

## PART 1 DEFINITIONS

### Definitions

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In this Act,

**"association"** means the Association of Professional Engineers and Geoscientists of the Province of Manitoba; (« Association »)

**"by-laws"** means by-laws of the association; (« règlements administratifs »)

**"certificate of authorization"** means the certificate issued under the seal of the association certifying that a partnership, corporation, or other legal entity is entitled to practice professional engineering or professional geoscience within the province through partners or employees who are members, ~~or licensees temporary licensees or specified scope of practice licensees~~; (« certificat d'autorisation »)

**"certificate of registration"** means the certificate issued under the seal of the association certifying that a member is entitled to practice professional engineering or professional geoscience within the province; (« certificat d'inscription »)

**"council"** means the council of the association; (« conseil »)

**"court"** means the Court of King's Bench; (« tribunal »)

**"engineering intern"** means a natural person who has been enrolled by the association as an engineering intern and whose name is entered on the association's register as an engineering intern; (« stagiaire en génie »)

**"geoscience intern"** means a natural person who has been enrolled by the association as a geoscience intern and whose name is entered on the association's register as a geoscience intern; (« stagiaire en géoscience »)

**"holder of a certificate of authorization"** means a partnership, corporation or other legal entity other than a natural person that holds a valid and subsisting certificate of authorization; (« titulaire d'un certificat d'autorisation »)

**"layperson"** means a natural person who is not and never has been a member, licensee, engineering intern or geoscience intern; (« profane »)

**"licensee"** includes both a temporary licensee and a specified scope of practice licensee; (« titulaire de permis »)

**"member"** ~~unless the context otherwise requires,~~ means a natural person who holds a valid and subsisting certificate of registration and whose name is entered on the register of the association as a ~~member professional engineer or professional geoscientist~~; (« membre »)

**"person"** means a natural person, partnership, corporation, unincorporated association, unincorporated organization, trustee, executor, administrator or other legal personal representative of a natural person; (« personne »)

**"practice of professional engineering"** means any act of planning, designing, composing, measuring, evaluating, inspecting, advising, reporting, directing or supervising, or managing any of the foregoing, that requires the application of engineering principles and that concerns the safeguarding of life, health, property, economic interests, the public interest or the environment; (« exercice de la profession d'ingénieur »)

**"practice of professional geoscience"** means any act of documenting, analysing, evaluating, interpreting or reporting on the earth's materials or on resources, forms or processes, or managing

any of the foregoing, that requires the application of the principles of geology, geophysics or geochemistry and that concerns the safeguarding of life, health, property, economic interests, the public interest or the environment; (« exercice de la profession de géoscientifique »)

**"president"** means the president of the association; (« président »)

**"professional engineer"** ~~means a member or temporary licensee who is authorized to engage in the practice of professional engineering under this Act means any natural person who holds a valid certificate of registration or temporary licence entitling him or her to practice as a professional engineer;~~ (« ingénieur »)

**"professional geoscientist"** ~~means a member or temporary licensee who is authorized to engage in the practice of professional geoscience under this Act; means any natural person who holds a valid temporary licence or certificate of registration entitling such person to practice as a professional geoscientist;~~ (« géoscientifique »)

**"public interest"** means the well-being, convenience and concern of the public at large; (« intérêt public »)

**"register"** means the written, printed or computer readable document recording the name, status and disciplinary history of every current and former member, ~~licensee, holder of a certificate of authorization, temporary licensee, holder of a certificate of authorization, specified scope of practice licensee,~~ engineering intern and geoscience intern; (« registre »)

**"registrar"** means the registrar of the association; (« registraire »)

**"secretary"** means the secretary-treasurer of the association; (« secrétaire »)

**"specified scope of practice licence"** means the certificate issued under the seal of the association to a natural person certifying that the holder has been licensed to practice professional engineering or professional geoscience within the scope, and subject to the restrictions, specified in the specified scope of practice licence; (« permis d'exercice limité »)

**"specified scope of practice licensee"** means a natural person who holds a valid and subsisting specified scope of practice licence and whose name is entered on the association's register as a specified scope of practice licensee; (« titulaire de permis d'exercice limité »)

**"student"** means a natural person who is registered in an accredited engineering or geoscience program at a Manitoba university, who has been enrolled by the association as a student and whose name is entered on the association's register as a student; (« étudiant »)

**"temporary licence"** means the certificate issued under the seal of the association certifying that a ~~non-resident~~ natural person has been licensed to temporarily practice professional engineering or professional geoscience within the province; (« permis temporaire »)

**"temporary licensee"** means a natural person who holds a valid and subsisting temporary licence. (« titulaire d'un permis temporaire »)

## PART 2

### ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS

#### Association continued

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The Association of Professional Engineers of the Province of Manitoba is continued as a body corporate under the name "Association of Professional Engineers and Geoscientists of the Province of Manitoba".

### **Purposes of association**

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The purposes of the association are to

- (a) govern and regulate the practice of professional engineering and professional geoscience in Manitoba;
- (b) promote and increase, in the public interest, the knowledge, skill and competency
  - (i) of its members, and
  - (ii) of all other persons governed or regulated by it,in all things relating to the professions of engineering and geoscience;
- (c) advocate where the public interest is at risk;
- (d) promote professional engineering and professional geoscience and the role of the association;  
and
- (e) carry out any duties and exercise any powers that are given to it by another enactment.

### **Head office**

4

The head office of the association shall be in the Province of Manitoba.

### **Membership**

5

The membership of the association shall consist of the persons who hold valid and subsisting certificates of registration and whose names are, from time to time, entered on the register of the association as members ~~professional engineers or as professional geoscientists~~.

### **Powers of association**

6

To carry out its purposes, the association may

- (a) acquire real or personal property by purchase, lease, gift, devise, bequest or otherwise, and dispose of that property by sale, mortgage, lease, gift or otherwise;
- (b) invest any moneys belonging to it in investments and securities as though the association were a trustee for the money;
- (c) borrow money for the purposes of the association and mortgage or charge property of the association as security for the money so borrowed; and
- (d) make grants, donations and loans, and give financial or other assistance

**PART 3**  
**COUNCIL AND ELECTION OF COUNCILLORS**

**Constitution of council**

7

There shall be a council of the association consisting of

- (a) the president, if not included in the councillors elected under subsection 8(1) and the by-laws; under clause (d);
- (b) the vice-president;
- (c) the immediate past president if not included in the councillors elected under clause (d);
- (d) not fewer than seven councillors who are members elected under subsection 8(1) and the by-laws; not fewer than seven councillors, comprising both professional engineers and professional geoscientists, elected as provided for hereinafter or by by-law;
- (e) not fewer than two councillors who are laypersons appointed under subsection 8(2); and not fewer than two councillors who are resident within the province and are not professional engineers or professional geoscientists, appointed as hereinafter provided; and
- (f) a councillor who is an engineering intern or geoscience intern and is elected in accordance with the by-laws.

**Elected councillors**

8(1)

Each elected councillor shall be a resident of Manitoba elected from among the members for a term of two years, or portion thereof as prescribed by the by-laws, and any councillor may be re-elected for a second and third term, but is not eligible for election for a fourth or subsequent term until at least one term has elapsed after the expiry of the last previous term of office as councillor.

**Appointed councillors**

8(2)

Appointed councillors shall be residents of Manitoba appointed by a committee composed of

- (a) the dean of the faculty of engineering at the University of Manitoba;
- (b) the immediate past-president of the association, who shall serve as chair of the committee;
- (c) the provincial ombudsman; and
- (d) the minister appointed by the Lieutenant Governor in Council to administer *The Labour Relations Act*;

and each shall be appointed for a term of two years and may be re-appointed for a second or third term as councillor, but is not eligible to be appointed for a fourth or subsequent term of office as a councillor unless at least one term has elapsed since the expiry of the last previous term of office as councillor.

**Time of appointment**

8(3)

The committee described in subsection (2) shall, at least one week before the day set for the election of elected councillors in any year, meet and appoint the required number of appointed councillors for the ensuing term.

## **Effect of absence from meetings**

### **8(4)**

Where a councillor fails to attend three successive regular meetings of the council, he or she thereupon ceases to be a councillor, unless the absence has been excused by resolution of the council.

## **Filling vacancies**

### **8(5)**

In case of a vacancy on the council caused by the death, resignation, removal under subsection (4) or resulting from any other cause,

- (a) if the councillor whose position is to be filled was a councillor elected under subsection (1), such vacancy will be filled in accordance with the by-laws of the association; and
- (b) if the councillor whose position is to be filled was a councillor appointed under subsection (2), a meeting of the committee referred to in such subsection shall be convened and a replacement councillor appointed to fill the vacancy.

## **Powers of council**

### **9(1)**

The council shall exercise, in the name and on behalf of the association, any and all of the powers, authority and privileges conferred on the association by this Act or any other Act and, without restricting the generality of the foregoing, the council

- (a) shall govern the association and administer its affairs; and
- (b) may provide for the appointment of committees and appoint councillors, members of the association or other persons to the committees, and confer upon the committees so appointed power and authority to act for the council in, and in relation to, such matters as it may deem expedient and, fix the quorum of the committees for the transaction of their business.

## **Delegation of authority**

### **9(2)**

The council may delegate to a committee any power, authority or duty granted to or imposed upon the council under this Act, ~~including, without limiting the generality of the foregoing, the powers, authority and duties granted to or imposed upon the council under Part 10~~, and where a committee exercises any power or authority or performs any duty delegated to it under this subsection, the provisions of this Act apply mutatis mutandis to any act or decision of the committee as though it was the act or decision of the council.

## **Validity of council's acts**

### **10**

Notwithstanding that there may be some cause for disqualification or some defect in the election or appointment of any councillor or councillors, all acts of council or any committee shall be as valid as if all had been regularly elected or appointed and were at all times qualified to act.

**PART 4**  
**CODE OF ETHICS AND BY-LAWS**

**Establishment of code of ethics**

11(1)

The council shall prepare and publish from time to time a code of ethics containing standards of conduct pertaining to the practice of professional engineering and of professional geoscience designed for the protection of the public.

**Application of code of ethics**

11(2)

All members, licensees, holders of certificates of authorization, engineering interns and geoscience interns temporary licensees, holders of certificates of authorization, engineering interns, geoscience interns and specified scope of practice licensees, shall subscribe to and shall follow this code of ethics in the practice of professional engineering or the practice of professional geoscience.

