

1968 Bill 81

First Session, 16th Legislature, 17 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 81

**An Act to regulate the Professions of Engineering,
Geology and Geophysics**

THE PROVINCIAL SECRETARY

First Reading

Second Reading

Third Reading

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1968

An Act to regulate the Professions of Engineering,
Geology and Geophysics

(Assented , 1968)

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

1. This Act may be cited as *The Engineering and Related Professions Act, 1968*.

2. In this Act,

- (a) "approved university program" means
 - (i) a university program considered by the Universities Co-ordinating Council to be generally equivalent in quality to the four year programs offered at The University of Alberta and The University of Calgary, or
 - (ii) where no similar program is offered at The University of Alberta or The University of Calgary a program considered satisfactory by the Universities Co-ordinating Council;
- (b) "Association" means The Association of Professional Engineers of Alberta;
- (c) "by-laws" means the by-laws of the Association;
- (d) "council" means the council of the Association;
- (e) "executive-secretary" means the executive-secretary of the Association;
- (f) "licensee" means a registered licensee of the Association;
- (g) "member" means a registered member of the Association;
- (h) "permit holder" means a firm, partnership, corporation or association of persons which has been granted a permit under this Act by the council of the Association;
- (i) "president" means the president of the Association;
- (j) "professional engineer" means a person qualified to practise professional engineering who is a member or licensee in good standing;

Explanatory Notes

General. This Bill is a revision of The Engineering and Related Professions Act, which is chapter 26 of the Statutes of Alberta, 1960. The section references in the notes to the various clauses of the Bill are to the equivalent sections in that Act.

2. Definitions.

(k) "professional engineering" means reporting on, advising on, evaluating, designing of, preparing of plans and specifications for, surveying for, or directing the construction, the technical inspection, the maintenance or the operation of any structure, work or process

(i) that is aimed at the discovery, development or utilization of matter, materials or energy, or in any other way designed for the use and convenience of man, and

(ii) that requires in the reporting, advising, evaluating, designing, preparation, surveying or direction the professional application of the principles of mathematics, chemistry, physics or any related applied subject including, without limiting the generality of the foregoing, properties of materials, mechanics of solids and fluids, thermodynamics, electronics and the like,

but does not include the execution or supervision of the construction, technical inspection, maintenance or operation of any such structure, work or process in the capacity of contractor, superintendent, foreman or inspector or in any similar capacity, when the structure, work or process has been designed by and the execution or supervision is being carried out under the responsible supervision of a professional engineer;

(l) "professional geologist" means a person qualified to practise professional geology who is a member or licensee in good standing;

(m) "professional geology" means reporting, advising, evaluating, interpreting, geological surveying, sampling or examination related to any activity

(i) that is aimed at the discovery or development of oil, natural gas, coal, metallic or non-metallic minerals or precious stones, or other natural resources or water or that is aimed at the investigation of geological conditions, and

(ii) that requires in that reporting, advising, evaluating, interpreting, geological surveying, sampling or examination, the professional application of the principles of the geological sciences or any related subject including, without limiting the generality of the foregoing, the geological field of mineralogy, paleontology, structural geology, stratigraphy, sedimentation, petrology, geomorphology, photogeology and the like,

but does not include any of the above activities that are normally associated with the business of prospecting when carried on by a prospector;

- (n) "professional geophysicist" means a person qualified to practise professional geophysics who is a member or licensee in good standing;
- (o) "professional geophysics" means reporting, advising, evaluating, interpreting, or geophysical surveying related to any activity
 - (i) that is aimed at the discovery or development of oil, natural gas, coal, metallic or non-metallic minerals or precious stones or other natural resources or water or that is aimed at the investigation of sub-surface conditions in the earth, and
 - (ii) that requires in that reporting, advising, evaluating, interpreting or geophysical surveying, the professional application of the principles of one or more of the subjects of physics, mathematics or any related subject including, without limiting the generality of the foregoing, principles of elastic wave propagation, gravitational, magnetic and electrical fields, natural radio activity, and the like, but does not include the routine maintenance or operation of geophysical instruments, or if carried out under the responsible supervision of a professional geophysicist, the routine reduction or plotting of geophysical observations;
- (p) "registrar" means the registrar of the Association;
- (q) "registration" means registration as a member or as a licensee;
- (r) "vice-president" means a vice-president of the Association.

