

1981 BILL 26

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 26

**THE ENGINEERING, GEOLOGICAL AND GEOPHYSICAL
PROFESSIONS ACT**

THE MINISTER OF HOUSING AND PUBLIC WORKS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

THE ENGINEERING, GEOLOGICAL AND GEOPHYSICAL PROFESSIONS ACT

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Bill 26

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1981

THE ENGINEERING, GEOLOGICAL AND GEOPHYSICAL PROFESSIONS ACT

(Assented to , 1981)

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

Definitions

1 In this Act,

- (a) “Association” means the Association of Professional Engineers, Geologists and Geophysicists of Alberta;
- (b) “Board of Examiners” means the Board of Examiners established under section 29;
- (c) “certificate holder” means
 - (i) a joint firm, and
 - (ii) a restricted practitioner;
- (d) “Council” means the Council of the Association;
- (e) “Court” means the Court of Queen’s Bench;
- (f) “Discipline Committee” means the Discipline Committee established under section 44;
- (g) “Joint Board” means the Joint Board of Practice established under *The Department of Housing and Public Works Act*;
- (h) “joint firm” means a firm to which a certificate of authorization has been issued under section 34;
- (i) “licensee” means an individual who holds a licence under this Act;

- (i.1) “member of the public” means a person who is
 - (i) a Canadian citizen or who is lawfully admitted to Canada for permanent residence,
 - (ii) a resident of Alberta, and
 - (iii) not a member of the Association;
- (j) “member-in-training” means engineer-in-training, geologist-in-training or geophysicist-in-training, as the case may be;
- (k) “Minister” means the Minister of Housing and Public Works;
- (l) “permit holder” means a partnership or other association of persons or a corporation that holds a permit under this Act;
- (m) “practice of engineering” means
 - (i) reporting on, advising on, evaluating, designing, preparing plans and specifications for or directing the construction, technical inspection, maintenance or operation of any structure, work or process
 - (A) 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
 - (B) that requires in the reporting, advising, evaluating, designing, preparation or direction the professional application of the principles of mathematics, chemistry, physics or any related applied subject, or
 - (ii) teaching engineering at a university;
- (n) “practice of geology” means
 - (i) reporting, advising, evaluating, interpreting, geological surveying, sampling or examining related to any activity
 - (A) that is aimed at the discovery or development of oil, natural gas, coal, metallic or non-metallic minerals, precious stones, other natural resources or water or that is aimed at the investigation of geological conditions, and
 - (B) that requires in that reporting, advising, evaluating, interpreting, geological surveying, sampling or examining, the professional application of the principles of the geological sciences, or
 - (ii) teaching geology at a university;

(o) “practice of geophysics” means

(i) reporting on, advising on, acquiring, processing, evaluating or interpreting geophysical data, or geophysical surveying that relates to any activity

(A) 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

(B) that requires in that reporting, advising, evaluating, interpreting, or geophysical surveying, the professional application of the principles of the geophysical sciences, or

(ii) teaching geophysics at a university;

(p) “Practice Review Board” means the Practice Review Board established under section 15;

(q) “profession” means the profession of engineering, geology or geophysics, as the case may be;

(r) “professional engineer” means an individual who holds a certificate of registration to engage in the practice of engineering under this Act;

(s) “professional geologist” means an individual who holds a certificate of registration to engage in the practice of geology under this Act;

(t) “professional geophysicist” means an individual who holds a certificate of registration to engage in the practice of geophysics under this Act;

(u) “professional member” means a professional engineer, professional geologist or professional geophysicist registered as a member of the Association pursuant to this Act;

(v) “Registrar” means the Registrar appointed under section 13;

(w) “restricted practitioner” means a registered architect under *The Architects Act, 1980* who holds a certificate of authorization under this Act.

PART 1
SCOPE OF PRACTICE

Exclusive scope of
the practice of
engineering

2(1) Except as otherwise provided in this Act, no individual, corporation, partnership or other entity, except a professional engineer, a licensee so authorized in his licence, a permit holder so authorized in its permit or a certificate holder so authorized in his certificate shall engage in the practice of engineering.

(2) No individual, corporation, partnership or other entity, may engage in both the practice of engineering and the practice of architecture as defined in *The Architects Act, 1980*, or hold out that it is entitled to engage in both the practice of engineering and the practice of architecture unless it holds a certificate of authorization under this Act or *The Architects Act, 1980* permitting it to do so.

(3) A professional engineer, licensee, permit holder or joint firm may engage in the practice of surveying other than land surveying as defined in *The Land Surveyors Act, 1981*.

(4) Subsection (1) does not apply to the following:

(a) a person engaged in the execution or supervision of the construction, maintenance, operation or inspection of any process, system, work, structure or building in the capacity of contractor, superintendent, foreman or inspector or in any similar capacity, when the process, system, work, structure or building has been designed by and the execution or supervision is being carried out under the supervision and control of a professional engineer or licensee;

(b) a person engaged in the practice of engineering as an engineer-in-training, technician or technologist in the course of his being employed or engaged and supervised and controlled by a professional engineer, licensee, permit holder or certificate holder;

(c) a member of a class of persons designated in the regulations as a technician or technologist as defined in the regulations;

(d) a person who in accordance with an Act or regulation in respect of mines, minerals, pipelines or boilers and pressure vessels is engaged in any undertaking or activity required under or pursuant to that Act or the regulations under that Act;

(e) a person who, on his own property and for his sole use or the use of his domestic establishment, carries out any work that does not involve the safety of the general public;

(f) a member of the Canadian Forces while actually employed on duty with the Forces.

(5) A restricted practitioner is not authorized by the operation of subsection (1) to engage in the practice of engineering beyond the scope of the practice that is specified in the register.

(6) Subsection (1) does not apply to a person if he engages in

- (a) planning, designing or giving advice on the design of or on the erection, construction or alteration of or addition to,
- (b) preparing plans, drawings, detail drawings, specifications or graphic representations for the design of or for the erection, construction or alteration of or addition to, or
- (c) inspecting work or assessing the performance of work under a contract for the erection, construction or alteration of or addition to

a building that is a building in a category or type of building described in *The Alberta Uniform Building Standards Act* as set out in subsection (7).

(7) The categories or types of buildings referred to in subsection (6) are the following:

- (a) a building, 3 storeys or less in height, for assembly occupancy or institutional occupancy that,
 - (i) in the case of a single storey building, has a gross area of 300 square metres or less,
 - (ii) in the case of a 2 storey building, has a gross area of 150 square metres or less on each floor, or
 - (iii) in the case of a 3 storey building, has a gross area of 100 square metres or less on each floor;
- (b) a building for residential occupancy that
 - (i) is a single family dwelling, or
 - (ii) is a multiple family dwelling, containing 4 dwelling units or less;
- (c) a building, 3 storeys or less in height, for residential occupancy as a hotel, motel or similar use that,
 - (i) in the case of a single storey building, has a gross area of 400 square metres or less,
 - (ii) in the case of a 2 storey building, has a gross area of 200 square metres or less on each floor, or
 - (iii) in the case of a 3 storey building, has a gross area of 130 square metres or less on each floor;

(d) a building, 3 storeys or less in height, for warehouse, business and personal services occupancy, for mercantile occupancy or for industrial occupancy that

(i) in the case of a single storey building has a gross area of 500 square metres or less,

(ii) in the case of a 2 storey building has a gross area of 250 square metres or less on each floor, or

(iii) in the case of a 3 storey building has a gross area of 165 square metres or less on each floor;

(e) a building that is a farm building not for public use;

(f) a relocatable industrial camp building.

Exclusive use of
name engineer

3 No individual, corporation, partnership or other entity, except a professional engineer, licensee, permit holder or joint firm entitled to engage in the practice of engineering, shall

(a) use

(i) the title “professional engineer” or any abbreviation of that title, or

(ii) the word “engineer” in combination with any other name, title, description, letter, symbol or abbreviation that represents expressly or by implication that he is a professional engineer, licensee or permit holder,

(b) represent or hold out, expressly or by implication, that

(i) he is entitled to engage in the practice of engineering, or

(ii) he is a professional engineer, licensee, permit holder or joint firm,

or

(c) affix the stamp or seal of a professional engineer, licensee or permit holder or permit that stamp to be affixed, to a plan, drawing, detail drawing, specification or other document or a reproduction of any of them unless

(i) that plan, drawing, detail drawing, specification, other document or reproduction was prepared by or under the supervision and control of, and

(ii) the stamp is affixed with the knowledge and consent or in accordance with the direction of

the professional engineer or licensee to whom or the permit holder or joint firm to which the stamp or seal was issued.

