

# **Real Estate Appraisers Act**

CHAPTER 25 OF THE ACTS OF 1998

*as amended by*

2015, c. 30, s. 152



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CHAPTER 25 OF THE ACTS OF 1998  
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**An Act Respecting  
Real Estate Appraisers**

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### Short title

**1** This Act may be cited as the *Real Estate Appraisers Act*. 1998, c. 25, s. 1.

### Interpretation

- 2 (1)** In this Act,
- (a) “Association” means the Nova Scotia Association of Real Estate Appraisers;
  - (b) “Board” means the Board of Directors of the Association;
  - (c) “Branch” means the Nova Scotia Association of the Institute;
  - (d) “by-law” means a by-law of the Association;
  - (e) “candidate” means a person who was, immediately before the coming into force of this Act,
    - (i) a member in good standing of the Branch, and
    - (ii) registered as a candidate with the Institute;
  - (f) “Institute” means the Appraisal Institute of Canada;
  - (g) “member” means a member of the Association in good standing and, for the purpose of disciplinary action, includes a member under suspension or a member who has resigned;
  - (h) “member in good standing” means a person who is registered, not in arrears of any amount owing to the Association and not under suspension;
  - (i) “practice of real estate appraisal” includes the analysis and evaluation of real estate, or any interest therein, for the purpose of giving an opinion, estimate or recommendation on the value of such interest, and providing advice and counselling with respect to value;
  - (j) “real estate appraiser” means any person registered pursuant to this Act to practise real estate appraisal in the Province;
  - (k) “real estate” includes
    - (i) leasehold property, and
    - (ii) a time-sharing arrangement respecting real estate,

and any interest therein;

(l) “registered” means registered pursuant to this Act and the by-laws;

(m) “Registrar” means the Registrar appointed pursuant to this Act;

(n) “Secretary” means the Secretary of the Association;

(o) “Treasurer” means the Treasurer of the Association.

(2) Nothing in this Act applies to or prevents

(a) the practice of any occupation, calling or profession authorized by an Act of the Province;

(b) a person carrying out functions that may include, in part, the practice of real estate appraisal, if the person does not perform such functions for remuneration;

(c) a person carrying out functions that may include, in part, the practice of real estate appraisal, if the person does not represent that person to be a real estate appraiser;

(d) a person appraising real estate pursuant to a warrant of appraisal under the *Probate Act*;

(e) a person licensed to trade in real estate in the Province, in the ordinary course of business, giving an opinion to a potential seller, buyer or third party of the recommended market price of real estate, if the opinion is not referred to as an appraisal;

(f) the assessment or appraisal of real estate by persons employed in the public service of the Province;

(g) an auctioneer providing valuation services, opinions, appraisals, estimates, recommendations, advice and counselling with respect to the value of real estate when carrying on the practice of auctioneering;

(h) a public accountant providing valuation services, opinions, appraisals, estimates, recommendations, advice and counselling with respect to the value of real estate when carrying on practice in accordance with the *Public Accountants Act*;

(i) a chartered accountant providing valuation services, opinions, appraisals, estimates, recommendations, advice and counselling with respect to the value of real estate when carrying on practice under the *Public Accountants Act* or the *Chartered Professional Accountants Act*; or

(j) a member of the Canadian Institute of Chartered Business Valuators providing valuation services, opinions, appraisals, estimates, recommendations, advice and counselling with respect to

the value of real estate when carrying on practice as a chartered business valuator,

or requires any person to become registered pursuant to this Act to perform such functions. 1998, c. 25, s. 2; 2015, c. 30, s. 152.

#### ASSOCIATION

##### **Nova Scotia Real Estate Appraisers Association**

**3 (1)** There is hereby established a body corporate to be known as the Nova Scotia Real Estate Appraisers Association.

**(2)** The Association consists of

(a) each person who, immediately prior to the coming into force of this Act, was

(i) a member in good standing of the Branch, and

(ii) a registered member of the Appraisal Institute of Canada and designated either as

(A) an Accredited Appraiser Canadian Institute (AACI),

(B) a Canadian Residential Appraiser (CRA), or

(C) a candidate,

with such restrictions as to practice that apply to that registration and designation until changed by by-law;

(b) each person who becomes a member pursuant to the by-laws; and

(c) each person who becomes a member pursuant to subsection 17(2),

as long as that person remains a member of the Association.

