

BILL

No. 203

An Act respecting Financial Planners and Financial Advisors and making consequential amendments to another Act

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(Assented to _____)

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

PART 1
Preliminary Matters

Short title

1 This Act may be cited as *The Financial Planners and Financial Advisors Act*.

Definitions

2(1) In this Act:

“**Authority**” means the Financial and Consumer Affairs Authority of Saskatchewan continued pursuant to *The Financial and Consumer Affairs Authority of Saskatchewan Act*;

“**compliance order**” means an order issued pursuant to section 36;

“**court**”, except in sections 24 and 50, means the Court of Queen’s Bench;

“**credential**” means a credential approved pursuant to section 12;

“**credentialed individual**” means an individual using a title mentioned in section 4 or 5 who holds a credential approved pursuant to this Act;

“**credentialing body**” means a credentialing body approved pursuant to section 6;

“**executive director**” means the executive director of the Authority;

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

“**person**” means any individual, partnership, corporation, unincorporated or incorporated association, unincorporated or incorporated syndicate, unincorporated or incorporated organization, trust, trustee, executor, administrator or other legal representative;

“**prescribed**” means prescribed by the regulations made by the Authority or the Lieutenant Governor in Council;

“**record**” includes any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media;

“**title**” means a title mentioned in section 4 or 5.

(2) Notwithstanding any other provision of this Act or the regulations or of any other Act or law, if, pursuant to *The Financial and Consumer Affairs Authority of Saskatchewan Act*, the Authority is assigned the performance of all or any of the responsibilities imposed on the executive director and the exercise of all or any of the powers given to the executive director by this Act or the regulations:

(a) any reference with respect to those responsibilities or powers in this Act or the regulations to the executive director is to be interpreted as a reference to the Authority; and

(b) this Act and the regulations are to be interpreted subject to the provisions of *The Financial and Consumer Affairs Authority of Saskatchewan Act*.

Executive director's responsibilities

3(1) The executive director is responsible to the minister for the administration of this Act.

(2) Notwithstanding section 13 of *The Financial and Consumer Affairs Authority of Saskatchewan Act*, the executive director may appoint any person to carry out any responsibility imposed on the executive director pursuant to this Act or to exercise any of the powers conferred on the executive director pursuant to this Act that the executive director believes may be more conveniently carried out or exercised by that person.

(3) The executive director may impose any limitations or terms and conditions that the executive director considers appropriate on an appointment pursuant to subsection (2).

(4) The exercise of any of the executive director's powers or the carrying out of any of the executive director's responsibilities by a person who is appointed pursuant to subsection (2) is deemed to be the exercise or the carrying out by the executive director.

PART 2**Use of Title****Title—"Financial Planner"**

4 No individual shall use in Saskatchewan the title "Financial Planner" or "planificateur financier", an abbreviation of that title, an equivalent in another language, a title that could reasonably be confused with that title or any other prescribed title unless:

- (a) the individual has obtained from a credentialing body a financial planning credential approved pursuant to subsection 12(1); and
- (b) the individual's financial planning credential is in good standing, within the meaning set out in the regulations, with a credentialing body.

Title—"Financial Advisor"

5 No individual shall use in Saskatchewan the title "Financial Advisor" or "conseiller financier", an abbreviation of that title, an equivalent in another language, a title that could reasonably be confused with that title or any other prescribed title unless:

- (a) the individual has obtained, from a credentialing body, a financial advising credential approved pursuant to subsection 12(2); and
- (b) the individual's financial advising credential is in good standing, within the meaning set out in the regulations, with a credentialing body.

PART 3**Approvals****Approval of credentialing body**

6(1) On application by a person, the executive director may approve the person as a credentialing body for the purposes of this Act.

(2) An application made pursuant to subsection (1) must contain the information and be made in the form and manner determined by the executive director.

(3) Subject to section 46, the executive director shall not approve a person as a credentialing body unless the executive director is satisfied that it is in the public interest to do so and the person making the application:

- (a) satisfies the prescribed criteria and requirements for credentialing bodies;
- (b) pays the prescribed fee;
- (c) provides an address for service in Saskatchewan; and
- (d) provides any other information or material that the executive director may reasonably require.

Terms and conditions re credentialing bodies

7(1) Subject to section 46, at the time an approval as a credentialing body is granted or reinstated, the executive director may impose any terms and conditions on an approval that the executive director considers necessary.

(2) Subject to section 46, at any time after an approval as a credentialing body is granted or reinstated, the executive director may do all or any of the following:

- (a) amend, modify or vary terms and conditions imposed on an approval;
- (b) impose new terms and conditions on an approval;
- (c) repeal terms and conditions and substitute new terms and conditions in their place.

(3) No credentialing body shall fail to comply with the terms and conditions imposed on its approval.

Suspension or revocation of approval re credentialing bodies

8(1) Subject to section 46, the executive director may suspend or revoke a credentialing body's approval:

- (a) on any ground on which the executive director might have refused to grant the approval pursuant to section 6; or
- (b) if a credentialing body has failed to comply with this Act.