Holding out by
joint firm

4 A joint firm

(a) may hold itself out as “engineers and architects” or “architects and engineers” only if it has both professional engineers and registered architects as partners or shareholders in an arrangement that is satisfactory to the Council and the council of The Alberta Association of Architects;

(b) shall not hold itself out as “engineers and architects” or “architects and engineers” if the registered architects or professional engineers are employees only and not partners or shareholders, or if the partnership or shareholding arrangement is not satisfactory to the Council or the council of The Alberta Association of Architects.

Exclusive scope of
the practice of
geology

5(1) Subject to subsection (2), no individual, corporation, partnership or other entity, except a professional geologist, a licensee so authorized in his licence and a permit holder so authorized in the permit, shall engage in the practice of geology.

(2) Subsection (1) does not apply to the following:

(a) a person engaged in the practice of geology as a geologist-in-training, geological technician or technologist in the course of his being employed or engaged and supervised and controlled by a professional geologist, licensee or permit holder;

(b) a member of a class of persons designated in the regulations as a geological technician or technologist as defined in the regulations;

(c) a person who, as a prospector, is engaged in any activities that are normally associated with the business of prospecting;

(d) a member of the Canadian Forces while actually employed on duty with the Forces.

Exclusive use of
name geologist

6 No individual, corporation, partnership or other entity, except a professional geologist or a licensee or permit holder entitled to engage in the practice of geology shall

(a) use

(i) the title “professional geologist” or any abbreviation of that title, or

(ii) the word “geologist” in combination with any other name, title, description, letter, symbol or abbreviation that represents expressly or by implication that he is a professional geologist, licensee or permit holder, or

- (b) represent or hold out, expressly or by implication, that
 - (i) he is entitled to engage in the practice of geology, or
 - (ii) he is a professional geologist, licensee or permit holder.

Exclusive scope of
the practice of
geophysics

7(1) Subject to subsection (2), no individual, corporation, partnership or other entity, except a professional geophysicist, a licensee so authorized in his licence or a permit holder so authorized in the permit, shall engage in the practice of geophysics.

(2) Subsection (1) does not apply to the following:

- (a) a person engaged in the practice of geophysics as a geophysicist-in-training, geophysical technician or technologist in the course of his being employed or engaged and supervised and controlled by a professional geophysicist, licensee or permit holder;
- (b) a member of a class of persons designated in the regulations as a geophysical technician or technologist as defined in the regulations;
- (c) a person who is engaged in the routine maintenance of geophysical equipment, or if carried out under the supervision and control of a professional geophysicist, the routine operation, reduction or plotting of geophysical observations;

(d) a member of the Canadian Forces while actually employed on duty with the Forces.

Exclusive use of
name geophysicist

8 No individual, corporation, partnership or other entity, except a professional geophysicist or a licensee or permit holder entitled to engage in the practice of geophysics shall

- (a) use
 - (i) the title “professional geophysicist” or any abbreviation of that title, or
 - (ii) the word “geophysicist” in combination with any other name, title, description, letter, symbol or abbreviation, that represents expressly or by implication that he is a professional geophysicist, licensee or permit holder,
- (b) represent or hold out, expressly or by implication, that
 - (i) he is entitled to engage in the practice of geophysics, or
 - (ii) he is a professional geophysicist, licensee or permit holder.

Injunction

9 The Court, on application by the Council by way of originating

notice, may grant an injunction enjoining any person from doing any act or thing that contravenes this Part, notwithstanding any penalty that may be provided by this Act or the regulations in respect of that act or thing.

PART 2

ASSOCIATION

Association of
Professional
Engineers,
Geologists and
Geophysicists

10(1) The Association of Professional Engineers, Geologists and Geophysicists of Alberta is continued as a corporation.

(2) The abbreviated form of the name of the Association shall be A.P.E.G.G.A. or APEGGA.

(3) No person other than the Association shall use the abbreviated form of the name of the Association or any other abbreviation alone or in combination with any other word or name in a way that represents expressly or by implication that he is a member of or connected in any way with the Association.

Powers of
Association

11 In addition to the powers vested in it by this Act, the Association has the power expressed in section 16 of *The Interpretation Act, 1980* and the power to

(a) acquire and hold real property and sell, lease or otherwise dispose of it, and

(b) borrow money for the purposes of the Association and mortgage or charge real or personal property of the Association or its sources of funds as security.

Council

12(1) There is hereby established a governing body of the Association called the Council.

(2) The Council shall manage and conduct the business and affairs of the Association and exercise the powers of the Association in the name of and on behalf of the Association.

(3) The Council shall submit annually to the Minister in a form satisfactory to him a report on those matters of the business and affairs of the Association that the Minister requires.

(4) The Minister shall, upon receipt of the annual report of the Association, lay it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next ensuing sitting.

Registrar

13 The Council shall appoint a Registrar for the purposes of this Act.

14(1) Subject to subsection (2), the Council shall include the president, 2 vice-presidents, the immediate past-president and at least 12 other professional members, the number of which shall be prescribed by the by-laws, each of whom shall be elected by the professional members at the time, in the manner and for the period provided for in the by-laws.

(2) The Council shall consist of

(a) at least 16 professional members among whom there shall be not less than

(i) 2 professional engineers,

(ii) 2 professional geologists, and

(iii) 1 professional geophysicist, and

(b) when the total number of elected professional members does not exceed 20, 2 members of the public, or when the total number of elected professional members is more than 20 but not more than 30, 3 members of the public, who shall be appointed by the Minister, after consultation with the Association, for a 1 year term of office.

(3) A member of the Council appointed under subsection (2)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.

(4) The Minister may, after consultation with the Council, revoke the appointment of a member of the Council made under subsection (2)(b).

(5) The Minister may pay to a member of the Council appointed under subsection (2)(b) travelling and living expenses incurred by that member for his attendance at any meeting of the Council while away from his usual place of residence and fees in an amount prescribed by the Minister.

(6) The powers, duties and operations of the Council under this Act, the regulations and the by-laws are not affected by

(a) the fact that no member of the public is appointed as a member of the Council pursuant to subsection (2)(b),

(b) the revocation of the appointment of a member of the public, or

(c) the resignation from the Council of a member of the public.

(7) The failure of a member of the public appointed pursuant to subsection (2)(b) to attend a meeting of the Council shall not be construed to affect or restrict the Council from exercising at that

meeting any powers or performing any duties under this Act, the regulations or the by-laws.

Practice Review
Board

15(1) There is hereby established a board called the Practice Review Board consisting of not less than 5 members as follows:

(a) the Council shall appoint not less than 4 professional members who have a combination of knowledge and experience suitable for determining the academic qualifications and experience necessary for a person to continue to engage in the practice of the profession of engineering, geology or geophysics;

(b) the Minister shall appoint 1 member of the public nominated by the Council.

(2) If the Council fails, within a reasonable period of time after being requested to do so by the Minister, to make a nomination for the purposes of subsection (1)(b), the Minister may appoint a member of the public to the Practice Review Board without the Council's nomination.

(3) The Minister may pay to the member of the Board appointed under subsection (1)(b) travelling and living expenses incurred by that member for attendance at a hearing of the Board away from his usual place of residence and fees in an amount prescribed by the Minister.

(4) The Minister may, after consultation with the Council, revoke the appointment under subsection (1)(b) of a member of the public.

(5) The powers, duties and operations of the Board under this Act, the regulations and by-laws are not affected by

(a) the fact that no member of the public is appointed as a member of the Board pursuant to subsection (1)(b),

(b) the revocation under subsection (4) of the appointment of a member of the public, or

(c) the resignation as a member of the Board of a member of the public.

(6) The failure of a member of the public appointed under subsection (1)(b) to attend a meeting of the Board shall not be construed to affect or restrict the Board from exercising any powers or performing any duties under this Act, the regulations or the by-laws at that meeting.

Powers of the
Practice Review
Board

16(1) The Practice Review Board

(a) shall, on its own initiative or at the request of the Council, inquire into

(i) the assessment of existing and the development of new

educational standards and experience requirements that are conditions precedent to obtaining and continuing registration under this Act,

(ii) the evaluation of desirable standards of competence of professional members, licensees, permit holders and certificate holders generally,

(iii) the practice of the profession by professional members, licensees, permit holders or certificate holders generally, and

(iv) any other matter that the Council from time to time considers necessary or appropriate in connection with the exercise of its powers and the performance of its duties in relation to competence in the practice of the profession under this Act and the regulations, and

(b) may, with the approval of the Council, conduct a review of the practice of a professional member, licensee, permit holder or certificate holder in accordance with this Act and the regulations.