**(3)** The category of membership of a person who is a member when this Act comes into force shall not change by reason thereof. 1998, c. 25, s. 3.

##### **Head office and seal**

**4 (1)** The head office of the Association is as provided by by-law.

**(2)** The Association shall have a seal in a form approved by by-law. 1998, c. 25, s. 4.

##### **Objects**

**5** The objects of the Association are to

- (a) regulate the practice of real estate appraisal and govern its members in accordance with this Act and the by-laws, in order to serve and protect the public interest;
- (b) establish, promote and advance the interests of persons engaged in the practice of real estate appraisal;
- (c) establish, maintain and develop standards of knowledge, skill and efficiency for the practice of real estate appraisal;
- (d) establish, maintain, develop and enforce standards of professional ethics for its members;
- (e) promote public awareness of the role of the Association and real estate appraisal, and communicate and co-operate with other professional associations in order to serve and protect the public interest;
- (f) encourage studies in real estate appraisal and provide assistance for special studies and research; and
- (g) administer this Act and perform such duties and exercise such powers as are imposed or conferred on the Association by this or any other Act. 1998, c. 25, s. 5.

#### **Powers**

- 6** The Association may
- (a) provide for the discipline, government, control and honour of persons practising the profession of real estate appraisal in the Province, with power to determine standards of professional conduct;
  - (b) acquire and hold assets and property, both real and personal, by way of purchase, lease, grant, hire, exchange or otherwise, and dispose of such property by any means;
  - (c) provide for the management of its property and assets, and of its affairs and business including the employment of staff;
  - (d) borrow money for the purpose of carrying out any of the objects of the Association and give security for money borrowed on any of its real or personal property by way of mortgage, pledge, charge or otherwise;
  - (e) invest money of the Association not immediately required for any of its objects, in any manner as it may from time to time determine;
  - (f) establish and maintain a register of members registered as real estate appraisers, as the official register of persons entitled to practise real estate appraisal in the Province;
  - (g) fix and collect fees payable by any person
    - (i) upon being admitted as a member,
    - (ii) desiring to write any examination prescribed by the Association with a view to becoming a member, or

- (iii) as annual dues;
- (h) exempt any person from the payment of fees, dues or assessments for such reason and upon such terms and conditions as the Association may from time to time determine and suspend members for non-payment;
- (i) assess members for any ordinary, special or extraordinary expenditure that may be deemed necessary or expedient to further any of the objects of the Association;
- (j) prescribe the nature and extent of the education and practical experience in real estate appraisal required by any person before being registered to practise real estate appraisal in the Province, including mandatory continuing education for members as a condition of registration as a real estate appraiser;
- (k) provide for the determination, by examination or other means, of the competency of persons seeking to be registered as real estate appraisers and grant certificates of registration to persons qualified to practise real estate appraisal;
- (l) arrange and establish ways and means by which persons may be trained in the profession of real estate appraisal;
- (m) enter into such agreements as are necessary, incidental or conducive to carrying out the objects of the Association, including agreements with the Institute for the purpose of adopting and enforcing its Code of Ethics and Rules of Professional Conduct, Standards of Professional Practice and educational requirements for the practice of the appraisal of real estate, and for the purpose of awarding and maintaining designations;
- (n) receive gifts, donations and bequests, and make gifts or donations for the promotion of the objects of the Association;
- (o) regulate advertising;
- (p) call and regulate meetings and the method of voting;
- (q) provide for the eligibility, nomination, election, number and term of office of members of the Board and committees, including the appointment and revocation of persons as *ex officio* or honorary officers or members of the Board, and for the nomination of members to the National Governing Council of the Institute;
- (r) provide for the establishment of committees by the Association or the Board, prescribe their powers and duties, method of operation, including procedures at meetings and for filling vacancies, and provide for the delegation of powers or duties of the Board to any committee and establish the form and frequency of reports to the Board or the Association;
- (s) establish categories of membership in the Association, and prescribe the privileges, obligations, restrictions and conditions of membership;

(t) provide for the establishment and payment of scholarships, fellowships and other educational incentives, benefits and awards by the Association;

(u) provide for

(i) professional liability insurance and a professional liability claims fund, or

(ii) proof of professional liability insurance or a bond of indemnity in such amount or amounts

as prescribed by the by-laws and enter into agreements with the Institute or insurers for the purpose of subclause (i);

(v) provide for investigations by the complaints and discipline committees, including the procedures to be followed;

(w) do all other things as may be necessary or desirable to exercise the powers conferred by this Act, or any powers incidental thereto, and in furtherance of the objects of the Association. 1998, c. 25, s. 6.