(2) If the executive director considers it appropriate to do so, and on receipt of the prescribed reinstatement fee, the executive director may reinstate an approval that has been suspended.

Fees

9 Every credentialed individual shall pay any prescribed fees within any prescribed period and at any prescribed time.

Duties and powers of approved credentialing bodies

10(1) A credentialing body may issue approved credentials in accordance with:

- (a) the terms and conditions of its approval; and
- (b) this Act and the regulations.

(2) A credentialing body shall oversee the individuals holding approved credentials it has issued in accordance with:

- (a) the terms and conditions of its approval; and
- (b) this Act and the regulations.

- (3) A credentialing body shall:
- (a) collect from individuals holding approved credentials it has issued any fees the regulations require those individuals to pay to the Authority;
 - (b) pay the fees it collects to the Authority in accordance with the regulations;
 - (c) ensure that prescribed partners, officers, representatives and other related persons of the credentialing body comply with this Act and the regulations and any terms and conditions applicable to the approval of the credentialing body; and
 - (d) exercise any other prescribed powers and perform any other prescribed duties.

List of approved credentialing bodies

11 The executive director shall cause, if reasonably possible, a current list of approved credentialing bodies to be made public on the Authority's website and in any other manner the executive director considers appropriate.

Approval of credentials

12(1) On application by a credentialing body, the executive director may approve, for the purposes of section 4, one or more financial planning credentials offered by the credentialing body.

(2) On application by a credentialing body, the executive director may approve, for the purposes of section 5, one or more financial advising credentials offered by the credentialing body.

(3) An application made pursuant to subsection (1) or (2) must contain the information and be made in the form and manner determined by the executive director.

(4) Subject to section 46, the executive director shall not approve a credential unless the executive director is satisfied that it is in the public interest to do so and the credentialing body making the application:

- (a) satisfies the prescribed criteria and requirements for credentials;
- (b) pays the prescribed fee; and
- (c) provides any other information or material that the executive director may reasonably require.

Terms and conditions re credentials

13(1) Subject to section 46, at the time an approval of a credential is granted or reinstated, the executive director may impose any terms and conditions on the approval that the executive director considers necessary.

(2) Subject to section 46, at any time after an approval of a credential is granted or reinstated, the executive director may do all or any of the following:

- (a) amend, modify or vary terms and conditions imposed on an approval;
- (b) impose new terms and conditions on an approval;
- (c) repeal terms and conditions and substitute new terms and conditions in their place.

(3) No credentialing body shall fail to comply with the terms and conditions imposed on the approval of the credential.

Suspension or revocation of approval re credentials

14(1) Subject to section 46, the executive director may suspend or revoke an approval of a credential:

- (a) on any ground on which the executive director might have refused to grant the approval pursuant to section 12; or
- (b) if a credential is no longer in compliance with this Act.

(2) If the executive director considers it appropriate to do so, and on receipt of the prescribed reinstatement fee, the executive director may reinstate an approval that has been suspended.

List of approved credentials

15 The executive director shall cause, if reasonably possible, a current list of approved credentials to be made public on the Authority's website and in any other manner the executive director considers appropriate.

Misrepresentation as approved credentialing body

16 No person shall represent that it is approved as a credentialing body pursuant to this Act unless it has a valid approval pursuant to this Act as a credentialing body.

Misrepresentation respecting approved credential

17(1) No person shall represent that a credential it offers is approved pursuant to this Act unless it has a valid approval pursuant to this Act for the credential.

(2) No person shall represent that the person holds an approved credential pursuant to this Act unless the person has obtained the credential from a credentialing body.

Approval and credentials not transferable

18 An approval or reinstatement of a credentialing body, or an approval or reinstatement of credentials pursuant to this Part, is not transferrable or assignable.

Continuous approval

19 An approval granted to a credentialing body, or an approval of credentials, continues in force indefinitely unless it is suspended or revoked in accordance with this Act.

Further information or material

20(1) At any time, the executive director may:

- (a) require a credentialing body or a credentialed individual to submit to the executive director any further information or material that the executive director may reasonably require; and
- (b) require verification, by affidavit or otherwise, of any information or material submitted to the executive director pursuant to clause (a).

(2) No credentialing body or credentialed individual who receives a request from the executive director pursuant to subsection (1) shall fail to comply with that request within the period specified by the executive director.

PART 4

Reporting Requirements**Annual return**

21(1) A credentialing body shall deliver to the executive director an annual return in accordance with this section within the prescribed period and accompanied by the prescribed fee.

(2) The annual return delivered pursuant to subsection (1) must contain the information and be made in the form and manner determined by the executive director.

Additional reports

22(1) At any time, the executive director may direct any person to provide the executive director with any additional reports the executive director requires for the purposes of this Act.

(2) The reports delivered pursuant to subsection (1) must contain the information and be made in the form and manner determined by the executive director.

(3) The executive director may determine a reasonable time within which any person shall provide the reports pursuant to subsection (1).