3. (1) The Association of Professional Engineers of Alberta heretofore established is continued as a corporation under the style and title of "The Association of Professional Engineers of Alberta".

(2) The abbreviation of the Association shall be A.P.E.A.

4. The Association, in addition to the powers vested in it under *The Interpretation Act, 1958* and by this Act, has the power to

- (a) acquire and hold real property and sell, lease or otherwise dispose of the same at pleasure, and
- (b) borrow money for the purposes of the Association and to mortgage or charge property of the Association or its sources of funds as security for money borrowed.

5. (1) The Association may pass by-laws, not inconsistent with this Act, relating to

- (a) the election of the council,

3. Corporate status and name—present section 3 (1) (2).

4. Corporate powers—present section 3 (3).

5. By-laws—present section 4.

- (b) the appointment of such officers as may be necessary for carrying out the objects and purposes of the Association,
 - (c) the government and discipline of members, licensees and permit holders,
 - (d) the management of its property,
 - (e) the maintenance of the Association and the fixing and collection of fees,
 - (f) the registration of members and licensees in the Association,
 - (g) the establishment of categories for, and enrollment of engineers-in-training, geologists-in-training, geophysicists-in-training and students, and the assessment of fees therefor,
 - (h) the time, place and conduct of the annual and other meetings of the Association,
 - (i) the establishment of divisions and sections of the Association and rules and regulations governing their operation, and
 - (j) all such other matters as the council considers necessary or convenient for the management of the Association, the conduct of its business and the promotion of its welfare.
- (2) A by-law or an amendment or revocation thereof is not effective until it is
- (a) ratified by a vote of two-thirds of those members who vote thereon at a properly convened meeting of the Association, and
 - (b) is approved by the Lieutenant Governor in Council.
- (3) *The Regulations Act* applies to the by-laws of the Association.

6. (1) The affairs of the Association shall be managed by a council which shall be composed of members of the Association.

(2) The council shall consist of a president, two vice-presidents, the immediate past-president and at least 12 councillors, the number of which may be determined from time to time by the by-laws.

(3) The council shall include not less than two professional engineers, two professional geologists and one professional geophysicist.

7. (1) The president shall be elected annually by the members of the Association and may hold office until his successor is elected.

(2) The president shall act as presiding officer at the meetings of the council and of the Association and may vote only when votes are evenly distributed.

6. Council of Association—present section 5.

7. Election of officers—present section 7.

(3) The vice-presidents shall be elected annually by the members of the Association and one of them shall be designated by the council to have all the powers of the president during the absence of the latter for any cause.

(4) The councillors shall be elected by the members of the Association.

(5) One-third of the number of councillors shall be elected annually for a term of three years.

(6) Where there is a vacancy in the council for any cause, the remaining members of the council shall appoint a member of the Association to fill the vacancy until the next regular election at which time the vacancy shall be filled by election by the members of the Association.

(7) Any councillor elected to fill a vacancy shall be elected only for the unexpired term of the member whose place he is to fill.

8. (1) The council shall appoint a registrar.

(2) The council may also appoint a deputy registrar who, in the event of the absence or illness of the registrar, has all the powers of the registrar.

(3) The registrar is the executive officer of the Association under the direction of the council and has such powers as are necessary for the proper administration and enforcement of this Act and of the by-laws.

(4) The council may appoint an executive-secretary who shall assist the registrar in the performance of such duties as the registrar or the council may direct.