#### **By-laws**

**7 (1)** The Association may make by-laws that are not inconsistent with this Act.

**(2)** No by-law, amendment or repeal thereof is effective until passed by resolution of two thirds of members voting at

(a) an annual general meeting of the Association; or

(b) a special meeting of the Association called for the purpose.

**(3)** A proposed new by-law, or an amendment or repeal of a by-law, shall be in writing signed by at least two members and shall, not less than sixty days before the meeting at which the new by-law or amendment or repeal is considered, be presented to the Secretary who shall include a copy in the notice calling the meeting.

**(4)** Every by-law of the Branch that is in force immediately before the coming into force of this Act is a by-law of the Association until the by-law is amended or repealed pursuant to this Act.

**(5)** Until the Association makes by-laws pursuant to this Act, the members shall comply with

(a) the Uniform Standards of Professional Appraisal Practice (USPAP);

(b) Regulation No. 1 of the Appraisal Institute of Canada, code of professional ethics; and

(c) Regulation No. 2 of the Appraisal Institute of Canada, governing the use of the AACI and CRA designations. 1998, c. 25, s. 7.

#### **Annual meeting**

**8** There shall be an annual meeting of the Association at such time and place as fixed by the by-laws. 1998, c. 25, s. 8.

### BOARD OF DIRECTORS

#### **Board and Executive Committee**

**9 (1)** There shall be a Board of Directors of the Association consisting of

(a) the President, Past President, Vice-president, Secretary and Treasurer of the Association; and

(b) the provincial representative to the National Governing Council of the Institute,

elected by the membership of the Association in the manner and for the terms prescribed in the by-laws and, in the case of the provincial representative to the National Governing Council, in accordance with the applicable by-laws or regulations of the Institute, and

(c) two lay persons to act as lay representatives on the Board, appointed by the Governor in Council from a panel of not less than four persons nominated by the Board.

**(2)** There shall be an Executive Committee of the Association consisting of the President, Vice-president, Secretary and Treasurer of the Association, together with such additional members as provided by by-law.

**(3)** Subject to this Act and the by-laws, the management of the Association is vested in the Board and the Executive Committee.

**(4)** A majority of the membership of the Board constitutes a quorum.

**(5)** A majority of the members of the Executive Committee constitutes a quorum. 1998, c. 25, s. 9.

#### **Terms of office and first directors**

**10 (1)** The term of office of the members of the Board shall be fixed by by-law.

**(2)** Notwithstanding subsection (1), where a vacancy on the Board or the Executive Committee occurs, except by reason of the office of President becoming vacant, the vacancy may be filled for the balance of the unexpired terms as follows:

(a) where the vacancy is with respect to a person elected pursuant to clause 9(1)(a), the Board may appoint a replacement;

(b) where the vacancy is with respect to the provincial representative to the National Governing Council appointed pursuant to clause 9(1)(b), the replacement shall be in accordance with the applicable by-laws or regulations of the Institute;

(c) where the vacancy is with respect to a person appointed pursuant to clause 9(1)(c), the Governor in Council may appoint a replacement.

(3) The members of the Board and Executive Committee of the Nova Scotia Association of the Appraisal Institute of Canada in office immediately before the coming into force of this Act continue in office until their successors are elected or appointed in accordance with Section 9 and the by-laws.

(4) At the first meeting following the election, or so soon thereafter as possible, the Board shall, in accordance with the by-laws, appoint such other persons or committees as may be necessary for the carrying out of this Act, who hold office as provided by the by-laws or, where there is no by-law, as determined by the Board. 1998, c. 25, s. 10.