**By-laws**

12(1)

In accordance with procedures set out in its by-laws, the association may make, amend or repeal by-laws, not inconsistent with this Act,

- (a) respecting the management of the business and affairs of the association and its property, including the location of the head office of the association, and the appointment of the secretary, registrar and other staff, the delegation of powers and authority to the secretary, registrar and staff and the setting of their duties and remuneration;
- (b) respecting the election of members of the association to council and the filling of vacancies;  
(b.1) prescribing the number of councillors elected under subsection 8(1) and appointed under subsection 8(2);
- (c) regulating the meetings and proceedings of the association and the council and all matters pertaining thereto;
- (d) providing for the establishment, dissolution and administration of chapters, regional groups and ancillary bodies and the delegation to them of those powers and authority as the council sees fit;
- (e) providing for the establishment of standards and qualifications for enrolment as an engineering intern or geoscience intern;
- (f) respecting the establishment of programs of training internship for an engineering intern or geoscience intern;
- (g) respecting the qualification and examination of candidates for registration as licensees professional engineers or as professional geoscientists;
- ~~(h) respecting the amounts and terms relating to the posting of cash deposits by persons appealing any decision of the registration committee; (clause "h" repealed)~~
- (i) providing for the establishment of standards and qualifications to be met and maintained by temporary licensees and specified scope of practice licensees;
- (j) respecting the establishment and maintenance of standards of professional practice and of continuing professional development programs for members, licensees, engineering interns and geoscience interns temporary licensees, engineering interns, geoscience interns and specified scope of practice licensees;

- (k) respecting continuing professional development programs for members, licensees, engineering interns and geoscience interns, including
  - i) requiring participation in programs,
  - ii) establishing procedures for monitoring participation, and
  - iii) specifying standards for maintaining records of participation;~~respecting the establishment of procedures for monitoring participation in continuing professional development programs by members, temporary licensees, engineering interns, geoscience interns and specified scope of practice licensees;~~
- (l) [repealed] S.M. 2015, c. 31, s. 7;
- (m) establishing classifications of membership;
- (m.1) respecting enrolment of students by the association;
- (n) establishing fees and dues to be paid by members, holders of certificates of authorization, ~~temporary licensees, specified scope of practice~~ licensees, engineering interns, geoscience interns and applicants to the association;
- (o) respecting the election of officers of the association;
- (p) respecting the appointment and remuneration of and defining the duties of the officers, councillors, committees, and employees of the association;
- (q) prescribing fines and penalties for default in payment of fees and dues and terms of re-admission to the privileges of the association;
- (r) respecting the government and discipline of members, holders of certificates of authorization, ~~temporary licensees, specified scope of practice~~ licensees, engineering interns and geoscience interns including, but not limited to, the reprimand, temporary suspension, indefinite suspension, acceptance of undertakings, imposing of conditions on practice, directing additional study, directing that a disability or addiction be overcome, directing counselling, directing waiver, reduction or repayment of monies, imposition of fines and cancellation of membership, licensing or enrolment of members, holders of certificates of authorization, ~~temporary licensees, specified scope of practice~~ licensees, engineering interns and geoscience interns found to be guilty of professional misconduct or unskilled practice of professional engineering or professional geoscience, but subject to any right of appeal given by this Act;
- (s) respecting the establishment and maintenance of the standards of professional conduct and ethics by members, holders of certificates of authorization, ~~temporary licensees, specified scope of practice~~ licensees, engineering interns and geoscience interns;
- (t) respecting the procedures for dealing with complaints against members, holders of certificates of authorization, ~~temporary licensees, specified scope of practice~~ licensees, engineering interns and geoscience interns;
- (u) respecting the appointment of persons to the investigation committee and the regulation of meetings and proceedings of the investigation committee;
- (v) respecting the appointment of persons to the discipline committee and the regulation of meetings and proceedings of the discipline committee;
- (v.1) respecting appeals under Part 10.1, including the appointment of persons to the appeal committee and the regulation of meetings and proceedings of the appeal committee;
- (v.2) subject to subsection (1.1), respecting the giving or serving of notices and other documents under this Act and the by-laws and specifying when they are deemed to have been given or received;
- (w) prescribing the circumstances and manner in which members, ~~licensees, engineering interns, geoscience interns~~ temporary licensees, engineering interns, geoscience interns, specified scope

~~of practice licensees~~ and certificate holders must disclose that errors and omissions insurance is not held or is not applicable;

(w.1) respecting the corporate or business names that may be used by holders of certificates of authorization;

- (x) prescribing a schedule of suggested professional charges and salaries;
- (y) regulating the group practice of professional engineering and of professional geoscience;
- (z) respecting the manual or digital authentication of engineering or geoscientific documents;
- (z.1) respecting the establishment of bursaries, scholarships, fellowships, loans, awards and other assistance for engineering and geoscientific education and providing for their administration by the council;
- (z.2) respecting grants, donations and loans that may be made and financial and other assistance that may be given by the association in carrying out its purposes;
- (z.3) respecting advocacy by the association when the public is at risk;
- (z.4) regulating the association's participation with others having purposes consistent with those of the association;
- (aa) respecting any other matters necessary in the administration of this Act, or in the management and operation of the association.

#### Limitation on powers re notices

12(1.1) A by-law made under clause (1)(v.2) must not deem a notice or other document to have been given or received sooner than three days after the day that the notice or document was sent or mailed.

#### **By-laws may delegate**

##### 12(2)

All by-laws may delegate to the council the authority to define specific details through policies and procedures.

#### **Policies and procedures**

##### 12(3)

The council may establish operating policies and procedures not inconsistent with this Act or with any by-law of the Association

- (a) providing specific requirements for any aspect of the processes of governing, regulating or advancing the practice of professional engineering or the practice of professional geoscience in the public interest in the Province of Manitoba;
- (b) providing details of the processes to be followed in implementing the requirements of this Act, the by-laws of the association or any policy established by council; and
- (c) providing any other specific information required for the orderly and efficient conduct of the work of the association.

#### **Existing by-laws, policies and procedures**

##### 12(4)

The by-laws of the association and the policies and procedures of council which are in force on the coming into force of this Act continue in force until they are repealed or amended in accordance with this Act.



### **When by-laws, amendments and repeals effective**

#### 12(5)

A by-law or the amendment or repeal of a by-law comes into force when, in compliance with the procedures set out in the association's by-laws, it is approved by the proportion of the members required by the by-laws.

### **Non-application of Corporations Act to making by-laws**

#### 12(6)

Subsections 98(1) to (4) of *The Corporations Act* do not apply to the association.

### **Validity of certain by-laws**

#### 12(7)

A by-law made, amended or repealed after September 30, 2010, but before this subsection came into force is deemed to have been validly made, amended or repealed if the procedures set out in the association's by-laws were followed and the required proportion of the members gave their approval in accordance with the by-laws.

## **PART 4.1**

### **CONTINUING PROFESSIONAL DEVELOPMENT**

#### **Meaning of "continuing professional development requirements"**

##### 12.1(1)

In this section, "**continuing professional development requirements**" means the requirements of a continuing professional development program established in accordance with the by-laws.

#### **Compliance and recordkeeping**

##### 12.1(2)

A member, ~~temporary licensee or specified scope of practice licensee or licensee~~ must, in accordance with this section and the requirements established under the by-laws,

- (a) comply with the continuing professional development requirements that apply to him or her; and
- (b) make and maintain records setting out the details of his or her participation in continuing professional development.

#### **Registrar may require record**

##### 12.1(3)

The registrar may require a member, ~~temporary licensee or specified scope of practice licensee or licensee~~ to provide to the registrar a copy of the records of his or her participation in continuing professional development for any period the registrar specifies.

#### **Record to be provided without delay**

##### 12.1(4)

A person who is required to provide a copy of a record under subsection (3) must provide it without delay after being informed of the requirement by the registrar.

### **Suspension for non-compliance**

#### **12.2(1)**

Subject to subsection (2), the council may direct the registrar to suspend the certificate of registration, temporary licence or specified scope of practice licence of anyone who fails to comply with a requirement of section 12.1.

### **Notice of non-compliance**

#### **12.2(2)**

The registrar must give the person notice that the person's certificate of registration, temporary licence or specified scope of practice licence will be suspended without further notice if the person does not comply with section 12.1 within the notice period consisting of 30 days after the day the notice is given or any longer period that the council permits.

### **Suspension by registrar**

#### **12.2(3)**

If the person's non-compliance continues after the expiration of the notice period described in subsection (2), the registrar may

- (a) suspend the certificate of registration, temporary licence or specified scope of practice licence without further notice; ~~and~~
  - (a.1) publish the person's name and the circumstances relevant to the suspension;
  - (a.2) notify the person's employer, if any, and any other person of the suspension; and
- (b) cancel the suspension once the registrar is satisfied that the person has complied.

## **PART 5 ANNUAL AND SPECIAL MEETINGS**

### **Annual meeting**

#### **13(1)**

The association shall hold an annual general meeting of the members once in each year.

### **Time and place**

#### **13(2)**

The annual general meeting of the members shall be held at such time and place as may be established by by-law.

### **Notice**

#### **13(3)**

The notice of the time and place of the annual general meeting of the members shall be given in a manner provided by the by-laws.

### **Special general meetings**

13(4)

The association may hold other general or special meetings of the members as provided by the by-laws.

**PART 6**  
**REGISTRATION, CERTIFICATION**  
**AND LICENCES**

**Registration committee**

14(1)

The council shall, in accordance with the by-laws, appoint a registration committee to consider and decide upon applications for certificates of registration made under subsection 15(1), certificates of authorization, temporary licences, specified scope of practice licences and enrolment as engineering interns or geoscience interns.

**Registrar**

14(1.1) The registrar shall, in accordance with this Act and the by-laws, consider and decide upon applications for

- (a) certificates of registration made under subsection 15(2); and
- (b) certificates of authorization.

**Criteria and standards used by committee and registrar**

14(2)

The council must establish criteria and standards to be used by the registration committee or registrar, as the case may be

- (a) in
  - (i) assessing the academic qualifications and engineering work experience,
  - (ii) enforcing proficiency standards, and prescribing confirmatory, exploratory, proficiency and qualifying examinations, and
  - (iii) setting such other requirements as are not inconsistent with this Act and the by-laws,for applicants for certificates of registration, certificates of authorization, temporary licences, specified scope of practice licences and enrolment as engineering interns or geoscience interns; and
- (b) in determining restrictions that are to be imposed on the scope of practice that may be carried on under a specified scope of practice licence.