PART 5

Powers of Executive Director**Information or material**

23(1) At any time, the executive director may direct any person to provide the executive director with any information or material the executive director reasonably requires for the purposes of this Act and the regulations.

(2) The executive director may determine a reasonable time within which any person shall provide the information or materials directed to be provided pursuant to subsection (1).

Restrictions on access to records

24(1) Notwithstanding *The Freedom of Information and Protection of Privacy Act*, any information or record submitted or provided to the executive director or obtained by the executive director as a result of an inquiry, audit, examination, inspection or investigation pursuant to this Act is not open to inspection or available for access except by:

(a) those members of the public service of Saskatchewan employed in the office of the executive director whose responsibilities require them to inspect or allow them to have access to the information or record; and

(b) those persons who are authorized in writing by the executive director to inspect or to have access to the information or record.

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- (2) Unless authorized by this Act or by any other law or with the consent of the person to whom any information or record relates, no member of the public service of Saskatchewan employed in the office of the executive director and no person authorized by the executive director to inspect or have access to the information or record shall:
- (a) communicate or allow to be communicated any information or record obtained pursuant to this Act to any person who is not legally entitled to the information or record; or
 - (b) allow any person who is not legally entitled to the information or record obtained pursuant to this Act to inspect or have access to it.
- (3) Notwithstanding subsections (1) and (2), the executive director may authorize the release of, the inspection of or access to the information or record mentioned in those subsections to or by any person employed by a government, regulatory authority, law enforcement agency or investigative body inside or outside Canada if:
- (a) the information or record will be used solely for the purpose of administering or enforcing an Act or law of Saskatchewan or Canada or of another jurisdiction inside or outside Canada;
 - (b) the release, inspection or access is pursuant to an agreement made pursuant to section 25; or
 - (c) the executive director believes that it is in the public interest to allow the release, inspection or access.
- (4) No person to whom information or a record is provided pursuant to this section is compellable to give evidence concerning that information or record unless:
- (a) the person to whom the information or record relates consents; or
 - (b) a court orders the evidence to be given.
- (5) Notwithstanding subsections (1) and (2), the executive director may authorize the publication of, or make available to the public, the following information or records:
- (a) information submitted with respect to an application made pursuant to section 6;
 - (b) the address of the place of business and mailing address and address for service of a credentialing body or credentialed individual;
 - (c) any other information or record mentioned in subsection (1) if, in the opinion of the executive director, it is in the public interest to do so.
- (6) On an application for an order pursuant to clause (4)(b):
- (a) the executive director and the person to whom the information or record relates are entitled to appear before the court and to make submissions; and
 - (b) the person seeking the order compelling the evidence has the onus of showing why it is in the public interest that the order be made.

Agreements with other jurisdictions

25 Subject to the approval of the minister, the executive director may enter into an agreement with any other government, regulatory authority, law enforcement agency, investigative body or person inside or outside Canada:

(a) for the purpose of administering or enforcing this Act or any Act or law of the other jurisdiction that is similar to this Act, including an agreement authorizing the executive director to perform responsibilities and exercise powers on behalf of the other government, regulatory authority, law enforcement agency, investigative body or person and authorizing the other government, regulatory authority, law enforcement agency, investigative body or person to perform responsibilities and exercise powers on behalf of the executive director; or

(b) for any other purpose that the executive director believes is in the public interest.

Experts

26(1) The executive director may retain any person the executive director considers to be an expert in a field of knowledge to assist the executive director in carrying out the executive director's responsibilities or in exercising the executive director's powers pursuant to this Act.

(2) The executive director may apply to the court for an order directing any person to pay the costs, fees and other expenses of an expert retained pursuant to subsection (1).

(3) On an application pursuant to subsection (2), the court may make any order respecting the payment of costs, fees and expenses that it considers appropriate.

Form of information or records

27 The executive director may require that the information or records required or directed to be provided to the executive director pursuant to this Act be delivered in electronic form or in any other form the executive director considers appropriate.

Adoption of decisions of extraprovincial authorities

28(1) In this section, "**extraprovincial authority**" means an authority in another province or territory of Canada that is authorized by the legislation of that province or territory to regulate the equivalent of a credentialed individual, a credentialing body or a credential in Saskatchewan.

(2) Subject to the regulations, if the executive director is empowered to make a decision with respect to a person or a credential, the executive director may make a decision on the basis that the executive director considers that an extraprovincial authority has made a substantially similar decision regarding that person or credential.

(3) Subject to the regulations, notwithstanding any provision of this Act, the executive director may make a decision mentioned in subsection (2) without giving the person affected by the decision an opportunity to be heard.

Decisions of executive director

29(1) The executive director may direct, in any decision, that:

- (a) the decision or any portion or provision of it comes into force:
 - (i) at a future fixed time;
 - (ii) on the occurrence of any contingency, event or condition specified in the order; or
 - (iii) on the performance, to the satisfaction of the executive director, of any terms that the executive director may impose on any party interested; and
- (b) the whole or any portion of the decision is to be in force for a limited time only or until the occurrence of a specified event.

