

Private Career Colleges Act

CHAPTER 23 OF THE ACTS OF 1998

as amended by

2010, c. 2, ss. 137, 138; 2015, c. 25



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CHAPTER 23 OF THE ACTS OF 1998
amended 2010, c. 2, ss. 137, 138; 2015, c. 25

**An Act Respecting
Private Career Colleges**

title amended 2015, c. 25, s. 1.

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Short title

1 This Act may be cited as the *Private Career Colleges Act*. 1998, c. 23, s. 1; 2015, c. 25, s. 2.

Interpretation

2 In this Act,

(a) “agent” means an individual, organization or company representing the interests of a private career college with respect to recruiting students or making public representation for the purpose of recruitment;

(b) “Board” means the Private Career College Board established pursuant to this Act;

(c) “career” means a profession for which a person trains;

(ca) “certificate of approval” means a certificate approving occupational-training programs issued or renewed pursuant to this Act;

(d) “certificate of registration” means a certificate of registration issued pursuant to this Act that is not revoked or surrendered;

(e) “Department” means the Department of Labour and Advanced Education;

(ea) “Director” means the Director of the Private Career College Division of the Department or such other person in the Department as the Minister designates;

(f) “Fund” means the Training Completion Fund established by this Act;

(g) “insolvent”, with respect to an operator, means ceasing to pay debts arising in the ordinary course of business or being unable to pay debts as they become due;

(h) “instructor” means an individual registered to deliver private career college training who evaluates students and has met the requirements prescribed in the regulations;

(i) “instructor assistant” means an individual registered to assist in the delivery of private career college training who is supervised by an instructor and has met the requirements prescribed in the regulations;

(j) *repealed 2015, c. 25, s. 3.*

(k) “Minister” means the Minister of Labour and Advanced Education;

- (l) “occupation” means
- (i) unless exempted by the regulations, all occupations listed in the National Occupational Classification Directory or any revised edition of that Directory, and
 - (ii) any occupation listed in the regulations;
- (m) “occupational training” means occupational or career training, but does not include
- (i) occupational or career training at an institution excluded by this Act, or
 - (ii) *repealed 2015, c. 25, s. 3.*
 - (iii) occupational or career training that is exempted by the regulations;
- (n) “occupational-training program” means a program of study or series of courses making up an occupational-training program;
- (o) “operator” means the owner of a private career college that holds a certificate of registration or a person designated by the owner with the authority to bind the private career college;
- (p) “private career college” means a school or place where vocations, occupational or career training is provided to students;
- (pa) “professional development” means activities directly related to a person’s exercised or qualified occupation and undertaken for the maintenance and enhancement of the person’s skills and knowledge;
- (pb) “Senior Executive Director” means the Senior Executive Director of the Higher Education Branch of the Department of Labour and Advanced Education or such other person in the Department as the Minister designates;
- (q) “student” means a person who has entered into a student contract to receive occupational training from a private career college;
- (qa) “student applicant” means a person who
- (i) has made an inquiry to or requested information from a private career college, or
 - (ii) has applied to a private career college, but has not entered into a student contract;
- (r) “student contract” means a written agreement under which a private career college provides occupational training to the student;
- (s) “surety bond” means a bond, irrevocable letter of credit or other type of security approved by the Director and prescribed by the regulations. 1998, c. 23, s. 2; 2015, c. 25, s. 3.

Restrictions on application of Act

- 3** This Act does not apply to
- (a) a university to which the *Degree Granting Act* applies;
 - (b) a community college governed by the *Community Colleges Act*;
 - (c) a school governed by the *Education Act*;
 - (ca) curriculum and occupational-training standards governed by any other Act or by an Act of the Parliament of Canada;
 - (d) occupational training offered by an organization, where the training or instruction is a requirement or part of professional development;
 - (e) a school, institution or group excluded by the regulations.
- 1998, c. 23, s. 3; 2015, c. 25, s. 4.

Director of Private Career Colleges

4 (1) The Minister shall appoint, in accordance with the *Civil Service Act*, an employee of the Department to be the Director of Private Career Colleges.

(2) The Minister may designate another person to perform any of the duties and exercise any of the powers of the Director. 1998, c. 23, s. 4; 2015, c. 25, s. 5.

Prohibitions

5 (1) No person shall establish or operate a private career college without holding a valid certificate of registration issued pursuant to this Act.

(2) A private career college shall comply with all applicable federal, Provincial and municipal laws and regulations.

(3) No private career college shall operate at any location not listed on the certificate of registration.