(2) The Board shall report to and advise the Council with respect to any matter dealt with by it pursuant to subsection (1).

(3) A person requested to appear at an inquiry under this section by the Board is entitled to be represented by counsel.

(4) The Board may, after a review under this section with respect to an individual practitioner, make any order that the Discipline Committee may make under section 60 or 61.

(5) The provisions of Part 5 with respect to an investigation and hearing by the Discipline Committee apply to a review of an individual practitioner by the Practice Review Board.

(6) The Board may at any time during an inquiry or review under this section recommend to the Discipline Committee that the inquiry or review be conducted by the Discipline Committee pursuant to Part 5.

(7) On receiving a recommendation under subsection (6) the Discipline Committee may proceed with an investigation and hearing under Part 5 as if the recommendation were a written complaint.

(8) After each inquiry under this section the Board shall make a written report to the Council on the inquiry and may make any recommendations to the Council that the Board considers appropriate in connection with the matter inquired into, with reasons for the recommendations.

(9) The Council may, if it considers it to be in the public interest to do so, direct that the whole or any portion of an inquiry by the Board under this section shall be held in camera.

Appeal to Council

17 A professional member, licensee, permit holder or certificate holder who is the subject of a hearing or a review by the Practice Review Board may appeal any decision or order of the Board to the Council as if it were a decision or order of the Discipline Committee under Part 5.

PART 3

REGULATIONS AND BY-LAWS

Regulations

18(1) The Council may make regulations

(a) respecting the establishment of categories of and conditions respecting the enrolment of engineers-in-training, geologists-in-training, geophysicists-in-training, examination candidates and students;

(b) respecting the academic qualifications of and experience requirements for applicants for registration as professional engineers, geologists or geophysicists;

(c) governing the evaluation by the Council, the Board of Examiners, the Practice Review Board or a committee established by any of them of the academic qualifications of and experience requirements for applicants for registration to engage in the practice of engineering, geology or geophysics and the examination of those applicants with respect to those qualifications or requirements;

(d) respecting the eligibility of applicants generally for registration to engage in the practice of engineering, geology or geophysics;

(e) respecting the powers, duties and functions of the Practice Review Board, including but not limited to the referral of matters by that Board to the Council or the Discipline Committee and appeals from decisions of that Board;

(e.1) prescribing the number of members that constitutes a quorum of the Council, the Practice Review Board, the Board of Examiners or the Discipline Committee;

(f) governing the establishment of boards or committees of professional members and respecting the delegation of powers of the Council to those boards or committees or the Practice Review Board;

(g) prescribing technical standards for the practice of the profession;

(h) establishing and providing for the publication of a code of ethics respecting the practice of the profession, the maintenance of the dignity and honour of the profession and the protection of the public interest;

(i) governing the names under which professional members, licensees, permit holders and certificate holders may engage in the practice of the profession;

(j) governing, subject to this Act, the operation and proceedings of the Board of Examiners and the Practice Review Board, the designation of chairman and vice-chairman, the appointment of acting members and the procedures for filling vacancies in the offices of chairman and vice-chairman and in the membership of either Board, and the appointment of ex officio members of either Board and prescribing their powers, duties and functions;

(k) respecting the procedures of the Discipline Committee, of the Practice Review Board and of the Council in matters relating to the conduct or practice of professional members, licensees, permit holders or certificate holders, whether or not a complaint has been made;

(l) respecting the establishment by the Council of a compulsory continuing education program for professional members and licensees;

(m) governing the publication of a notice of the suspension or cancellation of the registration of a professional member, licensee, permit holder or certificate holder in a form and manner prescribed by the Council;

(n) respecting committees of inquiry for reinstatement under Part 5;

(n.1) for the purposes of sections 2(3), 5(2) and 7(2),

(i) designating a class of persons as technicians or technologists, and

(ii) defining technician and technologist;

(o) establishing classes or categories of professional engineers, geologists or geophysicists and licensees or permit holders and prescribing the restrictions of practice and the privileges and obligations of the classes or categories so established;

(p) respecting the use of stamps and seals;

(q) governing the eligibility for registration of persons, firms, partnerships and other entities as permit holders or certificate holders;

(r) governing the operation of permit holders or certificate holders;

(s) governing the publication of information with respect to the profession including but not limited to the publication of surveys of fees;

(t) respecting registration, licensing, the issuing of permits and certificates, disciplinary matters and the practice of engineering, geology and geophysics generally.

(2) A regulation under subsection (1) does not come into force unless it has been approved by

(a) a majority of the professional members

(i) present and voting at a general meeting, or

(ii) voting in a mail vote conducted in accordance with the by-laws,

and

(b) the Lieutenant Governor in Council.

By-laws

19(1) The Council may make by-laws

(a) for the government of the Association and the management and conduct of its affairs;

(b) determining the location of the head office of the Association;

(c) respecting the calling of and conduct of meetings of the Association and the Council;

(d) respecting the nomination, election, number and term of office of Council members and officers of the Association and the appointment of individuals as ex officio members of the Council, the Discipline Committee, the Practice Review Board, the Board of Examiners and any other committee established by the Council and prescribing their powers, duties and functions;

(d.1) prescribing those areas of the professions of engineering, geology and geophysics from which members of the Board of Examiners shall be appointed by the Council;

(e) respecting the appointment, functions, duties and powers of an Executive Director of the Association;

(f) respecting the establishment of divisions and sections of the Association and their operation;

(g) providing for the division of Alberta into electoral districts

and prescribing the number of Council members to be elected from each district;

(h) providing for the appointment of an Acting Registrar who has all of the powers and can perform all of the duties of the Registrar under this Act, the regulations and the by-laws when the Registrar is absent, or unable to act or when there is a vacancy in the office of Registrar;

(i) establishing classes or categories of membership in the Association in addition to professional engineers, professional geologists and professional geophysicists and prescribing the rights, privileges and obligations of the classes or categories of membership so established;

(j) providing for the appointment of acting members of the Council and procedures for the election or appointment of professional members to fill vacancies on the Council;

(k) prescribing the number of professional members that constitutes a quorum at meetings of the Association;

(l) governing the establishment, operation and proceedings of committees, the appointment of members of committees, the appointment of acting members and procedures for filling vacancies on committees and the delegation of any powers or duties of the Council under the Act, regulations or by-laws to a committee established by the Council or under this Act;

(m) prescribing fees and expenses payable to members of the Association for attending to the business of the Association;

(n) respecting the establishment and payment of sums of money for scholarships, fellowships and any other educational incentive or benefit program that the Council considers appropriate;

(o) governing the information to be engraved on stamps and seals by professional members, licensees, permit holders and certificate holders;

(p) respecting the fixing of fees, dues and levies payable to the Association;

(q) respecting the costs payable by any person on the conclusion of a hearing or review by the Practice Review Board or under Part 5;

(r) respecting the establishment, content and maintenance of registers of professional members, licensees, permit holders and certificate holders and of records of other classes or categories of membership to be kept by the Registrar;

(s) respecting the removal from the registers and records of any

memorandum or entry made in them under this Act or the by-laws;

(t) requiring professional members, licensees, permit holders and certificate holders to inform the Registrar in writing of their current mailing addresses and of any change of address forthwith after the change occurs;

(u) prescribing the form of a certificate of registration, a licence, a permit, a certificate of authorization and an annual certificate.

(2) The Council may make by-laws respecting the holding of mail votes on any matter relating to the Association, but a by-law under this subsection does not come into force unless it is approved by a majority of professional members of the Association present and voting at a general meeting.

(3) A by-law under subsection (1) does not come into force unless it is approved by a majority of the professional members

(a) present and voting at a general meeting, or

(b) voting by a mail vote conducted in accordance with the by-laws.

(4) *The Regulations Act* does not apply to by-laws of the Association made under this section.

PART 4

REGISTRATION

Registers and
membership
records

20(1) The Registrar shall maintain, in accordance with the by-laws and subject to the direction of the Council, a register for each of the following:

(a) professional engineers;

(b) professional geologists;

(c) professional geophysicists;

(d) licensees to engage in the practice of

(i) professional engineering,

(ii) professional geology, or

(iii) professional geophysics;

(e) permit holders to engage in the practice of

- (i) professional engineering,
- (ii) professional geology, or
- (iii) professional geophysics;
- (f) joint firms;
- (g) restricted practitioners.