**Qualifications for membership**

15(1)

A certificate of registration may be granted by the registration committee to a natural person who submits an application in the prescribed form and evidence that the applicant ~~No person is entitled to be registered as a professional engineer or as a professional geoscientist, unless the person submits to the registration committee an application in the prescribed form and evidence that the applicant~~

- (a) is ~~a natural person~~ at least 18 years of age;
- (b) is academically qualified;

- (c) has acquired sufficient relevant professional engineering work experience or relevant professional geoscientific work experience;
- (d) has successfully completed an approved program for engineering interns or geoscience interns or is otherwise qualified;
- (e) has subscribed to and agreed to abide by the code of ethics of the association;
- (f) has made payment of the dues and fees prescribed by the by-laws; and
- (g) complies with such other terms and conditions as may be imposed in accordance with this Act or the by-laws.

### **Members of other associations**

### **Applicants from Other Jurisdictions**

#### **15(2)**

~~Documented membership in good standing in an association of engineers and/or professional geoscientists in any other jurisdiction may be accepted by the registration committee as satisfying the requirements of clauses (1)(a), (b) and (c). A certificate of registration may be issued by the registrar to a natural person entitled to practice professional engineering or professional geoscience in another jurisdiction who submits an application in the prescribed form and evidence that the applicant~~

- ~~a) is at least 18 years of age;~~
- ~~b) is registered and in good standing with a regulatory body of professional engineers or professional geoscientists of another jurisdiction;~~
- ~~c) has a scope of practice in the other jurisdiction and competencies that, in the opinion of the registrar, are substantially equivalent to those of a member;~~
- ~~d) has subscribed to and agreed to abide by the code of ethics of the association;~~
- ~~e) has paid the dues and fees prescribed by the by-laws; and~~
- ~~f) has complied with any other terms and conditions as may be imposed in accordance with this Act or the by-laws.~~

### **Reinstatement**

#### **15(3)**

The council upon such grounds as it may deem sufficient and upon such terms as it may deem proper, may reinstate a former member whose registration has been cancelled under subsection 47(1).

### **Practice under certificate of authorization**

#### **16(1)**

A partnership, corporation or other legal entity may, in its own name, practice professional engineering or professional geoscience if

- (a) it has the legal capacity to engage in the practice of professional engineering or professional geoscience;
- (b) the practice is carried on by or under the direct personal supervision of a ~~member or licensee who professional engineer in the case of engineering practice or a professional geoscientist in the case of geoscience practice who, in either case,~~
  - (i) assumes professional responsibility for the practice, and
  - (ii) is a partner or full-time employee of the partnership or a full-time employee of the corporation or other entity;

(b.1) the practice is subject to any restriction imposed on the practice of the member or licensee who is performing the work on behalf of the partnership, corporation or other entity;

- (c) the practice of professional engineering or professional geoscience is subject to the same standards of professional conduct as if the practice of professional engineering or professional geoscience were provided by a member or ~~licensee~~ ~~temporary licensee of the association~~; and
- (d) such practice will not give rise to unauthorized practice or otherwise lead to circumvention of this Act;

provided that such partnership, corporation or other legal entity, at the time it conducts the practice of professional engineering or professional geoscience, is the holder of a valid and subsisting certificate of authorization.

### **Qualifications for certificate of authorization**

#### 16(2)

No person is entitled to hold a certificate of authorization, unless such person

- (a) is a partnership, corporation or other legal entity other than a natural person;
  - (b) submits to the registrar an application in the prescribed form containing
    - (i) evidence of the legal status of the partnership, corporation or other entity,
    - (ii) the name or names and addresses of the members or ~~temporary~~ licensees who are designated by the holder of the certificate of authorization as being in charge of the practice of professional engineering or of professional geoscience on its behalf,
    - (iii) the identity of the person or persons whose responsibility it will be to ensure that this Act and the by-laws are complied with by the holder of the certificate of authorization, and
    - (iv) the address of its head office and any office in which the practice of professional engineering and/or the practice of professional geoscience in Manitoba will be carried out;
  - (c) pays such fees or dues as are prescribed by the by-laws;
  - (d) submits evidence of agreement to abide by the code of ethics prescribed by the by-laws;
  - (e) complies with such requirements as the council, taking into account the public interest, may establish from time to time respecting
    - (i) the amounts, terms and conditions of professional liability insurance coverage to be maintained by a partnership, corporation or other legal entity,
    - (ii) alternatives to professional liability insurance coverage for a partnership, corporation or other legal entity that provide coverage which is substantially the same or greater than that which would be provided by professional liability insurance for the legal entity, and
    - (iii) disclosure of the nature and extent of professional liability insurance coverage or any alternative to such coverage maintained by a partnership, corporation or other legal entity, or one or more of its partners, employees or members,
- and provides evidence of compliance as required by the council; and
- (f) complies with such other terms and conditions as may be imposed in accordance with this Act or the by-laws.

### **Waiver of insurance requirement**

#### 16(2.1)

Notwithstanding clause (2)(e), after taking into account the public interest, the council may waive the requirement to maintain professional liability insurance coverage for a partnership, corporation

or other legal entity that undertakes to restrict its practice to providing professional geoscience services to the mining exploration industry.

### **Continuance of certificate of authorization**

#### **16(3)**

The holder of a certificate of authorization shall, whenever there is a change in the particulars given in its application under subclause (2)(b)(i), (ii) or (iii), give notice of the change to the registrar within thirty days after the effective date of the change, and if the holder of a certificate of authorization fails to comply with the above, the certificate may be revoked by the registrar and the partnership, corporation, or other legal entity shall not practise professional engineering or professional geoscience until a new certificate of authorization is issued.

### **Information to be updated**

#### **16(4)**

The holder of a certificate of authorization shall provide to the registrar a current list of the information required under subclauses (2)(b)(ii) and (iii) at least annually in the manner prescribed in accordance with the by-laws.

### **Responsibility for practice**

#### **16(5)**

Each member and licensee whose name is shown on the application pursuant to subclause (2)(b)(ii) or any notice of change thereof given to the association under subsection (3) shall be obliged to respond, on behalf of the holder of the certificate of authorization, to any complaint of misconduct against, or any breach of this Act or the by-laws by, the holder of the certificate of authorization as if the act or omission complained of or the breach was done or omitted to be done, as the case may be, by such member or licensee.

### **Qualifications for temporary licence**

#### **17**

A licence to engage temporarily in the practice of professional engineering or the practice of professional geoscience within the province may be granted if the applicant

- (a) ~~is a professional engineer or professional geoscientist residing outside the province; and is a natural person at least 18 years of age;~~
  - (a.1) is registered and in good standing with a regulatory body of professional engineers or professional geoscientists of another jurisdiction;
  - (a.2) has a scope of practice in the other jurisdiction and competencies that, in the opinion of the registration committee, are substantially equivalent to those of a member; and
- (b) is otherwise considered by the registration committee to be qualified to practice professional engineering or professional geoscience within the province.

### **Qualifications for specified scope of practice licence**

#### **18**

A specified scope of practice licence to engage in the practise of professional engineering or the practice of professional geoscience within the province, and within the scope and subject to the restrictions specified in such practice licence, may be granted if the applicant

- (a) is a natural person at least 18 years of age;

- (b) submits evidence to the registration committee that the applicant meets such requirements as the council may from time to time prescribe for such class of applicant, including evidence of the applicant's academic qualifications, experience and competence to practise within the specified scope of practice;
- (c) submits evidence to the registration committee that the applicant has subscribed to and agreed to abide by the code of ethics of the association;
- (d) pays the dues and fees prescribed by the by-law; and
- (e) complies with such other terms and conditions as may be imposed in accordance with this Act or the by-laws.

### **Qualifications for enrolment as an engineering intern or geoscience intern**

#### **19**

An applicant may be enrolled as an engineering intern or geoscience intern if the applicant

- (a) is a natural person at least 18 years of age;
- (b) submits evidence to the registration committee that the applicant is academically qualified;
- (c) submits evidence to the registration committee that the applicant has agreed to abide by the code of ethics of the association;
- (d) pays the dues and fees prescribed by the by-laws; and
- (e) complies with such other terms and conditions as may be imposed in accordance with this Act or the by-laws.

### **Application not approved by registration committee**

#### **20(1) The registration committee must give an applicant written notice of a decision**

~~If the registration committee does not approve an application for a certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern, it shall give notice to the applicant in writing, with reasons for its decision, and shall advise the applicant of the applicant's right to appeal the decision of the registration committee to the council.~~

- (a) to refuse to issue a certificate of registration under subsection 15(1), a temporary licence or specified scope of practice licence;
- (b) to specify a scope of practice and impose restrictions on a specified scope of practice licence;
- or
- (c) to refuse to enroll an applicant as an engineering intern or a geoscience intern.

### **Application not approved by the registrar**

#### **20(2) The registrar must give an applicant written notice of a decision to refuse to issue**

- (a) a certificate of registration under subsection 15(2); or
- (b) a certificate of authorization

### **Notice**

20(3) A notice of a decision by the registration committee or the registrar must include reasons for the decision and notice that the applicant may appeal the decision.

### **Appeal by applicant**

20.1(1) An applicant may appeal a decision under section 20 to the appeal committee.

## **How to appeal**

20.1(2) To make an appeal, the applicant must, within 30 days after receiving notice of a decision, give the registrar a written notice of appeal specifying the reasons for the appeal. The appeal is then to be dealt with under Part 10.1.

### **Appeal to council (sections 21-23 are repealed)**

#### 21(1)

A person may appeal to the council if

- (a) the person's application for a certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern is not approved by the registration committee; or
- (b) the person's application for a specified scope of practice licence is approved, but the person disagrees with the scope of practice specified in the licence.

## **How to appeal**

#### 21(1.1)

To appeal under this section, the person must provide a written notice to the council stating the person's wish to appeal. The notice must specify the reasons for the appeal and be provided to the council within 30 days after the day the person received notice of the decision being appealed.

### **Deposit to accompany notice of appeal**

#### 21(2)

Each notice of appeal shall be accompanied by a cash deposit in such amount as may be prescribed in the by-laws, but not to exceed \$1,000.

