

Compliance Orders Policy

November 2021

This policy explains the purpose of this provision for order making powers and the types of non compliance that could warrant the issuance of a compliance order.

Legislative Requirements

The Fair Registration Practices in Regulated Professions Act (act) includes order making powers for the minister responsible for the legislation. Specifically:

COMPLIANCE ORDERS

Compliance order

15.4(1) The minister may issue a compliance order to a regulated profession if the minister is of the opinion that the regulated profession has failed to comply with the Fair Registration Practices Code.

Domestic trade agreements

15.4(2) Despite subsection (1), a failure to comply with a domestic trade agreement is subject to enforcement in accordance with the terms of agreement, and such a failure is not subject to a compliance order under this section.

Prior notice of compliance order

15.4(3) Before issuing a compliance order, the minister must give written notice to the regulated profession affected by it and allow the regulated profession at least 30 days to make a written submission explaining the reason for the alleged non-compliance.

Content of order

15.4(4) A compliance order must do the following:

- (a) describe the way in which the regulated profession has failed to comply;
- (b) set out any action the regulated profession must take to remedy the failure, including but not limited to, making, amending or repealing any regulation, rule, by-law, criteria used to assess whether requirements for registration have been met, or other measure specified in the order;
- (c) specify the time period within which the order must be completed.

Regulated profession must comply with order

15.4(5) A regulated profession must comply with a compliance order.

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Purpose

Regulated professions subject to the act have a duty to ensure assessment and registration practices are transparent, objective, impartial and fair. The Fair Registration Practices Office (FRPO) has an oversight role, working collaboratively with professions to ensure compliance with the fairness legislation and to improve practice where needed.

When serious, unfair, non-compliant registration practice is in place, and efforts by the FRPO to initiate change fail, the act provides authority for the minister to issue compliance orders.

Non-compliance

Assessment and registration practice resulting in a compliance order must:

- a. be a clear contravention of one or more of the duties laid out in the Fair Registration Practices Code (code) of the legislation; and
- b. be of significant, detrimental consequence to applicants to the regulated profession

Compliance orders are limited to practices that contravene the code. Obligations that fall outside the code are not subject to compliance orders.

Regulated professions also have a duty to comply with domestic trade agreements. If registration practices contravene a trade agreement, the body will be subject to the compliance mechanisms of that agreement.

Process

Compliance order provisions in the act are intended to ensure a fair process, where regulated professions are heard and where appropriate, orders may be reconsidered or adjusted.

When a compliance issue is identified, the government must provide the regulated profession with notice of intention to issue a compliance order. This must include a written description of the issue detailing how the practice is in contravention of the code, with prescribed actions required for compliance. These actions may require, but are not limited to, changes in a regulated profession's regulations, by-laws or policies.

The regulated profession will be given 30 days to make a written submission explaining the reason for non-compliance.

If after review and consideration of the response the regulated profession has not satisfactorily modified or removed the requirement(s), a compliance order will be issued. Upon the minister's issuance of an order, professions must comply with the terms of the order by the deadline indicated in the letter. Compliance orders are legally binding and no statutory right of review to a Manitoba court is stipulated in the legislation.

Orders are a measure of last resort and considered only in cases where the issue is a significant and clear contravention under the code. The first, and preferred, course of action is always to work collaboratively with the regulated profession to seek a resolution that is in the best interests of all parties.