PLEASE NOTE

This document, prepared by the ***Legislative Counsel Office***, is an office consolidation of this Act, current to January 1, 2009. It is intended for information and reference purposes only.

This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts***.

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CHAPTER E-8.1

ENGINEERING PROFESSION ACT

1. In this Act — Definitions

(a) "Act" means this Act; — Act

(b) "Act Enforcement Officer" means a person appointed by the Council who is responsible to investigate alleged violations of this Act or the bylaws; — Enforcement Officer

(c) "Association" means the Association of Professional Engineers of the Province of Prince Edward Island; — Association

(d) "bylaws" means the bylaws of the Association; — bylaws

(e) "certificate of authorization" means a certificate which is issued under this Act to a partnership, association of persons or corporation that is entitled to practise professional engineering in Prince Edward Island; — certificate of authorization

(f) "certificate of registration" means a certificate which is issued under this Act to a member; — certificate of registration

(g) "Council" means the Council of the Association; — Council

(h) "councillor" means a member of the Association who is elected as a member of Council; — councillor

(i) "engineer" means a person who is skilled, through specialized education, training and experience, in the principles and practice of professional engineering; — engineer

(j) "engineer-in-training" means a person who is a graduate of an engineering college or university approved by Council, or has passed examinations prescribed by Council, and is enrolled with the Association, but does not have the necessary work experience to qualify for membership; — engineer-in-training

(k) "engineering works and systems" includes — engineering works and systems

(i) transportation systems and components related to air, water, land or outer space, movement of goods or people,

(ii) works related to the location, mapping, improvement, control and utilization of natural resources,

(iii) works and components of an electrical, mechanical, hydraulic, aeronautical, electronic, thermic, nuclear, metallurgical, geological, mining or industrial character and

others dependent on the utilization or the application of chemical or physical principles,

(iv) works related to the protection, control and improvement of the environment including those of pollution control, abatement and treatment,

(v) the structural, electrical, mechanical, communications, transportation and other utility aspects of building components and systems,

(vi) structures and enclosures accessory to engineering works and intended to support or house them, and

(vii) systems relating to surveying and mapping;

former Act

(l) "former Act" means the *Engineering Profession Act* R.S.P.E.I. 1988, Cap. E-8;

holder

(m) "holder" means the holder of a certificate of authorization issued and in force under the provisions of this Act;

license to practise

(n) "license to practise" means a license to practise professional engineering in force under the provisions of this Act which is issued to an engineer who is not a member of the Association;

licensee

(o) "licensee" means a person who holds a license to practise;

member

(p) "member" means a registered member of the Association in good standing;

President

(q) "President" means the President of the Association;

professional engineer

(r) "professional engineer" means a member or an engineer having a license to practise under the provisions of this Act;

professional engineering or practice of engineering

(s) "professional engineering" or the "practice of engineering" means the provision of services for another as an employee or by contract, and such services shall include consultation, investigation, instruction, evaluation, planning, design, inspection, management, research, development and implementation of engineering works and systems;

register

(t) "register" means the register of the Association;

Registrar

(u) "Registrar" means the Registrar of the Association;

resident

(v) "resident" means a person who in the settled routine of life, usually, normally and customarily lives and has his place of abode in the province;

secretary

(w) "secretary" means the secretary of the Association;

treasurer

(x) "treasurer" means the treasurer of the Association;

(y) "Vice-President" means the Vice-President of the Association. 1990,c.12,s.1. Vice-President

THE ASSOCIATION

2. (1) The Association of Professional Engineers of Prince Edward Island is continued as a body corporate and shall consist of its present members and all persons who may hereafter become members in accordance with this Act. Corporation continued

(2) The head office of the Association shall be at Charlottetown, Prince Edward Island. 1990,c.12,s.2. Head office

OBJECTS OF THE ASSOCIATION

3. The objects of the Association are Objects

(a) to regulate the practice of professional engineering and to govern members, licensees, engineers-in-training and holders of certificates of authorization in accordance with this Act and bylaws;

(b) to promote and improve the proficiency of professional engineers in all matters relating to the practice of engineering;

(c) to inform the general public of the proficiency and competency of professional engineers in the practice of engineering;

(d) to develop, establish and maintain standards of professional ethics among its members, licensees, engineers-in-training and holders of a certificate of authorization;

(e) to promote public awareness of the role of the Association; and

(f) to do all such matters and things as may be necessary for or incidental or conducive to the welfare of professional engineers and their usefulness to the public. 1990,c.12,s.3.