## **Hearing**

#### 21(3)

On receipt of a notice of appeal under this section, accompanied by a cash deposit, the council shall schedule a hearing of the applicant's appeal to be held within 90 days after receipt of the notice of appeal by the council.

### **Notification of hearing**

#### 21(4)

An applicant who appeals a decision of the registration committee under this section

- (a) shall be given notice in writing by the council of the date, place and time of the hearing; and
- (b) is entitled to appear with or without counsel and make representations to the council at the hearing.

### **Participation by member of registration committee**

#### 21(5)

A member of the registration committee who is also a member of the council may participate in the appeal but shall not vote on a decision under this section.

## **Decision by council**



#### 21(6)

~~On considering an appeal under this section, the council may make any decision the registration committee could have made and shall give notice of its decision to the applicant in writing.~~

#### **Appeal not decided in appellant's favour**

#### 21(7)

~~When the council's decision about an appeal is not the decision requested in the appeal, the council must give the appellant, in addition to the notice referred to in subsection (6), reasons for its decision and must advise the appellant that he or she may appeal the decision to the court.~~

#### **Appeal to court**

#### 22(1)

~~A person whose appeal under section 21 has been decided by the council and who disagrees with the decision may appeal the decision to the court by filing a notice of appeal with the court within 30 days after receiving notice of the decision.~~

#### **Powers of court**

#### 22(2)

The court on hearing an appeal may

- (a) make any decision that in its opinion should have been made; or
- (b) refer the matter back to the council for further consideration in accordance with any direction of the court.

#### **Deposit to be returned**

#### 23

~~The deposit shall be returned to the applicant at the conclusion of any appeal process unless the council or the court orders that the deposit be forfeited in whole or in part, as it sees fit.~~

## **PART 7**

### **DUES**

#### **Annual dues**

#### 24(1)

Each member, holder of a certificate of authorization, ~~temporary licensee, specified scope of practice~~ licensee, engineering intern and geoscience intern shall pay in advance to the secretary, or any person deputed by the council to receive the dues, such annual dues as may be prescribed by the by-laws of the association and the dues are a debt due by the member, holder of a certificate of authorization, ~~temporary licensee, specified scope of practice~~ licensee, engineering intern and geoscience intern and are recoverable by the association in any court of competent jurisdiction.

#### **Consequences of non-payment**

#### 24(2)

When a person who is a member, holder of a certificate of authorization, ~~temporary licensee, specified scope of practice~~ licensee, engineering intern or geoscience intern does not pay the

prescribed annual dues within one month after the day on which payment is due, the registrar must remove the person's name from the register.

## Reinstatement

### 24(2.1)

When a person's name has been removed from the register under this section, the person may, after complying with the by-laws concerning reinstatement, apply to be reinstated.

### ~~Appeal (24(3) & 24(4) are repealed)~~

#### ~~24(3)~~

~~Notwithstanding the provisions of subsection (2), any member, holder of a certificate of authorization, temporary licensee, specified scope of practice licensee, engineering intern or geoscience intern whose name has been removed from the register, may by notice in writing to the registrar, appeal such action to the council.~~

#### ~~Power on appeal~~

#### ~~24(4)~~

~~On an appeal under this section, the council may confirm or reverse the removal from the register, or reinstate the registration of the member, holder of a certificate of authorization, temporary licensee, specified scope of practice licensee, engineering intern or geoscience intern upon such terms as in the opinion of the council are appropriate.~~

## PART 8

### SEAL

## Definitions

### 25

In this Part,

**"digital signature"** means the form of identification issued by the association to a member or specified scope of practice licensee to be used to digitally authenticate documents in computer readable form; (« signature numérique »)

**"manual seal"** means the form of identification issued by the association to a member or specified scope of practice licensee to be manually impressed onto physical documents. (« sceau manuel »)

## Association to issue manual seal or digital signature

### 26(1)

The association must issue a manual seal or a digital signature, or both, to each member and specified scope of practice licensee. A manual seal or digital signature is to contain the name of the person to whom it is issued and

- (a) if the person is a member, the words "Registered Professional Engineer, Province of Manitoba" or "Registered Professional Geoscientist, Province of Manitoba", as may be applicable; and

- (b) if the person is a specified scope of practice licensee, the words "Registered Engineering Licensee, Province of Manitoba" or "Registered Geoscience Licensee, Province of Manitoba", as may be applicable.

#### **Ownership of manual seal and digital signature**

##### **26(2)**

A manual seal and digital signature issued by the association remains the association's property and must be returned to the registrar if the registration of the person to whom it was issued is suspended or cancelled or the person's name is removed from the register for any reason.

#### **Authentication of documents by member**

##### **26(3)**

A member must, in accordance with the by-laws and the code of ethics, authenticate every engineering or geoscientific estimate, specification, report, working drawing, plan and other engineering or geoscientific document issued by the member.

#### **Authentication of documents by specified scope of practice licensee**

##### **26(4)**

A specified scope of practice licensee must, in accordance with the by-laws and the code of ethics, authenticate every estimate, specification, report, working drawing, plan and other engineering or geoscientific document issued by the licensee.

#### **Authentication of documents by temporary licensee**

##### **26(5)**

A temporary licensee must authenticate every engineering or geoscientific estimate, specification, report, working drawing, plan and other document issued by the temporary licensee by validating and impressing on it the seal issued to him or her by the association of which the temporary licensee is a member and must comply with any other requirements that are prescribed by the by-laws or the code of ethics.

#### **Identification by holder of certificate of authorization**

##### **26(6)**

When the practice of professional engineering or the practice of professional geoscience is carried out under a certificate of authorization, a form of identification of the certificate holder must, in accordance with the by-laws, appear in the vicinity of the manual seal or digital signature on each engineering or geoscience estimate, specification, working drawing, plan and other engineering or geoscientific document issued by the holder of a certificate of authorization.

## **PART 9 REGISTER**

#### **Register**

##### **27**

The registrar shall keep the register or cause it to be kept.

#### **Certificate of registration**

28(1)

The registrar shall issue or cause to be issued to each member a certificate of registration.

**Certificate of authorization**

28(2)

The registrar shall issue or cause to be issued to each partnership, corporation or other legal entity to whom the council ~~shall direct has granted authorization,~~ a certificate of authorization.

**Certificate of temporary licence**

28(3)

The registrar shall issue or cause to be issued, to each natural person to whom the council shall direct, a temporary licence.

**Certificate of specified scope of practice licence**

28(4)

The registrar shall issue or cause to be issued, to each natural person to whom the council shall direct, a specified scope of practice licence.

**Signing of certificates**

28(5)

Each certificate issued under this section shall be signed by the president, or any other person appointed by the council, and the registrar under the seal of the association, and shall remain the property of the association and shall be returned to the association upon the suspension or cancellation or removal from the register of the registration, licence, or certificate of authorization.

**PART 10  
DISCIPLINE**

**Extended definitions**

29

In this Part,

**"conduct"** includes an act or omission; (« conduite »)

**"investigated person"** means

(a) a member, holder of a certificate of authorization, ~~temporary licensee, specified scope of practice licensee,~~ engineering intern or geoscience intern, or

(b) in a case to which subsection 31(3) or 31(4) applies, a former member, holder of a certificate of authorization, temporary licensee, specified scope of practice licensee, engineering intern or geoscience intern,

~~who is the subject of a complaint under this Part in respect of whose conduct a complaint has been received, an investigation is conducted or a hearing is held under this Part;~~ (« personne visée par l'enquête »)

~~"lay person" means a natural person who is not and never has been a member, temporary licensee, specified scope of practice licensee, engineering intern or geoscience intern; (« profane »)~~

**"panel"** means a panel of the discipline committee selected under clause 39(1)(a). (« sous-comité »)

## Investigation committee

### 30(1)

The council shall, in accordance with the by-laws, appoint an investigation committee of not fewer than five natural persons consisting of

- (a) a chair appointed by the council;
- (b) at least one ~~lay person~~ "layperson"— but not more than the number of ~~lay persons~~ "layperson" that is 1/3 of the total number of committee members — who are to report to the council on the practices and procedures followed by the committee; and
- (c) not fewer than three members of the association, who are not members of the council or the discipline committee.

### Role of committee

30(2) The investigation committee is responsible for investigating complaints and, when the committee considers it appropriate to do so, attempting to resolve them informally.

### Related matters

30(3) In the course of an investigation under subsection (2), the investigation committee may investigate any other matter related to the skill in practice or professional conduct of the investigated person that arises in the course of the investigation.

### Legal counsel and experts

30(4) The investigation committee may engage legal counsel and employ any other experts that the committee considers necessary to assist it.

## Complaints

### 31(1)

Any person may make a complaint in writing to the registrar about the conduct of a current or former member, holder of a certificate of authorization, ~~temporary licensee, specified scope of practice licensee, engineering intern or geoscience intern~~ and the complaint shall be dealt with in accordance with this part and the by-laws.

### ~~Investigation committee may initiate complaint~~ Subsection 31(2) is repealed

### ~~31(2)~~

~~The investigation committee may initiate an investigation and following such investigation may cause a complaint to be filed with the registrar.~~

### Referral to investigation committee

31(2.1) If the registrar receives information that the conduct of a person may constitute unskilled practice of professional engineering or professional geoscience or professional misconduct, the registrar may refer the information to the investigation committee. If the registrar refers it to the investigation committee, the information is deemed to be a complaint.

## Surrender of certificate does not affect discipline proceedings

### 31(3)

If, after any complaint is made, the certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern of any person who is the subject of a complaint is surrendered, suspended, cancelled or not renewed, the complaint may, notwithstanding the surrender, suspension, cancellation or failure to renew, be the subject of a decision under subsection 35(1) within two years following the date of the

surrender, suspension, cancellation or failure to renew, as if the surrender, suspension, cancellation or failure to renew had not occurred.

### Complaints against former members

#### 31(4)

If, after any person's certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern is surrendered, suspended, cancelled or not renewed,

- (a) a complaint is made about such person; and
- (b) the complaint relates to conduct occurring before the suspension, cancellation or failure to renew occurred;

the complaint may, notwithstanding the surrender, suspension, cancellation or failure to renew, be the subject of a decision under subsection 35(1) within two years following the date of receipt of the complaint as if the surrender, suspension, cancellation or failure to renew had not occurred.

### ~~Referral to investigation committee~~ Registrar to refer complaint

~~32~~ Within 10 days after receiving a complaint, the registrar must refer it to the investigation committee.