(2) Instead of making a decision final in the first instance, the executive director may make an interim decision and reserve further directions, either for an adjourned hearing of the matter or for further applications.

(3) The executive director may impose any conditions the executive director considers necessary on any decision made by the executive director.

(4) If, in the opinion of the executive director, it would not be prejudicial to the public interest, the executive director may, on the application of an interested person or on the executive director's own motion, make an order on any terms and conditions that the executive director may impose revoking or varying any previous decision made by the executive director.

(5) If an application or motion is made pursuant to subsection (4), the person subject to the order has the same right to be heard as on the granting of the original order.

Effective date of orders

30 The executive director may direct, in any order, that the order or any portion or provision of it comes into force on a date earlier than the date on which the order is made.

Exemptions

31(1) Subject to section 46, if, in the opinion of the executive director, it is not prejudicial to the public interest, the executive director may, by order, exempt any person or class of persons from any or all of the provisions of this Act.

(2) Subject to section 46, the executive director may impose any terms and conditions on an order made pursuant to subsection (1) that the executive director considers appropriate.

PART 6

Inspections, Investigations and Enforcement

DIVISION 1

Definitions for Part**Definitions for Part**

32 In this Part:

“Act” includes the regulations and any orders or directions of the executive director issued pursuant to this Act;

“property” includes computer software.

DIVISION 2

Inspections and Investigations**Inspections**

33(1) The executive director may make inquiries and conduct examinations of the business and activities of each credentialed individual and credentialing body to ensure that:

(a) the credentialed individual or credentialing body is complying with the requirements established pursuant to this Act;

(b) the credentialing body remains eligible for approval pursuant to section 6; and

(c) an approved credential remains eligible for approval pursuant to section 12.

(2) If, in the executive director’s opinion, an individual who is not a credentialed individual is or was required to be credentialed, the executive director may make those inquiries and conduct those examinations of the business and activities of the individual that the executive director considers appropriate in the circumstances.

(3) If, in the executive director’s opinion, a person who is not a credentialing body is or was required to be approved as a credentialing body, the executive director may make those inquiries and conduct those examinations of the business and activities of the person that the executive director considers appropriate in the circumstances.

(4) Subject to subsection 34(4), the executive director may do all or any of the following things in the course of making an inquiry or conducting an examination:

(a) enter at any reasonable time and inspect any commercial premises used by an individual who is required to be credentialed pursuant to this Act or by a person that is required to be approved as a credentialing body pursuant to this Act;

(b) enter at any reasonable time premises containing any records or property required to be kept pursuant to this Act or related to the administration of this Act and inspect those records or that property;

- (c) require a person and any agent, representative, partner, director, officer or employee of the person to:
 - (i) answer any questions that may be relevant to the inspection; and
 - (ii) provide the executive director with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;
 - (d) in order to collect information, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used in connection with the business or activities of an individual who is required to be credentialed pursuant to this Act or of a person that is required to be approved as a credentialing body pursuant to this Act;
 - (e) remove for examination and copying anything that may be relevant to the inquiry or examination, including removing any computer hardware or software or any other data storage, processing or retrieval device or system in order to produce information.
- (5) The executive director may serve a written demand on any person requiring that person to produce any records or property, within the time specified in the demand:
- (a) required to be kept pursuant to this Act; or
 - (b) related to the administration of this Act.
- (6) No person on whom a written demand is served pursuant to this section shall fail to produce the records or property mentioned in the written demand within the time specified in the written demand.
- (7) If the executive director demands any records or property pursuant to this section, the executive director may examine the records or property and make copies of the records with reasonable dispatch and as soon as is reasonably practicable return the originals of the records to the person who produced them.
- (8) If the executive director requires a person to answer questions, to produce a record or other property or to provide assistance in accordance with this section, the person shall do so in the manner and within the period specified by the executive director.
- (9) The executive director shall:
- (a) give a receipt for anything that the executive director removes for examination and copying;
 - (b) as soon as is reasonably practicable, return anything removed pursuant to this section to the place from which it was removed or any other place agreed to by the executive director and the person who provided it; and
 - (c) take all reasonable steps to ensure that, if a record is taken, a copy of the record is left at the premises to allow business to be carried on.

Investigations

34(1) If a justice or a provincial court judge is satisfied by information under oath or on affirmation that there are reasonable grounds to believe that an offence against this Act has occurred and that evidence of that offence is likely to be found, the justice or the provincial court judge may issue a warrant to do all or any of the following:

- (a) enter and search any place or premises named in the warrant;
- (b) stop and search any vehicle described in the warrant;
- (c) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.

(2) With a warrant issued pursuant to subsection (1), the executive director may:

- (a) enter at any time and search any place or premises named in the warrant;
- (b) stop and search any vehicle described in the warrant;
- (c) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the executive director finds in the place, premises or vehicle;
- (d) require the production of and examine any records or property that the executive director believes, on reasonable grounds, may contain information related to an offence against this Act;
- (e) remove, for the purpose of making copies, any records examined pursuant to this section; and
- (f) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.

