

## SECTION TWO: THE LEGISLATIVE FRAMEWORK

**ACTIVITY:** Lecturette, followed by individual exercise

**TIME:** 1 hour, 20 min.

**LEARNING OUTCOME:** Participants will know what legislation affects them professionally, will have read and understood the *Public Accountancy Act* and will understand the two sides of the debate over control of licensing for public accountants.

### DESCRIPTION:

- Use the lecture notes and overheads to guide your lecture.
- Instruct participants to take out their copy of *the Public Accountancy Act* from their Resource Package and complete the exercise on **pages 27**. Take up answers as a class using the Answer Key provided.  
Order the *Public Accountancy Act* from **Publications Ontario** (416) 326-5300 or 1-800-668-9938. You can also obtain it through the Internet at [www.e-laws.gov.on.ca/DBLaws/Statutes/English/90p37\\_e.htm](http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/90p37_e.htm)
- Instruct participants to read the article "Accountants lock horns on control of licensing" on **pages 28-29** and to answer the questions that follow on **Page 30**. Take up results as a class.

## THE LEGISLATIVE FRAMEWORK: LECTURE NOTES

### Introduction

- ❑ Remind participants that being a member of a regulated profession means that there are laws governing the conduct and responsibilities of members of that profession. These laws are designed to protect the public.
- ❑ Explain that it is the responsibility of members of a particular profession to know and understand the laws that relate to that profession.
- ❑ Place Overhead 6 on the projector.
- ❑ Explain that there are two levels of government – federal and provincial – which have some role in the professions, especially with respect to the foreign-trained.
- ❑ Review the overhead, explaining the roles of various ministries, as follows:

### FEDERAL MINISTRIES

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#### **Citizenship & Immigration Canada (CIC)**

Responsible for legislation and policy governing immigration to Canada. Some potential immigrants are awarded “points” based on their occupation. The federal government is assuming that because your occupation is in demand here in Canada, you will integrate easily into the economy. The fact that this is not always true is being debated at the federal level and may result in changes to immigration policy.

Note that some participants may have undergone an “assessment” of their professional status as part of the immigration process. Explain that this assessment is not binding – that is, it does not mean that you are guaranteed a license to practise in Ontario.

**THE LEGISLATIVE FRAMEWORK (cont'd): LECTURE NOTES**

**FEDERAL MINISTRIES (Cont'd)**

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**Human Resources & Skills Development**

This is the ministry that deals with Employment Insurance and provides information and resources to jobseekers – most recently through Employment Resource Centres. Beyond that, however, HRSD has no direct role in the regulated professions.

**PROVINCIAL MINISTRIES**

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**Ministry of Training, Colleges & Universities:** The *Constitution Act* gives exclusive authority to each province in Canada to make laws in relation to education. In Ontario, the Ministry of Education and the Ministry of Training, Colleges and Universities are responsible for the administration of laws relating to education and skills training.

Among its responsibilities are:

- developing policy directions for adult education and labour market training
- setting standards for occupational training, particularly for trades under the *Trades Qualification and Apprenticeship Act*
- managing provincial programs to support workplace training and workplace preparation, including apprenticeship, career and employment preparation, and adult literacy and basic skills
- undertaking labour market research and planning

### Attorney General

The Ministry of the Attorney General holds responsibility for the Public Accountancy Act but it delegates responsibility for administering these regulations to the Public Accountants Council.

#### **The Public Accountants Council is responsible for administering the provisions of the Act by:**

- ensuring that prospective members meet the qualifying requirements
- considering matters of common interest and concern to public accountants and the submission of representations to any government ministry or public authority with reference to any such matters
- granting or refusing licenses
- maintaining and improving the standards of professional qualifications of
- practising public accountants in Ontario
- exercising disciplinary powers over licensees
- prosecuting offences under the Act
- revoking licenses

Individual Associations such as The Institute of Chartered Accountants of Ontario are responsible for:

- Setting entry and training requirements
- Registering qualified applicants
- Setting standards of practice
- Disciplining members.
- Assessing qualifications and credentials