#### ~~32~~

~~The registrar shall~~

- ~~(a) if a complaint is made under section 31; or~~
- ~~(b) if the registrar has reason to believe that the conduct of any member, holder of a certificate of authorization, temporary licensee, specified scope of practice licensee, engineering intern or geoscience intern constitutes or may constitute unskilled practice of professional engineering or professional geoscience or professional misconduct;~~

~~refer the matter to the investigation committee.~~

### Investigated person to produce records

#### 33(1)

Any person, the investigation committee or sub-committee conducting an investigation may require the investigated person

- (a) to produce, within 10 days of receipt of the person or committee's request, any records in the possession of or under the control of the investigated person; and
- (b) to attend at the investigation and provide any information requested by the person, investigation committee or sub-committee. ~~to attend at the investigation and provide such information as the person or sub-committee may require to assess the complaint.~~

### Failure to produce records

#### 33(2)

The association may apply ex parte to the court for an order

- (a) directing the investigated person to produce to the person, investigation committee or sub-committee conducting an investigation any records in his or her possession or under his or her control, if it is shown that the investigated person failed to produce them when required by the person, investigation committee, or sub-committee conducting the investigation; or

- (b) directing any person to produce to the person, investigation committee or sub-committee conducting an investigation any records that are or may be relevant to the complaint being investigated.

### **Investigated person not to communicate with complainant**

#### **34**

Upon being notified that a complaint has been received by the association, the investigated person shall not communicate with the complainant regarding the complaint, without the prior consent of the investigation committee until all proceedings hereunder, including appeals, have been concluded.

### **Decision of investigation committee**

#### **35(1)**

The investigation committee may, after review or investigation, take one or more of the following actions:

- (a) postpone its decision pending the completion of any civil or criminal proceedings arising from the conduct giving rise to the complaint;
- (b) formulate a charge setting out the particulars of the complaint and direct that the charge be referred to the discipline committee;
- (c) direct that the complaint be dismissed;
- (d) accept the voluntary withdrawal by the investigated person of his or her right to practise professional engineering or professional geoscience or his or her enrolment as an engineering intern or geoscience intern;
- (e) issue a formal, written caution to the investigated person censuring his or her conduct;
- (f) with the written consent of the investigated person, formulate a charge, register a conviction and impose any penalty that the discipline committee could have imposed.

### **Hearing not required**

#### **35(2)**

The investigation committee is not required to hold a hearing or to afford to any person an opportunity to appear or to make oral submissions before making a decision, formulating a charge or giving a direction under this section, except that the committee shall not issue a caution under clause (1)(e) without first meeting with the investigated person.

### **Notice of decision**

#### **36**

The investigation committee must give the investigated person and the complainant written notice of a decision under subsection 35(1), with reasons for the decision. The committee must also give the complainant written notice of any right to appeal the decision.

### **Appeal by complainant**

#### **36.1(1)**

The complainant may appeal the following decisions of the investigation committee to the appeal committee:

(a) a dismissal of a complaint under clause 35(1)(c);

(b) a caution issued under clause 35(1)(e);

(c) a penalty imposed under clause 35(1)(f).

### **How to appeal**

#### 36.1(2)

To make an appeal, the complainant must, within 30 days after receiving notice of a decision, give the registrar a written notice of appeal including the reasons for the appeal. The appeal is then to be dealt with under Part 10.1.

### **Publication of decision**

#### 36.2(1)

The investigation committee may publish the name of an investigated person who, under subsection 35(1), in response to a complaint,

(a) voluntarily withdraws from practice;

(b) has been formally cautioned; or

(c) agrees to a charge, conviction and penalty;

and a description of the circumstances relevant to the decision.

### **Publication of charge**

#### 36.2(2)

The investigation committee must publish the name of the investigated person and the charge if, under subsection 35(1), it directs that a charge be referred to the discipline committee.

### **Order for costs**

#### 36.3(1)

The investigation committee may order an investigated person who, in response to a complaint, voluntarily withdraws from practice, is formally cautioned or agrees to a charge, conviction and penalty, to pay to the association all or part of

(a) the costs of investigating the person; and

(b) the costs of monitoring the person's compliance with the terms of the person's voluntary withdrawal or the terms of the charge, conviction and penalty.

### **Filing of order**



### 36.3(2)

The association may file an order under subsection (1) in the court, and on the order being filed it may be enforced in the same manner as a judgment of the court.

#### **Appeal by complainant to a committee of the council**

### 36(1)

~~A complainant who is served with a notice of the decision of the investigation committee directing that the complaint be dismissed may, by notice in writing to the registrar, mailed within 30 days of receipt of such notice appeal that direction to a committee appointed under subsection (2).~~

#### **Appointment of committee of council**

### 36(2)

~~Upon receipt of a notice of appeal from the complainant under this section the president shall~~

- ~~(a) select a committee consisting of no more than three members of the council, one of whom shall be a lay person, none of whom shall be members of the investigation committee or the discipline committee; and~~
- ~~(b) select a member of the committee to serve as chair of the committee.~~

#### **Powers of committee of council**

### 36(3)

~~Where a committee is selected to consider any appeal by a complainant, the committee has all the authority and powers of the council in respect of such appeals.~~

#### **Power on appeal**

### 36(4)

~~On an appeal under this section, the committee shall do one or more of the following:~~

- ~~(a) make any decision that in its opinion ought to have been made by the investigation committee;~~
- ~~(b) quash, vary or confirm the decision of the investigation committee;~~
- ~~(c) refer the matter back to the investigation committee for further consideration in accordance with any direction that the committee may make.~~

#### **Suspension pending decision outcome**

### 37(1)

Notwithstanding anything in this Act the investigation committee may, when there is a question of serious risk to the public, suspend the certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern of the investigated person pending the outcome of proceedings under this part.

#### **Application for stay**

### 37(2)

The investigated person may, by filing an application with the court and serving a copy on the registrar, apply for an order of the court staying a decision of the investigation committee under subsection (1).

## **Discipline committee**

### **38(1)**

The council shall, in accordance with the by-laws, appoint a discipline committee of not fewer than 10 natural persons consisting of

- (a) a chair appointed by the council;
- (b) three- ~~laypersons~~ ~~lay persons~~; and
- (c) six members of the association representing various disciplines of engineering and geoscience who are not members of the council.

## **Members not to have taken part in investigation**

### **38(2)**

No person who is a member of the investigation committee or who otherwise has personal knowledge of the matter which is the subject of the complaint shall be a member of the discipline committee.

## **Hearing by discipline committee**

### **39(1)**

On referral of a charge to the discipline committee the chair of the discipline committee shall

- (a) select a panel consisting of no fewer than three members of the discipline committee, one of whom shall be ~~a layperson~~ ~~lay person~~;
- (b) select a member of the panel to serve as chair of the panel; and
- (c) set a date, time and place for a hearing on the charge.

## **Powers of panel**

### **39(2)**

Where a panel is selected to conduct the hearing on any charge, the panel has all the authority and powers of the discipline committee.

## **Right to appear and be represented**

### **39(3)**

The Association and the investigated person may appear and be represented by counsel at a hearing before the discipline committee or a panel thereof.

## **Examination of documentary evidence**

### **39(4)**

An investigated person shall be afforded an opportunity to examine 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.

## **Hearings open to public**

### **40(1)**

A hearing of the disciplinary committee or any panel shall be open to the public unless the panel is satisfied that

- (a) matters involving public security may be disclosed;
- (b) financial or personal or other matters may be disclosed at the hearing that are of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public;
- (c) a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or
- (d) the safety of a person may be jeopardised.

### **Exclusion of public**

#### 40(2)

If subsection (1) does not require a hearing to be open to the public, the panel may make an order that the public be excluded from the hearing, or any part of it, and it may make other orders it considers necessary to prevent the public disclosure of matters disclosed at the hearing, including orders banning the publication or broadcasting of those matters.

### **Public information may be disclosed**

#### 40(3)

No order shall be made under subsection (2) that prevents the publication of anything that is contained in the register and available to the public.

### **Exclusion of public during certain motions**

#### 40(4)

The panel may make an order that the public be excluded from the part of a hearing dealing with a motion for an order under subsection (2).

### **Orders with respect to matters in submissions**

#### 40(5)

The panel may make any order necessary to prevent the public disclosure of matters disclosed in the submissions relating to any motion described in subsection (4), including prohibiting the publication or broadcasting of those matters.

### **Reasons for order to exclude public, etc., available to public**

#### 40(6)

The panel shall ensure that any order it makes under this section and reasons for the order ~~its reasons~~ are available to the public in writing.

### **Reconsidering of order to exclude public, etc.**

#### 40(7)

The panel may reconsider an order made under subsection (2) at the request of any person or on its own motion.

### **Evidence**

#### 41(1)

At a hearing of the discipline committee or any panel the oral evidence of witnesses shall be taken on oath and there shall be a full right to cross-examine witnesses and call evidence in defence and reply.

### **Power to administer oaths**

#### **41(2)**

For the purpose of an investigation or hearing under this Act, the registrar, the chair of the investigation committee, the chair of the discipline committee, and the chair of any panel have power to administer oaths and affirmations.

### **Recording of evidence**

#### **41(3)**

The oral evidence given at a hearing of the discipline committee or any panel shall be recorded.

### **Witnesses**

#### **42**

The investigated person and any other person who, in the opinion of the discipline committee or any panel, has knowledge of the complaint or any matter relating to the charge are compellable witnesses in any proceeding under this part.

### **Notice to attend and produce records**

#### **43(1)**

The attendance of witnesses before the discipline committee or any panel and the production of records may be enforced by a notice issued by the registrar requiring the witness to attend and stating the date, time and place at which the witness is to attend and the records, if any, that the witness is required to produce.

### **Registrar shall provide notices**

#### **43(2)**

On the written request of the investigated person or the person's counsel or agent, the registrar shall provide any notices that the person requires for the attendance of witnesses or the production of records.

### **Witness fees**

#### **43(3)**

A witness, other than the investigated person, who has been served with a notice to attend or a notice for production under subsection (1) is entitled to be paid such witness fees as may be decided by the council from time to time.

### **Failure to attend or give evidence**

#### **44(1)**

Proceedings for civil contempt of court may be brought against a witness

- (a) who fails to attend before the discipline committee or any panel in compliance with a notice to attend;
- (b) who fails to produce any records in compliance with a notice to produce them; or

(c) who refuses to be sworn or to answer any question he or she is directed to answer by the panel.