POWERS OF THE ASSOCIATION

4. The Association is empowered Powers

(a) to provide for the government, discipline and honour of persons practising professional engineering within the Province of Prince Edward Island;

(b) to acquire, hold and dispose of real and personal property;

(c) to borrow money for the purposes of carrying out any of the objects of the Association and to give security for such loans by any mortgage, pledge, assignment of or charge upon any real or personal property of the Association;

(d) to establish out of its funds, scholarships and prizes for students of engineering in attendance at such schools of engineering as the Council may select, and to determine the value of such scholarships

or prizes, the conditions governing their award and the duration of their tenure;

(e) to establish and maintain a register of professional engineers and holders of certificates of authorization, which register shall be the official register of persons and holders that are entitled to practise professional engineering within the Province of Prince Edward Island;

(f) to prescribe the amount and collect the annual dues and other fees payable by any person or holder of a certificate of authorization upon such terms and conditions as provided in the bylaws;

(g) to exempt any person or holder of a certificate of authorization from the payment of any such fee or dues for such reasons and upon such terms and conditions as provided in the bylaws;

(h) to assess members for any ordinary, special or extraordinary expenditures that may be considered necessary or expedient to further any of the objects of the Association and to make such assessment in a manner provided in the bylaws;

(i) to prescribe the nature and extent of the education and practical experience in engineering which must be possessed by any person before being permitted to practise professional engineering within the Province of Prince Edward Island;

(j) to take such action as necessary to have members, licensees or engineers-in-training engage in engineering activities for which they are qualified;

(k) to prescribe the nature and extent of the information required to be filed with the Registrar by a holder of certificate of authorization;

(l) to provide or arrange for facilities for determining by examination or other means, the competency of persons seeking to practise professional engineering or to be enrolled as engineers-in-training within the Province of Prince Edward Island;

(m) to issue a certificate of registration or license to practise to any person who is qualified to practise professional engineering in the Province of Prince Edward Island;

(n) to issue a certificate of engineer-in-training to any person who is qualified to be enrolled as an engineer-in-training;

(o) to issue a certificate of authorization to any partnership, association of persons or corporation which is qualified to practise professional engineering in the Province of Prince Edward Island;

(p) to develop and establish ways and means by which members may receive continuing education in the profession of engineering;

(q) to negotiate for and on behalf of any member or engineer-in-training in any matter pertaining to his welfare as a professional engineer or engineer-in-training;

(r) to enter into agreements with similar associations of professional engineers in other provinces of Canada, the Canadian Council of Professional Engineers or technical societies, as may be necessary for or conducive to carrying out the objects of the Association;

(s) to establish special membership categories and engineering achievement awards for members who have met the requirements for such membership categories or awards as prescribed in the bylaws;

(t) to do all such other matters and things as may be necessary for or incidental or conducive to the welfare of professional engineers and their usefulness to the public. 1990,c.12,s.4.

QUALIFICATIONS FOR REGISTRATION, LICENSE, ENROLLMENT

Requirements

5. (1) Every person who engages in the practice of engineering in the Province of Prince Edward Island must have a valid certificate of registration, license to practise or certificate of engineer-in-training in accordance with this Act and bylaws.

Professional development requirements

(1.1) No person shall engage in the practice of engineering in the Province of Prince Edward Island unless the person has fulfilled the requirements of any mandatory professional development program established under the bylaws.

Qualification for registration

(2) Any applicant for a certificate of registration who satisfies Council that he

(a) is a resident or is coming to reside in Prince Edward Island;

(b) is a graduate in engineering or applied science of an academic or technical institution recognized by the Council;

(c) has fulfilled the requirements of approved engineering experience as prescribed in the bylaws;

(d) has successfully completed any examinations that may be prescribed by Council;

(e) has provided evidence of good character; and

(f) has paid the fees as prescribed in the bylaws,

shall be entitled to become registered as a member of the Association.