(2) The Registrar shall enter in the appropriate register the name of a person who has paid the fee prescribed under the by-laws, and

- (a) whose registration to engage in the practice of
 - (i) engineering, as a professional engineer or licensee,
 - (ii) geology, as a professional geologist or licensee, or
 - (iii) geophysics, as a professional geophysicist or licensee

has been approved by the Board of Examiners,

(b) whose registration to engage in the practice of the profession as a permit holder has been approved by the Council, or

(c) whose registration to engage in the practice of engineering has been approved

(i) in the case of a joint firm, by the Council, or

(ii) in the case of a restricted practitioner, in accordance with section 36.

(3) The Registrar shall maintain, in accordance with the by-laws and subject to the direction of the Council, a membership record of the members in each class or category of membership established under the regulations and the by-laws.

Registration as
professional
member

21 The Board of Examiners shall approve for registration as a professional engineer, professional geologist or professional geophysicist an individual who has applied to the Board and is eligible in accordance with this Act and the regulations to become a professional engineer, geologist or geophysicist, as the case may be.

Registration as
licensee

22 The Board of Examiners shall approve the registration as a licensee of an individual who has applied to the Board of Examiners and is eligible in accordance with this Act and the regulations to become registered to engage in the practice of engineering, geology or geophysics as a licensee.

Registration of
permit holders

23(1) The Council shall approve the registration as a permit holder of a partnership or other association of persons, or of a corporation

incorporated or registered under *The Companies Act*, that has applied to the Council and is eligible under this section and the regulations to become registered to engage in the practice of engineering, geology or geophysics as a permit holder.

(2) A partnership or other association of persons or a corporation that applies to the Council is eligible to become registered as a permit holder entitled to engage in the practice of engineering, geology or geophysics if it satisfies the Council that it complies with the Act and the regulations.

Evidence of
registration

24(1) On entering the name of a professional engineer, geologist or geophysicist in the register, the Registrar shall issue to him

- (a) a certificate of registration, and
- (b) a stamp or seal engraved as prescribed in the by-laws.

(2) On entering the name of a licensee in the register, the Registrar shall issue to him

- (a) a licence to engage in the practice of engineering, geology or geophysics as a licensee as authorized in the licence, and
- (b) a stamp or seal engraved as prescribed in the by-laws.

(3) On entering the name of a permit holder in the register, the Registrar shall issue to it

- (a) a permit to engage in the practice of engineering, geology or geophysics as a permit holder as authorized in the permit, and
- (b) a stamp or seal engraved as prescribed in the by-laws.

(4) On entering the name of a joint firm in the register, the Registrar shall issue to it

- (a) a certificate of authorization to engage in the practice of engineering and architecture, and
- (b) a stamp engraved as prescribed in the by-laws.

(5) On entering the name of a restricted practitioner in the register, the Registrar shall issue to that individual a certificate of authorization to engage in the restricted scope of the practice of engineering that is specified in the certificate.

(6) A certificate of registration, a licence, a permit or a certificate of authorization issued under this section entitles the holder to engage in the practice of engineering, geology or geophysics, as the case may be, subject to this Act, the regulations and by-laws.

Annual certificate

25(1) A professional member, licensee, permit holder or certificate holder engaged in the practice of engineering, geology or geophysics

shall pay to the Association the annual fee prescribed under the by-laws.

(2) The Registrar shall issue an annual certificate in accordance with the by-laws to a professional member, licensee, permit holder or certificate holder

(a) whose registration is not under suspension, and

(b) who has paid the annual fee.

(3) Subject to this Act, an annual certificate entitles the professional member, licensee, permit holder or certificate holder to engage in the practice of engineering, geology or geophysics, as the case may be, during the year for which the annual certificate is issued.

(4) An annual certificate expires on December 31 of the year for which it is issued.

Entries in registers

26(1) The registration of a professional member, licensee, permit holder or certificate holder is suspended when the decision to suspend the registration is made in accordance with this Act.

(2) The Registrar shall enter a memorandum of suspension of a registration in the appropriate register indicating

(a) the duration of the suspension, and

(b) the reason for the suspension.

(3) The registration of a professional member, licensee, permit holder or certificate holder is cancelled when the decision to cancel the registration is made in accordance with this Act.

(4) The Registrar shall enter a memorandum of cancellation of registration in the appropriate register.

(5) The Registrar shall not remove from the registers any memorandum made by him under this section, except in accordance with the by-laws.

List of registrants
open to the public

27 The Registrar shall maintain and, during regular office hours, permit any person to inspect a list of all the professional members, licensees, permit holders and certificate holders in good standing.

Cancellation on
request

28(1) The Registrar shall not cancel the registration of a professional member, licensee, permit holder or certificate holder at his request unless the request for the cancellation has been approved by the Council.

(2) When a request for cancellation of a registration is approved by the Council

(a) the Registrar shall cancel that registration, and

(b) the professional member, licensee, permit holder or certificate holder requesting the cancellation shall, on being notified of the approval, surrender to the Registrar the certificate of registration, licence, permit, annual certificate and the stamp or seal issued by the Registrar.

Board of
Examiners

29(1) The Council shall establish a Board of Examiners in accordance with the regulations.

(2) The Board of Examiners shall consider applications for the registration of applicants as professional members or licensees in accordance with this Part, the regulations and by-laws and may

- (a) approve the registration,
- (b) refuse the registration, or
- (c) defer the approval of registration until it is satisfied that the applicant has complied with a requirement made under this section.

(3) The Board of Examiners may, in its discretion, require an applicant for registration

- (a) to pass 1 or more examinations set by the Board,
- (b) to obtain more experience of a kind satisfactory to the Board for a period set by the Board, or
- (c) to pass 1 or more examinations and obtain more experience

before approving the registration.

Approval by the
Board of
Examiners

30(1) The Board of Examiners shall approve the registration as a professional member of a person who proves to the satisfaction of the Board that

- (a) he is of good character and reputation,
- (b) he is a resident of Alberta,
- (c) he is a Canadian citizen or lawfully admitted to Canada for permanent residence, and
- (d) his education and his experience meet the requirements of the regulations and by-laws.

(2) The Board of Examiners shall approve the registration as a licensee of a person who proves to the satisfaction of the Board that he is

- (a) a resident of Alberta but is not a Canadian citizen or lawfully admitted to Canada for permanent residence, or

(b) a resident outside Alberta

and otherwise complies with the provisions of subsection (1).

Review by the
Council

31(1) The Board of Examiners shall send a written notice of any decision made by it under this Part to the applicant.

(2) If the decision made by the Board is to refuse or defer registration of the applicant, reasons for the decision shall be sent in writing to the applicant.

(3) If the decision made by the Board is to approve the registration, the Registrar shall publish a notice of approval in accordance with the by-laws.

(4) An applicant whose application for registration has been refused by the Board of Examiners may, within 30 days of receiving a notice of refusal and the reasons for the refusal, request the Council to review the application by serving on the Registrar a written request for review by the Council setting out the reasons why, in his opinion, his registration as a professional member or licensee should be approved.

(5) The Council shall, after receipt of a request for review under this section, review the application.

(6) The applicant for registration

(a) shall be notified in writing by the Council of the date, place and time that it will consider the matter, and

(b) is entitled to appear with counsel and make representations to the Council when it considers the matter.

(7) A member of the Board of Examiners who is also a member of the Council may participate at a review by the Council under this section but shall not vote in a decision of the Council at a review under this section.

(8) On hearing a review under this section, the Council may make any decision the Board of Examiners may make under this Part.

Joint firms

32(1) In this section and sections 33 and 34,

(a) “Architects Association” means The Alberta Association of Architects under *The Architects Act, 1980*;

(b) “architects firm” means a partnership or corporation

(i) that

(A) confines its practice to providing architectural consulting services, or

(B) if it does not confine its practice to providing architectural consulting services, engages in a practice satisfactory to the Joint Board,

and

(ii) in which registered architects

(A) hold a majority interest, and

(B) control the partnership or corporation,

and that is otherwise entitled to engage in the practice of architecture under *The Architects Act, 1980*;

(c) “engineers firm” means a partnership or corporation

(i) that

(A) confines its practice to providing engineering consulting services, or

(B) if it does not confine its practice to providing engineering consulting services, engages in a practice satisfactory to the Joint Board,

and

(ii) in which professional engineers

(A) hold a majority interest, and

(B) control the partnership or corporation,

and that is otherwise entitled to engage in the practice of engineering under this Act;

(d) “proposed engineers and architects firm” means a partnership or corporation

(i) that

(A) proposes to confine its practice to providing engineering consulting services and architectural consulting services, or

(B) if it does not propose to confine its practice to providing engineering consulting services and architectural consulting services, proposes to engage in a practice satisfactory to the Joint Board,

and

(ii) in which professional engineers and registered architects

(A) hold a majority interest, and

(B) control the partnership or corporation,

and that is otherwise entitled to engage in the practice of engineering under this Act or the practice of architecture under *The Architects Act, 1980*.