#### **Failure by investigated person to attend**

##### 44(2)

If the witness referred to in subsection (1) is the investigated person, the failure or refusal to attend may be held to be professional misconduct.

#### **Hearing in absence of investigated person**

##### 45

The panel, on proof of service on the investigated person of the notice of hearing, may

- (a) proceed with the hearing in the absence of the investigated person or the person's agent; and
- (b) act, decide or report on the matter being heard in the same way as if the investigated person were in attendance.

#### **Unskilled practice or professional misconduct**

##### 46(1)

Conduct of an investigated person that in the opinion of the panel

- (a) is detrimental to the public interest;
- (b) is conduct unbecoming a ~~member, licensee, engineering intern or geoscience intern~~ ~~professional engineer or professional geoscientist~~;
- (c) is misconduct in the practice of professional engineering or professional geoscience;
- (d) contravenes this Act or the by-laws or the code of ethics adopted under section 11;
- (e) displays a lack of knowledge of or lack of skill or judgment in the practice of professional engineering or professional geoscience; or
- (f) demonstrates incapacity or unfitness to practise professional engineering or professional geoscience or demonstrates that the person is suffering from an ailment that might, if the person is allowed to continue to practise professional engineering or professional geoscience, constitute a danger to the public;

constitutes either unskilled practice of professional engineering or professional geoscience or professional misconduct, or both, as the panel finds.

#### **Findings of discipline committee or panel**

##### 46(2)

The discipline committee or any panel may find that the conduct of an investigated person constitutes neither unskilled practice of professional engineering or professional geoscience nor professional misconduct.

#### **Conviction in another jurisdiction**

##### 46(3)

Where any member, holder of a certificate of authorization, ~~or licensee temporary licensee or specified scope of practice licensee~~ is the subject of an order of ~~a regulatory body of professional engineers or professional geoscientists of another jurisdiction, any other association of professional engineers or association of professional geoscientists~~, having the same effect as any order made under section 47 or 48, such member, holder of a certificate of authorization, ~~or licensee temporary licensee or specified scope of practice licensee~~ may at the discretion of the discipline committee be deemed to be

guilty of either unskilled practice of professional engineering or professional geoscience or professional misconduct, whichever the panel finds.

### **Certificate of decision**

#### **46(4)**

A copy of the certificate of decision or other like document issued by a regulatory body of professional engineers or geoscientists of another jurisdiction ~~any other association of professional engineers or association of professional geoscientists~~ and certified by an officer or employee thereof holding a position equivalent to that of the registrar under this Act, shall be conclusive evidence of the facts in such certificate or other like document.

### **Orders of the panel**

#### **47(1)**

If the panel finds that the conduct of an investigated person constitutes unskilled practice of professional engineering or professional geoscience, or professional misconduct, or both, the panel may make any one or more of the following orders:

- (a) reprimand the investigated person;
- (b) suspend the certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern of the investigated person for a stated period;
- (c) suspend the certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern of an investigated person until
  - (i) the investigated person has completed a specified course of studies or obtained supervised practical experience, or
  - (ii) the discipline committee is satisfied as to the competence of the investigated person to practice professional engineering or professional geoscience;
- (d) accept in place of a suspension the investigated person's undertaking to limit his, her or its practice;
- (e) impose conditions on the investigated person's entitlement to engage in the practice of professional engineering or professional geoscience, including the conditions that he, she, or it
  - (i) practice under supervision,
  - (ii) not engage in sole practice,
  - (iii) not function as a holder of a certificate of authorization for a specified period,
  - (iv) permit periodic inspections by a person authorized by the discipline committee to carry out inspections,
  - (v) permit periodic audits of records, or
  - (vi) report to the discipline committee or the council on specific matters;
- (f) direct the investigated person to pass a particular course of study or satisfy the discipline committee or the council as to the person's competence;
- (g) direct the investigated person to satisfy the discipline committee that a disability or addiction can be or has been overcome, and suspend the certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern of the investigated person until the discipline committee is so satisfied;
- (h) require the investigated person to take counselling that in the opinion of the panel is appropriate;

- (i) direct the investigated person to waive, reduce or repay money paid to the investigated person that, in the opinion of the panel was unjustified for any reason;
- (j) cancel the certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern of the investigated person.

### **Panel may consider cautions**

#### **47(2)**

To assist the panel in making an order under this section, the panel may be advised of any formal, written caution previously issued to the investigated person~~member~~ under clause 35(1)(e) and the circumstances under which it was issued.

### **Ancillary orders**

#### **47(3)**

The panel may make any ancillary order that is appropriate or required in connection with an order mentioned in subsection (1) or may make any other order that it considers appropriate in the circumstances, including that

- (a) a further or new investigation be held into any matter; or
- (b) the discipline committee be convened to hear a complaint without an investigation.

### **Contravention of order**

#### **47(4)**

If the discipline committee is satisfied that an investigated person has contravened an order under subsection (1), it may, without a further hearing, cancel or suspend the certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern of the investigated person.

### **Costs and fines**

#### **48(1)**

The panel or the discipline committee may, in addition to or instead of dealing with the conduct of an investigated person in accordance with section 47, order that the investigated person pay to the association

- (a) all or part of the costs of the investigation, hearing and appeal;
- (b) a fine not exceeding \$25,000.; or
- (c) both the costs under clause (a) and the fine under clause (b);

within the time set by the order.

### **Filing of order**

#### **48(2)**

The association may file an order under subsection (1) in the court, and on the order being filed it may be enforced in the same manner as a judgment of the court.

**Written decision**

**Written order**

49(1)

Following the completion of a hearing, the discipline committee or any panel shall give the registrar

- (a) a copy of any order made by it;
- (b) written reasons for the order; and
- (c) the record of the proceedings, consisting of all evidence presented before it, including all exhibits, documents and recordings.

#### **Order given to investigated person and complainant**

49(2)

The registrar shall, on receiving the order, reasons and record, give a copy of the order and the reasons to the investigated person and the complainant.

#### **Copies of transcript**

49(3)

The investigated person may examine the record of the proceedings before the discipline committee or panel and is entitled to receive, on payment of the cost of providing it, a transcript of the oral evidence given during the hearing.

49(1)

~~The discipline committee or any panel shall, following the completion of a hearing, make a written decision on the matter consisting of the reasons for its decision, and a statement of any order made by it.~~

#### **Decision forwarded to registrar**

49(2)

~~The discipline committee or any panel shall forward to the registrar~~

- ~~(a) the decision; and~~
- ~~(b) the record of the proceedings, consisting of all evidence presented before it, including all exhibits, documents and recordings.~~

#### **Service of decision**

49(3)

~~The registrar shall, on receiving the decision and record, serve a copy of the decision on the investigated person and the complainant.~~

#### **Copies of transcript**

49(4)



~~The investigated person may examine the record of the proceedings before the discipline committee or panel, and is entitled to receive, on payment of the cost of providing it, a transcript of the oral evidence given before the panel.~~

#### **Publication of name and outcome decision**

##### 50

Notwithstanding that any proceeding or part of a proceeding under this Part may have been held in private, the Association, may after the expiration of any appeal period, publish

- (a) the name of an investigated person in respect of whom an order is made under section 47 or 48; and
- (b) the circumstances relevant to the finding of unskilled practice of professional engineering or professional geoscience, or the finding of professional misconduct.

#### **Stay pending appeal to council. Sections 51, 53, and 54 are repealed**

##### 51(1)

~~The decision of the panel remains in effect pending an appeal to the council unless the council, on application, stays the decision pending the appeal.~~

#### **Stay pending appeal to court**

##### 51(2)

~~The decision of the council remains in effect pending an appeal to the court unless the court, on application, stays the decision pending the appeal.~~

#### **Rules of practice and procedure**

##### 52

~~Subject to the approval of the council, each of the investigation committee, the discipline committee and any panel of the discipline committee shall determine its own rules of practice and procedure.~~

#### **Appeal to council**

##### 53(1)

~~An investigated person or the complainant may appeal to the council a finding or an order, or both, of the panel or the discipline committee.~~

#### **Deposit to accompany notice of appeal**

##### 53(2)

~~Each notice of appeal to council shall be accompanied by a cash deposit in such amount as may be prescribed in the by-laws, but not to exceed \$1,000.~~

#### **Procedure**

##### 53(3)

~~Sections 40 to 45 apply to proceedings before the council, with necessary modifications.~~

#### **Powers of council on appeal**

##### 53(4)

~~The council shall, within 90 days from the date of the conclusion of all proceedings before it, do any of the following:~~

- ~~(a) make any finding or order that in its opinion ought to have been made by the panel;~~
- ~~(b) quash, vary or confirm the finding or order of the panel or any part of the finding or order;~~
- ~~(c) refer the matter back to the discipline committee for further consideration in accordance with any direction of the council.~~

### **Costs**

#### 53(5)

~~The council may make an award as to costs payable on the conclusion of an appeal before the council.~~

### **Deposit may be returned**

#### 54

~~The deposit shall be returned to the applicant at the conclusion of any appeal process unless the council or the court orders that the deposit be forfeited, in whole or in part, as it sees fit.~~

### **Appeal to Court of Appeal**

#### 55(1)

An investigated person or the association may appeal the following to The Court of Appeal:

- (a) a finding that the conduct of the investigated person constitutes unskilled practice of professional engineering or professional geoscience, or professional misconduct, or both;
- (b) a finding made under subsection 46(2) (neither unskilled practice nor professional misconduct);
- (c) an order made under section 47 or 48.

### **How to appeal**

#### 55(2)

An appeal may be commenced by filing a notice of appeal with The Court of Appeal within 30 days after the order of the discipline committee or panel is given to the investigated person. If the investigated person appeals the finding or order, the investigated person must promptly give a copy of the notice to the registrar.

### **Appeal on the record**

#### 55(3)

An appeal must be based on the record of the proceedings before the discipline committee or panel and the reasons for the finding or order.

### **Sealing part of the record**

55(4)

If part of the hearing was held in private, the association must seal the part of the record that relates to the private hearing.

**Review of sealed record by Court**

55(5)

The part of the record that is sealed by the association under subsection (4) may be reviewed by The Court of Appeal, which may direct that it remain sealed or that it be unsealed in whole or in part.