Qualification for engineer-in-training

(3) Any applicant for certificate of engineer-in-training who satisfies the Council that he meets all the requirements of subsection (2), except clause (c), shall be entitled to be enrolled with the Association as an engineer-in-training.

Control

(4) An engineer-in-training shall be subject to the control of the Council in the manner provided by this Act and bylaws.

Other qualifications

(5) Any other candidate for a certificate of registration or certificate of engineer-in-training who does not meet the qualifications set out in subsection (2) or (3) may apply for a certificate of registration or certificate of engineer-in-training subject to the conditions set out in the bylaws.

Membership

(6) Every person who is granted a certificate of registration is a member of the Association and as such is entitled to all the rights and privileges of membership.

Termination

(7) A member ceases to be a member of the Association when

(a) the member ceases to meet the requirements for registration under this Act;

(b) a member files with the Registrar his resignation in writing and his membership is thereupon cancelled, subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of his professional conduct while a member;

(c) the Council revokes or suspends the member's certificate of registration;

(d) the member omits to pay his annual dues as prescribed in the bylaws.

Qualification for license to practise

(8) Any applicant for license to practise who satisfies the Council that he

(a) is not a resident;

(b) has provided evidence of being a registered member in good standing in another association of engineers in any other province which has similar membership requirements to that of the Association;

(c) has successfully completed any examinations that may be prescribed by the Council;

(d) has paid the fees as prescribed in the bylaws,

shall be entitled to a license to practise.

Qualifications for license to practise, non-resident of Canada

(9) Any applicant for a license to practise who satisfies the Council that he

(a) is not a resident of Canada;

(b) is a member in good standing in any engineering or technical organization or society of standing recognized by the Council;

(c) has filed with the Registrar satisfactory proof that such person is qualified to practise professional engineering;

(d) has successfully completed any examinations that may be prescribed by the Council; and

(e) has paid the fees as prescribed in the bylaws, shall be entitled to a license to practise.

(10) Any other candidate for a license to practise who does not meet the qualifications set out in subsection (8) or (9) may apply for a license to practise subject to the conditions set out in the bylaws.

Other applications

(11) The Council may refuse to issue a license to practise to an applicant where the Council is of the opinion, upon reasonable and probable grounds, that the past conduct of the applicant affords grounds for belief that the applicant will not engage in the practice of professional engineering in accordance with the law and in a manner consistent with the provision of good service to the public. 1990,c.12,s.5; 2004,c.3,s.1.

Grounds for refusal to issue a license

PARTNERSHIPS AND COMPANIES

6. (1) No partnership, association of persons or corporation shall as such be a member, or a licensee, or shall, except as authorized by this section, practise professional engineering.

Partnerships and companies not a member

(2) Any partnership, association of persons or corporation that holds a certificate of authorization may, in its own name, practise professional engineering if it

(a) engages in the practice of engineering as one of its principal functions; and

(b) has a member or licensee of the association who, as principal of the association of persons, partner of the partnership, director or full-time employee of the corporation, is responsible for the practice of engineering and its supervision.

Partnerships and companies may practise

(3) A partnership, association of persons or corporation may apply for a certificate of authorization by submitting to the Registrar an application in the form prescribed by the Council containing

(a) the names and addresses of all its officers and directors, as the case may be;

(b) the names and addresses of all officers, directors or full-time employees who are members or licensees, who will be in charge of the practice of professional engineering on its behalf, and whose duty it will be to ensure that this Act, and the bylaws, are complied with by the applicant; and

(c) the address of its head office and any office in which the practice of engineering in Prince Edward Island will be carried out.

Application for certificate of authorization

(4) The applicant or holder of a certificate of authorization shall, whenever there is a change in the particulars given in its application made under subsection (3), give notice of the change to the Registrar within thirty days after the effective date of the change.