9. No person except a member or licensee or permit holder shall

- (a) engage in or offer to engage in any of the activities of professional engineering, professional geology or professional geophysics, or
- (b) use, orally or otherwise, the title "professional engineer", "professional geologist" or "professional geophysicist" or any abbreviation thereof, or
- (c) use, orally or otherwise, any name, title, occupational designation or position description in which the term "engineer", "geologist" or "geophysicist" appears or use any abbreviation of these names, titles, designations or descriptions in a manner that would lead to the belief that he is a professional engineer, professional geologist or professional geophysicist or that he is a person qualified to practise professional engineering, professional geology or professional geophysics, or
- (d) advertise himself or hold himself out as a professional engineer, professional geologist or professional geophysicist in any way or by any means, or

8. Registrar—present section 8.

9. Practice of Profession controlled—present section 9.

- (e) act in such a manner as to create or induce in the mind of any reasonable person the belief that he is authorized to fulfill the office of or act as a professional engineer, professional geologist or professional geophysicist.

10. Nothing in section 9 or section 13, 14 or 15 applies

- (a) to a person registered as an architect under any Act of the Legislature relating to the practice of architecture where the practice of that person is confined to architecture, or
- (b) to a person registered as a land surveyor under any Act of the Legislature or of the Parliament of Canada relating to the practice of land surveying or practising as a mine surveyor, where in either case the practice of that person is confined to the activities of a land surveyor or mine surveyor, or
- (c) to a member of the Canadian Forces while actually employed on duty with the Forces,

except that an architect, land surveyor, mine surveyor or member of the Canadian Forces shall not style or hold himself out as a professional engineer, professional geologist or professional geophysicist, unless he is a member or licensee of the Association.

11. Nothing in section 9 or in section 13, 14 or 15 shall be construed as altering or affecting any provisions or regulation of or made under any Act of the Legislature relating to mines, minerals, pipe lines or boilers and pressure vessels or as applying to any person who in accordance with such provision or regulation undertakes or does any thing required by the provision or regulation.

12. Nothing in section 9 or in section 13, 14 or 15 shall be construed to prevent

- (a) the carrying on by any person on his own property of any work, for the sole use of himself and his domestic establishment, or
- (b) the designing, construction or installation by any person of appliances, structures, works or processes of a total value not exceeding \$20,000,

where the work does not involve the safety of the general public.

13. A person who contravenes section 9 is guilty of an offence and liable on summary conviction

- (a) to a fine of not more than \$200 for the first offence, and
- (b) for any subsequent offence to a fine of not more than \$500 or to imprisonment for a term of not more than three months.

10. Persons exempted from clause 9—present section 10.

11. Clause 9 does not override other Acts and regulations—
present section 11.

12. Application of clause 9 where public safety not involved—
present section 12.

13. Offence and penalty—present section 45.

14. When any person contravenes section 9, a judge of the Supreme Court may, on the application of the Association, grant an injunction restraining that person, firm, partnership, corporation or association from contravening section 9.

15. Where no other provisions are made herein, any person, firm, partnership, corporation or association contravening this Act or the by-laws under this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$500.

16. (1) The educational qualification required for registration is an education, however obtained, generally equivalent to graduation from an approved university program leading to a Bachelor's degree in engineering, geology or geophysics.

(2) The experience qualification required for registration is

- (a) in the case of a person satisfying the educational qualification by graduation from an approved university program leading to a Bachelor's degree in engineering, geology or geophysics, two years of experience in engineering, geological or geophysical work after graduation and of a kind satisfactory to the Universities Co-ordinating Council as relating to and complementing the training acquired under the approved university program, or
- (b) in the case of a person satisfying the educational qualification by passing the examinations of the Universities Co-ordinating Council, six years' experience in engineering, geological or geophysical work after high school graduation and of a kind satisfactory to the Universities Co-ordinating Council as related to and complementing the subject matter of the examinations set out by the Universities Co-ordinating Council.