(2) An application for a certificate of authorization may be made by the following:

(a) a professional engineer;

(b) a registered architect;

(c) an engineers firm;

(d) an architects firm;

(e) a proposed engineers and architects firm;

(f) a partnership or corporation that is not referred to in clauses (c), (d) or (e) that the Joint Board considers a suitable applicant for a certificate of authorization.

(3) An applicant under subsection (2) shall

(a) if its prime activity is the provision of engineering consulting services, apply to the Council, and

(b) if its prime activity is the provision of architectural consulting services, apply to the council of the Architects Association.

Approval by Joint
Board

33(1) Every application under section 32 shall be referred to the Joint Board by the council to which it was made, with or without comment from that council.

(2) The Joint Board shall consider with respect to each application referred to it whether

(a) the applicant is eligible to apply under section 32(2);

(b) the applicant has at least 1 full time employee who is a professional engineer who shall take responsibility for the engineering work of the applicant and at least 1 full time employee who is a registered architect who shall take responsibility for the architectural work of the applicant;

(c) the presence of any ownership interests in the applicant will give rise to conflicts with the professional responsibilities of the firm;

(d) the granting of a certificate of authorization to the applicant will give rise to unauthorized practice or otherwise lead to circumvention of this Act or *The Architects Act, 1980*;

(e) any detriment to the public would result from the applicant becoming entitled to engage in the practice of both engineering and architecture.

(3) After considering an application for a certificate of authorization referred to it, the Joint Board shall recommend

(a) in the case of an application by a registered architect or architects firm, to the Council,

(b) in the case of an application by a professional engineer or an engineers firm, to the council of the Architects Association, or

(c) in the case of an application by a proposed engineers and architects firm or other applicant, to the Council and to the council of the Architects Association,

whether or not to grant a certificate of authorization, based on the criteria considered by it under subsection (2).

Registration of
joint firm

34(1) On receipt of a recommendation of the Joint Board under section 33 the Council may approve the registration of a proposed engineers and architects firm if that firm is eligible to become registered under the regulations.

(2) When recommendations are made by the Joint Board to both the Council and the council of the Architects Association with respect to an application for a certificate of authorization, both councils must agree that the certificate should be issued and both shall sign the certificate before it is issued.

(3) Subject to subsection (2), an applicant is entitled to be registered as a joint firm when the Council approves its registration.

Duties of joint firm

35(1) A joint firm may engage in the practice of both engineering and architecture in

(a) the names of the individuals who are its partners,

(b) its corporate name, or

(c) any other name that is approved by the Council pursuant to the by-laws.

(2) A joint firm shall advise the Registrar in writing of

(a) the names of the individual shareholders, directors and officers of the firm,

(b) the names of the employees who are professional engineers and registered architects, and

(c) of any change in those shareholders, directors, officers or employees forthwith after the change occurs.

(3) When a joint firm causes plans, drawings, detail drawings and specifications prepared in its practice of engineering to be signed by its proper officers and imprinted with the stamp issued to the firm, it shall also cause them to be signed by and imprinted with the stamp or seal of the professional engineer who had supervision and control over their preparation.

Restricted
practitioner

36(1) The Joint Board may recommend to the Council that a certificate of authorization be issued to an individual who is a registered architect who

(a) has historically competently provided a service in the practice of professional engineering in Alberta, and

(b) applies for the certificate within 1 year after the date of the coming into force of section 21.1 of *The Department of Housing and Public Works Act*.

(2) On receipt of a recommendation under subsection (1) the Council may approve the registration of an individual who has applied to the Council and is eligible under the by-laws to become registered as a restricted practitioner.

(3) If the Council approves the registration of an individual as a restricted practitioner, it shall specify in the certificate and in the register the restricted scope of the practice of engineering in which the individual is permitted to engage.

Exemption from
seal requirement

37 On the recommendation of the Joint Board, the Council may authorize an individual who is a registered architect under *The Architects Act, 1980* to apply for a permit under *The Alberta Uniform Building Standards Act* for a building of a type described in section 4.4 of *The Alberta Uniform Building Standards Act* without the final design drawings and specifications of the building having the seal of a professional engineer.

Cancellation

38(1) The Council may direct the Registrar to cancel the registration of

(a) a professional member, licensee or permit holder who is in default of payment of annual fees or any other fees, dues or levies payable under this Act, or

(b) a permit holder if it no longer has employees in compliance with this Act

after the expiration of 30 days following the service on the professional member, licensee or permit holder of a written notice by the

Council pursuant to subsection (2), unless the professional member, licensee or permit holder on whom the notice is served complies with the notice.

(2) The notice under subsection (1) shall state that the Registrar may cancel the registration unless

(a) the fees, dues or levies are paid as indicated in that notice, or

(b) evidence satisfactory to the Council has been received by it within the time prescribed in the notice indicating that the permit holder has employees in compliance with this Act.

(3) The Council may direct the Registrar to cancel the registration of a professional member, licensee or permit holder that was entered in error in the register.

(4) If the registration of a professional member, licensee or permit holder has been cancelled under this section, he shall forthwith surrender to the Registrar any certificate of registration, licence, permit, stamp or seal issued to him.

(5) If a registration has been cancelled pursuant to subsection (1), the Council may direct the Registrar, subject to any conditions that the Council may prescribe, to reinstate that registration in the applicable register and reissue the certificate of registration, licence or permit and the stamp or seal.

(6) Notwithstanding subsection (5), if a person applies to the Council to be reinstated more than 7 years after the date on which his registration was cancelled, the Council shall not direct the Registrar to reinstate him.

(7) Notwithstanding subsection (6), a person whose registration has been cancelled under this section may make an application to the Board of Examiners for registration as a professional member or licensee.

Cancellation of a
joint firm

39(1) The Council may direct the Registrar to cancel the registration of a joint firm that

(a) is in default of payment of annual fees or any other fees, dues or levies payable under this Act, or

(b) ceases to have at least 1 professional engineer and at least 1 registered architect to take the responsibility referred to in section 33(2)(b)

after the expiration of 1 month following the service on the joint firm of a written notice that the Council intends to cancel the registration, unless the joint firm on which the notice is served complies with the notice.

(2) The notice under subsection (1) shall state that the Registrar may cancel the registration unless

(a) the fees, dues or levies are paid as indicated in the notice, or

(b) the joint firm has at least 1 professional engineer and at least 1 registered architect to take the responsibility referred to in section 33(2)(b).

(3) If the registration of a joint firm has been cancelled under this section, the joint firm shall forthwith surrender to the Registrar the certificate of authorization and stamp issued to it.

(4) The Council may direct the Registrar, subject to any conditions that the Council may prescribe, to reinstate the joint firm in the applicable register and to reissue the certificate of authorization and stamp.

Cancellation of
restricted
practitioners

40(1) The Council may direct the Registrar to cancel the registration of a restricted practitioner who

(a) is in default of payment of annual fees or any other fees, dues or levies payable under this Act, or

(b) who is not a registered architect in good standing under *The Architects Act, 1980*,

after the expiration of 1 month following the service on the restricted practitioner of a written notice that the Council intends to cancel the registration unless the restricted practitioner on whom the notice is served complies with the notice.

(2) The notice under subsection (1) shall state that the Registrar may cancel the registration unless

(a) the fees, dues or levies are paid as indicated in the notice, or

(b) the restricted practitioner is a registered architect in good standing under *The Architects Act, 1980*.

(3) If registration of a restricted practitioner has been cancelled under this section, the restricted practitioner shall forthwith surrender to the Registrar the certificate of authorization and the stamp issued to it.

(4) The Council may direct the Registrar, subject to any condition that the Council may prescribe, to reinstate the restricted practitioner in the applicable register and to reissue the certificate of authorization and the stamp.

PART 5

DISCIPLINE

Definitions

41 In this Part,

- (a) “conduct” includes an act or omission;
- (b) “investigated person” means a professional member, licensee, permit holder, certificate holder or member-in-training with respect to whose conduct an investigation is held under this Part, and
- (c) “practice of the profession” means practice of engineering, practice of geology or practice of geophysics, as the case may be.

Complaints

42(1) A person may complain to the Registrar about the conduct of a professional member, licensee, permit holder, certificate holder or member-in-training, and the complaint shall be dealt with in accordance with this Part and the regulations.