Notice of changes to be given to Registrar

Certificate of authorization, resident or non-resident

(5) If the provisions of subsection (3) are met, and upon payment of fees as prescribed in the bylaws, the applicant shall upon approval of the Council, be entitled to a certificate of authorization and if the applicant does not have a functioning office in Prince Edward Island under the direct supervision of an engineer, non-resident status shall be indicated on the certificate of authorization.

Certificate of authorization may be revoked

(6) Where a holder of a certificate of authorization fails to comply with subsection (2) or (3), the certificate is automatically revoked and the partnership, association of persons or corporation shall not practise engineering until a new certificate of authorization is issued.

Discipline

(7) If the Council finds that the holder of a certificate of authorization has failed to observe any of the provisions of this section, or has been guilty of conduct that would, in the case of a member or licensee be professional misconduct or incompetence, the Council may reprimand the holder, or suspend or revoke its certificate of authorization. 1990,c.12,s.6.

REGISTRATION

Register

7. (1) The Registrar shall keep a register provided by the Council and enroll therein in the manner provided by the bylaws the names and addresses of all persons who are members, licensed to practise, engineers-in-training and holders of certificates of authorization.

Inspection of register

(2) The register shall be open for public inspection at all reasonable times without charge.

Issuance of certificate

(3) The Registrar upon resolution of the Council and receipt of the fee prescribed in the bylaws shall issue a certificate of registration, license to practise or certificate of engineer-in-training to the person accepted for membership, licensed to practise, or accepted as an engineer-in-training.

Idem

(4) The Registrar upon resolution of the Council and receipt of the fee prescribed by the bylaws shall issue a certificate of authorization to the partnership, association of persons, or corporation which has been approved to receive such certificate.

Form of certificate or license

(5) The form of the certificate or license shall be as prescribed in the bylaws. 1990,c.12,s.7.

EXEMPTED PERSONS

Exemptions

8. (1) Nothing contained in this Act shall be taken or construed to prohibit or preclude

(a) any person applying engineering to a project on his own property for the sole use of his domestic establishment;

(b) any person applying engineering to a project to a value not exceeding the amount as prescribed in the bylaws, where such engineering does not affect the safety of other persons;

(c) any person practising his profession, trade or calling, provided that the person shall not style or hold himself out as a professional engineer unless he is registered or licensed under this Act;

(d) any certified engineering technician or technologist from performing engineering work where a professional engineer takes responsibility for the application of the technology,

or require the person to become registered or licensed under this Act in order to do any such thing.

Rulings

(2) Any person who believes a project in which engineering is applied does not meet the requirements of clause (1)(a) or (b) may, in the prescribed form, request the Council for a ruling and if, in the opinion of the Council the value of the project exceeds the amount prescribed in the bylaws or the project may affect the safety of other persons, the Council may initiate an investigation pursuant to subsection 16(4). 1990,c.12,s.8.

Annual dues

9. (1) Every person who is a member, licensed to practise, an engineer-in-training, or a holder of a certificate of authorization shall pay, on or before January 1 in each year to the treasurer or any person authorized by the Council to receive it, the annual dues as prescribed in the bylaws.

Idem

(2) The annual dues shall be deemed to be a debt due by such person or holder of a certificate of authorization to the Association, and recoverable with costs in the name of the Association in any court of competent jurisdiction.

Failure to pay annual dues

(3) If any member, licensee, engineer-in-training or holder of a certificate of authorization fails to pay the annual dues within such time as prescribed by the bylaws, the Registrar, after issuing ten days notice by registered letter addressed to the latest known address of such person or holder on the register, shall cause the name of such person or holder to be removed from the register and such person or holder shall thereupon cease to be a member, licensee, engineer-in-training or holder of a certificate of authorization.

Reinstatement

(4) Any member, licensee, engineer-in-training or holder of certificate of authorization whose name is so removed from the register shall be entitled, upon payment of such penalties and annual dues as prescribed in the bylaws and compliance with such other directions as established by the Council, to reinstatement of his certificate of registration, license to

practise, certificate of engineer-in-training or certificate of authorization. 1990,c.12,s.9.

MEETINGS OF THE ASSOCIATION

Meetings

10. (1) The Association shall in the manner provided by the bylaws hold an annual meeting in each calendar year and such other meetings as are required.