17. Application for registration as a member may be made by any resident of Alberta who is a Canadian citizen, British subject or landed immigrant of Canada and

- (a) who, seeking registration under the provisions of subsection (1) and clause (a) of subsection (2) of section 16, is a graduate of a university program leading to a degree in engineering, geology or geophysics and who, after graduation, has had two years' experience in engineering, geological or geophysical work, or
- (b) who, seeking registration under subsection (1) and clause (b) of subsection (2) of section 16, has an Alberta high school diploma or in the opinion of the council an education sufficient to allow him

14. Application for injunction—present section 46.

15. General penalty—present section 47.

16. Qualifications for registration as a member—present section
13.

17. Application for registration as a member—present section 14.

- to proceed with the writing of professional examinations and has for at least one year been engaged in engineering, geological or geophysical work, or
- (c) who is a member of an association comparable to the Association.

18. A person may apply for registration as a licensee if

- (a) he is a resident of Alberta but is not a Canadian citizen, British subject or landed immigrant of Canada, or
- (b) he is resident outside Alberta,

but otherwise complies with the requirements of section 17.

19. (1) The council shall arrange with the Universities Co-ordinating Council for the appraisal of the educational and experience qualifications of any person who properly applies under this Act.

(2) The time, place, the fee for, the scope of and the manner of conducting any examination shall be determined by the Universities Co-ordinating Council.

20. (1) The council shall register as a member or as a licensee, as the case may be, any person who has

- (a) properly applied under section 17 or 18,
- (b) paid all prescribed fees,
- (c) satisfied the council as to his good character, and
- (d) satisfied the Universities Co-ordinating Council as to his educational and experience qualifications.

(2) The council may, by unanimous vote of those members present at a duly constituted meeting of the council, register as a member or as a licensee a person who is a member of a Canadian association recognized by the council as being equivalent to the Association but who does not possess the educational qualifications required by the Universities Co-ordinating Council.

(3) A person admitted to the Association shall be registered as a professional engineer, professional geologist or professional geophysicist as decided by the Universities Co-ordinating Council and may be assigned more than one of the foregoing designations at the discretion of the Universities Co-ordinating Council.

(4) The council may, in its sole discretion and by unanimous vote of those members present at a duly constituted meeting of the council, alter the designated profession in which the member or licensee has been registered on the basis of extensive experience in the new field of registration.

(5) Any person who has been refused registration on the grounds of his failure to satisfy the council as to his

18. Registration as a licensee—present section 15.

19. Appraisal of qualifications by the Universities Co-ordinating Council—present section 17.

20. Registration—present section 18. Subclauses (2), (3), (4), (5) and (6) are new.

good character, may appeal from the council's decision as to his character, to a judge of the Supreme Court at any time within 30 days after notice of the council's refusal to register him has been served on him in writing.

(6) An appeal, notice of which shall be served upon the registrar, shall be founded upon

- (a) a copy of all material which has been submitted to the council and considered by it in arriving at its decision,
- (b) the evidence taken and the order of the council, and
- (c) such further evidence as the Supreme Court may desire to receive.

(7) The Court may on hearing the appeal either

- (a) direct the council to reconsider its refusal to register the applicant, or
- (b) direct the council to register the applicant, or
- (c) confirm the action of the council against which appeal is taken.

21. (1) Notwithstanding section 9, a firm, partnership, corporation or association of persons may practise professional engineering, professional geology or professional geophysics in its own name

- (a) if the firm, partnership, corporation or association is the holder of a permit granted to it by the Association pursuant to this Act, and
- (b) if the practice is carried on under the direct personal supervision and responsibility of a full-time permanent employee or member who is also a member or licensee of the Association and who is qualified by training and experience in the fields of engineering, geology or geophysics in which the firm, partnership, corporation or association intends to engage or offers to engage.

(2) Notwithstanding subsection (1), no firm, partnership, corporation or association of persons shall be registered as a member or licensee.

(3) When the practice of professional engineering, professional geology or professional geophysics is carried on by a firm, partnership, corporation or association of persons as permitted in subsection (1),

- (a) all plans, specifications, reports or documents shall be signed by, and sealed with the stamp of, the member or licensee of the Association who is responsible for the same and who supervised the preparation thereof, and
- (b) in addition, the plans, specifications, reports or documents shall carry the stamp issued to the firm,

21. Practice by firms, etc—present section 19.

partnership, corporation or association of persons pursuant to this Act.