(4) No private career college shall offer an occupational-training program unless

(a) the private career college holds a valid certificate of approval; and

(b) the occupational-training program is listed on the certificate of approval.

(5) No private career college shall offer an occupational-training program at any location not listed on the certificate of approval. 1998, c. 23, s. 5; 2015, c. 25, s. 6.

Application to register private career college

6 (1) A person may apply to the Director to register a private career college.

(2) An applicant shall

(a) complete and submit an application as prescribed by the regulations;

(b) provide facility information as prescribed by the regulations;

(c) permit an inspector to inspect the premises to be used as a private career college;

(d) permit a specialized inspection of any specialized equipment and facilities to be used in the delivery of an occupational-training program;

(e) obtain any inspection required by an Act of the Legislature or of the Parliament of Canada;

(f) confirm that the private career college is registered with the Registrar of Joint Stock Companies, if applicable;

(g) provide a copy of the private career college's corporate ownership share register;

(h) provide the names of the directors and the principals of the private career college and, where applicable, the identity of its corporate owner;

(i) provide copies of the private career college's business, marketing, operational and financial plans and the college's projected financial statements;

(j) establish to the satisfaction of the Director that

(i) the private career college will meet the financial, human resources and administrative capacities prescribed by the regulations,

(ii) the private career college will have facilities and equipment as prescribed by the regulations with which to offer its programs,

(iii) the private career college will have policies and procedures, including policies or procedures regarding student competency testing and student tuition payment and refund, that satisfy the requirements prescribed by the regulations,

(iv) the private career college is able to comply with the requirements prescribed by this Act and the regulations,

- (v) the private career college will be staffed with instructors and instructor assistants who meet the requirements prescribed by this Act and the regulations,
- (vi) the operator is not insolvent and not likely to become insolvent, and
- (vii) the operator has obtained all approvals required pursuant to any enactment or from the appropriate professional, occupational or other associations connected with any course or program of instruction proposed for the private career college;
- (k) pay the application fee prescribed by the regulations;
- (l) post a surety bond with the Director in an amount and in accordance with the requirements prescribed by the regulations;
- (m) undertake to make the payments to the Fund required pursuant to this Act; and
- (n) satisfy any additional requirements prescribed by the regulations. 2015, c. 25, s. 7.

Request for filed documents

7 The Director may request, and the Registrar of Joint Stock Companies shall provide, copies of documents filed by a private career college with the Registrar that the college has failed to provide to the Director as required by this Act and the regulations. 2015, c. 25, s. 7.

Registration of private career college

8 (1) Subject to subsection (3), the Director shall register a private career college that satisfies the criteria set out in this Act and the regulations by issuing a certificate of registration listing each location in the Province where the private career college is permitted to operate.

(2) The Director may register a virtual or on-line private career college.

(3) The Director may refuse to register a private career college whose previous certificate of registration or its equivalent was cancelled in another province of Canada and was not re-instated by an appeal process in that province. 2015, c. 25, s. 7.

Certificate of registration

9 (1) A certificate of registration may not be transferred or assigned.

(2) A certificate of registration is only valid when held by the operator to whom the certificate is issued. 2015, c. 25, s. 7.

Sale of assets

10 (1) Where the assets of a private career college are sold and the new owner intends to use the assets to operate a private career college, the new owner shall apply to register the private career college in accordance with subsection 6(2).

- (2)** A purchaser of
- (a) a private career college; or
 - (b) the majority of a private career college's shares,

shall complete and submit a form as prescribed by the regulations to the Director, who shall determine whether the private career college's certificate of registration is to be continued. 2015, c. 25, s. 7.

Certificate in force until surrendered or revoked

11 (1) Where a private career college ceases to operate, the certificate of registration must be surrendered to the Director in accordance with the regulations.

(2) A certificate of registration issued by the Director remains in force until it is revoked by the Director or surrendered by the operator in accordance with the regulations. 2015, c. 25, s. 7.

Application to amend list of locations

12 (1) The operator of a private career college may apply to the Director to amend the list of locations where the private career college is permitted to operate.

(2) An application made pursuant to subsection (1) must be made in accordance with the regulations. 2015, c. 25, s. 7.

Certificate conditions or restrictions

13 The Director may attach conditions or restrictions to a private career college's certificate of registration. 2015, c. 25, s. 7.

Revocation or suspension of certificate

14 (1) The Director may revoke or suspend a private career college's certificate of registration for its operator's failure to comply with this Act, the regulations or the conditions or restrictions attached to the certificate of registration.

(2) The Director shall, in accordance with the regulations, give the operator fourteen days' written notice of the revocation or suspension of the private career college's certificate of registration pursuant to subsection (1).