Voting

(2) Only a member is entitled to vote either at a meeting of the Association or by letter ballot.

Quorum

(3) A quorum at any annual or special meeting of the Association shall be as prescribed in the bylaws. 1990,c.12,s.10.

ADMINISTRATION

Council

11. (1) There shall be a Council of the Association consisting of the President, immediate Past-President, Vice-President and a minimum of four additional councillors.

Term of office

(2) The President, Vice-President and councillors shall be elected in the manner and for the term of office as prescribed in the bylaws.

Functions

(3) The Council shall be responsible for the administration of this Act and general management of the affairs and business of the Association and shall carry on and transact the same in accordance with the Act and bylaws.

President

(4) The President shall act as presiding officer at the meetings of the Council and of the Association, and shall vote only when the votes are evenly divided.

Vice-President

(5) The Vice-President shall have all the powers of the President in the absence of the President.

Appointment of Registrar, etc.

(6) The Council shall appoint a Registrar, a secretary and a treasurer, whose qualifications, duties and respective terms of office shall be as prescribed by the bylaws and the Council may appoint one person to one or more of these offices.

Additional officers

(7) The Council shall appoint such other officers as may be necessary for carrying out the provisions of this Act and bylaws.

Fees and expenses

(8) The members of the Council, officers and examiners appointed under the provisions of this Act and bylaws shall be paid such fees and expenses as are prescribed in the bylaws.

(9) A majority of the members of the Council shall constitute a quorum for the transaction of business. Quorum

(10) The elected members of the Council and other elected or appointed officers shall hold office until their successors are elected or appointed in accordance with this Act and the bylaws. Term of office

(11) Where a vacancy in the Council occurs, the remaining members of the Council may appoint a member of the Association to fill the vacancy until the next regular election. Vacancy

(12) A member elected to fill a vacancy in the Council shall be elected only for the unexpired term of the Councillor whose place he is to fill. Unexpired term

(13) All officers and officials of the Association whether elected or appointed shall exercise such powers and perform such duties as may be prescribed in the Act and the bylaws. Powers of officers

(14) The Association may obtain such professional advice as it considers necessary in order to carry out the affairs and business of the Association. 1990,c.12,s.11. Professional advice

ENGINEERING QUALIFICATIONS COMMITTEE

12. (1) The Council shall, in the manner provided by the bylaws, appoint an Engineering Qualifications Committee. Engineering Qualifications Committee

(2) The Committee shall in the manner provided in the bylaws Duties of Committee

(a) examine and report to the Council on all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining a certificate of registration, license to practise, enrollment as an engineer-in-training or certificate of authorization;

(b) prescribe and conduct any examinations required of candidates for certificate of registration, license to practise, or engineer-in-training and as soon as possible after the completion of such examinations file with the secretary the results thereof, whereupon the Council shall notify each candidate of the result of his examination and of its decision upon his application.

(3) The scope of the examinations, the method and procedure shall be as prescribed in the bylaws. Scope of examinations

(4) A candidate failing an examination may be examined again after an interval established at the discretion of the Council. Failing an examination

(5) The fees payable by candidates for examination shall be as prescribed in the bylaws. Fees

Central examining board

(6) The Council shall have power to establish jointly with any council of any association similarly constituted in one or more of the provinces of Canada, a central examining board, and to delegate to the central examining board all or any of the powers possessed by the Association in respect of the examination of candidates for membership, license to practise or engineer-in-training. 1990,c.12,s.12.

JOINT PRACTICE COMMITTEE

Joint Practice Committee with architects

12.1 The Council may, in conjunction with the Council of the Architects Association of Prince Edward Island, establish a Joint Practice Committee

(a) to examine matters of mutual interest to professional engineers and architects;

(b) to promote a harmonious professional relationship between professional engineers and architects;

(c) to develop joint rules of practice governing the responsibilities of professional engineers and architects; and

(d) to resolve complaints regarding professional activities pursuant to the respective Acts. 1992,c.19,s.1.