(3) Subject to subsection (4), the executive director may exercise all or any of the powers mentioned in subsection (2) without a warrant issued pursuant to this section if:

- (a) the conditions for obtaining a warrant exist; and
- (b) the executive director has reasonable grounds to believe that the delay necessary to obtain a warrant would result:
 - (i) in danger to human life or safety; or
 - (ii) in the loss, removal or destruction of evidence.

(4) The executive director shall not enter any premises that are a private dwelling without the consent of the occupier or a warrant issued pursuant to this section.

Travel costs

35(1) If the executive director or any person engaged, appointed or retained by the executive director for the purpose of assisting the executive director in carrying out an inquiry, audit, inspection, examination or investigation is required to travel outside Saskatchewan to conduct an inquiry, audit, inspection, examination or investigation of a person, the executive director may direct the person being inquired about, audited, inspected, examined or investigated to pay all of the reasonable costs associated with the inquiry, audit, inspection, examination or investigation.

(2) No person shall fail to pay an amount that the person is directed to pay pursuant to subsection (1).

DIVISION 3

Offences, Penalties and Enforcement**Power of executive director to order compliance**

36(1) The executive director may issue an order pursuant to subsection (2) if the executive director is satisfied that it is in the public interest or that any of the following circumstances exists:

- (a) a person is not complying with this Act;
 - (b) a person's activities or failure or neglect to undertake any activities will result in that person not complying with this Act;
 - (c) a person's activities or failure or neglect to undertake any activities may harm the interests of persons receiving financial planning or financial advice from a credentialed individual or a person who ought to be a credentialed individual.
- (2) Subject to section 46, in any of the circumstances mentioned in subsection (1), the executive director may order a person to do all or any of the following:
- (a) cease doing an act or cease failing or neglecting to do an act;
 - (b) comply with this Act;
 - (c) do or refrain from doing any other thing that the executive director considers necessary.

Offence re destruction, etc. of evidence

37(1) No person shall, or shall attempt to, destroy, alter, conceal or withhold any information, property or thing reasonably required for an inquiry, audit, examination, inspection or investigation or proceeding pursuant to this Act.

(2) No person shall hinder or interfere with the executive director, or any employee, appointee or agent of the executive director, in the performance of the executive director's powers, functions and duties pursuant to this Act.

(3) A person contravenes subsection (1) if the person knows or ought reasonably to know that an inquiry, audit, examination, inspection, investigation or proceeding is to be conducted and takes any action mentioned in subsection (1) before the inquiry, audit, examination, inspection, investigation or proceeding.

Offence and penalty

38(1) No person shall contravene any provision of this Act.

(2) No person shall make a false or misleading statement in any application or in any proceeding or in response to any inquiry, audit, examination, inspection or investigation.

(3) Every person who contravenes any provision of this Act is guilty of an offence.

(4) Every person who is guilty of an offence is liable on summary conviction:

- (a) in the case of an individual, to a fine not exceeding \$500,000, to imprisonment for a term not exceeding 1 year or to both; or
- (b) in the case of a person other than an individual, to a fine not exceeding \$1,000,000.

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

(6) No prosecution for a contravention of this Act is to be commenced more than 3 years after the facts on which the alleged contravention is based first came to the knowledge of the executive director.

Administrative penalties

39(1) Subject to subsection (4) and section 46, if the executive director is satisfied that a person has contravened a provision of this Act, the executive director may make an order imposing all or any of the following penalties:

- (a) an administrative penalty of up to \$100,000;
- (b) a private or public reprimand;
- (c) a penalty obliging the person to pay the cost, to a maximum of \$100,000, of producing material specified by the executive director to promote education or knowledge in areas related to activities of credentialed individuals.

(2) The executive director may make an order pursuant to this section notwithstanding the imposition of any other penalty on the person or the making of any other order by the executive director related to the same matter.

(3) No penalty is to be assessed by the executive director more than 3 years after the date the facts on which the alleged contravention is based first came to the knowledge of the executive director.

(4) The written notice required to be provided to the person pursuant to subsection 46(2) must, in addition to the requirements set out in that subsection:

- (a) set out the facts and circumstances that, in the executive director's opinion, render the person liable to a penalty; and
- (b) specify the amount of the penalty that the executive director considers appropriate in the circumstances.

(5) On holding a hearing or receiving a person's written representations pursuant to section 46, the executive director shall, in addition to the requirements set out in subsection 46(10), provide a notice to the person who is the subject of the order that sets out a date by which the penalty is to be paid in full.

(6) Any penalty imposed pursuant to this section is a debt due to and recoverable by the Crown in right of Saskatchewan and may be recovered in the manner authorized by *The Financial Administration Act, 1993* or in any other manner authorized by law.

(7) After the time for filing an appeal of the executive director's order pursuant to this section has passed and if there is no appeal or if an appeal has been made but dismissed, the executive director may file a certificate with the court certifying the amount of the penalty imposed pursuant to this section.