(4) A firm, partnership, corporation or association of persons purporting to practise professional engineering, professional geology or professional geophysics in its own name as permitted in subsection (1), shall keep the Association advised of the name of the member or licensee of the Association who is a full-time permanent employee or member of the firm, partnership, corporation or association of persons and is directly and personally supervising the practice and assuming responsibility therefor.

22. (1) The council shall issue a permit which shall be valid for the calendar year during which it is issued to any firm, partnership, corporation or association of persons which has

- (a) filed an application on a form provided by the council,
- (b) paid all the fees prescribed by the council, and
- (c) satisfied the council that it has a full-time permanent employee or member who is also a member or licensee of the Association and who is qualified by training and experience in the fields of engineering, geology or geophysics in which the permit holder is engaged, intends to engage or offers to engage and who will assume direct personal supervision of and responsibility for the practice of professional engineering, professional geology or professional geophysics in which the permit holder engages.

(2) When the council issues a permit pursuant to this Act, it shall provide the permit holder with a stamp bearing the permit number engraved in such a manner as the council decides which remains the property of the Association and shall be surrendered to it on demand.

(3) Any permit issued under this Act may be revoked or its renewal withheld by the council for failure of the permit holder to observe any of the conditions set forth herein governing the issuance of a permit, or where the permit holder has been guilty of conduct that, in the judgment of the council, is inimical to the best interest of the public or the profession of engineering, geology or geophysics.

(4) The provisions of this Act relating to the conduct of discipline hearings in connection with allegations of conduct unbecoming an engineer, geologist or geophysicist apply *mutatis mutandis* to the revocation or withholding of a permit.

23. (1) A certificate of registration signed by the president and the registrar and bearing the seal of the

22. Issue of permits to firms—new.

23. Certificates of registration of members and licensees—
present section 20.

Association shall be issued to a person registered as a member or as a licensee.

(2) The certificate remains the property of the Association and may be reclaimed by the registrar upon termination of registration.

24. (1) During the period that he is registered

- (a) a member or licensee who is registered pursuant to this Act as being a professional engineer is entitled to practise professional engineering and to use the title of and be designated as a professional engineer or "P. Eng.",
 - (b) a member or licensee who is registered pursuant to this Act as being a professional geologist is entitled to practise professional geology and to use the title of and be designated as a professional geologist or "P. Geol.",
 - (c) a member or licensee who is registered pursuant to this Act as being a professional geophysicist is entitled to practise professional geophysics and to use the title of and be designated as a professional geophysicist or "P. Geoph.", and
 - (d) a member or licensee is entitled to sign and seal plans, specifications, reports or documents prepared under his direct supervision and may at his own expense acquire a stamp or seal for that purpose.
- (2) A member or licensee shall not acquire a stamp or seal for the purposes of subsection (1) from any source other than the registrar and the stamp or seal
- (a) shall only be used while the member or licensee is registered pursuant to this Act, and
 - (b) remains the property of the Association and shall be surrendered to the Association upon request.

25. The registrar

- (a) shall maintain the register of the members and licensees of the Association, classified as to profession,
- (b) shall maintain a record of permit holders, and
- (c) shall cause to be printed and published annually correct copies of the register and of the record of permit holders.

26. A certificate purporting to be signed by the registrar and stating that a named person was or was not, on a specified day or during a specified period,

- (a) a member or licensee or a suspended member or licensee, according to the roll, or
- (b) a permit holder, or

24. Use of title and seal—present section 21.

25. Register to be maintained—present section 22(1).

26. Registrar's certificate as evidence—present Sections 22 (2) and 23.

(c) an officer of the Association or a member of the council according to the records of the Association, shall be admitted in evidence as *prima facie* proof of the facts stated therein without proof of the registrar's appointment or signature.

27. (1) Each member or licensee shall pay in advance to the Association an annual fee established in accordance with the by-laws, but not in excess of \$100.