**THE LEGISLATIVE FRAMEWORK (cont'd): LECTURE NOTES**

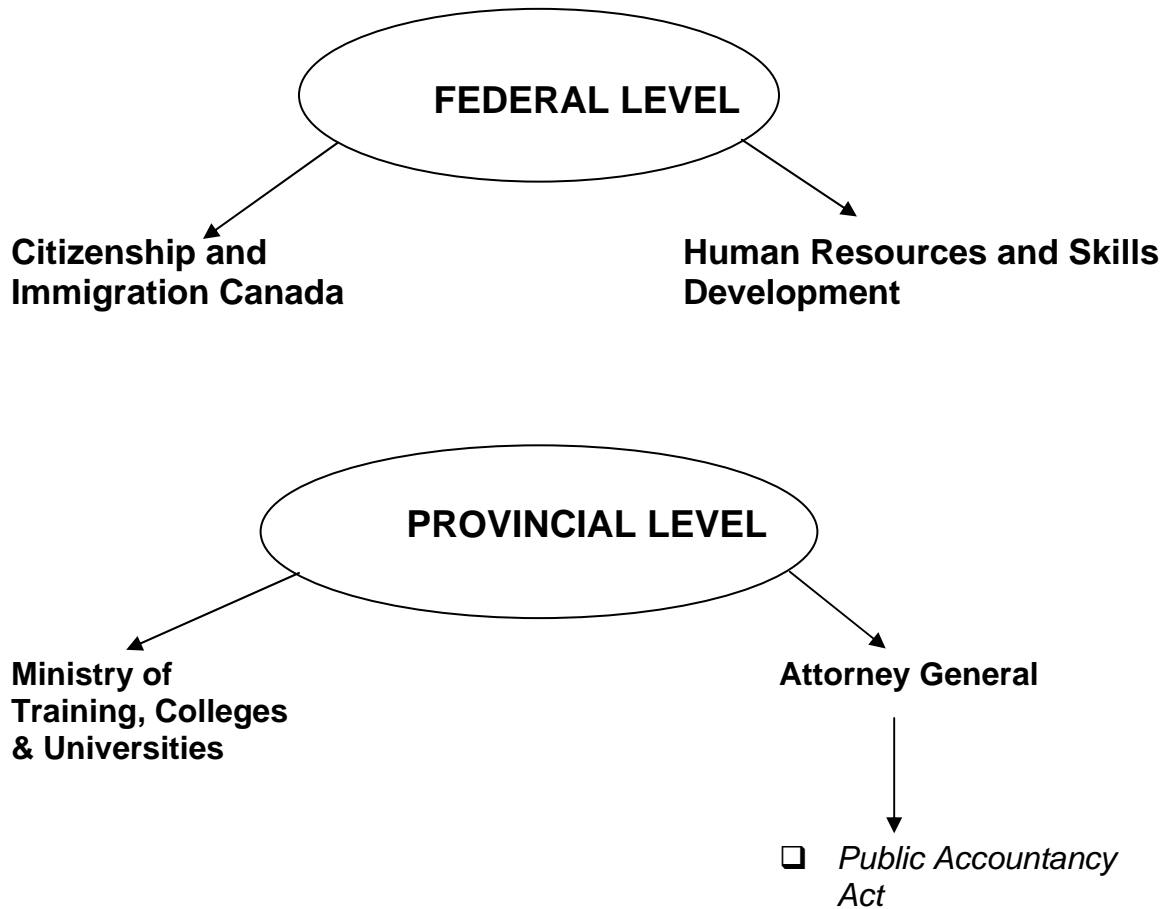
Explain that the Public Accountancy Act is not the only piece of legislation that affects Accountants. Other laws more specific to the practice of particular disciplines include:

- Canadian Business Corporations Act*
- Registered Pension Plan Act*
- Income Tax Act*
- Securities Act*

In addition, the work of accountants is guided by certain standards of practise set by the regulatory bodies. These include:

- *Canadian Institute of Chartered Accountants Handbook*
- *CGA-Canada's Public Practice Manuals*
- *Public Sector Accounting and Auditing Standards Handbook*
- *Certified Management Accountants Handbook*
- *CGA-Canada GAAP Guide – available to members only*

**THE LEGISLATIVE FRAMEWORK**



**THE LEGISLATIVE FRAMEWORK:  
THE PUBLIC ACCOUNTANCY ACT -- ANSWER KEY**

**Find the definitions for “public accountant”:** “a person who either alone or in partnership engages for reward in public practice” involving, among other things, the preparation of “any financial, accounting or related statement” (whether audited or unaudited) but does not include bookkeeping or management accounting.

**1. Compare your qualifications and experience with those outlined in the definition. Would you be considered a “public accountant” as defined under this Act?**

*[ANSWERS WILL VARY]*

**2. In Section 14 of the Act, you will find the qualifications for a license. Who is eligible to be entered on The Roll of Public Accountants in Ontario?**

- Anyone who is a member of the qualifying body **or**
- Was licensed under the Act or a predecessor of the Act **or**
- Is a member of the CGA-Ontario and has taken the course of instruction and passed the final exams of the CGA-Ontario and has at least three years experience in public accountancy in Ontario and was a member or a student of CGA-Ontario on April 1<sup>st</sup>, 1962. In other words, this “grandfathering” clause allowing CGAs prior to 1962 to be considered public accountants.

**3. For what length of time a license valid?**

For as long as the Public Accountants Council states on the license.

**4. What are the fines for:**

- Obtaining a license by false representation: not more than \$10,000
- Failing to surrender a license: not more than \$2,000.00

**5. What actions are considered “abuse of a license” and what is the penalty?**

Using a license of another person; allowing a person to use your license; purporting to be licensed when you are not.

## THE LEGISLATIVE FRAMEWORK

Depending on the type of work they are performing, accountants may be expected to be familiar with some or all of the following federal and provincial legislation:

- Canadian Business Corporations Act*
- Income Tax Act*
- Registered Pension Plan Act*
- Securities Act*
- The Public Accountancy Act*

In addition, the work of accountants is guided by certain standards of practice set by the regulatory bodies. These include:

- Canadian Institute of Chartered Accountants Handbook* (also available on website [www.icao.ca](http://www.icao.ca))
- CGA-Canada's Public Practice Manuals*
- Public Sector Accounting and Auditing Standards Handbook*
- Management Accountants Handbook*
- CGA-Canada GAAP Guide* (available only to registered members)

## THE PUBLIC ACCOUNTANCY ACT

In Ontario, the *Public Accountancy Act* requires the setting up a regulatory, licence-granting body, the Institute of Chartered Accountants of Ontario (ICAO.) Those who receive the designation of Chartered Accountant may obtain a license to practise as a Public Accountant in the province of Ontario.

The purpose is to protect the public by:

- appointing members of the public to sit on the regulatory body
- granting the ICAO power over its membership
- ensuring that Annual Reports are submitted by the ICAO to the provincial government
- restricting the use of the title Public Accountant and the practice of the profession to persons who:
  - have a chartered accountant designation and a license
  - are members of the ICAO
- charging unlicensed persons in a court of law for performing the legislated asks of the profession for a fee.

## THE PUBLIC ACCOUNTANCY ACT (CONT'D)

The Public Accountants Council is responsible for administering the provisions of the *Act* by:

- ensuring that prospective members meet the qualifying requirements
- considering matters of common interest and concern to public accountants and the submission of representations to any government ministry or public authority with reference to any such matters granting or refusing licenses
- maintaining and improving the standards of professional qualifications of practising public accountants in Ontario
- exercising disciplinary powers over licensees
- prosecuting offences under the Act
- revoking licenses.

## THE PUBLIC ACCOUNTANCY ACT (CONT'D)

Use your copy of the *Public Accountancy Act* in your Resource Package to answer the following questions.

Find the definition for "**public accountant**": "a person who either alone or in partnership engages for reward in public practice" involving , among other things, the preparation of "any financial, accounting or related statement" (whether audited or unaudited) but does not include bookkeeping or management accounting.

