

## CHAPTER A50

### THE AGROLOGIST ACT

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

#### **Definitions.**

1(1) In this Act

“agrologist” means a person who is qualified to teach or practice the science or art of agrology;

“council” means the council of management of the institute;

“court” means the Court of Queen’s Bench for Manitoba;

“institute” means the Manitoba Institute of Agrologists;

“member” means a registered member of the institute;

“practising agrology” includes, subject to subsection (2), every act, with or without reward, which has as its objective the experimentation with or the giving of advice with respect to the principles, laws or practices relating to the production, improvement, use, processing or marketing of agricultural products, crops or livestock;

“president” means the president of the institute;

“registrar” means the registrar of the institute.

#### **Persons not practising agrology.**

1(2) The following persons shall not be deemed to be practising agrology.

- a) A person carrying on the business of farming unless he holds himself out as an agrologist;
- b) An undergraduate student assistant in agriculture working under the direct supervision of an agrologist and not taking responsibility for the work other than to his immediate supervisor;
- c) A person who is registered and holds professional status in another profession recognized by statute in the Province of Manitoba provided he does not hold himself out as an agrologist;
- d) A person who practices his profession as a chemist, forester, land appraiser, land surveyor or a person servicing or repairing farm machinery, provided he does not hold himself out as an agrologist;
- e) A person or his agent who gives advice relating to the quality or use of the article or product that he offers for sale, if such advice is given under the authority or supervision of a member;
- f) An agricultural technician or technologist working under the supervision of a member;
- g) Any other person that the council in its discretion decides to exempt from registration.

#### **Corporate status and name.**

2 The Manitoba Institute of Agrologists is hereby declared to be and is continued as a body corporate.

#### **Branches continued.**

3 The Winnipeg, Western and Central Branches of the institute existing as of the adoption of this Act are continued until abolished or changed by the council acting under subsection 7(3).

### **Powers**

4 The institute has the powers, rights and privileges conferred upon and vested in a corporation by section 14 of The Interpretation Act and in addition may

- a) Purchase, acquire, take, hold, possess and enjoy any lands, tenements, or hereditaments, and personal property, and sell, mortgage, lease or dispose of them;
- b) Invest any money belonging to it, or held by it in trust, in vestments and securities in which trustees are authorized to invest trust money under The Trustee Act, and lend any money belonging to it, or held by it in trust, upon the security of any such securities, or upon the security of any real property in Canada;
- c) Subscribe, apply or guarantee payment of money for advancement of agricultural education or research or for objects considered by the council beneficial to or in the interests of the profession of agrolology or the public;
- d) Establish and award scholarships and prizes.

### **Membership**

5. Every person who meets the qualifications for registration established by the council under clause 9(j) is entitled upon payment of the prescribed fee to be registered as a member of the institute.

### **Council**

6(1) There shall be a council of management of the institute which shall be called the council of the Institute of Agrolologists.

### **Elective councillors**

6(2) The council of the institute shall consist of at least 15 members elected or appointed as follows:

- a) Five members elected from the Winnipeg branch for a term of three years;
- b) Two members elected by the western branch for a term of three years;
- c) One member elected by the central branch to hold office for a term of three years;
- d) The president of each of the Winnipeg, Western and Central Branch;
- e) The Manitoba National Director of the Agricultural Institute of Canada;
- f) Councillors appointed under subsection 8(1).

### **Existing council continued.**

6(3) The members of the council of the institute in office on the coming into force of this Act continue in office.

### **Nomination of candidates.**

7(1) Every member in good standing whose nomination for council is signed by at least five members from the branch in which the member is practising is eligible to be elected as a member of council.

### **Filling vacancies**

7(2) Where a person elected as councillor dies or is unwilling or unable to fulfill his term, the council may appoint another member to fill the vacancy who shall serve for the remainder of the term.

### **Changing branches.**

7(3) Council may by-law create new branches or alter existing branches if in council's discretion it is desirable or in the best interests of the institute to do so and upon the creation or alteration of a branch council shall designate the number of councillors who shall represent the branch.

**Appointed councillors.**

- 8(1) There shall be three councillors who
- a) Are not members of the institute;
  - b) Are resident within the province;
  - c) Are appointed by a committee composed of:
    - I. The Minister of Agriculture for the Province of Manitoba
    - II. The dean of the Faculty of Agriculture at the University of Manitoba
    - III. The president of Diploma Agricultural Graduates Association.

**Term of office.**

- 8(2) A person appointed as a councillor under subsection (1) shall serve for a term of three years unless his successor is earlier appointed under subsection (3).

**Filling vacancy.**

- 8(3) Where a person appointed as a councillor under this section dies or is unwilling or unable to fulfil his term, the committee appointed under subsection (1) may appoint another person to fill the vacancy who shall serve for the remainder of the term.

**Exercise of powers of the institute**

- 9 The council may exercise in the name of and on behalf of the institute any or all of the powers, authorities and privileges, by this Act or any other Act conferred on the institute, and without restricting the generality of the foregoing the council may
- a) Govern the institute and administer its affairs;
  - b) Make by-laws not inconsistent with this Act governing the election of councillors, creation of branches, conduct of elections and appointment of officers;
  - c) Make or cause to be made for the institute any contract that the institute may be law enter into;
  - d) Provide for the regulation and conduct of meetings and proceedings of the council and institute including the fixing of the quorum necessary for the transaction of business;
  - e) Appoint or provide for the appointment of committees and fix the quorum of any such committee for the transaction of business.
  - f) Regulate the procedure in respect of elections and contested elections;
  - g) Appoint a president from the persons elected as councillors and further appoint a registrar and secretary-treasurer and such other officers as may be necessary for carrying out the objects of the institute and prescribe their respective powers and duties;
  - h) Authorize any committee of the council to exercise and carry out any of the powers, authorities, rights, privileges and duties conferred or imposed upon the council or institute by this Act;
  - i) Make by-laws for the exercise and carrying out of the powers, authorities, rights, privileges and duties conferred or imposed upon the council or institute by this Act;
  - j) Prescribe the educational and other qualifications for registration of persons as members, including setting examinations therefore;
  - k) Exercise disciplinary jurisdiction over members;
  - l) Provide for inquiries or investigations by the council or a committee thereof or any other person for the purpose of ascertaining whether the by-laws of the institute have been or are being complied with;
  - m) Provide for inquiries or investigations and hearings by the council or a committee thereof into any charge or complaint of professional misconduct or conduct unbecoming;
  - n) Provide for the levying of annual and other fees.