(8) A certificate filed with the court pursuant to subsection (7) has the same force and effect as if it were a judgment of that court for the recovery of a debt in the amount specified in the certificate, together with the costs of filing.

Costs

40(1) Subject to section 46, after conducting a proceeding respecting a person, including an inquiry, audit, examination, inspection or investigation pursuant to this Act, the executive director may order the person to pay the costs of or related to the proceeding if the executive director is satisfied that the person whose affairs were the subject of the proceeding has not complied with a provision of this Act.

(2) For the purposes of subsection (1), the costs that the executive director may order the person to pay include all or any of the following:

- (a) costs incurred with respect to services provided by a person engaged, appointed or retained by the executive director for the purposes of the proceeding;
- (b) costs of obtaining a warrant;
- (c) costs of matters preliminary to the proceeding;
- (d) costs for time spent by the executive director, by any members of the public service of Saskatchewan employed in the office of the executive director or by any persons engaged, appointed or retained by the executive director;
- (e) fees paid to a witness;
- (f) costs of legal services provided to the executive director.

(3) If a person is convicted of an offence pursuant to this Act, the executive director may, subject to section 46, order the person to pay the costs of any inquiry, audit, examination, inspection or investigation carried out with respect to that offence, including, without limitation, any costs incurred with respect to either or both of the following:

- (a) the provision of services by persons engaged, appointed or retained by the executive director;
- (b) the appearance of any witnesses.

(4) The executive director may file a certificate with the court certifying the amount of the costs that the person is required to pay pursuant to subsections (1) to (3).

(5) A certificate filed pursuant to subsection (4) with the court has the same force and effect as if it were a judgment of that court for the recovery of a debt in the amount specified in the certificate, together with the costs of filing.

(6) *The Queen's Bench Rules* respecting costs and the taxation of costs do not apply to costs mentioned in this section.

(7) No provision of this Act is to be interpreted as precluding the court from ordering costs payable to the executive director.

(8) If costs are awarded to the executive director in any proceeding, the costs of the executive director are not to be disallowed or reduced because the lawyer representing the executive director was a member of the public service of Saskatchewan.

Power of court to order compliance

41(1) If the executive director is of the opinion that a person has failed to comply with this Act, the executive director may apply to the court for all or any of the following:

- (a) an order directing the person to comply with this Act, or restraining that person from contravening this Act;
- (b) if the person is a body corporate, an order directing the directors and officers of the body corporate to comply with this Act, or restraining those directors and officers from contravening this Act;

- (c) an order directing the person to comply with any consent, approval, order, undertaking or term or condition, or restraining the person from contravening the approval, order, undertaking or term or condition;
 - (d) if the person is a body corporate, an order directing the directors and officers of the body corporate to cause the body corporate to comply with or to cease contravening any approval, order, undertaking or term or condition;
 - (e) any other order, relief or remedy that the executive director may request.
- (2) On an application pursuant to subsection (1), the court may make any order that the court considers necessary.

PART 7 Appeals

Appeal to court

- 42(1)** Any person who is directly affected by an order or decision of the executive director pursuant to this Act may appeal the order or decision to the court on a question of law only.
- (2) An appeal must be made within 30 days after an order or decision of the executive director.
- (3) An appellant shall serve a notice of appeal on the executive director and any other person that the court may order.

Documents to be filed with the court for purposes of appeal

- 43** On receipt of a notice of an appeal pursuant to section 42, the executive director shall file with the court true copies of:
- (a) all documents and materials that were before the executive director when the executive director made the order or decision;
 - (b) the executive director's order or decision; and
 - (c) the executive director's written reasons for the order or decision.

Decision by court

- 44(1)** On hearing an appeal pursuant to section 42, the court may:
- (a) dismiss the appeal;
 - (b) allow the appeal;
 - (c) allow the appeal subject to terms and conditions;
 - (d) vary the order or decision of the executive director;
 - (e) refer the matter back to the executive director for:
 - (i) further consideration; and
 - (ii) an order or decision; or
 - (f) make any other order that the court considers appropriate.

(2) The court may make any order as to costs on an appeal that the court considers appropriate.

(3) Except where otherwise specifically provided, every order or decision of the executive director is final, and no order or decision of the executive director shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari*, mandamus or any other process or proceeding in any court.

Application for stay

45 The commencement of an appeal pursuant to section 42 does not stay the effect of the order or decision appealed from, unless a judge of the court orders otherwise.

PART 8

General

Opportunity to be heard

46(1) In this section, “**action**” means an action that the executive director may take pursuant to section 6, 7, 8, 12, 13, 14, 31, 36, 39 or 40.

(2) Before taking an action, the executive director shall serve the person who is the subject of the proposed action with a written notice:

(a) setting out the action proposed to be taken by the executive director and the grounds that, in the executive director’s opinion, justify the proposed action; and

(b) informing the person of the person’s right to make representations to the executive director on why the action should not be taken.