1. Compare your qualifications and experience with those outlined in the definition. Would you be considered a "public accountant" as defined under this Act?

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2. In Section 14 of the Act, you will find the qualifications for a licence. Who is eligible to be entered on The Roll of Public Accountants in Ontario?

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3. For what length of time is a licence valid?

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4. What are the fines for:
  - obtaining a licence by false representation \_\_\_\_\_
  - failing to surrender a licence \_\_\_\_\_

5. What actions are considered "abuse of a licence" and what is the penalty?

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## THE LEGISLATIVE FRAMEWORK: THE THREE ACCOUNTING DESIGNATIONS

Read the following article and answer the questions that follow.

### Accountants lock horns on control of licensing

By Steven Theobald  
Toronto Star Business Reporter  
May 13, 1998

Hide the sharp pencils. A war is brewing between Ontario's bean counters, and it could get ugly.

In one corner you have the CGAs, or certified general accountants, and in the other you have the CAs, or chartered accountants.

At issue is the right to do public accountancy such as tax audits. The CGAs say they are just as qualified to do public accounting but are shut out because the CAs control the licensing process.

Legislation was passed 50 years ago to regulate the accounting industry, but in 1962, the Public Accountancy Act was amended to give the Institute of Chartered

Accountants of Ontario the sole right to grant public accountancy licences.

Out of 8,630 licensed public accountants in the province, all but 57 are members of the Ontario CA body.

Some of the 57 are the remnants of a grandfathering policy put in place in 1962 that gave non-CAs public accountancy licences. Some are CAs who belong to regulatory bodies in other provinces.

Today, CGAs have to become CAs and join the Ontario association to work as public accountants, which is a clear and "absurd" abuse of monopoly power, charges Gold Fuller,

executive director of the Certified General Accountants Association of Ontario, the CGA regulatory body.

"We have the same body of knowledge, just a different brand name for our product," Fuller says.

Education and standards are virtually identical, the only major difference is membership in rival professional bodies, he says.

In fact, six provinces and two territories give CGAs full access to licensing, Fuller says. And while CAs have a 30-month internship requirement, 15 to 20 per cent of the CGAs have gained public accountancy experience

through apprenticeship – type programs, he adds. “It’s only those people who we are asking to be licensed.”

About 11,000 CGAs and 27,600 CAs are registered in Ontario, most crunching numbers in-house for various companies.

Demand is growing for the services of public accountants, so it is crucial to inject more competition into the sector, Fuller says.

“Unless the government takes action, ultimately this monopoly could severely restrict where individuals and businesses can go for their accounting and related needs.”

Fuller says the Public Accountants Council, controlled by the CA body, is moving to expand the definition of public accountancy, which could soon result in licence requirements for all service to the public, including preparing income tax returns.

To put pressure on Queen’s Park, the CGA group is taking the feud

public by launching an ad blitz in newspapers, television and radio.

Gord Wilson, chief executive of the CA association, is already objecting.

The CGA group’s opening salvo came in a new release yesterday that is “self-serving” and part of a campaign of misinformation, Wilson charges.

“We are duty bound that this representation that is in the CGA release and what is clearly going to be a multimillion-dollar ad campaign are exposed for what they are,” he says.

At the heart of the issue are standards, Wilson says.

“The CGA news release concludes with lame reference to standards,” he says.

“The fact is that only CAs are trained in public accounting and many CGAs interested in becoming public accountants have been welcomed into CA membership.”

Furthermore, the industry has more than

enough competition, Wilson says.

More than 3,000 companies offer public accounting service in Ontario, he says.

“How can there be a question of ‘monopoly’ when there are that many competing firms?”

**Questions:**

1. What organization controls the practice of public accountancy? What is their main argument for protecting that right?

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2. What organization wants its members to have the right to practice public accountancy? What is their main argument for protecting that right?

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3. What effect do you think opening up the practice of public accountancy to more people will have on the profession?

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4. What is your position on this issue?

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