(3) Within seven days of the date notice is given pursuant to subsection (2), the operator may file a response in accordance with the regulations.

(4) Notwithstanding subsection (3), the revocation or suspension will take effect at the end of the notice period prescribed by subsection (2), unless the Director withdraws the notice of revocation or suspension and advises the operator of the withdrawal prior to the expiry of the notice period. 2015, c. 25, s. 7.

Effect of revoked or suspended certificate

15 (1) Where a private career college's certificate of registration is revoked,

(a) the private career college shall cease offering occupational-training programs; and

(b) the operator shall surrender the certificate of registration to the Director in accordance with the regulations.

(2) Where a certificate of registration is suspended, the operator of the private career college shall not accept new students and shall fulfil all its obligations to the students enrolled in the private career college at the time the certificate of registration is suspended. 2015, c. 25, s. 7.

Viewing of certificate

15A (1) A copy of a private career college's certificate of registration must be displayed in a place clearly visible to the public at each location listed on the certificate.

(2) Every private career college shall post on its website a copy of its certificate of registration.

(3) A virtual or on-line private career college shall post on the homepage of its website a copy of the certificate of registration.

(4) A copy of a virtual or on-line college's certificate of registration must be attached, as a schedule, to every student contract to which the operator of the virtual or on-line college is a party. 2015, c. 25, s. 7.

Hyperlink to Act and regulations

15B The Director shall provide and the private career college shall post, on its website, a hyperlink to the most current version of this Act and the regulations. 2015, c. 25, s. 7.

Certificate holder responsibilities

15C The holder of a certificate of registration issued pursuant to subsection 8(1) shall

(a) submit an annual report, including financial statements, to the Director as prescribed by the regulations;

- (b) no later than thirty days after a change to the annual report occurs, submit to the Director a report, as prescribed by the regulations, detailing the change;
- (c) maintain a current surety bond in an amount prescribed by the regulations;
- (d) not become insolvent;
- (e) maintain up-to-date filings with the Registrar of Joint Stock Companies, if applicable;
- (f) comply with any order issued by the Director; and
- (g) satisfy any additional requirement prescribed by the regulations. 2015, c. 25, s. 7.

Approved program

15D (1) No private career college shall offer an occupational-training program to students unless the Director has approved the program.

(2) The operator of a private career college may apply to the Director for a certificate of approval to offer to students an occupational-training program.

(3) An application pursuant to subsection (2) must be made in accordance with the regulations.

(4) The operator of a private career college shall obtain all licences, franchises and permissions required for an occupational-training program.

(5) The Director shall issue to the operator a certificate of approval to offer to students an occupational-training program if the application satisfies the criteria prescribed by the regulations. 2015, c. 25, s. 7.

Approved program certificate

15E (1) A copy of a private career college's certificate of approval for occupational-training programs must be displayed in a place clearly visible to the public at each location listed on the certificate.

(2) Every private career college shall post on its website a copy of its certificate of approval.

(3) A virtual or on-line private career college shall post on the homepage of its website a copy of the certificate of approval.

(4) A copy of a virtual or on-line college's certificate of approval must be attached, as a schedule, to every student contract to which the operator of the virtual or on-line college is a party. 2015, c. 25, s. 7.

Program approved for five years

15F (1) Subject to Section 15G, an occupational-training program approved pursuant to subsection 15D(5) is approved for a five-year period.

(2) Prior to the expiry of the five-year approval period, the operator of a private career college may apply to the Director to renew the certificate of approval for a further five-year period in the manner prescribed by the regulations. 2015, c. 25, s. 7.

Course exemption

15G The Director may exempt a course of instruction in accordance with threshold criteria as prescribed by the regulations from the application of this Act. 2015, c. 25, s. 7.

Amendment of program approval

15H (1) When there is a change in the program standards or in the required training equipment for an occupational-training program, the operator of a private career college offering the program shall immediately inform the Director and apply for the approval of the amended occupational-training program and for the issuance of an amended certificate of approval.

(2) An application in subsection (1) must be made in accordance with the regulations.

(3) The Director shall issue to the operator an amended certificate of approval if the application for approval of the amended program satisfies the criteria prescribed by the regulations.

(4) No private career college shall offer an amended occupational-training program to students unless the Director has approved the amended program. 2015, c. 25, s. 7.

Revocation or suspension of program approval

15I (1) The Director may immediately revoke or suspend a certificate of approval if the Director considers it necessary to protect students or to protect the public interest.

