

1995 BILL 21

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Third Session, 23rd Legislature, 44 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 21

**ENGINEERING, GEOLOGICAL AND GEOPHYSICAL  
PROFESSIONS AMENDMENT ACT, 1995**

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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 21

1995

### ENGINEERING, GEOLOGICAL AND GEOPHYSICAL PROFESSIONS AMENDMENT ACT, 1995

(Assented to \_\_\_\_\_, 1995)

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

Amends SA  
1981 cE-11.1

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

2 *Section 1 is amended*

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

(a) "Appeal Board" means the Appeal Board established  
under section 17.1;

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

(f.1) "Investigative Committee" means the Investigative  
Committee established by the Council pursuant to  
section 44.1;

3 *Section 3 is amended*

(a) *by striking out " , permit holder or joint firm" wherever it  
occurs and substituting "or permit holder";*

(b) *in clause (c) by striking out "or the permit holder or joint  
firm to which" and substituting "or the permit holder to  
which".*

## Explanatory Notes

**1** Amends chapter E-11.1 of the Statutes of Alberta, 1981.

**2** New definitions added.

**3** 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", the abbreviation "P. Eng." or any other 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*

4 *Section 14 is amended*

(a) *by repealing subsection (2)(b) and substituting the following:*

(b) *when the total number of elected professional members does not exceed 20, three members of the public, who shall be appointed by the Minister, after consultation with the Association, for a 3-year term of office.*

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

**(2.1)** *For each 10 elected professional members by which the membership of the Council exceeds 20, an additional member of the public shall be appointed by the Minister, after consultation with the Association, for a 3-year term of office.*

5 *Section 15(1)(a) is amended by adding “, one of whom must be a member of the Council,” after “professional members”.*

*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 or seal 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 or seal 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.*

**4** Section 14(2) presently reads:

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

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

*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*

6 Section 16 is amended

- (a) in subsection (5) by striking out “and hearing by the Discipline Committee” and substituting “by the Investigative Committee”;
- (b) in subsection (6) by striking out “Discipline Committee” wherever it occurs and substituting “Investigative Committee”;
- (c) in subsection (7) by striking out “Discipline Committee may proceed with an investigation and hearing” and substituting “Investigative Committee may proceed with an investigation”.

7 Section 17 is amended by striking out “Council” and substituting “Appeal Board”.

8 The following is added after section 17:

Appeal Board

**17.1(1)** There is hereby established an Appeal Board consisting of

- (a) the professional members appointed by the Council in accordance with the regulations, and
  - (b) one member of the public appointed by the Minister, after consultation with the Association, for a 3-year term of office.
- (2) A member of the Appeal Board appointed under subsection (1)(b) continues to hold office after the expiry of his term of office until he is reappointed or his successor is appointed.
- (3) The Minister may, after consultation with the Appeal Board, revoke the appointment of a member made under subsection (1)(b).
- (4) The Minister may pay to a member of the Appeal Board appointed under subsection (1)(b) travelling and living expenses incurred by that member for his attendance at any

*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.*

**6** Section 16 presently reads in part:

*(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.*

**7** Section 17 presently reads:

*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.*

**8** Appeal Board.

meeting of the Appeal Board while away from his usual place of residence and fees in an amount prescribed by the Minister.

(5) The powers, duties and operations of the Appeal Board 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 Appeal Board pursuant to subsection (1)(b),
- (b) the revocation of the appointment of a member of the public, or
- (c) the resignation from the Appeal Board of a member of the public.