(2) If a member does not pay the prescribed annual fee within six months of the date upon which it becomes due, the council may direct the registrar to strike the name of the member from the register, and the member thereupon ceases to be entitled to practise as a professional engineer, professional geologist or professional geophysicist, but upon paying at any time thereafter such fee as may be prescribed by the council but not exceeding the arrears owing and current fee, the member is entitled to all rights and privileges as a member from the time of the payment of the fee.

(3) If a licensee does not pay the prescribed annual fee within two months of the date upon which it becomes due, the council may direct the registrar to strike the name of the licensee from the register, and the licensee thereupon ceases to be entitled to practise as a professional engineer, professional geologist or professional geophysicist, but upon paying at any time thereafter such fee as may be prescribed by the council, but not exceeding the arrears owing and the current fee, the licensee is entitled to all rights and privileges as a licensee from the time of the payment of the fee.

(4) A firm, partnership, corporation or association of persons obtaining a permit under the conditions of section 21 shall pay a fee established in accordance with the by-laws but not in excess of \$100.

28. For the purposes of sections 29 to 47 the term "member" shall be deemed to include "licensees", "professional engineers", "professional geologists" and "professional geophysicists".

29. (1) The council shall from time to time appoint and shall always maintain for the purposes hereinafter set out, a committee of professional engineers, professional geologists and professional geophysicists, not less than five in number, which shall be known as the discipline committee.

(2) The chairman and at least two members of the committee shall be members of the council.

(3) Three members of the committee, one of whom is a member of the council, shall constitute a quorum.

27. Fees—present section 24.

28. Definition.

29. Discipline committee—present section 25.

- (4) Subject to this Act the council may make rules
 - (a) providing for the composition and tenure of office of the discipline committee,
 - (b) governing proceedings of the discipline committee, and
 - (c) prescribing the procedure for preliminary investigations and for proceedings before the council.

30. (1) Conduct unbecoming a member or permit holder is a question of fact which shall be determined by the council or the discipline committee.

(2) Any matter, conduct or thing that, in the judgment of the council or of the discipline committee, is inimical to the best interest of the public or the profession of engineering, geology or geophysics shall be deemed to be and shall be held to be conduct unbecoming a member or permit holder.

31. The discipline committee shall review all complaints received against members of the Association or permit holders or other matters that, in the opinion of the council or the discipline committee, ought to be investigated and shall either

- (a) direct that no further action be taken if it is of the opinion that the complaint is frivolous or without basis or, if proven, would not constitute conduct unbecoming a member, or
- (b) direct that a preliminary investigation be held regarding the complaint or matter.

32. (1) Before making any preliminary investigation, the discipline committee shall give the member or permit holder, whose conduct is under investigation, notice in writing of its intention to make the investigation.

(2) The notice shall specify in general terms the matter to be investigated and shall, at least 10 days before the date of the investigation, be served either personally or by registered mail, addressed and mailed to the member or permit holder at the latest post office address on the register of the Association or on the record of permit holders.

(3) The member or permit holder whose conduct is to be investigated shall be given a reasonable opportunity to submit to the discipline committee a written statement respecting the matters under investigation.

33. Upon the conclusion of the preliminary investigation, the discipline committee shall either

- (a) direct that no further action be taken if it is of the opinion that the complaint is frivolous or without basis or, if proven, would not constitute conduct unbecoming a member or permit holder, or

30. Conduct unbecoming a member—present section 26.

31. Review of complaints.

32. Notice of preliminary investigation—present section 30.

33. Procedure after preliminary investigation—present section
31.

- (b) notify the council that, in its opinion, the evidence obtained by it on the preliminary investigation warrants a further investigation and recommend that a formal hearing be conducted.

34. The council, on receipt of a recommendation from the discipline committee pursuant to section 33, shall inform itself of the facts of the case and in its sole discretion shall thereupon direct the discipline committee either

- (a) to dismiss the complaint and so notify the complainant, if any, and the person whose conduct has been subjected to preliminary investigation, or
- (b) to hold a formal hearing in respect of the matters under investigation.

35. (1) When a formal hearing is directed by the council pursuant to section 34, the discipline committee shall give to the member or permit holder whose conduct is being investigated, at least 30 days' written notice respecting the time and place at which such hearing will be held and specifying the matters to be investigated.