(2) Where a private career college's certificate of approval for an occupational-training program is revoked,

(a) the private career college shall cease offering the occupational-training program; and

(b) the operator shall refund the whole of the tuition and the related fees paid by the students enrolled in the revoked program.

(3) Where a certificate of approval is suspended, the operator shall not accept new students in the suspended program and shall fulfil all its obliga-

tions to the students enrolled in the program at the time the program is suspended. 2015, c. 25, s. 7.

Authorized instructors and instructor assistants

15J (1) Subject to subsection (2), only instructors and instructor assistants who have met and who maintain the qualifications prescribed by the regulations shall deliver an approved occupational-training program.

(2) A guest instructor who teaches eight or fewer hours over the entire length of an occupational-training program is exempt from satisfying the qualifications prescribed by the regulations.

(3) The Director may exempt from registration as an instructor or from satisfying the qualifications prescribed by the regulations a person who

(a) teaches all or a portion of a course that constitutes a component of an occupational-training program; or

(b) is a short-term teacher as determined pursuant to the regulations. 2015, c. 25, s. 7.

Obligation to file information

16 (1) The Director may, at any time, request a private career college to provide the Director with copies of completed student contracts and with any other information that the Director may require for the purpose of this Act or the regulations.

(2) The operator of a private career college shall file with the Director all forms of contracts, agreements or undertakings to be used in making or attempting to register students.

(3) The operator of a private career college shall file with the Director such other information as the Director may from time to time require and, without limiting the generality of the foregoing, shall file statements in accordance with the regulations in respect of the staff of instructors, student attendance, equipment, curriculum, schedule of studies and occupational training site details. 1998, c. 23, s. 16; 2015, c. 25, s. 8.

Student contract

17 Every operator shall have a student contract with each student as prescribed in the regulations. 1998, c. 23, s. 17; 2015, c. 25, s. 9.

Complaints

18 (1) A person may make a complaint against a private career college alleging a contravention of the Act or the regulations.

(2) A complaint must be in writing, signed by the complainant and filed with the Director in accordance with the regulations.

(3) Within twenty-one days of receiving a complaint, the Director shall dismiss the complaint and inform the complainant if it is

- (a) frivolous or vexatious;
- (b) not made in good faith; or
- (c) not within the jurisdiction of the Director.

(4) Where a complaint against a private career college is not dismissed by the Director pursuant to subsection (3), the Director shall

- (a) advise the operator that a complaint alleging a contravention of the Act or the regulations has been received;
- (b) disclose to the operator in the form prescribed by the regulations the information received respecting the alleged contravention of the Act or the regulations; and
- (c) advise the operator that a written response may be filed in accordance with the regulations.

(5) Within thirty-five days of receiving a complaint or within fourteen days of the Director deciding not to dismiss the complaint pursuant to subsection (3), whichever is earlier, the Director shall

- (a) informally resolve the complaint;
- (b) make an order dismissing the complaint or doing one or more of the following:
 - (i) giving clear direction that certain immediate actions be taken by the private career college,
 - (ii) imposing conditions or restrictions on the private career college's certificate of registration,
 - (iii) suspending or revoking a certificate of approval of a private career college's occupational-training programs,
 - (iv) directing the operator of the private career college to reimburse all or a portion of the tuition and other program costs paid by a student,
 - (v) directing the release of all or a portion of the posted surety bond,
 - (vi) referring the dispute to an arbitrator for a final decision,
 - (vii) granting any other remedy that is just and reasonable in the circumstances.

(6) An order of the Director made pursuant to clause (5)(b) must be in writing and must be sent to the parties by registered mail, personal service or such other method as is prescribed by the regulations.

(7) Notwithstanding the periods referred to in subsections (3) and (5), where circumstances prevent the Director from acting within a period referred to in those subsections, the Director may extend the period by no more than seven days. 2015, c. 25, s. 10.

Misleading advertising

19 No person shall publish or cause to be published an advertisement relating to a private career college that misleads or tends to mislead and that does not meet the requirements prescribed in the regulations. 1998, c. 23, s. 19.

Prohibition of certain guarantees and statements

20 No operator of a private career college shall either verbally or in writing

(a) guarantee employment to a student or student applicant unless at the time of the representation there is a written contract between the private career college and an employer whereby the latter is bound to furnish employment as represented;

(b) make a false or misleading statement with respect to the earnings of any person who has completed a program or course at the private career college. 1998, c. 23, s. 20; 2015, c. 25, s. 11.

Age restriction

21 Subject to the regulations, no person under the age of sixteen years shall be admitted to any course offered by a private career college. 1998, c. 23, s. 21.