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

9 *Section 18(1) is amended*

- (a) *in clause (c) by adding “, the Appeal Board” after “Practice Review Board”;*
- (b) *in clause (e) by striking out “Discipline Committee” and substituting “Investigative Committee”;*
- (c) *by adding the following after clause (e):*
  - (e.01) *respecting the appointment of members of the Appeal Board, other than the public member;*
- (d) *in clause (e.1) by adding “the Investigative Committee, the Appeal Board,” after “Council,”;*
- (e) *in clause (j)*
  - (i) *by adding “Appeal Board, the” after “proceedings of the”;*
  - (ii) *by striking out “either Board” wherever it occurs and substituting “any of those Boards”;*



**9** Section 18(1) presently reads in part:

*18(1) The Council may make regulations*

- (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;*
- (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;*
- (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*

*(f) in clause (k) by striking out “and of the Council” and substituting “, of the Investigative Committee and of the Appeal Board”;*

*(g) in clause (n.7) by adding “or seal” after “stamp”.*

*10 Section 19(1) is amended*

*(a) in clause (d) by adding “the Appeal Board,” after “Practice Review Board,”;*

*(b) in clause (f) by striking out “divisions and sections” and substituting “districts and branches”;*

*(c) in clause (h) by striking out “an Acting” and substituting “a Deputy”;*

*(d) in clause (o) by striking out “by” and substituting “issued to”.*

*11 Section 24(3)(b) is amended by striking out “or seal”.*

*12 Section 28 is amended by adding the following after subsection (2):*

*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;*

*(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;*

**10** Section 19(1) presently reads in part:

*19(1) The Council may make by-laws*

*(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;*

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

*(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;*

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

**11** Section 24(3) presently reads:

*(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.*

**12** Section 28 presently reads:

(3) The Council may direct the Registrar to reinstate in the applicable register a registration that was cancelled under this section, subject to any conditions that the Council may prescribe, and to reissue the certificate of registration, licence, permit or annual certificate and the stamp or seal.

(4) Notwithstanding subsection (3), if a person whose registration is cancelled applies to be reinstated more than 7 years after the date of the cancellation, the application for reinstatement must be referred to the Board of Examiners.

*13 Section 29 is amended*

*(a) by repealing subsection (1.1) and substituting the following:*

**(1.1) The Minister shall appoint as members of the Board of Examiners 3 persons from a list of members of the public nominated by the Council.**

*(b) in subsection (1.2) by striking out “1 member” and substituting “3 members”;*

*(c) in subsection (1.3) by striking out “the member” and substituting “a member”.*

*14 Section 30 is amended*

*(a) in subsection (1) by repealing clause (b);*

*(b) by repealing subsection (2) and substituting the following:*

**(2) If an applicant for registration as a licensee is not a Canadian citizen or lawfully admitted to Canada for permanent residence but otherwise complies, to the satisfaction of the Board of Examiners, with subsection (1), the Board shall approve the registration.**

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.*

**13** Section 29(1.1), (1.2) and (1.3) presently read:

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

(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.*

**14** Section 30 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*

(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) *he meets the requirements of the regulations.*

(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*

*15 Section 31 is amended by repealing subsections (4) to (8) and substituting the following:*

**(4)** An applicant whose application for registration has been refused by the Board of Examiners may, within 30 days after receiving a notice of refusal and the reasons for refusal, appeal the decision to the Appeal Board by serving a notice of appeal on the Registrar.

**(5)** On receiving a notice of appeal, the Registrar shall set a date, time and place for the hearing of the appeal and notify the appellant, in writing, of the date, time and place.

**(6)** The appellant may appear with counsel and make representations to the Appeal Board.

**(7)** On concluding the hearing, the Appeal Board may make any decision the Board of Examiners was authorized to make.

*16 Section 37 is amended by adding “stamp or” before “seal”.*

*(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).*

**15** Section 31 presently reads:

*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.*

**16** Section 37 presently reads:

*37 On the recommendation of the Joint Board, the Council may authorize an individual who is a registered architect under the Architects Act to apply for a permit authorized by the regulations under the Safety Codes Act without the final design drawings and specifications of the building having the seal of a professional engineer.*

17 Section 38 is amended by repealing subsections (6) and (7) and substituting the following:

(6) Notwithstanding subsection (5), if a person whose registration is cancelled applies to be reinstated more than 7 years after the date of the cancellation, the application for reinstatement must be referred to the Board of Examiners.