#### **Power to make rules**

**11** The Board may, by resolution, make rules not inconsistent with this Act or the by-laws

(a) providing for the appointment, revocation and filling of vacancies on committees;

(b) providing for the calling, conduct and proceedings of meetings of all committees;

(c) providing for preliminary investigations into the conduct of members;

(d) providing for the establishment and conduct of committees of inquiry;

(e) providing for the custody and use of the Association seal;

(f) providing for the execution of documents by the Association;

(g) providing for banking and finance;

(h) fixing the financial year of the Association and the audit of the accounts and transactions of the Association;

(i) respecting the calling, holding and conduct of meetings of the Board and the duties of members of the Board;

(j) providing for meetings of the Board and committees by conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and deeming a

member of the Board or committee participating in such a meeting to be present in person at the meeting;

(k) respecting the calling, holding and conduct of special meetings of the membership of the Association;

(l) providing for the payment of necessary expenses of the Board and committees in the conduct of their business;

(m) respecting the management of the property of the Association;

(n) respecting the appointment, composition, powers and duties of additional or special committees;

(o) respecting the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities. 1998, c. 25, s. 11.

### Committees

**12 (1)** The Board shall, in accordance with the by-laws, establish and appoint

(a) a Committee of Examiners;

(b) a Complaints Committee; and

(c) a Discipline Committee,

and may, in accordance with the by-laws, establish such other committees as the Board considers necessary.

**(2)** The composition of committees and appointments to committees shall be in accordance with the by-laws or the rules of the Board made pursuant to Section 11.

**(3)** The Board may, by resolution, refer a matter concerning the conduct or competence of a member to the Complaints Committee for investigation. 1998, c. 25, s. 12.

## REGISTRATION AND PRACTICE

### Registration

**13 (1)** The Board shall appoint a Registrar to hold office on such terms and conditions and for such remuneration as determined by the Board.

**(2)** The Registrar shall maintain a register in which shall be entered the name of every person registered pursuant to this Act, and shall issue a certificate of registration to every person who is registered.

**(3)** No name shall be entered in the register other than as authorized by this Act or the by-laws and unless the Registrar is satisfied by proper evidence that the person is entitled to be registered.

(4) The Registrar shall perform such other duties and carry out such functions as may be prescribed by the by-laws, the Board or the Committee of Examiners.

(5) Any person affected by a decision of the Registrar with respect to registration may appeal, in writing, within thirty days of receipt of the decision to the Committee of Examiners which may reconsider the decision of the Registrar and may order that the name of the person be entered on the register.

(6) Each year the Registrar shall print, publish and keep for inspection by any person at the head office of the Association, free of charge, an alphabetical list, together with the address, of all persons registered as of January 1st, or such other date as established by by-law, for the ensuing twelve months.

(7) The register, or a copy of the list printed in accordance with subsection (6), is *prima facie* evidence in all courts that the persons named are registered pursuant to this Act.

(8) In the case of any person whose name does not appear, the Registrar may certify the entry of the name in the register, and such is *prima facie* evidence that the person is registered pursuant to this Act. 1998, c. 25, s. 13.

#### **Committee of Examiners**

14 (1) There shall be a Committee of Examiners for the examination of persons seeking to be registered as real estate appraisers consisting of five members appointed by the Board in accordance with the by-laws.

(2) The members of the Committee of Examiners shall elect one of their number as the Chair of the Committee.

(3) The members of the Committee hold office for a period of two years, except that three members of the first committee shall be appointed for one year only, their replacements to be appointed for two years.

(4) Any member of the Committee is eligible for re-appointment.

(5) Where a vacancy occurs in the membership of the Committee, otherwise than by expiration of the term of office of the member, the Board may, in accordance with the by-laws, appoint another person to hold office during the unexpired term. 1998, c. 25, s. 14.

#### **Registration and its effects**

15 (1) Every person who is approved by the Committee of Examiners for registration in accordance with the by-laws or in accordance with subsection 17(2) is authorized to practise real estate appraisal in the Province and every person who is not so approved but who is a member of the Association pursuant to clause 3(2)(a) is authorized to practice real estate appraisal in the Province subject to such

restrictions as to practice as apply to that person's registration and designation referred to in clause 3(2)(a) unless further changed by by-law.

**(2)** The Committee of Examiners may approve for registration a person of good character who

(a) has passed examinations prescribed by or acceptable to the Committee and, in the opinion of the Committee, has sufficient experience in real estate appraisal to qualify for registration pursuant to this Act;

(b) is a registered real estate appraiser in good standing in another province; or

(c) is the holder of the designation of Market Value Appraiser - Residential from the Canadian Real Estate Association,

and can provide proof of professional liability insurance or, in lieu thereof, a bond of indemnity in an amount prescribed by the by-laws and has filed with the Committee proof of qualifications as prescribed by its by-laws.

