

1984 BILL 46

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Second Session, 20th Legislature, 33 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 46**

**ENGINEERING, GEOLOGICAL AND GEOPHYSICAL  
PROFESSIONS AMENDMENT ACT, 1984**

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THE MINISTER OF PUBLIC WORKS,  
SUPPLY AND SERVICES

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 46

1984

### ENGINEERING, GEOLOGICAL AND GEOPHYSICAL PROFESSIONS AMENDMENT ACT, 1984

(Assented to \_\_\_\_\_, 1984)

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

1 *The Engineering, Geological and Geophysical Professions Act is amended by this Act.*

2 *Section 1 is amended*

(a) *by adding the following after clause (i):*

(i.01) “member of the Association” means a person who is registered as a professional member or a member of a class or category of membership established under this Act;

(b) *in clause (i.1)*

(i) *by adding “, in sections 14, 15 and 29,” after “means”;*

(ii) *in subclause (iii) by adding “professional” before “member”;*

(c) *in clause (u) by striking out “registered as a member of the Association pursuant to this Act”.*

3 *Section 2(4) is amended*

(a) *in clause (b) by striking out “, technician or” and substituting “or engineering”;*

(b) *in clause (c) by striking out “a technician or” and substituting “an engineering”;*

(c) *in clause (e) by striking out “general”;*

(d) *by adding the following after clause (f):*

(g) a person engaged or employed by a university whose practice of the profession consists exclusively of teaching engineering at the university.

## Explanatory Notes

1 This Bill will amend chapter E-11.1 of the Statutes of Alberta, 1981.

2 Section 1(i), (i.1) and (u) presently read:

1 In this Act,

(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;

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

3 Section 2(1) and (4)(b), (c), (e) and (f) presently read:

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.

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

(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;

(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.

**4** *Section 3 is amended*

*(a) in clause (a)(i) by striking out “or any” and substituting “, the abbreviation “P. Eng.” or any other”;*

*(b) in clause (c)*

*(i) by striking out “that stamp” and substituting “that stamp or seal”;*

*(ii) in subclause (ii) by striking out “the stamp is” and substituting “the stamp or seal is”.*

**5** *Section 5(2) is amended*

*(a) by renumbering clause (a) as (a.1) and by adding the following before clause (a.1):*

*(a) a person engaged in the execution or supervision of the construction, maintenance, operation or inspection of any geological investigation, study, work or instrumentation in the capacity of contractor, superintendent, foreman or inspector, or in any similar capacity, when the investigation, study, work or instrumentation has been designed by and the execution or supervision is being carried out under the supervision and control of a professional geologist or licensee;*

*(b) in clause (a.1) by striking out “, geological technician or” and substituting “or geological”;*

*(c) in clause (b) by striking out “technician or”;*

*(d) by adding the following after clause (d):*

*(e) a person engaged or employed by a university whose practice of the profession consists exclusively of teaching geology at the university.*

**4** Section 3 presently reads:

*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.*

**5** Section 5(2) presently reads:

*(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.*

6 *Section 6 is amended*

(a) *in clause (a)(i) by striking out “or any” and substituting “, the abbreviation “P. Geol.” or any other”;*

(b) *by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following after clause (b):*

(c) affix the stamp or seal of a professional geologist, licensee or permit holder or permit that stamp or seal to be affixed to a map, geological cross-section, specification, report or other document or a reproduction of any of them unless

(i) that map, geological cross-section, specification, report, other document or reproduction was prepared by or under the supervision and control of, and

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

the professional geologist or licensee to whom or the permit holder to which the stamp or seal was issued.

7 *Section 7(2) is amended*

(a) *by renumbering clause (a) as (a.1) and by adding the following before clause (a.1):*

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

(b) *in clause (a.1) by striking out “, geophysical technician or” and substituting “or geophysical”;*

(c) *in clause (b) by striking out “technician or”;*

(d) *by adding the following after clause (d):*

(e) a person engaged or employed by a university whose practice of the profession consists exclusively of teaching geophysics at the university.