22 *repealed 2015, c. 25, s. 12.*

Inspectors

23 (1) The Minister shall appoint inspectors for the purpose of this Act.

(2) The Director may appoint specialized subject-area inspectors to accompany an inspector appointed pursuant to subsection (1) on an inspection for the purpose of this Act or the regulations.

(3) The Minister may delegate to any person any power conferred or duty imposed on the Minister by this Act or the regulations. 2015, c. 25, s. 13.

Right of entry and inspection

23A (1) Subject to subsection (2), an inspector may, at any reasonable time, enter upon the premises of a private career college to make an inspection for the purpose of this Act or the regulations.

(2) An inspector, on the request of a person occupying the premises, shall produce the identification provided by the Director for this purpose.

(3) An inspector has such other powers and duties as are prescribed by the regulations.

- (4) Upon an inspection under this Section, an inspector may
- (a) require the production of any documents or records in the form they are maintained for inspection and copying;
 - (b) inspect the physical premises and equipment; and
 - (c) inquire into matters that relate to compliance with the requirements of this Act or the regulations. 2015, c. 25, s. 13.

Order to enter and inspect

23B (1) Notwithstanding anything contained in this Act, a justice may issue an order to enter authorizing the inspector to do anything set out in Section 23A that is specified in the order for the period set out in the order if the justice is satisfied on evidence under oath by an inspector that

- (a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the inspector to do anything set out in Section 23A; and
- (b) the inspector may not be able to carry out duties under this Act effectively without an order to enter under this Section because
 - (i) no person is present to grant access to premises that are locked or otherwise inaccessible,
 - (ii) a person has denied the inspector access to premises or there are reasonable grounds for believing that a person may deny the inspector access to premises,
 - (iii) a person has prevented the inspector from doing anything set out in Section 23A or denied the inspector access to anything, as a result of which the inspector is unable to do anything set out in Section 23A,
 - (iv) there are reasonable grounds to believe that a person may prevent an inspector from doing anything set out in Section 23A, or may deny the inspector access to anything as a result of which the inspector may be unable to do anything set out in Section 23A,
 - (v) it is unpractical, because of the remoteness of the premises to be inspected or because of any other reason, for the inspector to obtain an order to enter under this Section without delay if access is denied, or
 - (vi) there are reasonable grounds to believe that an attempt by the inspector to do anything set out in Section 23A without the order to enter might defeat the purpose of that Section or cause an adverse effect.

(2) The period referred to in subsection (1) may not extend beyond thirty days after the date on which the order is made, but the order may be renewed for any reason set out in clause (1)(b) for one or more periods, each of which may not be more than thirty days.

(3) An application to renew pursuant to subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice. 2015, c. 25, s. 13.

Right to examine and take possession of documents

24 (1) Every operator of a private career college shall keep and maintain at the place of business of the private career college all student files, student records, attendance records, books of account and other documents, in whatever form, relating to the delivery of programming, accounts and finances of the private career college.

(2) Every operator of a private career college shall keep and maintain copies of student transcripts, certificates or diplomas at the premises and, in the event of closure, shall surrender those documents to the Director.

(2A) Where student records are kept in an electronic form, the operator shall provide to the Director a means of accessing the records.

(2B) When a private career college ceases offering occupational-training programs and closes, the Director may take possession of the student records located on the premises of the college.

(2C) A person who has taken control of the premises of a private career college that has ceased offering occupational-training programs shall provide when requested, to the Director, the student records located on the premises of the college.

(3) The Director may examine, audit or inquire into the financial accounts respecting any private career college or may cause such examination, audit or inquiry to be carried out.

(4) Where an examination, audit or inquiry is carried out pursuant to subsection (3),

(a) the operator of the private career college to which the examination, audit or inquiry relates and every officer of the private career college and every person employed in the operation of the private career college shall provide the person conducting the examination, audit or inquiry with such information and explanations as that person may require; and

(b) the person carrying out the examination, audit or inquiry has free access, at all times, to the files, records, books of account and other documents in whatever form, relating to the accounts and finances of the private career college.

(5) The costs of an examination, audit or inquiry made pursuant to subsection (3) shall, where the Minister so directs, be paid by the operator of the private career college that was subject to the examination, audit or inquiry. 1998, c. 23, s. 24; 2015, c. 25, s. 14.

Working committees

25 The Minister may establish working committees to advise the Minister on matters relating to occupational training programs and such other matters as the Minister determines. 1998, c. 23, s. 25.

Director's compliance order

26 (1) Where the Director determines that a person has contravened this Act or the regulations, the Director may issue an order in writing requiring compliance immediately or within such period of time as the Director specifies.