**(3)** The Committee of Examiners may issue a temporary registration to practise real estate appraisal for such fixed period as it considers reasonable upon the application of any person who qualifies under subsection (2) and who is not a resident of the Province.

**(4)** Subject to the approval of the Board, the Committee of Examiners may delegate to the Registrar such functions for the approval of an application for registration as it considers appropriate.

**(5)** Subject to the approval of the Board, the Committee of Examiners may make rules in accordance with the by-laws

(a) prescribing the proofs to be furnished as to education, good character and experience;

(b) prescribing the subjects for examination of candidates for registration as real estate appraisers and fees to be paid on examinations and registration;

(c) relating to examinations, the duties and functions of examiners and the place where examinations are to be held;

(d) respecting such other matters as the Committee considers necessary or advisable to more effectively discharge its functions or exercise its powers.

**(6)** The Committee of Examiners shall meet at such places and time as it determines.

**(7)** Notwithstanding subsection (6), the Committee of Examiners shall meet at least once every three months to consider matters before it. 1998, c. 25, s. 15.

**Appeal**

**16 (1)** Where the Committee of Examiners refuses to approve a person for registration that person may appeal to the Board, in writing, within thirty days of receipt of notification of the decision of the Committee.

**(2)** Where an appeal is taken pursuant to subsection (1), the Board, after considering all relevant factors, may

(a) direct that the person who took the appeal be registered;

(b) refer the matter back to the Committee of Examiners for reconsideration with such directions as the Board considers necessary; or

(c) dismiss the appeal and uphold the decision of the Committee.

**(3)** No member of the Board who is also a member of the Committee of Examiners shall participate in the hearing or consideration of an appeal taken pursuant to this Section. 1998, c. 25, s. 16.

**Prohibition**

**17 (1)** Except as provided by this Act or the by-laws, no person shall practise real estate appraisal in the Province, either privately or employed by another, unless that person is registered.

**(2)** Within six months after the coming into force of this Act, a person, other than a candidate, who applies for membership and who

(a) demonstrates to the satisfaction of the Committee of Examiners that such person has the necessary experience and knowledge to practise real estate appraisal;

(b) has been actively engaged in the practise of real estate appraisal in the Province for not less than three of the last five years;

(c) is of good character; and

(d) can provide proof of professional liability insurance or, in lieu thereof, a bond of indemnity in an amount prescribed by the by-laws,

may be registered or registered subject to such conditions as the Committee of Examiners considers necessary, otherwise that person shall be required to qualify for registration pursuant to subsection 15(2). 1998, c. 25, s. 17.

**Right to use designation**

**18** The designation "Canadian Residential Appraiser", the initials "CRA", the designation "Accredited Appraiser Canadian Institute" or the initials "AACI", may be used after the name of a member who is the holder of such design-

nation from the Institute, or from the Association by agreement with the Institute. 1998, c. 25, s. 18.

#### **Annual fees**

**19 (1)** Every member shall, on or before December 31st of each year, or such other date or term as established by by-law, pay to the Association the annual fees fixed by the by-laws.

**(2)** Subject to subsection (3), a member who fails to pay the annual fees as required by subsection (1) loses all rights and privileges conferred by this Act and the member's name shall not appear on the register.

**(3)** Where a person fails to comply with subsection (1), that person may make full payment of fees within ninety days of the time payment was due, in which case the person's name may be added to the register effective the date of payment only.

**(4)** Where a person does not make payment pursuant to subsection (3), that person's name cannot be added to the register except upon application to the Board for approval, in which case the Board may, upon consideration of the circumstances,

(a) direct the Registrar to add the person's name to the register upon payment of such fees as it considers appropriate, but in no event less than payment for one full year;

(b) require the person to pass such examinations as it considers necessary; or

(c) impose such other conditions as it considers in the public interest. 1998, c. 25, s. 19.