8 *Section 8 is amended*

(a) *in clause (a)(i) by striking out “or any” and substituting “, the abbreviation “P. Geoph.” or any other”;*

(b) *by adding “or” at the end of clause (b) and by adding the following after clause (b):*

(c) affix the stamp or seal of a professional geophysicist, licensee or permit holder or permit that stamp or seal to be affixed to a map, geophysical cross-section, specification, report or other document or a reproduction of any of them unless

**6** Section 6 presently reads:

*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.*

**7** Section 7(2) presently reads:

*(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.*

**8** Section 8 presently reads:

*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,*

- (i) that map, geophysical cross-section, specification, report, other document or reproduction was prepared by or under the supervision and control of, and
- (ii) the stamp or seal is affixed with the knowledge and consent or in accordance with the direction of the professional geophysicist or licensee to whom or the permit holder to which the stamp or seal was issued.

9 *Section 18 is amended*

(a) *in subsection (1)*

(i) *by repealing clause (n.1) and substituting the following:*

(n.1) for the purposes of sections 2(4), 5(2) and 7(2), designating a class of persons as engineering, geological or geophysical technologists;

(n.2) respecting the titles that may be used by engineering, geological or geophysical technologists and the circumstances and the conditions under which the titles may be used and prohibiting any other person from using those titles or from representing or holding out, expressly or by implication, that he is entitled to use the titles;

(n.3) respecting the academic and other qualifications and the experience required of a technologist before he becomes entitled to use a title referred to in clause (n.2);

(n.4) respecting the establishment of a register of technologists entitled to use a title referred to in clause (n.2);

(n.5) governing the establishment of boards or committees with respect to engineering, geological or geophysical technologists and respecting the powers, duties and operations of those boards or committees;

(n.6) respecting the circumstances under which a board or committee established under clause (n.5) may suspend or terminate the right of a technologist to use a title referred to in clause (n.2);

(n.7) respecting the stamp issued to an engineering, geological or geophysical technologist and the circumstances under which it is to be surrendered by the technologist;

(ii) *by adding the following after clause (t):*

(u) respecting the service on any person of a document or notice required to be served under this Act.

(b) *by adding the following after subsection (1):*

(1.1) The Council shall consult with the Alberta Society of Engineering Technologists before making a regulation under subsection (1)(n.1) to (n.7).

10 *Section 23(1) is amended by adding “or continued, incorporated or registered under the *Business Corporations Act*” after “*Companies Act*”.*



- (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.*

**9** Section 18(1)(n.1) and (t) presently read:

*18(1) The Council may make regulations*

*(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;*

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

**10** Section 23(1) presently reads:

*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 Coun-*

*11 The following is added after section 29(1):*

(1.1) Notwithstanding subsection (1), the Minister shall appoint as a member of the Board of Examiners 1 person from a list of no fewer than 3 members of the public nominated by the Council.

(1.2) If the Council fails, within a reasonable period of time after being requested to do so by the Minister, to make nominations for the purposes of subsection (1.1), the Minister may appoint 1 member of the public to the Board of Examiners without the Council's nomination.

(1.3) The Minister may pay to the member of the Board appointed under subsection (1.1) 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.

(1.4) The Minister may, after consultation with the Council, revoke the appointment under subsection (1.1) of a member of the public.

(1.5) 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 (1.1),

(b) the revocation under subsection (1.4) 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.

(1.6) The failure of a member of the public appointed under subsection (1.1) 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.

*12 Section 30(1)(d) is repealed and the following is substituted:*

(d) he meets the requirements of the regulations.

*13 Section 42(3) is amended by striking out "forthwith by the mediator" and substituting "forthwith by the Registrar".*

*cil 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.*

**11** Section 29(1) presently reads:

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

**12** Section 30(1)(d) presently reads:

*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*

*(d) his education and his experience meet the requirements of the regulations and by-laws.*

**13** Section 42(3) presently reads:

*(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.*

*14 Section 44 is amended*

*(a) by adding the following after subsection (2):*

(2.1) The Council may make regulations respecting the hearing of a matter under this Part by a panel of the Discipline Committee.