**Powers of Court on appeal**

55(6)

Upon hearing the appeal, The Court of Appeal may

(a) dismiss the appeal;

(b) make any finding or order that in its opinion ought to have been made; or

(c) refer the matter back to the discipline committee or panel for further consideration in accordance with any direction of the Court.

**Stay pending appeal**

55(7)

The finding and any order of the discipline committee or panel remains in effect pending an appeal unless The Court of Appeal, on application, stays them pending the appeal.

**Appeal to court**

55(1)

~~An investigated person may appeal to the court any finding or order made by the council under subsection 53(4).~~

**Commencement of appeal**

55(2)

~~An appeal to court shall be commenced~~

~~(a) by filing a notice of appeal; and~~

~~(b) by giving a copy of the notice of appeal to the registrar;~~

~~within 30 days from the date on which the decision of the council is served on the investigated person.~~

**Appeal on the record**

55(3)

~~An appeal to the court shall be founded on the record of the hearing before the council and the decision of the council.~~

### **Powers of court on appeal**

#### 55(4)

~~The court on hearing the appeal may~~

- ~~(a) make any finding or order that in its opinion ought to have been made;~~
- ~~(b) quash, vary or confirm the decision of the council or any part of it; or~~
- ~~(c) refer the matter back to the council for further consideration in accordance with any direction of the court.~~

## **PART 10.1**

### **APPEALS**

#### **Appointment of appeal committee**

##### 55.1(1)

In accordance with the by-laws, the council must appoint an appeal committee consisting of three or more members, and must name one of those members as chair and one or more as vice-chairs.

#### **Laypersons**

##### 55.1(2)

The council must appoint at least one layperson to the appeal committee.

#### **Role of appeal committee**

##### 55.1(3)

The appeal committee is to sit in panels to hear and decide appeals of the following decisions:

- (a) a decision of the registration committee to refuse to issue a certificate of registration, temporary licence or specified scope of practice licence under clause 20(1)(a);
- (b) a decision of the registration committee to specify a scope of practice and impose restrictions in a specified scope of practice licence under clause 20(1)(b);
- (c) a decision of the registration committee to refuse enrolment to an applicant as an engineering intern or a geoscience intern under clause 20(1)(c);
- (d) a decision of the registrar to refuse to issue a certificate of registration or certificate of authorization under subsection 20(2);

(e) a decision of the investigation committee under clause 35(1)(c), (e) or (f).

### **Appointing an appeal panel**

#### 55.2(1)

Upon receiving a notice of appeal from the registrar for a matter described in subsection 55.1(3), the chair or vice-chair must select a panel from among the members of the appeal committee to hear the appeal, and appoint a member of the panel as its chair.

### **Members of the appeal panel**

#### 55.2(2)

An appeal panel is to consist of three or more appeal committee members, at least 1/3 of whom must be laypersons.

### **Who cannot sit on the appeal panel**

#### 55.2(3)

A person who has taken part in a decision or investigation related to the subject matter of the appeal must not be selected for the appeal panel.

### **Decision of panel**

#### 55.2(4)

A decision or action of an appeal panel is a decision or action of the appeal committee, and a reference in this Act to the appeal committee includes a panel of the committee.

### **Hearing required**

#### 55.3(1)

For a matter described in clause 55.1(3)(a) to (d), the appeal panel must hold a hearing as soon as reasonably possible but not later than 90 days after receiving the notice of appeal from the registrar.

### **Right to appear**

#### 55.3(2)

The appellant is entitled to make representations to the appeal panel at the hearing.

### **Counsel**

#### 55.3(3)

The appellant is entitled to appear at the hearing with or without counsel.

### **Hearing not required**

#### 55.3(4)

For a matter described in clause 55.1(3)(e), an appeal panel must allow the appellant and the investigation committee an opportunity to make written submissions, and may base its decision solely on its consideration of any submissions made.

### **Powers on appeal**

#### 55.4(1)

The appeal panel may

- (a) dismiss the appeal;
- (b) make any decision that in its opinion ought to have been made by the registration committee, registrar or investigation committee; or
- (c) refer the matter back to the registration committee, registrar or investigation committee for further consideration in accordance with any direction that the panel may give.

### **Notice of decision**

#### 55.4(2)

The registrar must give the appellant written notice of the appeal panel's decision and the reasons for it.

### **Appeal to court**

#### 55.5(1)

For a matter described in clauses 55.1(3)(a) to (d), an appellant may appeal a decision of an appeal panel to the court.

### **How to appeal**

#### 55.5(2)

An appeal may be commenced by filing a notice of application in the court within 30 days after receiving notice of the appeal panel's decision. The appellant must promptly give a copy of the notice to the registrar.

### **Powers of the court on appeal**

#### 55.5(3)

Upon hearing an appeal, the court may

- (a) dismiss the appeal;

(b) make any decision that in its opinion should have been made; or

(c) refer the matter back to the appeal committee for further consideration in accordance with any direction of the court.

## **PART 11 NO ACTIONS AGAINST MEMBERS**

### **No action to lie**

#### 56

No action lies against the council, any person participating in any committee of the council, any member, any holder of a certificate of authorization, ~~any licensee any temporary licensee, any specified scope of practice licensee~~, any engineering intern, any geoscience intern or any officer or employee of the association, for any action taken under this Act, the by-laws or any policy or procedure of council if the action was taken in good faith.

## **PART 12 PROHIBITIONS**

### **Prohibitions on practice**

#### 57

Except as otherwise provided in this Act, no person who is not a member, a holder of a certificate of authorization, ~~or a licensee a temporary licensee, or a specified scope of practice licensee~~ shall

- (a) engage in the practice of professional engineering or the practice of professional geoscience within the province; or
- (b) act in such a manner as to lead any ~~other person to believe that they are authorized to engage in the practice of professional engineering or professional geoscience within the province. person to believe that he or she is authorized to fulfil the office of, or act as, a professional engineer or professional geoscientist within the province.~~ other person to believe that they are authorized to engage in the practice of professional engineering or professional geoscience within the province.

### **Use of titles — professional engineers**

#### 58(1)

No person, other than a professional engineer, shall use the title "professional engineer", "engineer" or "consulting engineer", a variation or abbreviation of those titles or an equivalent in another language in a manner that implies that they are a professional engineer or entitled to engage in the practice of professional engineering.

### **Use of titles — professional geoscientists**

#### 58(2)

No person, other than a professional geoscientist, shall use the title "professional geoscientist", "geoscientist" or "consulting geoscientist", a variation or abbreviation of those titles or an equivalent in another language in a manner that implies that they are a professional geoscientist or entitled to engage in the practice of professional geoscience.

### **Use of "licensee"**

58(3)

Despite subsections (1) and (2), a specified scope of practice licensee may use

(a) the title "engineering licensee", the abbreviated title "Eng. L." and the equivalent expression in another language; or

(b) the title "geoscience licensee", the abbreviated titled "Geo. L." and the equivalent expression in another language.

### **Use of "intern"**

58(4)

Despite subsections (1) and (2), an engineering intern may use the title "engineering intern", the abbreviation "EIT" and the equivalent expression in another language and a geoscience intern may use the title "geoscience intern", the abbreviation "GIT" and the equivalent expression in another language.

### **Exception — professional engineers and geoscientists**

58.1(1)

Subject to the by-laws, section 58 does not apply to a holder of a certificate of authorization if the holder's practice is carried on or supervised by a professional engineer or professional geoscientist.

### **Other certificate holders**

58.1(2)

Despite subsections 58(1) and (2), a holder of a certificate of authorization may

(a) use the term "engineering", or any other term or phrase prescribed in the by-laws, in its corporate or business name if the holder's practice of professional engineering is carried on or supervised by a specified scope of practice licensee; or

(b) use the term "geoscience", or any other term or phrase prescribed in the by-laws, in its corporate or business name if the holder's practice of professional geoscience is carried on or supervised by a specified scope of practice licensee.

### **Representation as a professional engineer or professional geoscientist**

~~58(1)~~



~~Except as otherwise provided in this Act, no person who is not a member or a temporary licensee shall use, orally or otherwise, any of the following titles:~~

- ~~(a) professional engineer;~~
- ~~(b) engineer;~~
- ~~(c) consulting engineer;~~
- ~~(d) professional geoscientist;~~
- ~~(e) geoscientist;~~
- ~~(f) consulting geoscientist;~~

~~or any similar designation or any suffix, prefix, word, title or designation, abbreviated or otherwise, implying that the person is a member, holder of a certificate of authorization, temporary licensee, specified scope of practice licensee, engineering intern or geoscience intern, or is engaged in or entitled to engage in the practice of professional engineering or professional geoscience.~~

### **Use of professional engineer or professional geoscientist in business name**

#### 58(2)

~~No person who is not a member, the holder of a certificate of authorization or a temporary licensee shall~~

- ~~(a) advertise, list, display, or use in any manner, or permit to be used in any manner, any description, title, designation or term referred to in subsection (1) or any other term that may lead anyone to infer that such person is entitled to engage in the practice of professional engineering or professional geoscience; or~~
- ~~(b) submit for registration under *The Corporations Act* or *The Business Names Registration Act* any corporate or business name using any description, title, designation or term referred to in subsection (1) or any other term that may lead anyone to infer that such person is entitled to engage in the practice of professional engineering or professional geoscience.~~

### **Prohibition on contracting with corporations and partnerships**

#### 59

No person shall knowingly engage, employ or contract with any person, other than a member or licensee corporation, partnership or other legal entity that does not hold a certificate of authorization for any work that requires the practice of professional engineering or professional geoscience. ~~the services of a professional engineer or professional geoscientist.~~

## **PART 13**

### **OFFENCES AND ENFORCEMENT**

#### **Limitation on prosecutions**

##### 60(1)

A prosecution for an offence under Part 12 may be commenced at any time within two years after the date on which the alleged offence was committed or within six months from the date on which evidence, sufficient to justify prosecution for the offence, came to the knowledge of the registrar, whichever is later.

#### **Certificate of registrar**

##### 60(2)

The certificate of the registrar as to the day on which the evidence referred to in subsection (1) came to his or her knowledge is prima facie proof of the date of receipt of the evidence.

## **Onus**

### 61

In any action or prosecution under this Act, it shall be presumed, until the contrary is shown, that the accused is not a member, ~~temporary licensee, specified scope of practice licensee~~, holder of a certificate of authorization or enrolled as an engineering intern or geoscience intern and the onus is upon the accused to prove that he or she is a member, ~~temporary licensee, specified scope of practice licensee~~, holder of a certificate of authorization or enrolled as an engineering intern or geoscience intern, as the case may be.