**Membership.**

10 No partnership, company, corporation or association of persons shall be registered as a member of the institute.

**Registration.**

11 The council shall cause to be kept by the registrar or other officer appointed for the purpose a book or register in which shall be entered the names of all members and such book or register shall, during regular business hours of the institute, be subject to inspection by any person.

**Inquiry into conduct and notice thereof.**

12(1) Where an inquiry into the conduct of a member of the institute is deemed advisable by the council or a committee thereof, at least two weeks before the first meeting of the council or committee thereof, to be held for the taking of evidence or otherwise ascertaining the facts, a notice shall be served upon the person whose conduct is the subject of the inquiry; and the notice shall embody a copy of the charges made against him or a statement of the subject matter of the inquiry, and shall also specify the time and place of the meeting.

**Service of notice.**

12(2) A notice to be served upon a person whose conduct is the subject of inquiry may be served upon him personally, or may be sent to him by registered mail addressed to him at his post office address appearing in the records of the institute and a notice sent by registered mail shall be deemed to have been served on the day after the day on which it was posted.

**Proof of service**

12(3) Proof of service of the notice may be by affidavit or statutory declaration.

**Failure to attend hearing.**

12(4) Where the person whose conduct is the subject of inquiry does not attend, the council or the committee may upon proof of service of the notice in accordance with this section, proceed with the inquiry in his absence, and without further notice to him, take such action as it is authorized to take under this Act.

**Testimony under oath.**

12(5) The testimony of witnesses at the inquiry shall be taken under oath, and there is full right to cross-examine all witnesses called and to call evidence in defence and reply.

**Subpoenas.**

12(6) The council, or the committee, or any party to the inquiry may obtain on praecipe from the court subpoenas for the attendance of witnesses and the production of books, documents and things at the inquiry; and disobedience thereof or refusal to give evidence shall be deemed a contempt of court.

**Witness' allowances.**

12(7) Witnesses are entitled to the like allowances as witnesses attending upon the trial of an action in the court.

**Copy of conviction.**

12(8) For the purposes of the inquiry, a certified copy, under the seal of the court or under the hand of the convicting magistrate or justice of the peace, or under the hand of the clerk of the magistrate's court, of the conviction of a person of any crime or offence under the Criminal Code

(Canada), or under any other statute, is conclusive evidence that the person has committed the crime or offence stated therein, unless it is shown that the conviction has been quashed or set aside.

### **Hearings in camera**

12(9) An inquiry held under this section shall be held in camera unless the member into whose conduct an inquiry is being made requests that the inquiry be open to members, in which case the inquiry shall be open to members.

### **Penalties.**

13(1) Where a member is found to have been guilty of a breach of this Act or the by-laws, or professional misconduct or conduct unbecoming, the council may do any one or more of the following:

- a) Erase the person's name from the register;
- b) Suspend the member;
- c) Reprimand the member;
- d) Order the member to pay a fine.

### **Costs.**

13(2) A member who is found guilty of professional misconduct or conduct unbecoming may be ordered by the council to pay all or part of the costs and expenses incurred by the institute in respect of the investigation proceedings and hearing.

### **Appeal to court.**

14(1) A member whose name has been erased from the register, or who has been suspended, reprimanded or fined by the council or a committee thereof, may appeal from the decision or order to the court within two weeks from the date thereof.

### **Procedure on appeal.**

14(2) An appeal shall be founded upon a copy of the proceedings, the evidence taken, including exhibits, and the order or decision of the council or committee thereof.

### **Certified copies to be provided.**

14(3) The council shall upon the request of a member desiring to appeal, furnish to the member at his expense a certified copy of all proceedings and exhibits upon which council made the order or decision in respect of which the appeal is taken.

### **Judge may make any order considered just.**

14(4) The judge may upon the hearing of the appeal make such order or decision relating thereto and as to costs as he considers just.

### **Offences.**

15(1) A person who is not a member in good standing of the institute shall not practise agrology.

### **Unauthorized use of title.**

15(2) No person shall assume verbally or otherwise the title of agrologist, or any abbreviation thereof, or any title designation, or descriptive term, that may lead other persons to believe that he is a member of the institute or entitled to practise agrology, or act in such a manner as to lead to the belief that he is authorized to practise agrology, unless he is a member in good standing of the institute.

### **Fine.**

15(3) A person who violated any provision of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$100. for the first offence and not exceeding \$200. for a subsequent offence.

**No collection of fees for unauthorized practice.**

15(4) A person who violated any provision of this Act shall not be entitled to recover or be paid any fee, reward or disbursements, for any services rendered while practising or purporting to practise agrology.

**Injunction.**

15(5) Any person who violates any provision of this Act or the by-laws of the institute may be restrained by injunction from doing any such violations.

**Head Office.**

16 The head office of the institute shall be at the City of Winnipeg, in the Province of Manitoba.