(3) A person on whom a notice is served pursuant to subsection (2) may, within 15 days after receiving that notice, advise the executive director that:

(a) the person requests an oral hearing; or

(b) the person wishes to make written representations to the executive director respecting why the action should not be taken.

(4) A person that requests an oral hearing pursuant to clause (3)(a) must, within 7 days after requesting the hearing, contact the executive director and arrange a date, time and place for the hearing.

(5) Written representations pursuant to clause (3)(b) must be received by the executive director within 30 days after the person receives the notice pursuant to subsection (2).

(6) The executive director may take the actions stated in the notice without considering any representations of the person if the person fails to:

(a) advise the executive director in accordance with subsection (3);

(b) meet the requirements of subsection (4) or (5) within the required time; or

(c) appear on the date and at the time and place arranged for the hearing without the prior approval of the executive director.

(7) The executive director may extend the periods mentioned in subsection (3), (4) or (5) if, in the executive director’s opinion, it is appropriate to do so.

(8) Nothing in this section requires the executive director to give an oral hearing to any person who has made written representations in accordance with this section.

(9) Notwithstanding subsection (2), if the executive director considers that it is necessary and in the public interest to take immediate action, the executive director may immediately do any of the things in section 6, 7, 8, 12, 13, 14, 31, 36, 39 or 40 without giving the person an opportunity to be heard, but the executive director shall give the person an opportunity to make written representations or attend a hearing before the executive director within 15 days after the date on which the executive director takes the action.

(10) On holding a hearing or receiving a person's written representations pursuant to this section, the executive director shall, within a reasonable period:

- (a) consider the submissions and make a decision;
- (b) notify the person, in writing, of the executive director's decision;
- (c) provide written reasons for the executive director's decision; and
- (d) provide the person with information respecting the right of appeal pursuant to section 42.

(11) If a person fails to provide written representations, request a hearing or attend a hearing, the executive director may take any action or make any order that the executive director considers appropriate.

Power of executive director to review, revoke or vary orders

47(1) On the request of any person directly affected by an order of the executive director or on the executive director's own initiative, the executive director may review any order made by the executive director, and, if the executive director considers that it would not be prejudicial to the public interest, the executive director may revoke or amend the order or make additional orders for the purpose of:

- (a) correcting the original order;
- (b) ensuring compliance with the original order;
- (c) dealing with any material change in circumstances since the original order was issued; or
- (d) interpreting the original order.

(2) Before revoking or amending an order or making an additional order pursuant to subsection (1), the executive director shall serve a written notice on persons directly affected by the original order and on any other persons the executive director considers interested in the original order.

Publication of decisions and orders

48 Notwithstanding any other provision of this Act, if the executive director has made a decision or order pursuant to this Act, the executive director may:

- (a) disclose the decision or order to any person, including the executive director's written reasons for making the decision or order; and
- (b) publish the decision or order, including the executive director's written reasons for making the decision or order.

Immunity

49 No action or other proceeding lies or shall be instituted against any of the following persons if the person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any responsibility imposed by this Act or the regulations:

- (a) the Crown in right of Saskatchewan, the minister, the executive director or any member of the public service of Saskatchewan employed in the office of the executive director;
- (b) any representative of the executive director; or
- (c) any person engaged, appointed or retained by the executive director to make or conduct any inquiry, audit, inspection, examination or investigation or to do any other thing pursuant to this Act.

Executive director and others not compellable to give evidence

50 Except in the case of a prosecution respecting a contravention of this Act, the executive director, any member of the public service employed in the office of the executive director, any representative of the executive director, and any person engaged, appointed or retained by the executive director to make or conduct any inquiry, audit, examination, inspection or investigation or to do any other thing pursuant to this Act are not compellable to give evidence in a court or in a proceeding of a judicial nature to which the executive director is not a party concerning any information obtained by them or that came to their attention in the exercise of the powers, carrying out of the responsibilities or carrying out of the functions of the executive director pursuant to this Act.

Service

51(1) Any notice or other document that is required to be served pursuant to this Act or in any proceeding or matter under the jurisdiction of the executive director may be served:

- (a) by personal service made:
 - (i) in the case of an individual, on that individual;
 - (ii) in the case of a partnership, on any partner; or
 - (iii) in the case of a corporation, on any officer or director of the corporation;
- (b) by registered mail addressed to the last address of the person to be served known to the executive director;
- (c) in the case of a corporation, by delivery to the corporation's registered office;
- (d) by delivery to the address for service provided to the executive director pursuant to clause 6(3)(c);
- (e) in the case of a notice to the public, or to persons who are too numerous to be served individually, by publishing the notice in any manner that the executive director may direct;
- (f) by any other means that the executive director may direct; or
- (g) by any other prescribed means.

- (2) A notice or document sent by registered mail is deemed to have been served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of the person, the person did not receive the notice or document or received it at a later date.
- (3) Service of a notice or document to be sent by any other prescribed means is to be proved in the prescribed manner.
- (4) A notice or other document required to be served on the executive director may be served:
- (a) by leaving it at the office of the executive director with any person appearing to have authority to accept the notice or document;
 - (b) by registered mail addressed to the address of the office of the executive director; or
 - (c) by any other prescribed means.
- (5) Any person entitled to be served a notice or a document may at any time waive, in writing, service of the notice or document.
- (6) Service of any notice or document may be proved by affidavit or oral evidence of the person claiming to have served it.