- (2) An order to comply issued pursuant to subsection (1) must
- (a) indicate the nature of the contravention and state the provisions of this Act or the regulations that were contravened; and
 - (b) state that failure to follow the order may result in the Director
 - (i) issuing a notice pursuant to subsection 27(1) and imposing an administrative sanction as set out in the regulations, or
 - (ii) laying a charge for failure to comply with the Act or the regulations. 2015, c. 25, s. 15.

Notice of administrative sanction

27 (1) Where a person fails to follow an order to comply issued pursuant to Section 26, the Director may issue a notice in writing imposing an administrative sanction as set out in the regulations.

- (2) A notice issued pursuant to subsection (1) must
- (a) include a copy of the order to comply issued pursuant to Section 26;
 - (b) provide details of the person's failure to comply with the order referred to in clause (a);
 - (c) provide a clear description of the administrative sanction;

- (d) state when and how the administrative sanction can be satisfied;
- (e) state the date and manner by which any monetary sanction must be paid; and
- (f) describe or specify the manner in which the person may request a review of the administrative sanction by the Senior Executive Director no later than fourteen days from the date of the notice referred to in subsection (1).

(3) A person who satisfies an administrative sanction imposed pursuant to this Section may not be charged with an offence respecting the matter that gave rise to the administrative sanction. 2015, c. 25, s. 15.

Request for review

28 (1) An affected party may request a review by the Senior Executive Director of the Director's

- (a) decision to impose conditions or restrictions on a private career college's certificate of registration;
- (b) decision to revoke or suspend a private career college's certificate of registration;
- (c) decision respecting an occupational-training program;
- (d) decision to exempt a person who delivers an occupational-training program from satisfying the qualifications prescribed by the regulations;
- (e) decision or order made pursuant to subsection 18(5);
- (f) order requiring compliance issued pursuant to subsection 26(1); or
- (g) administrative sanction imposed pursuant to subsection 27(1).

(2) The request for a review must be in writing, signed by the party and filed in accordance with the regulations with the Senior Executive Director no later than fourteen days from the date on which the decision, order or administrative sanction of the Director referred to in subsection (1) is sent.

(3) Upon the filing of a request for a review, the Senior Executive Director shall advise the parties of the review procedures prescribed by the regulations.

(4) Within twenty-one days of receiving a request for a review, the Senior Executive Director shall confirm, reverse or vary the decision, order or administrative sanction being reviewed.

(5) The decision of the Senior Executive Director must be in writing and must be sent to the parties by registered mail, personal service or such other method as is prescribed by the regulations.

(6) Notwithstanding the period referred to in subsection (4), where circumstances prevent the Senior Executive Director from acting within the period, the Senior Executive Director may extend the period by no more than seven days. 2015, c. 25, s. 15.

Offence and penalty

29 (1) Every person who

(a) knowingly furnishes false information in any application under this Act or the regulations or in any statement or return required to be furnished under this Act or the regulations;

(b) obstructs, misleads, interferes or otherwise refuses to comply with an inspector in the exercise of a power granted pursuant to this Act;

(c) fails to comply with an order of the Director; or

(d) otherwise contravenes this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than fifty thousand dollars and, in default of payment, to imprisonment for a period not exceeding six months.

(2) A prosecution for an offence pursuant to this Act may not be commenced more than two years after the date of the alleged offence.

(3) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation or operator of the private career college who directed, authorized, assented to, acquiesced in or participated in the contravention of this Act or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted. 2015, c. 25, s. 15.

Injunction

30 (1) In the event of a threatened or a continuing contravention of this Act or the regulations, the Minister may file an application to be heard by a judge of the Supreme Court of Nova Scotia for an injunction to restrain the person from continuing or committing the contravention and, where the judge considers it to be just, the judge may grant such injunction.

(2) A judge may, on motion, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a contravention of this Act or the regulations. 2015, c. 25, s. 15.

31 and 32 *repealed 2015, c. 25, s. 15.*

Training Completion Fund

33 (1) The Training Completion Fund is established as a trust fund as defined in the *Finance Act* ~~*Finance Act*~~.

(2) The Fund consists of

(a) fees that operators are required by the regulations to pay into the Fund; and

(b) *repealed 2015, c. 25, s. 16.*

(c) any income and earnings from investments of the Fund.

(3) The Minister of Finance shall administer the Fund.