*(b) in subsection (3) by adding “or (2.1)” after “subsection (2)”.*

*15 Section 49(1) is repealed and the following is substituted:*

**49(1)** The Discipline Committee may terminate an investigation at any time if it is of the opinion that

(a) the complaint is frivolous or vexatious, or

(b) there is insufficient evidence of unskilled practice of the profession or unprofessional conduct.

*16 The following is added after section 50(1):*

(1.1) Notwithstanding subsection (1), if proceedings in respect of the same circumstances or events are commenced in Provincial Court or the Court of Queen’s Bench, the Discipline Committee may adjourn the hearing.

*17 Section 52 is amended*

*(a) by renumbering it as section 52(1);*

*(b) in subsection (1) by striking out “of his conduct and a decision by the Discipline Committee as to that conduct” and substituting “or a decision of the Discipline Committee”;*

*(c) by adding the following after subsection (1):*

(2) A person whose registration is suspended under subsection (1) 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 suspension.

*18 Section 53 is amended by striking out “, the investigated person and the complainant, if any,” and substituting “and the investigated person”.*

*19 Section 61(1)(a) is amended by adding “all or part of” before “the costs”.*

*20 Section 63(1) is amended by striking out “, the Court or” and substituting “or”.*

**14** Section 44(2) and (3) presently read:

*(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.*

**15** Section 49(1) presently reads:

*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.*

**16** Section 50(1) presently reads:

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

**17** Section 52 presently reads:

*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.*

**18** Section 53 presently reads:

*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.*

**19** Section 61(1)(a) presently reads:

*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,*

**20** Section 63(1) presently reads:

*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.*

21 *Section 64 is amended*

- (a) in subsection (1) by adding “or the Registrar” after “person”;*
- (b) in subsection (2)(c) by adding “or the investigated person, as the case may be,” after “Registrar”;*
- (c) in subsection (3) by striking out “on receiving” and substituting “on being served with or on serving the investigated person with”.*

22 *Section 66(5) is amended by adding “all or part of” after “pay”.*

23 *Section 67 is repealed.*

24 *Section 68(1) is repealed and the following is substituted:*

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

25 *Section 69 is amended by striking out “Court or the Court of Appeal, as the case may be,” and substituting “Court of Appeal”.*

26 *Section 70(1) is amended by striking out “67 or”.*

**21** Section 64 presently reads:

*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.*

**22** Section 66(5) presently reads:

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

**23** Section 67 presently reads:

*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.*

**24** Section 68(1) presently reads:

*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.*

**25** Section 69 presently reads:

*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.*

**26** Section 70(1) presently reads:

*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.*

27 *Section 71 is amended*

(a) *by striking out “Court or the” wherever it occurs;*

(b) *by adding the following after subsection (1)(c):*

(d) direct that a new trial of any mixed questions of law and fact relating to a finding or order or to both a finding and an order of the Council made under section 66 be held before the Court.

28 *Section 76(1) is amended*

(a) *by adding “, permit holder” after “licensee”;*

(b) *by striking out “all”.*

29 *Section 77(2)(b) is amended by adding “or licensee” after “member”.*

30 *Section 81 is amended<sup>d.</sup>*

(a) *in subsection (1), by striking out “sections 28(2)(b), or 38(4) or this Part” and substituting “section 28(2)(b), section 38(4), this Part or a regulation made under section 18(1)(n.2)”;*

(b) *by adding the following after subsection (1):*

(1.1) If a person or a member, officer, employee or agent of a firm, partnership or other association of persons or of a corporation is found guilty of an offence in respect of a regulation made under section 18(1)(n.2), the court may, in addition to or instead of imposing any other penalty, order the person, member, officer, employee or agent to comply with the regulations made under section 18(1)(n.2).

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*In accordance with section 4(1) of the Interpretation Act,  
this Bill comes into force on the date it receives Royal  
Assent.*



**27** Section 71 presently reads:

*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.*

**28** Section 76(1) presently reads:

*76(1) A professional member, licensee or restricted practitioner shall sign and stamp or seal all documents or records in accordance with the regulations.*

**29** Section 77(2) presently reads:

*(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.*

**30** Section 81 presently reads:

*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*

- (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.*