### COMPLAINTS AND DISCIPLINE

#### **Complaints Committee**

**20 (1)** There shall be a Complaints Committee composed of six members appointed in accordance with the by-laws.

**(2)** The members of the Complaints Committee shall elect one of their number as Chair of the Committee.

**(3)** No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

**(4)** Three members of the Complaints Committee constitute a quorum. 1998, c. 25, s. 20.

**Complaints procedure**

**21 (1)** The Chair of the Complaints Committee, upon receipt of a complaint in writing filed with the Registrar, or a resolution from the Board pursuant to subsection 11(3) shall refer the complaint to the Complaints Committee for investigation and the Committee shall then consider and investigate the conduct or competence of any member of the Association, but no action shall be taken by the Committee pursuant to subsection (3) unless

(a) the member whose conduct or competence is being investigated has been given a copy of the complaint or resolution and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine available records and other documents relating to the complaint.

**(2)** The Committee is not required to hold a hearing or to give any member an opportunity to make oral submissions before making a decision or giving directions pursuant to this Section, but a member complained against may, in the discretion of the Committee, be requested to appear before it to respond to the complaint.

**(3)** The Committee, in accordance with the information it receives, may

(a) dismiss the complaint if it is satisfied that the complaint is frivolous or vexatious;

(b) with the consent of the person who filed the complaint with the Registrar and the member who is the subject of the complaint, refer the matter, in whole or in part, for mediation in accordance with the by-laws;

(c) refer the matter, in whole or in part, to the Discipline Committee; or

(d) take such action as it considers appropriate in the circumstances to resolve the complaint as long as such action is not inconsistent with this Act or the by-laws.

**(4)** The Committee shall give its decision in writing to the Registrar, including the reasons for its decision.

**(5)** The Registrar shall deliver or send to the complainant, the member complained against and the Board, a copy of the written decision and reasons of the Committee. 1998, c. 25, s. 21.

**Discipline Committee**

**22 (1)** There shall be a Discipline Committee composed of six persons appointed in accordance with the by-laws, one of whom is not a member of the Association.

**(2)** The members of the Discipline Committee shall elect one of their number as the Chair of the Discipline Committee.

**(3)** Three members of the Committee constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Committee present at the hearing, and shall be in writing with reasons. 1998, c. 25, s. 22.

**Powers and duties of Discipline Committee**

**23 (1)** The Discipline Committee shall

(a) when so directed by the Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a member of the Association; and

(b) perform such other duties as are assigned to it by the by-laws.

**(2)** A member may be found guilty of professional misconduct by the Discipline Committee if

(a) the member is convicted in a court of competent jurisdiction of an offence that, in the opinion of the Committee, is relevant to the member's suitability to practise real estate appraisal; or

(b) the member is guilty, in the opinion of the Committee, of professional misconduct.

**(3)** The Discipline Committee may find a member to be incompetent if, in its opinion,

(a) the member has displayed in carrying out the members' professional responsibilities a lack of knowledge, skill or judgment or disregard for the welfare of the public of such nature or extent to demonstrate that the member is unfit to carry out the responsibilities of a person engaged in the practice of real estate appraisal;

(b) the member is suffering from a physical or mental condition or disorder of such a nature or extent as to render the member unfit to engage in the practice of real estate appraisal.

**(4)** Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may

(a) accept the undertaking of the member to limit the professional work of the member in the practice of real estate appraisal to the extent specified in the undertaking;

(b) impose specific restrictions on that person's right to practise real estate appraisal including, but not limited to,

(i) requiring the member to engage in the practice of real estate appraisal only under the personal supervision and direction of another member,

(ii) requiring the member not to engage alone in the practice of real estate appraisal,

(iii) requiring the member to report to the Registrar, or to such committee of the Board as the Committee may specify on such matters with respect to the member's practice for such period and times, and in such form, as the Committee may specify,

(iv) imposing terms, conditions and limitations on the member's right to practise real estate appraisal including, but not limited to, the successful completion of a particular course of study, as specified by the Committee;

(c) require the member to repay, waive or reduce the fee charged by the member in respect of the practice of real estate appraisal related to the finding of professional misconduct or incompetence;

(d) require that the member be reprimanded or counselled;

(e) impose such fine as the Committee considers appropriate, to a maximum of five thousand dollars, to be paid by the member to the Treasurer;

(f) suspend the member's right to practise real estate appraisal for a stated period, not exceeding twenty-four months;

(g) revoke the member's right to practise real estate appraisal;

(h) subject to subsection (5), direct that a finding or order of the Committee be published in an official publication of the Association in detail or in summary and either with or without the name of the member;

(i) fix the costs of any investigation or procedures by the Complaints Committee and the Discipline Committee to be paid by the member;

(j) direct that the imposition of a penalty be suspended or postponed for such a period and upon such term or for such purpose as may be specified by the Committee.