## **Practice proved by a single act**

### 62

In a prosecution under this Part it is sufficient proof of the offence alleged if it is proved that the accused has done or committed a single act of the kind alleged.

## **Information**

### 63

An information for an offence under this Act may be laid by any member of the association or any person appointed by the council.

## **Injunction**

### 64

On application of the association, the court may grant an injunction

- (a) enjoining a person who is not a member, ~~temporary licensee, specified scope of practice~~-licensee, holder of a certificate of authorization, engineering intern or geoscience intern from engaging in the practice of professional engineering or professional geoscience;
- (b) enjoining a person from employing for work that is the practice of professional engineering or professional geoscience any person not entitled to practice professional engineering or professional geoscience under this Act; or
- (c) enjoining a person from violating any provision of this Act whether or not such person has been found guilty of an offence under that provision.

## **Penalties**

### 65(1)

Every person who violates any provision of this Act is guilty of an offence and liable, on summary conviction, in the case of a first offence to a fine of not more than \$10,000. and in the case of a second or subsequent offence to a fine of not more than \$20,000.

## **Fines recovered belong to association**

### 65(2)

Any fee, fine, penalty or sum receivable or recoverable under this Act or the by-laws, other than a fine or penalty imposed on summary conviction for an offence under this Act, when paid or recovered belongs to the association for the use thereof.

**PART 14**  
**EXCEPTIONS**

**Activities that are not affected**

66(1)

Nothing in this Act applies to prevent

- (a) the performance of professional engineering work by a natural person who is employed or engaged under the immediate and direct personal supervision and guidance of a member or licensee who is authorized under this Act to perform the work and professional engineer who assumes all responsibility for the work;
- (b) the performance of professional engineering work by an engineering intern who is enrolled in a program of internship training authorized under this Act or the by-laws;
- (c) the performance of professional geoscience work by a natural person who is employed or engaged under the immediate and direct personal supervision and guidance of a member or licensee who is authorized under this Act to perform the work and professional geoscientist who assumes all responsibility for the work;
- (d) the performance of professional geoscience work by a geoscience intern who is enrolled in a program of training internship authorized under this Act or the by-laws;
- (e) a person employed in actual service in the Canadian Armed Forces from practising professional engineering or professional geoscience where required as part of such employment;
- (f) a person registered as a land surveyor under *The Land Surveyors Act* from practising as a land surveyor or engaging in the practice of surveying;
- (g) a person who is certified under *The Certified Applied Science Technologists Act* in an engineering discipline, from engaging in an act that constitutes the occupation of applied science technology;
- (h) a prospector from engaging in activities that are normally associated with the business of prospecting, regardless of whether the prospector is prospecting on his or her own behalf or for others;
- (i) a natural person from carrying on engineering or geoscientific work on his or her own property for the sole use of himself or herself and his or her personal residence if the safeguarding of life, health, or the public interest is not concerned;
- (j) an electrician licensed under *The Electricians' Licence Act* from carrying on the trade of electrician, a power engineer to whom a certificate has been issued under *The Power Engineers Act* from carrying on the trade of a power engineer, or a locomotive engineer qualified as such under the *Canada Transportation Act* or *The Provincial Railways Act* from carrying on his or her occupation as a locomotive engineer, as long as the persons so qualified under those Acts confine themselves to those titles and do not engage in the practice of professional engineering;
- (k) a person who is registered, licensed or certified under or has otherwise acquired rights pursuant to any enactment of Manitoba or Canada which licenses, governs or regulates the practice of a profession, or the carrying on of an occupation or trade from practising that profession or carrying on that occupation or trade in accordance with the provisions of such enactment; or
- (l) an individual who
  - (i) holds a recognized honours or higher degree in one of the physical, chemical, life, computer or mathematical sciences, or possesses an equivalent combination of education, training and experience, or
  - (ii) is acting under the direct supervision and control of an individual with the qualifications described in subclause (i),

from engaging in the practice of natural science.

### **Definition of "practice of natural science"**

#### **66(2)**

In clause (1)(l), "**practice of natural science**" means any act or activity, including management, requiring the application of scientific principles, competently performed, whether alone, in partnership, in an association of persons or in a body corporate, other than the practice of professional geoscience.

### **Prime consultant**

#### **66.1**

Nothing in this Act prevents a person or partnership from being the prime consultant in respect of the erection, construction, enlargement or alteration of a building.

## **PART 15**

### **INTER-ASSOCIATION RELATIONS JOINT BOARDS**

#### **Joint board with The Certified Technicians and Technologists Association of Manitoba Inc.**

#### **67(1)**

There is established a joint board, under the name "Engineering, Geosciences and Applied Sciences Inter-Association Relations Joint Board", whose function is to assist The Certified Technicians and Technologists Association of Manitoba Inc. and the Association of Professional Engineers and Geoscientists of the Province of Manitoba in maintaining the professional relationship between the two associations, including

- (a) developing and recommending processes for co-operation by the two associations in carrying out their respective areas of responsibility in the public interest;
- (b) making joint representations to third parties on matters affecting the two associations; and
- (c) resolution of issues or disputes respecting areas of practice.

#### **Composition of board**

#### **67(2)**

The joint board shall consist of not fewer than seven persons as follows:

- (a) a chair, who is appointed by the minister appointed by the Lieutenant Governor in Council to administer *The Labour Relations Act* and is not registered with or licensed by either The Certified Technicians and Technologists Association of Manitoba Inc. or the Association of Professional Engineers and Geoscientists of the Province of Manitoba;
- (b) equal numbers of persons appointed by The Certified Technicians and Technologists Association of Manitoba Inc. and the Association of Professional Engineers and Geoscientists of the Province of Manitoba.

#### **Rules of procedure**

#### **67(3)**

The joint board shall establish its own rules of procedure.

## **Disputes**

### **67(4)**

Where any dispute arises as to

- (a) the jurisdiction of either of the associations referred to in subsection (1) in respect of the regulation of persons registered under their respective enactments;
- (b) the right of any person registered with or licensed by either of those associations to perform any function or type of work; or
- (c) any matter respecting relations between those associations or any persons registered with or licensed by them;

the joint board shall consider such dispute or matter and, if possible, make a joint recommendation to the board of The Certified Technicians and Technologists Association of Manitoba Inc. and the council of the Association of Professional Engineers and Geoscientists of The Province of Manitoba to resolve such dispute or matter.

## **Joint board with The Manitoba Association of Architects**

### **68(1)**

There is established a joint board, under the name "Engineering, Geosciences and Architecture Inter-Association Relations Joint Board", whose function is to assist The Manitoba Association of Architects and the Association of Professional Engineers and Geoscientists of the Province of Manitoba in maintaining the professional relationship between the two associations, including

- (a) developing and recommending processes for co-operation by the two associations in carrying out their respective areas of responsibility in the public interest;
- (b) making joint representations to third parties on matters affecting the two associations; and
- (c) resolution of issues or disputes respecting areas of practice.

## **Composition of board**

### **68(2)**

The joint board shall consist of not fewer than seven persons as follows:

- (a) a chair, who is appointed by the minister appointed by the Lieutenant Governor in Council to administer *The Labour Relations Act* and is not registered with or licensed by either The Manitoba Association of Architects or the Association of Professional Engineers and Geoscientists of the Province of Manitoba;
- (b) equal numbers of persons appointed by The Manitoba Association of Architects and the Association of Professional Engineers and Geoscientists of the Province of Manitoba.

## **Rules of procedure**

### **68(3)**

The joint board shall establish its own rules of procedure.

## **Disputes**

### **68(4)**

Where any dispute arises as to

- (a) the jurisdiction of either of the associations referred to in subsection (1) in respect of the regulation of persons registered under their respective enactments;
- (b) the right of any person registered with or licensed by either of those associations to perform any function or type of work; or
- (c) any matter respecting relations between those associations or any persons registered with or licensed by them;

the registrar must refer the dispute to the joint board, which must consider it in a timely manner and, if possible, make a joint determination about how to resolve the dispute and give it to the council of The Manitoba Association of Architects and the council of The Association of Professional Engineers and Geoscientists of the Province of Manitoba.

#### **Determination to be implemented**

##### 68(5)

A joint determination under subsection (4) must be implemented by the council of one or both associations, whichever is necessary to give full effect to the determination.

##### 68.1

[Repealed]

## **PART 16**

### **TRANSITIONAL, CONSEQUENTIAL, REPEAL AND COMING INTO FORCE**

#### *Transitional: membership*

##### 69(1)

*Notwithstanding section 15, the council may, at any time within two years after the coming into force of this Act, admit to membership in the association as a member authorized to engage in the practice of professional geoscience ~~professional geoscientist~~ a natural person who meets any educational and experience requirements that may be set by the council.*

#### *Transitional: council*

##### 69(2)

*A person who is elected or appointed as a member of the council and who holds office on the day before this Act comes into force continues as a member of council for the balance of his or her term.*

#### Meaning of "former Act"

In subsection (2), "former Act" means **The Engineering and Geoscientific Professions Act** as it read immediately before the coming into force of this section.

#### Transitional – pending appeals to council

A matter appealed to the council under subsection 21(1), 24(3), 36(1), or 53(1) of the former Act before the coming into force of this section must be concluded, including any appeal to the court, under the former Act as if this Act had not come into force.

#### *Transitional: policies and procedures*

##### 69(3)

*The rules and regulations of the Association which are in force on the day before this Act comes into force are deemed to be the policies and procedures of council until replaced by resolution of council.*

*Geoscientists appointed to council*

69(4)

*On the coming into force of this Act, two natural persons holding recognized degrees in one of the branches of geoscience shall be appointed to the council by a committee consisting of the persons listed in subsection 8(2).*

70 to 74

**NOTE: These sections contained consequential amendments to other Acts, which amendments are now included in those Acts.**

**Repeal**

75

*The Engineering Profession Act*, R.S.M. 1987, c. E120, is repealed.

**C.C.S.M. reference**

76

This Act may be cited as *The Engineering and Geoscientific Professions Act* and referred to as chapter E120 of the *Continuing Consolidation of the Statutes of Manitoba*.

**Coming into force**

77

This Act comes into force on the day it receives royal assent.