### Protection from liability

**20** No action or other proceeding may be brought against the Minister or a person acting under the authority of the Minister in respect of anything done or omitted to be done in good faith in the exercise or purported exercise of a power or the performance or purported performance of a duty or function under this Act or the regulations.

#### Compellable witness

- **21(1)** A statement made or an answer given by a person during a review referred to in section 12(1)(b) or an audit referred to in section 12(2) is inadmissible in evidence in a court or in any other proceeding except
  - (a) in a prosecution for perjury,
  - (b) in a prosecution for an offence under this Act, or

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- (c) in an application for judicial review or an appeal from a decision with respect to an application for judicial review.
- (2) The Minister, a person acting under the authority of the Minister, an auditor or an officer appointed under the regulations shall not give or be compelled to give evidence in a court or other proceeding in respect of any information obtained in exercising powers or performing duties or functions under this Act or the regulations, except in a prosecution, application or appeal described in subsection (1)(a) to (c).

#### **Act binds Crown**

22 This Act binds the Crown.

#### Offence

**23(1)** A person who does any of the following commits an offence:

- (a) fails to register a labour mobility applicant as required under section 7 or the regulations;
- (b) fails to comply with a timeline required under section 8;
- (c) fails to submit a report to the Minister as required under section 18;
- (d) provides false or misleading information in a report to the Minister under this Act or otherwise provides false or misleading information to the Minister, a person acting under the authority of the Minister, an auditor or an officer appointed under the regulations;
- (e) fails to comply with a compliance order;
- (f) obstructs or fails to cooperate with the Minister, a person acting under the authority of the Minister, an auditor or an officer appointed under the regulations in the exercise of powers or the performance of duties or functions under this Act or the regulations;
- (g) intimidates, coerces, penalizes or discriminates against another person because that person
  - (i) has cooperated or may cooperate with the Minister, a person acting under the authority of the Minister, an auditor or an officer appointed under the regulations in the exercise of powers or the performance of duties or functions under this Act or the regulations, or

- (ii) has provided or may provide records or other information for the purposes of a review or audit under this Act or the regulations.
- (2) A person who is guilty of an offence under subsection (1) is liable on summary conviction
  - (a) in the case of an individual, to a fine of not more than \$25 000, or
  - (b) in the case of a corporation, to a fine of not more than \$50 000.
- (3) A prosecution for an offence under this Act must not be commenced more than 2 years after the day on which evidence of the offence first came to the attention of the Minister.

#### Regulations

- **24(1)** The Lieutenant Governor in Council may make regulations
  - (a) amending Schedule 1 or Schedule 2 by adding or removing a regulatory body from the Schedule;
  - (b) respecting the collection, use and disclosure of information, including personal information as defined in the *Freedom of Information and Protection of Privacy Act* and as defined in the *Personal Information Protection Act*, for the purposes of this Act and the regulations;
  - (c) prescribing an agreement as a prescribed intergovernmental agreement;
  - (d) respecting compliance with a prescribed intergovernmental agreement for the purpose of section 2(2);
  - (e) respecting information, documentation, fees, security or anything else that a regulatory body may, in accordance with section 6(1)(b), require of a labour mobility applicant in order for the regulatory body to make a registration decision relating to that labour mobility applicant;
  - (f) respecting a registration decision that may be made by a regulatory body for the purposes of section 7 including, without limitation, regulations permitting or requiring a regulatory body to
    - (i) register the labour mobility applicant without restrictions, limitations or conditions,

- (ii) register the labour mobility applicant with one or more restrictions, limitations or conditions, or
- (iii) refuse to register a labour mobility applicant;
- (g) respecting additional duties and functions of the Minister;
- (h) respecting the training required under section 10(1), (2) and (3), including training with respect to special considerations that may apply in assessing any information required by a regulatory body in respect of a labour mobility applicant and the processes for applying the considerations;
- (i) requiring regulatory bodies to conduct, or permit the conduct of, audits of their registration practices, registration decision processes and internal review or appeal processes and of their compliance with this Act and the regulations;
- (j) respecting audit standards, the scope of audits, the persons or classes of persons authorized to conduct audits, the powers and duties of auditors, the duties of, and the records or other information to be provided by, regulatory bodies with respect to audits, reporting requirements for audits and requiring a regulatory body to pay an auditor's fees and expenses;
- (k) respecting the appointment of an officer to perform all or any of the powers, duties or functions of the Minister under this Act or the regulations and authorizing the officer to perform those powers, duties or functions;
- (l) respecting the implementation of an intergovernmental agreement including, without limitation,
  - (i) the implementation of an intergovernmental agreement to allow for certification in a profession across a region that includes Alberta and one or more provinces or territories that are parties to the agreement, and
  - (ii) the implementation of an intergovernmental agreement allowing an individual with certification in a profession in one of the provinces or territories that is a party to the agreement to work for a period of time in Alberta in that profession without being required to register with a regulatory body in Alberta;
- (m) defining any term or expression that is used in this Act but not defined in this Act;

- (n) further defining or setting out criteria respecting a term or expression that is defined in this Act;
- (o) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.
- (2) For the purpose of ensuring that this Act is consistent with a prescribed intergovernmental agreement, the Lieutenant Governor in Council may make regulations
  - (a) modifying the following to the extent of the inconsistency with the prescribed intergovernmental agreement:
    - (i) any provision of this Act;
    - (ii) the application of any provision of this Act to any number of specified regulatory bodies or classes of regulatory bodies;
  - (b) making any provision of this Act inapplicable, to the extent of the inconsistency with the prescribed intergovernmental agreement,
    - (i) to any number of specified regulatory bodies or classes of regulatory bodies, or
    - (ii) in specified circumstances.
- (3) A regulation may
  - (a) create different classes of regulatory bodies or labour mobility applicants,
  - (b) define a class as consisting of
    - (i) one or more regulatory bodies, or
    - (ii) labour mobility applicants with one or more specified characteristics,

and

- (c) provide differently for different classes.
- (4) A regulation made under subsection (1)(e) may permit or require a regulatory body to impose different or additional requirements on specified classes of labour mobility applicants or in specified circumstances, including, without limitation, the following circumstances:

- (a) where the labour mobility applicant has not met one or more of the requirements initially imposed by the regulatory body;
- (b) where the labour mobility applicant has one or more pre-existing restrictions, limitations or conditions related to that labour mobility applicant's membership or certification in a province or territory in Canada outside Alberta;
- (c) where the regulatory body has a legitimate objective.
- (5) Subsection (1)(k) does not affect the Minister's authority to delegate to any person any power, duty or function of the Minister under this Act or the regulations.

#### **Transitional**

- **25** This Act and the regulations apply with respect to a labour mobility applicant's application for registration
  - (a) that is received by a regulatory body on or after the day this section comes into force, and
  - (b) that is received by a regulatory body before this section comes into force if the regulatory body has not yet made a registration decision relating to that labour mobility applicant.

# Part 5 Related Amendments, Consequential Amendment and Coming into Force

#### Amends SA 2019 cF-1.5

- 26(1) The Fair Registration Practices Act is amended by this section.
- **(2) Section 1(1)(a) is amended by adding** ", but does not include a labour mobility applicant as defined in the *Labour Mobility Act*" **after** "the designated occupation, designated trade or regulated profession".
- (3) Section 9 is repealed.
- (4) Section 15 is amended
  - (a) in subsections (1) and (2) by striking out "Fair Registration Practices Office" and substituting "Fairness for Newcomers Office";
  - (b) by adding the following after subsection (2):

- (3) The Fair Registration Practices Office established under an order made before the coming into force of this subsection continues under the name Fairness for Newcomers Office.
- **(5)** Section 18 is amended by adding ", except for the *Labour Mobility Act*" after "enactment".
- (6) Repealed 2022 c21 s49.

2021 cL-0.7 s26;2022 c21 s49

#### **Consequential amendment**

27 On the coming into force of section 105(b)(i) of the Health Statutes Amendment Act, 2020 (No. 2), Schedule 1 to this Act is amended by striking out "College of Licensed Practical Nurses of Alberta" and substituting "College of Licensed Practical Nurses and Health Care Aides of Alberta".

#### **Coming into force**

**28** This Act, except section 27, comes into force on Proclamation.

#### Schedule 1

Alberta Association of Architects

Alberta Association of Landscape Architects

Alberta Boilers Safety Association

Alberta College and Association of Chiropractors

Alberta College and Association of Opticians

Alberta College of Combined Laboratory and X-Ray Technologists

Alberta College of Medical Diagnostic and Therapeutic

**Technologists** 

Alberta College of Occupational Therapists

Alberta College of Optometrists

Alberta College of Paramedics

Alberta College of Pharmacy

Alberta College of Social Workers

Alberta College of Speech-Language Pathologists and Audiologists

Alberta Dental Association and College

Alberta Funeral Services Regulatory Board

Alberta Human Ecology and Home Economics Association

Alberta Institute of Agrologists

Alberta Insurance Council

Alberta Land Surveyors' Association

Alberta Motor Vehicle Industry Council

Alberta Professional Outfitters Society

Alberta Professional Planners Institute

Alberta Securities Commission

Alberta Shorthand Reporters Association

Alberta Society of Professional Biologists

Alberta Veterinary Medical Association

Alberta Assessors' Association

Association of Alberta Forest Management Professionals

Association of Professional Engineers and Geoscientists of Alberta

Association of School Business Officials of Alberta

Association of Science and Engineering Technology Professionals of Alberta

Association of the Chemical Profession of Alberta

Canadian Information Processing Society of Alberta

Chartered Professional Accountants of Alberta

College of Acupuncturists of Alberta

College and Association of Registered Nurses of Alberta

College and Association of Respiratory Therapists of Alberta

College of Alberta Dental Assistants

College of Alberta Denturists

College of Alberta Psychologists

College of Dental Technologists of Alberta

College of Dietitians of Alberta

College of Hearing Aid Practitioners of Alberta

College of Licensed Practical Nurses of Alberta

College of Medical Laboratory Technologists of Alberta

College of Midwives of Alberta

College of Naturopathic Doctors of Alberta

College of Physicians and Surgeons of Alberta

College of Podiatric Physicians of Alberta

College of Registered Dental Hygienists of Alberta

College of Registered Psychiatric Nurses of Alberta

Electrical Contractors Association of Alberta

General Insurance Council

Horse Racing Alberta

Institute of Certified Management Consultants of Alberta

Insurance Adjusters' Council

Insurance Brokers Association of Alberta

Law Society of Alberta

Life Insurance Council

Physiotherapy Alberta College + Association

Real Estate Council of Alberta

Safety Codes Council

Society of Local Government Managers of Alberta

Supply Chain Management Association Alberta

#### Schedule 2

Minister of Children's Services
Minister of Education
Minister of Environment and Protected Areas
Minister of Forestry, Parks and Tourism
Minister of Jobs, Economy and Northern Development
Minister of Municipal Affairs
Minister of Public Safety and Emergency Services
Minister of Service Alberta and Red Tape Reduction
Minister of Transportation and Economic Corridors

2021 cL-0.7 Sched. 2;2022 c21 s49





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