**(5)** The Discipline Committee shall cause an order of the Committee revoking or suspending the right to practise real estate appraisal to be published, with or without the reasons for the order.

(6) The Discipline Committee shall cause a determination by the Committee that an allegation of professional misconduct or incompetence was unfounded to be published upon the request of the member against whom the allegation was made.

(7) Where the Discipline Committee revokes, suspends or restricts the right to practise real estate appraisal, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the authority to which the appeal is taken otherwise orders pending the appeal.

(8) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct of the member.

(9) Where a proceeding is commenced before the Discipline Committee and the term of office of a member of the Committee expires or is terminated other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Committee for the purpose of completing the disposition of the proceeding in the same manner as if the term of office of the member had not expired or been terminated. 1998, c. 25, s. 23.

### Hearings

**24** (1) In proceedings before the Discipline Committee, the Association and the member whose conduct is being investigated are parties to the proceedings.

(2) A member whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine, within a reasonable time before the hearing, any written or documentary evidence that will be produced, or any report the contents of which will be given in evidence at the hearing.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee, or at a previous hearing of the Committee, and shall not communicate, directly or indirectly, in relation to the subject-matter of the hearing with any person or with any party or the representative of any party except upon notice to and opportunity for all parties to participate, but the Committee may seek legal advice.

(4) Hearings of the Discipline Committee shall be held in private unless the party whose conduct is being investigated requests otherwise by notice delivered to the Registrar at least five days before the day fixed for the hearing in which case the Committee shall conduct the hearing in public except where

(a) matters involving public security may be disclosed; or

(b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(5) The Discipline Committee, or someone designated by it to act on its behalf, may, by summons in a form prescribed by by-law, require the attendance before it of any person whose evidence may be material to the subject-matter of the hearing and may order any person to produce such records, reports or other documents as appear necessary for the purpose of the hearing.

(6) A person served with a summons shall attend and answer all questions concerning matters being inquired into at the hearing and shall produce to the Discipline Committee all records, reports or other documents that are under the custody or control of that person.

(7) The testimony of any witness may be taken under oath or affirmation which may be administered by the Chair of the Discipline Committee or any person designated to do so on behalf of the Chair.

(8) Where a person on whom a summons has been served, either personally or by leaving a copy of the summons with some adult person at the last or most usual place of residence or business of the person served, fails to appear before the Discipline Committee or upon appearing refuses to be sworn or refuses without sufficient cause to answer any questions relevant to the hearing, the Committee may, by application to a judge of the Supreme Court of Nova Scotia, cause the person to be cited for contempt under the provisions of the *Civil Procedure Rules* in the same manner and to the same extent as if the alleged contempt took place in proceedings before the Supreme Court.

(9) The oral evidence taken before the Discipline Committee shall be recorded and, where a party requests a copy of the transcript, it shall be furnished to that party at that party's expense.

(10) No member of the Discipline Committee shall participate in a decision of the Committee unless the member was present throughout the hearing and heard the evidence and argument of the parties.

(11) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined. 1998, c. 25, s. 24.

### **Appeal Board**

25 (1) There shall be an Appeal Board consisting of such number of persons as is prescribed by the by-laws, appointed in accordance with the by-laws.

(2) A party to proceedings before the Discipline Committee may appeal within thirty days from the date of the decision or order of the Committee to

the Appeal Board by way a notice of application in such form as is prescribed by the by-laws.

(3) Upon the request of a party desiring to appeal and payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

(4) An appeal pursuant to this Section may be on questions of law or fact, or both.

- (5) On an appeal pursuant to this Section, the Appeal Board may
- (a) affirm, vary or rescind the decision or order of the Discipline Committee;
  - (b) exercise all the powers of the Discipline Committee;
  - (c) direct the Discipline Committee to take any action that it has power to take;
  - (d) substitute its opinion for that of the Discipline Committee;
  - (e) refer the matter back to the Discipline Committee for rehearing in whole or in part, in accordance with such directions as the Appeal Board considers proper.