(2) A complaint respecting the conduct of a professional member, licensee, permit holder or certificate holder whose registration was cancelled pursuant to this Act may, notwithstanding the cancellation, be dealt with within 2 years following the date of cancellation of the registration as if the cancellation had not occurred.

(3) Notwithstanding section 45, a person designated by the Registrar as a mediator may assist in settling a complaint if the complainant and the person about whose conduct the complaint was made agree, but if within 30 days from the date of receipt of the complaint or a longer period agreed to by those persons a settlement of the complaint between those persons does not occur, or in the mediator's opinion is not likely to occur, the complaint shall be referred forthwith by the mediator to the Discipline Committee.

Determination of unprofessional conduct and unskilled practice

43(1) Any conduct of a professional member, licensee, permit holder, certificate holder or member-in-training that in the opinion of the Discipline Committee or the Council

- (a) is detrimental to the best interests of the public,
- (b) contravenes a code of ethics of the profession as established under the regulations,
- (c) harms or tends to harm the standing of the profession generally,
- (d) displays a lack of knowledge of or lack of skill or judgment in the practice of the profession, or
- (e) displays a lack of knowledge of or lack of skill or judgment

in the carrying out of any duty or obligation undertaken in the practice of the profession,

whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee finds.

(2) If an investigated person fails to comply with or contravenes this Act, the regulations or the by-laws, and the failure or contravention is, in the opinion of the Discipline Committee, of a serious nature, the failure or contravention may be found by the Discipline Committee to be unprofessional conduct whether or not it would be so found under subsection (1).

Discipline
Committee

44(1) The Council shall establish a Discipline Committee the members of which shall be appointed in accordance with the regulations.

(2) The Council shall make regulations governing, subject to this Part, the operation and proceedings of the Discipline Committee, the designation of a chairman, the appointment of acting members and the procedures for filling vacancies in the offices of chairman and the membership and the appointment of ex officio members, and prescribing their powers, duties and functions.

(3) A regulation made under subsection (2) does not come into force unless it has been approved by the Lieutenant Governor in Council.

Preliminary
investigation

45 The Discipline Committee or a person appointed by it shall forthwith upon the receipt of a complaint appoint a person to conduct a preliminary investigation with respect to the matter.

Notice of
preliminary
investigation

46 The Registrar shall forthwith send notice in writing to the investigated person that a preliminary investigation is being conducted.

Evidence for
preliminary
investigation

47(1) A person conducting a preliminary investigation may

(a) require the investigated person to produce to him any plans, drawings, detailed drawings, specifications, reports, books, papers or other documents or records in the investigated person's possession or under his control, and

(b) copy and keep copies for the purposes of this Part of any of the documents or records that are produced to him.

(2) A person conducting a preliminary investigation into the conduct of a professional member, licensee, permit holder, certificate holder or member-in-training may investigate any other matter regarding the conduct of the investigated person that arises in the course of the investigation.

Report to the
Discipline
Committee

48 The person conducting a preliminary investigation shall, forthwith on concluding the preliminary investigation, report his findings to the Discipline Committee.

Termination of investigation

49(1) The Discipline Committee may terminate the investigation at any time if it is of the opinion that the complaint is frivolous or vexatious.

(2) On terminating an investigation the Discipline Committee shall direct the Registrar to serve on the investigated person and on the complainant, if any, a notice in accordance with the by-laws that the investigation has been terminated.

(3) A complainant who is served with a notice under subsection (2) informing him that the investigation has been terminated may, by notice in writing to the Registrar within 30 days of receipt of the notice under subsection (2), appeal that decision to the Council.

(4) On an appeal under subsection (3), the Council shall determine whether the complaint

(a) is frivolous or vexatious, or

(b) should be referred to the Discipline Committee for a hearing in accordance with this Part,

and shall notify the complainant, the investigated person and the Discipline Committee in writing of its decision.

Duty of Discipline Committee

50(1) If the investigation is not terminated under section 49, the Discipline Committee shall hold a hearing into the complaint forthwith.

(2) The Registrar shall serve on the investigated person and on the complainant, if any, a notice of hearing stating the date, time and place at which the Discipline Committee will hold the hearing and giving reasonable particulars of the conduct or complaint in respect of which the hearing will be held.

Further investigation

51(1) The Discipline Committee may also investigate and hear any other matter concerning the conduct of the investigated person that arises in the course of the hearing, but in that event the Committee shall declare its intention to investigate and hear the further matter and shall permit the person sufficient opportunity to prepare his answer to the further matter.

(2) Sections 53 to 59 apply to an investigation and hearing of a further matter under subsection (1).

Suspension pending investigation and hearing

52 Notwithstanding anything in this Act, the Discipline Committee may suspend the registration of a professional member, licensee, permit holder, certificate holder or member-in-training pending a preliminary investigation of his conduct and a decision by the Discipline Committee as to that conduct.

Right to counsel and to appearance

53 The Association, the investigated person and the complainant, if any, may appear and be represented by counsel at a hearing before the Discipline Committee.

Proceedings in camera

54 All proceedings under this Part except those before the Court or the Court of Appeal shall be held in camera.

Evidence

55(1) Evidence may be given before the Discipline Committee in any manner that the Committee considers appropriate, and the Committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

(2) For the purposes of an investigation, hearing or review under this Act, the Registrar or any member of the Council, the Discipline Committee or the Practice Review Board is conferred with the power of a commissioner of oaths under *The Commissioners for Oaths Act*.

Witnesses and documents

56(1) The investigated person and any other person who in the opinion of the Discipline Committee has knowledge of the complaint or any conduct being investigated is a compellable witness in any proceeding under this Part.

(2) A witness may be examined on oath on all matters relevant to the investigation or hearing and shall not be excused from answering any question on the ground that the answer might

(a) tend to incriminate him,

(b) subject him to punishment under this Part, or

(c) tend to establish his liability

(i) to a civil proceeding at the instance of the Crown or of any other person, or

(ii) to prosecution under any Act or regulations under any Act,

but if the answer so given tends to incriminate him, subjects him to punishment or tends to establish his liability, it shall not be used or received against him in any civil proceedings or in any proceedings under any other Act.

(3) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court on an application ex parte by the Association may direct the issuing of a commission for the obtaining of the evidence of the witness, and the commission shall be issued and the evidence taken pursuant to the Alberta Rules of Court.

Enforcement of attendance and production of documents

57(1) The attendance of witnesses before the Discipline Committee and the production of plans, drawings, detail drawings, specifications, reports, books, papers and other documents or 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 plans, drawings, detail drawings, specifications, books, papers and other documents or records, if any, he is required to produce.

(2) On the written request of the investigated person or of his counsel or agent, the Registrar shall without charge issue and deliver to that person or his counsel or agent any notices that he may require for the attendance of witnesses or the production of documents or records.

(3) A witness other than the investigated person who has been served with a notice to attend or a notice for the production of documents or records under subsection (1) or (2) is entitled to be paid the same fees as are payable to witnesses in an action in the Court.

Failure to give
evidence

58(1) Proceedings for civil contempt of court may be brought against a witness

(a) who fails

(i) to attend before the Discipline Committee in compliance with a notice to attend,

(ii) to produce any books, papers or other documents or records in compliance with a notice to produce them, or

(iii) in any way to comply with either notice,

or

(b) who refuses to be sworn or to answer any question directed to be answered by the Discipline Committee.

(2) If the witness referred to in subsection (1) is the investigated person, his failure or refusal may be held to be unprofessional conduct.

(3) The Discipline Committee, on proof of service of the notice of investigation on the investigated person and the complainant, if any, may

(a) proceed with the investigation in the absence of either or both of those persons, and

(b) act on the matter being investigated in the same way as though either or both of those persons were in attendance.

Finding by the
Discipline
Committee

59(1) The Discipline Committee may find that the conduct of an investigated person constitutes neither unskilled practice of the profession nor unprofessional conduct.

(2) The Discipline Committee may find that the conduct of an investigated person constitutes unskilled practice of the profession or unprofessional conduct or both and shall deal with the investigated person in accordance with this Part.