(2) The notice shall be served in the same manner as is provided for service of notice of preliminary investigation.

36. In preparation for or in conduct of any investigation or hearing the council or the discipline committee may employ, at the expense of the Association, such legal or other assistance as it thinks necessary.

37. In the event of the non-attendance at a hearing of a person whose conduct is the subject of inquiry, the council or the discipline committee upon proof by statutory declaration or otherwise of the proper service of the notice of the hearing may proceed with the hearing and take any action authorized under this Act without further notice to that person.

38. (1) The attendance of witnesses before a formal hearing of the discipline committee and the production of books, papers, plans, specifications, contracts and other documents may be enforced by a notice issued under the hand of the registrar and the seal of the Association requiring the witness to attend and stating the time and place at which the witness is to attend and the documents, if any, he is required to produce.

(2) Upon the written request of the member or permit holder whose conduct is being investigated, or of his solicitor or agent, the registrar shall, without charge, issue and deliver such notices as that member or permit holder may require for the attendance of witnesses or production of documents.

34. Directions to discipline committee—present section 32.

35. Notice of hearing—present section 33.

36. Assistance at hearing—present section 34.

37. Non-attendance at hearing—present section 35.

38. Proceedings before investigating committee—present section 36.

(3) The discipline committee and council is not bound by the rules of evidence obtaining in actions and proceedings in the courts of justice, but on the contrary, may proceed to ascertain the facts in such a manner as it considers proper.

(4) A witness, other than a member or permit holder whose conduct is being investigated, who has been served with a notice to attend or a notice for the production of documents as aforesaid, is entitled to demand and to be paid the usual fees payable to witnesses in an action in the Supreme Court.

39. A witness

(a) who fails

- (i) to attend before a meeting of the discipline committee concerning which he has received a notice to attend, or
- (ii) to produce any books, papers, plans, specifications or other documents in obedience to a notice to produce, or
- (iii) in any way to comply with either notice, or

(b) who refuses to be sworn or to answer any question allowed by the discipline committee before whom the hearing is proceeding,

is liable to attachment upon application to a judge of the Supreme Court and may be proceeded against as for a civil contempt of that Court.

40. (1) When, upon completion of the formal hearing, the discipline committee forms the opinion that the conduct under investigation is not conduct unbecoming a member or permit holder the discipline committee shall, with the approval of the council, dismiss the charge and notify the complainant, if any, and the person whose conduct has been the subject of the formal hearing.

(2) When, upon completion of the formal hearing, the discipline committee

- (a)** forms the opinion that the conduct under investigation is conduct unbecoming a member or permit holder, but
- (b)** considers the offence is not of such gravity or importance as to warrant suspension or striking of the name of the member or permit holder from the register,

the discipline committee shall, with the approval of the council, reprimand the member or permit holder.

(3) When, upon completion of the formal hearing, the discipline committee forms the opinion that the conduct under investigation is conduct unbecoming a member, and considers the offence to be grave, the discipline committee

39. Witnesses.

40. Decision of discipline committee—present section 37.

shall, in its report to the council, recommend either that the member be suspended or that his name be struck from the register.

(4) When, upon completion of a formal hearing related to the conduct of a permit holder, the discipline committee forms the opinion that the permit should be revoked, it shall recommend to the council that the permit be revoked.

41. (1) The council upon receipt of a recommendation of the discipline committee pursuant to subsection (3) or (4) of section 40 shall inform itself of the evidence presented at the hearing and having regard to the recommendation of the discipline committee may, in its sole discretion,

- (a) order that the name of the member be struck from the register of the Association, or
- (b) order that the member be suspended from practising professional engineering, professional geology or professional geophysics for such period as may be considered proper, or
- (c) revoke a permit issued pursuant to this Act.