(4) Subject to the approval of the Department of Finance, the Minister may direct payments out of the Fund to

(a) train-out students or refund tuition and other program costs to students who have entered into a student contract with the operator of a private career college that has ceased operating;

(b) compensate third party sponsors who have paid tuition on behalf of a student;

(c) pay for the expenses of administering and auditing the Fund;

(ca) compensate students to resolve issues arising from a student contract or from a private career college closure after the posted surety bond has been expended; and

(d) do any other thing relating to a private career college recommended by the Fund Working Committee that is necessary to carry out effectively the intent and purpose of this Act.

(5) The Minister of Finance may

(a) invest any monies of the Fund in any investments that are authorized for the investment of monies in the General Revenue Fund of the Province;

(b) dispose of the investments in the manner and on terms that the Minister considers appropriate and invest the proceeds in other investments authorized pursuant to clause (a);

(c) pay for the expenses of administering and auditing the Fund; and

(d) do any other thing that is prescribed in the regulations.

(6) The Auditor General or any other auditor or firm of auditors that the Governor in Council may appoint shall audit the records, accounts and financial statements of the Fund annually and at any other time as required by the Governor in Council.

(7) In each fiscal year the Department of Finance shall prepare and submit to the Minister a financial statement showing the business of the Fund for the preceding fiscal year and the Minister shall publish the report.

(8) The fiscal year of the Fund is the same as the fiscal year of the Province. 1998, c. 23, s. 33; 2010, c. 2, ss. 137, 138; 2015, c. 25, s. 16.

Fund Working Committee

33A (1) There is hereby established a Fund Working Committee to advise the Minister on all matters relating to the Fund established pursuant to subsection 33(1).

(2) The Minister may appoint such members of the Fund Working Committee as the Minister determines advisable.

(3) Members shall be appointed for a term not exceeding three years and are eligible for re-appointment. 2015, c. 25, s. 17.

Surrender of certificate

34 (1) Subject to subsection (2), an operator who is registered pursuant to this Act may surrender a certificate of registration.

(2) An operator may not surrender a certificate of registration until the Director has approved and registered the surrender. 1998, c. 23, s. 34; 2015, c. 25, s. 18.

Consequences of not holding certificate

35 (1) Unless an operator holds a certificate of registration that is in force, a contract in respect of a course in or in connection with a private career college made in the Province by or through such person or by or through an agent of such person is null and void.

(2) A private career college that does not have a valid certificate of registration as a private career college is not capable of commencing or maintaining any action or other proceeding in any court in the Province

(a) with respect to a contract made in whole or in part in the Province; or

(b) against any person domiciled in the Province, in the course of or in connection with any business carried on by the private career college. 1998, c. 23, s. 35.

36 *repealed 2015, c. 25, s. 19.*

Ministerial regulations

- 37 (1) The Minister may make regulations
- (a) prescribing the facilities, accommodation and equipment required by private career colleges and the means of instruction to be used;
 - (b) prescribing the minimum number of hours of instruction in any occupation that constitutes a course of instruction in that occupation;
 - (c) prescribing the maximum fees to be charged or received for a course of instruction in any occupation;
 - (d) prescribing a tuition-refund policy for private career colleges and requiring private career colleges to disclose the tuition-refund policy to each student applicant and student before the tuition is paid;
 - (e) prohibiting the use of any advertising relating to a private career college or requiring the discontinuance of any specified advertisement or means of advertisement;
 - (f) respecting the selling or offering for sale of any course of instruction offered by a private career college;
 - (g) designating an occupation, calling or career as an occupation within the meaning of this Act;
 - (h) fixing the times during which the public may obtain service in a private career college;
 - (i) exempting an occupation or course from the operation of this Act;
 - (j) respecting the making of annual reports and the furnishing of information to the Director by the operator of a private career college;
 - (k) prescribing the form and content of or the qualification for a diploma or certificate of any kind issued by a private career college;
 - (l) prescribing forms and providing for their use;
 - (m) prescribing qualifications for instructors and instructor assistants;
 - (n) respecting professional development for the staff of and the instructors at private career colleges;
 - (o) requiring full disclosure to students and student applicants of matters relating to private career college courses, including

the cost of such courses and all training components, and prescribing the manner in which disclosure is to be made;

(p) prescribing minimum standards for curricula in private career colleges;

(q) prescribing a maximum student-instructor ratio in each course;

(r) prescribing a maximum number of students in each private career college;

(s) requiring that accurate and current evaluation and examination statistics be kept for review by the Director;

(t) prescribing the conditions of ownership of franchised private career colleges in the Province;

(u) prescribing performance standards for occupational-training programs;

(v) requiring and setting the minimum amount for fire or disaster insurance necessary to continue a course in alternate facilities with alternate texts, instructional materials, supplies and equipment;

(w) respecting student-related services;