18 Section 42 is amended

(a) in subsection (1) by adding “, or to a person who is authorized in writing by the Registrar to receive complaints,” after “Registrar”;

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

(1.1) A complaint must be in writing.

(c) in subsection (3) by striking out “Discipline Committee” and substituting “Investigative Committee”;

(d) by adding the following after subsection (3):

(4) If a complaint is settled with the assistance of a mediator, any agreement that is reached by the complainant and the person about whose conduct the complaint was made must be reviewed by the Investigative Committee, and that Committee may

(a) approve the agreement, or

(b) proceed with a preliminary investigation in accordance with section 45.

19 Section 43(1) is amended

(a) by striking out “Council” and substituting “Appeal Board”;

(b) by striking out “Discipline Committee finds” and substituting “Discipline Committee or the Appeal Board finds”.



**17** Section 38 presently reads in part:

*(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.*

**18** Section 42(1) and (3) presently read:

*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.*

*(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 Registrar to the Discipline Committee.*

**19** Section 43(1) presently reads:

*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,*

20 *The following is added after section 44:*

Investigative  
Committee

**44.1(1)** The Council shall establish an Investigative 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 Investigative Committee, the designation of a chairman, the appointment of members, acting members and ex officio members and the procedures for filling vacancies in the offices of the chairman and the members, and prescribing their powers, duties and functions.

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

21 *Section 45 is repealed and the following is substituted:*

Investigation  
panel

**45** When a complaint is referred to the Investigative Committee under section 42, the Investigative Committee shall appoint an investigation panel from among its members to conduct a preliminary investigation.

22 *Section 47 is repealed and the following is substituted:*

Evidence for  
preliminary  
investigation

**47(1)** An investigation panel may

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

(b) copy and keep copies for the purposes of this Part of any thing that is produced under clause (a).

- (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.*

**20** Establishment of Investigative Committee.

**21** Section 45 presently reads:

*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.*

**22** Section 47 presently reads:

*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) An investigation panel may investigate any other matter regarding the conduct of the investigated person that arises in the course of the investigation.

23 *Section 48 is repealed and the following is substituted:*

Report to  
Investigative  
Committee

**48** On concluding a preliminary investigation, the investigation panel shall report its findings to the Investigative Committee.

24 *Section 49 is amended*

(a) *in subsections (1) and (2) by striking out “Discipline Committee” and substituting “Investigative Committee”;*

(b) *in subsection (3) by striking out “Council” and substituting “Appeal Board”;*

(c) *in subsection (4)*

(i) *by striking out “Council” and substituting “Appeal Board”;*

(ii) *by striking out “Discipline Committee in writing” and substituting “Investigative Committee in writing”.*

25 *The following is added after section 49:*

Power of  
Investigative  
Committee to  
recommend  
an order

**49.1(1)** If an investigation is not terminated under section 49, the Investigative Committee may

(a) if the investigated person has admitted to conduct that constitutes unskilled practice of the profession or to unprofessional conduct, recommend, in accordance with subsection (2), any order that the Investigative Committee considers appropriate, or

*(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.*

**23** Section 48 presently reads:

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

**24** Section 49 presently reads:

*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.*

*(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.*

**25** Power of Investigative Committee to recommend an order.

(b) refer the matter to the Discipline Committee for a formal hearing.

(2) An order recommended by the Investigative Committee must be provided to a member of the Discipline Committee who has been designated by that Committee to act as a case manager.

(3) If the case manager agrees with the order recommended by the Investigative Committee, the case manager must discuss the order with the investigated person and, if the investigated person agrees with the order, the order has the same force and effect as an order made by the Discipline Committee following a formal hearing.

(4) If the case manager or the investigated person rejects the order recommended by the Investigative Committee, the matter must be referred to the Discipline Committee for a formal hearing.

26 *Section 50 is amended by repealing subsection (1) and substituting the following:*

Duty of  
Discipline  
Committee

**50(1)** On the referral of a matter to the Discipline Committee for a formal hearing, the Discipline Committee shall hold the hearing forthwith.