(2) The council, in addition to or in lieu of a reprimand by the discipline committee, and in addition to or in lieu of an order under subsection (1), may

- (a) order the member or permit holder to pay for each charge of which he or it is found guilty, a fine of not more than \$500 to the Association within the time fixed by the order,
- (b) order the member or permit holder to pay to the Association the costs of the hearing in an amount and within a time fixed by the council, and
- (c) order that the member be suspended in default of paying any fine or costs ordered to be paid until such time as the fine or costs are paid or order that the permit of the permit holder be suspended in default of payment of any fine or costs ordered to be paid until such time as the fine or costs are paid.

42. When the registration of a member is suspended or when his name is struck from the register he shall not practise as a professional engineer, professional geologist or professional geophysicist from the date of suspension or striking from the register provided however the member may continue to practise as a professional engineer, professional geologist or professional geophysicist with the written approval of the discipline committee for the purpose of completing work already started by him at the time of suspension of his registration or at the time that his name is struck from the register.

41. Punishment of member or permit holder—present section 38.

42. Effect of suspension or striking off—present section 39.

43. When a permit which is granted under this Act is suspended or revoked the permit holder shall not practise professional engineering, professional geology or professional geophysics provided however the permit holder may continue to practise professional engineering, professional geology or professional geophysics in its own name, with the written approval of the discipline committee, for the purpose of completing work already commenced by it at the time of the suspension or revocation of the permit.

44. (1) Any person who has been fined or suspended or whose name has been struck from the register may appeal from the order of the council to the Supreme Court at any time within 30 days after service of the order has been effected upon him in the manner, *mutatis mutandis*, prescribed for service of notice by subsection (2) of section 32.

(2) Any permit holder may appeal an order fining it or revoking a permit, or a refusal to grant or renew a permit, to the Supreme Court at any time within 30 days after service of the order has been effected.

(3) An appeal, notice of which shall be served upon the registrar, shall be founded upon

(a) a copy of the proceedings before the discipline committee, and

(b) the evidence taken and the order of the council.

(4) The registrar, upon the request of any person desiring to appeal, shall furnish him with a certified copy of all proceedings, reports, orders and papers upon which the council acted in making the order appealed against.

45. The Supreme Court may, upon hearing the appeal, make an order either confirming or reversing the order appealed against.

46. (1) Upon furnishing the council with an affidavit to the effect that there is new evidence that could materially have affected the decision of the council, and upon setting out the evidence, any member who has been suspended or any person whose name has been struck from the register or whose permit has been revoked may, either before or after an appeal to the Supreme Court, apply to the council for a rehearing.

(2) Upon receipt of an affidavit pursuant to subsection (1) the council shall rehear the matter and render its decision.

47. A member or permit holder whose conduct is being investigated may, at a formal hearing, be examined on all matters relevant to the investigation and shall not be excused from answering any question on the ground that the answer

43. Effect of suspension or revocation of permit.

44. Appeal to the Supreme Court—present section 41.

45. Decision of Court—present section 42.

46. Application for rehearing—present section 43.

47. Member or permit holder as witness.

- (a) might tend to criminate him, or
 - (b) might subject him to punishment under the disciplinary provisions of this Act, or
 - (c) might tend to establish his liability
 - (i) to a civil proceeding at the instance of the Crown or any person, or
 - (ii) to prosecution under any statute,
- but the answer so given, if it is such as tends to criminate him, shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

48. No action lies against any member of the council or of the discipline committee or the registrar or any person acting on the instructions of the discipline committee, members of the council or the registrar for any thing done by him in good faith and in purporting to act under this Act or the by-laws.

49. If any person wilfully procures registration by making or procuring or causing to be made or procured any false or fraudulent representation or declaration, either verbal or in writing, he and every person knowingly aiding or assisting him therein is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

50. Prosecution may be commenced for any offence against this Act within two years, but not thereafter, from the date of the commission of the offence.

51. This Act repeals and replaces *The Engineering and Related Professions Act*, being chapter 26 of the Statutes of Alberta, 1960.

52. This Act comes into force on June 1, 1968.

48. Protection from liability—present section 44.

49. Falsely obtaining membership—present section 48.

50. Time limit on prosecution—present section 49.