Powers of the
Discipline
Committee

60 If the Discipline Committee finds that the conduct of the

investigated person is unprofessional conduct or unskilled practice of the profession or both, the Discipline Committee may make any one or more of the following orders:

- (a) reprimand the investigated person;
- (b) suspend the registration of the investigated person for a specified period;
- (c) suspend the registration of the investigated person either generally or from any field of practice until
 - (i) he 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 generally or in a specified field of practice;
- (d) accept in place of a suspension the investigated person's undertaking to limit his practice;
- (e) impose conditions on the investigated person's entitlement to engage in the practice of the profession generally or in any field of the practice, including the conditions that he
 - (i) practise under supervision,
 - (ii) not engage in sole practice,
 - (iii) permit periodic inspections by a person authorized by the Discipline Committee, or
 - (iv) report to the Discipline Committee on specific matters;
- (f) direct the investigated person to pass a particular course of study or satisfy the Discipline Committee as to his practical competence generally or in a field of practice;
- (g) direct the investigated person to satisfy the Discipline Committee that a disability or addiction can be or has been overcome, and suspend the person until the Discipline Committee is so satisfied;
- (h) require the investigated person to take counselling or to obtain any assistance that in the opinion of the Discipline Committee is appropriate;
- (i) direct the investigated person to waive, reduce or repay a fee for services rendered by the investigated person that, in the opinion of the Discipline Committee, were not rendered or were improperly rendered;
- (j) cancel the registration of the investigated person;

(k) any other order that it considers appropriate in the circumstances.

Order to pay costs
or a fine

61(1) The Discipline Committee may, in addition to or instead of dealing with the investigated person in accordance with section 60, order that the investigated person pay

- (a) the costs of the hearing in accordance with the by-laws,
- (b) a fine not exceeding \$10 000 to the Association, or
- (c) both the costs under clause (a) and a fine under clause (b),

within the time fixed by the order.

(2) If the investigated person ordered to pay a fine, costs or both under subsection (1) fails to pay the fine, costs or both within the time ordered, the Discipline Committee may suspend the registration of that person until he has paid the fine, costs or both.

(3) A fine or costs ordered to be paid to the Association under this section is a debt due to the Association and may be recovered by the Association by civil action for debt.

Service of written
decision

62(1) The Discipline Committee shall, within a reasonable time after the conclusion of a hearing, make a written decision on the matter, in which it shall

- (a) describe each finding made in accordance with this Part,
- (b) state the reasons for each finding made, and
- (c) state any order made under this Part.

(2) The Discipline Committee shall immediately forward to the Registrar

- (a) the decision, and
- (b) the record of the hearing, consisting of all evidence presented before it, including
 - (i) all exhibits,
 - (ii) all documents and records, and
 - (iii) a transcript of all testimony given before it, whether recorded electronically, mechanically or in handwritten form.

(3) The Registrar shall, immediately on receiving the decision and the record of the hearing referred to in subsection (2), serve

- (a) a copy of the decision on the investigated person, and

(b) a notice of the nature of the decision on the complainant, if any.

(4) The investigated person or his counsel or agent may examine the record or any part of the record of the proceedings and hear any recording or examine any mechanical or handwritten form of record of any testimony.

Suspension or
cancellation
pending appeal

63(1) Notwithstanding an appeal under this Part, the Discipline Committee may order that its decision remain in effect until the time that the Council, the Court or the Court of Appeal, as the case may be, makes its decision on the appeal.

(2) An investigated person may, by filing an originating notice with the Court and serving a copy on the Registrar, apply for an order of the Court staying the decision of the Discipline Committee pending the determination of the appeal.

(3) The Court may hear an application made under this section not less than 10 days after the originating notice has been served on the Registrar.

(4) On hearing an application made under this section the Court may, subject to any conditions that it considers proper, stay the decision of the Discipline Committee pending the determination of the appeal.

Appeal to Council

64(1) An investigated person may appeal to the Council

(a) a finding made by a Discipline Committee in accordance with section 59,

(b) any order of the Discipline Committee under section 60 or 61, or

(c) a finding referred to in clause (a) and an order referred to in clause (b).

(2) An appeal under subsection (1) shall be commenced by a written notice of appeal that shall

(a) describe the finding or order appealed from,

(b) state the reasons for the appeal, and

(c) be served on the Registrar not more than 30 days after the date that the decision of the Discipline Committee was served on the investigated person.

(3) The Registrar shall, on receiving a notice of appeal under subsection (2), give the Council a copy of the notice of appeal and make the record of the hearing available to each member of the Council.

Time of appeal

65(1) The Council, on receiving a notice of appeal under section 64, shall serve on the investigated person a notice of hearing of an appeal stating the date, time and place that the Council will hear the matters appealed.

(2) The Council shall hear an appeal forthwith.

Powers of the Council on appeal

66(1) A member of the Discipline Committee who is also a member of the Council may participate in an appeal before the Council but shall not vote in a decision of the Council on the appeal.

(2) The Council on an appeal may do any or all of the following:

(a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Council;

(b) receive further evidence on granting special leave for that purpose;

(c) draw inferences of fact and make a determination or finding that in its opinion ought to have been made by the Discipline Committee;

(d) order that the matter be referred back to the Discipline Committee.

(3) Sections 53 to 59, 62 and 63 apply to the hearing of an appeal by the Council.

(4) The Council shall forthwith after the date of the conclusion of all proceedings before it,

(a) make any finding as to the conduct of the investigated person that in its opinion ought to have been made by the Discipline Committee,

(b) quash, vary or confirm the finding or order of the Discipline Committee or substitute or make a finding or order of its own, or

(c) refer the matter back to the Discipline Committee for further consideration in accordance with any direction that the Council may make.

(5) The Council may order the investigated person to pay the costs of the appeal determined in accordance with the by-laws.

Appeal to the Court

67(1) An investigated person may appeal to the Court on mixed questions of law and fact relating to any finding or order made by the Council under section 66.

(2) The Association shall be the respondent in an appeal under subsection (1) and may make representations to the Court.

- (3) An appeal under this section shall be commenced
- (a) by filing an originating notice with the clerk of the Court, and
 - (b) by serving a copy of the originating notice on the Registrar,
- both within 30 days from the date that the decision of the Council is served on the investigated person.
- (4) An appeal under this section shall be dealt with by the Court as a new trial.

Appeal to the
Court of Appeal

68(1) An investigated person may appeal to the Court of Appeal on a question of law relating to any finding or order made by the Council under section 66.

(2) The Association shall be the respondent in an appeal under subsection (1) and may make representations to the Court of Appeal.

- (3) An appeal under this section shall be commenced
- (a) by filing a notice of appeal with the Registrar of the Court of Appeal in Edmonton or Calgary, and
 - (b) by serving a copy of the notice of appeal on the Registrar,
- both within 30 days from the date on which the decision of the Council is served on the investigated person.

Order for stay
pending appeal

69 The appellant may, after commencing an appeal and on notice to the Registrar, apply to the Court or the Court of Appeal, as the case may be, for an order staying all or any part of the order or decision of the Council appealed.

Material in support
of appeal

70(1) An appeal under section 67 or 68 shall be supported by copies, certified by the Registrar, of the decision of the Council and the record of the appeal before the Council.

(2) The Registrar, on being paid any disbursements and expenses in connection with a request made by the appellant or his solicitor or agent, shall furnish to the appellant or his solicitor or agent the number of copies so requested of the documents mentioned in subsection (1).

Power of the court
on appeal

71(1) The Court or the Court of Appeal on hearing the appeal may do any or all of the following:

- (a) make any finding that in its opinion ought to have been made;
- (b) quash, confirm or vary the order or decision of the Council or any part of it;

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

(2) The Court or the Court of Appeal may make any award as to the costs of an appeal to it that it considers appropriate.

Fraudulent
registration

72(1) If the Council is satisfied, after a hearing on the matter, that a person whose registration is entered in the register obtained registration by means of any false or fraudulent representation or declaration, either oral or written, the Council shall order that his registration be cancelled.

(2) The provisions of this Part respecting the procedures of the Discipline Committee apply to a hearing held by the Council under subsection (1).

Surrender of
certificates

73(1) If the registration of a professional member, licensee, permit holder or certificate holder has been cancelled or suspended under this Part, he shall forthwith surrender to the Registrar any certificate, licence, permit, stamp or seal issued to him.

(2) If the registration of a professional member, licensee, permit holder or certificate holder has been cancelled under this Part, the registration shall not be reinstated in the register except by order of the Council, the Court or the Court of Appeal.

(3) No order shall be made under subsection (2) within 1 year after

(a) the date on which the registration was cancelled, or

(b) if an order was granted staying the imposition of a punishment imposed by the Council and the punishment is later confirmed by the Court or the Court of Appeal, the date on which the Court or the Court of Appeal made its order confirming the punishment.

(4) A member of the Council who is a member of a committee of inquiry appointed pursuant to the regulations to consider an application under this Part for reinstatement of registration may participate in or vote at any proceedings of the Council under this section, and the Registrar and the Association's solicitor may participate in those proceedings.