(6) An appeal pursuant to this Section is not a stay of the operation of an order made by the Discipline Committee but the Appeal Board may, on application by the person taking the appeal, stay the operation of the order appealed from pending the final disposition of the appeal, and may impose one or more conditions on the stay.

(7) The procedure of the Discipline Committee applies *mutatis mutandis* to proceedings before the Appeal Board. 1998, c. 25, s. 25.

#### **Appeal to Supreme Court of Nova Scotia**

26 (1) A party to proceedings before the Appeal Board may appeal within thirty days from the date of the decision or order of the Appeal Board to the Supreme Court of Nova Scotia by way of notice of application in accordance with the *Civil Procedure Rules* with such changes as the circumstances require.

(2) Upon the request of a party desiring to appeal and payment of the fee therefor, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision or order appealed from.

(3) An appeal pursuant to this Section may be on a question of law or jurisdiction.

- (4) On an appeal taken pursuant to this Section, the Court may
- (a) affirm, vary or rescind the decision of the Discipline Committee;
  - (b) direct the Discipline Committee to take any action that it thinks appropriate;
  - (c) refer the matter back to the appropriate committee or Appeal Board for rehearing in whole or in part, in accordance with such directions as the Court considers proper. 1998, c. 25, s. 26.

#### **Procedures of Appraisal Institute of Canada**

27 Where a procedure respecting a complaint or an appeal is not provided in this Act but is provided in Regulation 8 or 9 of the Appraisal Institute of Canada, the procedure provided in Regulation 8 or 9 shall be followed *mutatis mutandis* in dealing with the complaint, as long as that procedure does not conflict with any provision of this Act or the by-laws. 1998, c. 25, s. 27.

### OFFENCES

#### **Certain acts of unregistered person**

28 Except as provided in this Act or the by-laws, any person not registered, pursuant to this Act to practise real estate appraisal or not otherwise authorized by this Act to practise real estate appraisal, or whose registration is revoked or suspended, and who

- (a) practises as a real estate appraiser;
- (b) uses the title of real estate appraiser or any designation thereof permitted by this Act, or makes use of any abbreviation of such title, or any name, title or designation that may lead to the belief that the person is a real estate appraiser;
- (c) advertises or in any way or by any means holds out as a real estate appraiser; or
- (d) acts or holds out in such manner as to lead to the belief that such person is authorized to fill the position of or to act as a real estate appraiser,

is guilty of an offence and is liable upon summary conviction for the first offence to a fine of not less than five hundred dollars and not more than two thousand dollars, and for any subsequent offence to a fine of not less than one thousand dollars and not more than five thousand dollars, or to imprisonment for not more than six months, or both, and upon failure to pay a fine to imprisonment for not more than six months. 1998, c. 25, s. 28.

#### **Fraud**

29 Any person who procures or attempts to procure admission to the Association for that person or for another person by making, or causing to be made,

any fraudulent representation or declaration, either oral or written, or who makes any false statement in any application, declaration or other documents under this Act or the by-laws, is guilty of an offence punishable on summary conviction. 1998, c. 25, s. 29.

**Penalties**

**30 (1)** Upon conviction of any person for an offence under Sections 28 or 29, the judge convicting the person may, in addition to any other punishment imposed, immediately prohibit that person from engaging in the practice of real estate appraisal or from doing anything for which that person was convicted.

**(2)** Any person who fails to comply with an order pursuant to subsection (1) is guilty of an offence and is liable to a fine of not less than one thousand dollars and not more than five thousand dollars or to imprisonment for a term of not more than six months, or both, and on failure to pay the fine to imprisonment for not more than six months. 1998, c. 25, s. 30.

**GENERAL****Right to inspect by-laws**

**31** All by-laws and rules made by the Association, the Board or the Committee of Examiners shall be available for inspection by any person at the head office of the Association at all reasonable times during business hours. 1998, c. 25, s. 31.

**Limitation of liability**

**32** No action lies against members, officers or directors of the Association, the Board or any committees of the Association for anything done in good faith pursuant this Act or the by-laws. 1998, c. 25, s. 32.

**First directors and officers**

**33 (1)** The directors of the Branch immediately before the coming into force of this Act are the directors of the Association until their successors are appointed or elected in accordance with this Act.

**(2)** The officers of the Branch immediately before the coming into force of this Act are the officers of the Association until their successors are appointed or elected in accordance with this Act. 1998, c. 25, s. 33.