Regulations

52(1) The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) respecting the meaning of “good standing” for the purpose of sections 4 and 5;
- (c) for the purpose of sections 4 and 5, prescribing other titles that the regulation maker is satisfied are consistent with the purposes of this Act;
- (d) prescribing criteria and requirements for credentialing bodies to be approved pursuant to section 6, including criteria and requirements relating to:
 - (i) the applicant’s governance structure and practices; and
 - (ii) disciplinary processes the applicant must have in place for individuals holding approved credentials it has issued;
- (e) prescribing partners, officers, representatives, employees and other related persons of a credentialing body who are required to comply with the terms and conditions applicable to the approval of the credentialing body;
- (f) establishing criteria and requirements for credentials to be approved pursuant to section 12, including criteria and requirements relating to:
 - (i) educational requirements;
 - (ii) examination requirements;
 - (iii) codes of ethics and standards of practice and behaviour; and
 - (iv) continuing education requirements;
- (g) respecting applications for approval;
- (h) respecting credentialing bodies;

- (i) prescribing criteria and requirements respecting credentialing bodies' collection, holding and payment of fees that are payable by credentialed individuals;
- (j) respecting credentials;
- (k) establishing requirements for and procedures with respect to the use of an electronic or computer-based system for the delivery or deposit of documents or information, including requirements for paying charges or fees in connection with the use of the system;
- (l) prescribing the circumstances in which persons are deemed to have signed or certified documents on an electronic or computer-based system for any purpose of this Act;
- (m) prescribing information, documents, records or other materials that are required to be delivered, including requirements relating to the following:
 - (i) the method by which they are to be delivered;
 - (ii) the timing of the delivery;
 - (iii) the costs related to the delivery;
 - (iv) when they are deemed to have been delivered or received;
- (n) prescribing all fees and other charges payable to the Authority, including, without limitation, charges respecting:
 - (i) applications for approval and reinstatement, exemptions, inquiries, audits, examinations, inspections and investigations and hearings before the executive director; and
 - (ii) reports and returns;
- (o) respecting any additional disclosure required with respect to credentialing bodies and credentialed individuals;
- (p) respecting the service of documents;
- (q) authorizing the Authority to make regulations pursuant to subsection (2) respecting any matter or thing set out in this subsection, other than those matters or things mentioned in clauses (a), (n) and (r) and this clause;
- (r) prescribing procedures the Authority shall follow, and conditions the Authority shall adhere to, in making regulations pursuant to subsection (2);
- (s) respecting any additional matter or thing that the regulation maker considers necessary to facilitate the implementation of this Act, including the treatment of credentials and other qualifications possessed by persons before this Act comes into force;
- (t) governing the use of titles in circumstances where a credentialing body's approval is revoked or where a credentialing body ceases to operate;
- (u) respecting the recognition in Saskatchewan of an approval of a credentialing body granted in another Canadian jurisdiction, and the approval of credentials approved in another Canadian jurisdiction;

- (v) exempting persons or classes of persons from all or any provision of this Act, including prescribing any terms or limitations on an exemption and requiring compliance with those terms or limitations;
- (w) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations;
- (x) respecting any other matter or thing that the regulation maker considers necessary or desirable to carry out the purposes of this Act.
- (2) Subject to any conditions prescribed pursuant to the regulations made pursuant to subsection (1) and in accordance with any procedures prescribed pursuant to the regulations made pursuant to subsection (1), the Authority may make regulations respecting any matter or thing with respect to which the Authority is authorized pursuant to clause (1)(q) to make regulations.
- (3) A regulation pursuant to this section may be of general or specific application and may be limited as to time or place.
- (4) The regulations made by the Lieutenant Governor in Council pursuant to subsection (1) prevail in the case of any conflict between the regulations made by the Lieutenant Governor in Council and the regulations made by the Authority pursuant to subsection (2).

PART 9

Consequential Amendments**SS 2012, c F-13.5, section 2 amended**

53 Section 2 of *The Financial and Consumer Affairs Authority of Saskatchewan Act* is amended:

- (a) in clause (g) by adding the following subclause after subclause (xi):
“(xi.1) providing financial planning or financial advice”; and
- (b) in clause (h) by adding the following subclause after subclause (iii.1):
“(iii.2) *The Financial Planners and Financial Advisors Act*”.

PART 10

Coming into Force**Coming into force**

54 This Act comes into force by order of the Lieutenant Governor in Council.

FOURTH SESSION
Twenty-eighth Legislature
SASKATCHEWAN

B I L L

No. 203

An Act respecting Financial Planners and Financial
Advisors and making consequential amendments
to another Act

Received and read the

First time

Second time

Third time

And passed

Honourable Don Morgan