Misrepresentation
of status

74 The conduct of a person who is or was registered as a professional member, licensee, permit holder or certificate holder who represents or holds out that he is registered and in good standing while his registration is suspended or cancelled may be dealt with as being unprofessional conduct in accordance with this Part.

Publication

75 After a finding or order is made by the Discipline Committee, the Council, the Court or the Court of Appeal under this Part, the name of the investigated person may be published in accordance with regulations.

PART 6

GENERAL

- Use of stamp or seal **76(1)** A professional member, licensee or restricted practitioner shall sign and stamp or seal all documents or records in accordance with the regulations.
- (2) No person other than a professional member, licensee, permit holder or certificate holder shall use a stamp or seal issued by the Registrar under this Act.
- Liability to others **77(1)** The relationship between a permit holder or certificate holder engaged in the practice of engineering, geology or geophysics and a person receiving the professional services of the permit holder or certificate holder is subject to this Act, the regulations and any other law applicable to the relationship between a professional member and his client.
- (2) The relationship of a professional member or licensee to a permit holder, whether as member, shareholder or employee of the permit holder, does not affect, modify or diminish the application of this Act, the regulations and by-laws
- (a) to him personally as a professional member or licensee, or
- (b) to the relationship between the professional member and his client.
- Registrar's certificate **78(1)** 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 professional member, licensee or certificate holder, or
- (b) an officer of the Association or a member of the Council
- shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the Registrar's appointment or signature.
- (2) A certificate purporting to be signed by the Registrar and stating that a named corporation, partnership or other association of persons was or was not, on a specified day or during a specified period, a permit holder or certificate holder shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the Registrar's appointment or signature.
- Protection from liability **79(1)** No action lies against
- (a) any person conducting a preliminary investigation, a member

of the Discipline Committee, the Practice Review Board, the Council or the Board of Examiners, the Registrar, the Association or any person acting on the instructions of any of them, or

(b) any member, officer or employee of the Association

for anything done by him in good faith and in purporting to act under this Act, the regulations or the by-laws.

(2) No action for defamation may be founded on a communication that consists of or pertains to a complaint regarding the conduct of a professional member, licensee, permit holder, certificate holder or member-in-training, if the communication is published to or by

(a) the Association,

(b) a member of the Council, the Discipline Committee, the Practice Review Board or the Board of Examiners,

(c) a person conducting a preliminary investigation,

(d) an officer or employee of the Association, or

(e) a person acting on the instructions of any of them

in good faith in the course of investigating the complaint or in the course of any proceedings under Part 5 relating to the complaint.

PART 7

PROHIBITIONS AND PENALTIES

Practice
prohibitions

80(1) A person whose registration as a professional engineer, professional geologist, professional geophysicist, licensee, permit holder or certificate holder is cancelled or suspended under this Act shall not, without the consent of the Council, engage in the practice of engineering, geology or geophysics, as the case may be, or directly or indirectly associate himself or itself in the practice of engineering, geology or geophysics with any other professional member, licensee, permit holder or certificate holder.

(2) No professional engineer, professional geologist, professional geophysicist, licensee, permit holder or certificate holder shall, except with the consent of the Council, associate in the practice of engineering, geology or geophysics, as the case may be, directly or indirectly with or employ in connection with his practice a person whose registration has been cancelled or suspended under this Act.

(3) The Council may permit a professional member, licensee, permit holder or certificate holder to employ in connection with his practice a person whose registration has been cancelled or suspended under

this Act, but the employment shall be in the capacity and subject to the terms and conditions that are prescribed by the Council.

Penalties

81(1) Every person and every member, officer, employee or agent of a firm, partnership or other association of persons and of a corporation who contravenes Part 1, sections 28(2)(b), or 38(4) or this Part is guilty of an offence and liable on summary conviction

- (a) for the 1st offence, to a fine of not more than \$2000,
- (b) for the 2nd offence, to a fine of not more than \$4000, and
- (c) for the 3rd and each subsequent offence, to a fine of not more than \$6000 or to imprisonment for a term of not more than 6 months or to both a fine and imprisonment.

(2) A prosecution under this section may be commenced within 2 years after the commission of the alleged offence, but not afterwards.

Onus of proof

82 In a prosecution under this Act, the burden of proving that a person is a professional engineer, professional geologist, professional geophysicist, licensee, permit holder or certificate holder is on the accused.

PART 8

TRANSITIONAL AND CONSEQUENTIAL

Registration
continued

83(1) In this Part, “former Act” means *The Engineering and Related Professions Act*, being chapter 124 of the Revised Statutes of Alberta 1970.

(2) An individual who holds a certificate of registration as a registered member under section 23 of the former Act is deemed to be a professional engineer, professional geologist or professional geophysicist, as the case may be, and the holder of an annual certificate under this Act.

(3) A permit holder that holds a permit under section 22 of the former Act is deemed to be a permit holder and the holder of a permit under this Act.

(4) An individual who holds a certificate of registration as a licensee under section 23 of the former Act is deemed to be a licensee and the holder of a licence under this Act.

(5) A joint firm that holds a certificate of authorization under section 20.4 of the former Act is deemed to be a certificate holder under this Act.

(6) A restricted practitioner who holds a certificate of authorization

under section 20.7 of the former Act is deemed to be a certificate holder under this Act.

(7) The Registrar shall, in the appropriate register established pursuant to this Act,

(a) register the names of those individuals referred to in subsection (2) and the names of those permit holders referred to in subsection (3), and

(b) unless the Council otherwise directs in a particular case, register the names of those individuals and firms referred to in subsections (4), (5) and (6).

Council members
continued

84 The members of the council of the Association elected under the former Act are deemed to be members of the Council under this Act, elected for the same periods and holding the same offices.

Applications for
registration
continued

85 An application for registration made but not concluded before the coming into force of this Act shall be dealt with under the former Act.

Discipline
proceedings
continued

86 Any complaints or discipline proceedings that were commenced but not concluded before the coming into force of this Act shall be concluded under the former Act as though this Act had not come into force.

Amends 1980 c58

87 *The Architects Act, 1980 is amended by striking out “The Engineering and Related Professions Act” wherever it occurs in the following provisions and substituting “The Engineering, Geological and Geophysical Professions Act”:*

section 3(1), (2) and (3);
section 17(1);
section 18(2).

Amends RSA 1970
c62

88 *The Condominium Property Act is amended in section 8(1)(b)*

(a) by striking out “The Engineering and Related Professions Act” wherever it appears and substituting “The Engineering, Geological and Geophysical Professions Act”, and

(b) in subclause (iv) by striking out “professional engineering” and substituting “the practice of engineering”.

Amends 1975(2)
c13

89 *The Department of Housing and Public Works Act is amended in section 21.1(1) as enacted by section 78 of The Architects Act, 1980 by striking out “The Engineering and Related Professions Act” and substituting “The Engineering, Geological and Geophysical Professions Act”.*

Amends RSA 1970
c115

90 *The Drainage Districts Act is amended in section 27(3) by striking out “The Engineering and Related Professions Act” and*

substituting “The Engineering, Geological and Geophysical Professions Act”.

Amends RSA 1970
c192

91 *The Irrigation Act is amended in section 39(5) by striking out “The Engineering and Related Professions Act” and substituting “The Engineering, Geological and Geophysical Professions Act”.*

Amends RSA 1970
c207

92 *The Licensing of Trades and Businesses Act is amended in section 3(b) by striking out “The Engineering and Related Professions Act” and substituting “The Engineering, Geological and Geophysical Professions Act”.*

Amends RSA 1970
c246

93 *The Municipal Government Act is amended by adding the following between sections 214 and 215:*

214.3 Section 214 does not empower a council to make a by-law that has the effect of requiring a professional engineer, licensee, permit holder or certificate holder under *The Engineering, Geological and Geophysical Professions Act* to obtain a licence to engage in the practice of engineering or to carry on the practice or profession of a professional engineer in the municipality.

Amends 1973 c85

94 *The Alberta Uniform Building Standards Act is amended in sections 4.3 and 4.4 as enacted by section 80 of The Architects Act, 1980*

(a) by striking out “The Engineering and Related Professions Act” wherever it occurs and substituting “The Engineering, Geological and Geophysical Professions Act”, and

(b) by adding “or licensee” after “professional engineer” wherever it occurs.

Amends RSA 1970
c388

95 *The Water Resources Act is amended in section 2(1), clause 9.1 by striking out “The Engineering and Related Professions Act” and substituting “The Engineering, Geological and Geophysical Professions Act”.*

Repeals RSA 1970
c124

96 *The Engineering and Related Professions Act is repealed on Proclamation.*

Coming into force

97 This Act comes into force on Proclamation.