27 *Section 52(1) is amended by striking out “Discipline Committee may suspend” and substituting “Investigative Committee may suspend”.*

28 *Section 53 is amended by striking out “Association” and substituting “Investigative Committee”.*

29 *Section 54 is repealed and the following is substituted:*

Public  
hearings

**54** All hearings before the Discipline Committee and the Appeal Board under this Part are open to the public unless that Committee or Board orders otherwise.

30 *Section 55(2) is amended by striking out “the Registrar or any member of the Council,” and substituting “any member of the Appeal Board,”.*

**26** 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.*

**27** Section 52(1) presently reads:

*52(1) 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 or a decision of the Discipline Committee.*

**28** Section 53 presently reads:

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

**29** Section 54 presently reads:

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

**30** Section 55(2) presently reads:

*(2) For the purposes of an investigation, hearing or review under this Act, the Registrar or any member of the Council, the Discipline*

31 Section 62(3)(a) is amended by adding “and the Investigative Committee” after “person”.

32 Section 63(1) is amended by striking out “the time that the Council” and substituting “the Appeal Board”.

33 Section 64 is amended

(a) by repealing subsection (1) and substituting the following:

Appeal to  
Appeal Board

**64(1)** The Investigative Committee or the investigated person may appeal to the Appeal Board any finding or order of the Discipline Committee.

(b) in subsection (2)(c) by striking out “or the investigated person, as the case may be,”;

(c) by adding the following after subsection (2):

**(2.1)** On receiving a notice of appeal from the Investigative Committee, the Registrar shall forthwith provide a copy to the investigated person and make the record of the hearing available to the investigated person.

(d) by repealing subsection (3) and substituting the following:

**(3)** On receiving a notice of appeal, the Registrar shall provide a copy to the Appeal Board and make the record of the hearing available to each member of the Appeal Board.

34 Section 65 is amended

(a) by striking out “Council” wherever it occurs and substituting “Appeal Board”;



*Committee or the Practice Review Board is conferred with the power of a commissioner of oaths under the Commissioners for Oaths Act.*

**31** Section 62(3) presently reads:

*(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.*

**32** 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 or the Court of Appeal, as the case may be, makes its decision on the appeal.*

**33** Section 64 presently reads:

*64(1) An investigated person or the Registrar 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 or the investigated person, as the case may be, 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 being served with or on serving the investigated person with 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.*

**34** Section 65 presently reads:

*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.*

*(b) in subsection (1) by adding “and the Investigative Committee” after “person”.*

*35 Section 66 is amended*

*(a) by repealing subsection (1);*

*(b) in subsections (2) to (5) by striking out “Council” wherever it occurs and substituting “Appeal Board”.*

*36 Section 68 is amended*

*(a) by striking out “Council” wherever it occurs and substituting “Appeal Board”;*

*(2) The Council shall hear an appeal forthwith.*

**35** Section 66 presently reads:

*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 all or part of the costs of the appeal determined in accordance with the by-laws.*

**36** Section 68 presently reads:

*68(1) An investigated person may appeal to the Court of Appeal 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.*

*(b) in subsection (2) by striking out “Association” and substituting “Appeal Board”.*

*37 Sections 69, 70 and 71 are amended by striking out “Council” wherever it occurs and substituting “Appeal Board”.*

*38 Section 75 is amended by adding “the Appeal Board,” after “Council,”.*

*39 Section 79 is amended*

*(a) in subsection (1)(a) by adding “the Investigative Committee, the Appeal Board,” after “Practice Review Board,”;*

*(b) in subsection (2)(b) by adding “, the Investigative Committee, the Appeal Board” after “Practice Review Board”.*

*40 This Act comes into force on Proclamation.*

*(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.*

**37** Replaces references to the Council with references to the Appeal Board.

**38** Section 75 presently reads:

*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.*

**39** Section 79 presently reads:

*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.*

**40** Coming into force.