(x) prescribing criteria for contracts between students and operators of private career colleges, including conditions for the sale of contracts and conditions for accepting all or part payment for courses before the courses are given;

(y) prescribing criteria for application fees, registration fees and fees for international students;

(z) prescribing procedures for realizing on security taken pursuant to the regulations and the manner in which the proceeds are to be distributed;

(za) prescribing criteria for the purchase and sale of goods and services provided by students and limiting the amount of goods or services to be provided;

(zb) respecting the distribution of information in each college's files and establishing a policy and procedures for limited distribution and requirements respecting privacy;

(zc) requiring the operator of a private career college to keep information respecting students and prescribing the type of information to be kept, the form it is to be kept in and the length of time during which the information is to be kept;

(zd) determining what constitutes a change of ownership of a private career college;

- (ze) respecting the furnishing of annual reports and financial statements;
- (zf) determining review procedures;
- (zg) respecting the suspension of student intake and the procedure to be followed;
- (zh) prescribing entrance requirements for students;
- (zi) requiring the registration of a person, organization or body corporate that provides occupational-training programs by correspondence, the Internet, direct video conference, distance education or other electronic means when that person, organization or body corporate is operating from outside the Province and recruiting students within the Province;
- (zj) prescribing the form and content of a certificate of registration;
- (zk) prescribing criteria for the revocation or suspension of a certificate of registration and of a certificate of approval;
- (zl) respecting files, forms, records and documents relating to students to be kept at the place of business of a private career college, their content and the manner in which they are to be kept;
- (zm) prescribing the form and content of a student contract;
- (zn) prescribing the form and content of the annual report required for the purpose of clause 15C(a);
- (zo) prescribing the form and content of the report required for the purpose of clause 15C(b);
- (zp) prescribing the procedures for filing, responding to, processing and disposing of a complaint for the purpose of Section 18;
- (zq) prescribing the procedure for filing a request for review and establishing review procedures for the purpose of Section 28;
- (zr) prescribing methods of notifying parties of a decision or order;
- (zs) establishing the financial, human resources and administrative capacities required of private career colleges;
- (zt) prescribing policies and procedures that a private career college is required to have respecting tuition payment and refund;
- (zu) prescribing policies and procedures that a private career college is required to have respecting competency testing;

(zv) prescribing policies and procedures that a private career college is required to have respecting activities that may cause fear, intimidation, humiliation, distress or other damage or harm to a person's health, emotional well-being, self-esteem or reputation;

(zw) respecting student recruitment practices;

(zx) authorizing the Director to determine whether recruiting practices are misleading or contrary to these regulations, for the purpose of a complaint, revocation or suspension pursuant to this Act;

(zy) prescribing the form for the disclosure of the information for the purpose of clause 18(4)(b);

(zz) prescribing powers and duties of inspectors;

(zza) respecting administrative sanctions;

(zzb) establishing a listing of occupations for the purpose of subclause 2(1)(ii);

(zzc) prescribing the facility information to be provided by the operator of a private career college;

(zzd) prescribing the procedure and requirements for adding new locations to the certificate of registration;

(zze) prescribing the maximum number of hours for instruction and practicums each day and per week for occupational-training programs;

(zzf) respecting the determination of whether a person is a short-term teacher;

(zzg) prescribing the procedures for surrendering a certificate of registration and for the orderly transfer of files, documents and other items on the closure of a private career college;

(zzh) establishing threshold criteria for the exemption of a course of instruction for the purpose of Section 15G.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2015, c. 25, s. 20.

Governor in Council regulations

38 (1) The Governor in Council may make regulations

(a) prescribing the security, including the amount to be provided by the operator of any private career college, for the due performance of the operator's contracts;

(b) prescribing fees

(i) to register a private career college,

- (ii) to add locations to the certificate of registration,
- (iii) to make changes to registered operators or agents,
- (iv) for the approval or the amending of an occupational-training program, or
- (v) for the registration or the changes in registration of an instructor or instructor assistant of a private career college;
- (c) respecting the Fund;
- (d) prescribing the fees that operators are required to pay into the Fund;
- (e) defining any word or expression used by but not defined in this Act;
- (f) further defining any word or expression defined in this Act;
- (g) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2015, c. 25, s. 20.

Repeal

39 Chapter 474 of the Revised Statutes, 1989, the *Trade Schools Regulation Act*, is repealed. 1998, c. 23, s. 39.

Proclamation

40 This Act comes into force on August 31, 1999, or such earlier day as the Governor in Council orders and declares by proclamation. 1998, c. 23, s. 40.

In force - August 31, 1999