DISCIPLINE

Code of Ethics

13. (1) Members, persons licensed to practise and engineers-in-training shall conduct themselves in accordance with the Code of Ethics for Engineers, and without restricting the meaning of professional misconduct, any breach of the Code of Ethics shall be deemed to be a form of professional misconduct.

Reprimand etc. procedure

(2) The procedure to be followed before reprimanding and censuring any member, person licensed to practise or engineer-in-training, or suspending or cancelling the certificate of registration of any member or the license to practise of any person or the enrollment of any engineer-in-training or a certificate of authorization shall be as set out in sections 16, 19 and 20. 1990,c.12,s.13.

ACT ENFORCEMENT COMMITTEE

Act Enforcement Committee

14. (1) The Council shall appoint an Act Enforcement Committee composed of three members of the Association and such additional members as prescribed in the bylaws.

Membership

(2) No member of the Association shall be eligible to be a member of the Committee while holding office as a member of the Council.

(3) Members of the Committee shall be appointed for a term of three years unless the Council otherwise determines and where there is a vacancy in the Committee, the President may appoint another member of the Association to fill the vacancy and to complete the term of the vacating member. Vacancies

(4) The Council shall appoint one member of the Committee to be chairman. Chairman

(5) Any member of the Committee shall remove himself from an investigation that is before the committee if he knows of or is shown to have a conflict of interest. Conflict of interest

(6) Three members of the Committee constitute a quorum. 1990,c.12,s.14. Quorum

ACT ENFORCEMENT OFFICER

15. (1) The Council shall appoint annually an Act Enforcement Officer whose qualifications, procedures, powers of investigation and remuneration shall be as prescribed in the bylaws. Act Enforcement Officer

(2) The Act Enforcement Officer shall be by virtue of his office a member of the Act Enforcement Committee and shall investigate complaints against a member, licensee, engineer-in-training, holder of certificate of authorization or any other person, partnership or corporation who is alleged to have violated any provision of this Act or bylaws. Functions

(3) In the absence or inability of the Act Enforcement Officer to carry out his duties, the chairman of the Act Enforcement Committee may assume the responsibilities and powers of the Act Enforcement Officer. *Idem*

(4) The Act Enforcement Officer shall carry out all other duties as are directed by the Act Enforcement Committee. 1990,c.12,s.15. *Idem*

COMPLAINTS

16. (1) All complaints alleging non-compliance with this Act and the bylaws, professional misconduct or incompetence shall be forwarded to the Act Enforcement Committee. Complaint

(2) Upon receipt by the Act Enforcement Committee of a complaint alleging that Inquiry

(a) any person other than a member, licensee, or engineer-in-training has violated any provision of this Act or a bylaw; or

(b) a member, licensee, engineer-in-training or holder of certificate of authorization has

(i) violated any provision of this Act or a bylaw,

(ii) been guilty of professional misconduct, including negligence in the performance of his professional duty, or incompetence,

(iii) been convicted in Canada or elsewhere of any offence that, if committed in Canada, would be punishable under the Criminal Code with imprisonment for two years or more,

(iv) obtained registration as a member, licensee, engineer-in-training or holder of a certificate of authorization in the Association by reason of misrepresentation or any improper means, or

(v) engaged in other conduct of such a nature as the Council considers should be investigated,

the Committee shall cause an inquiry into the complaint in accordance with the procedure set out in subsection (3).

Procedure

(3) The Act Enforcement Committee shall require the complaint to be made in writing and signed by the complainant, and upon the filing of a complaint by any person, the Committee shall transfer the complaint to the Act Enforcement Officer who shall

(a) forthwith by written notice advise the person complained of that the complaint has been made by

(i) enclosing a copy of the complaint, and

(ii) advising the person complained of that he has the opportunity to provide the Act Enforcement Officer with his written comments concerning the complaint within fourteen days of the date that a copy of the complaint was sent to him;

(b) after the expiration of fourteen days, convey to the Committee any written comments of the person complained of which have been provided pursuant to clause (a);

(c) undertake any investigations requested by the Committee and convey any findings of such investigations to the Committee.

Investigation initiated by Council

(4) If, in the absence of a written complaint, circumstances come to the notice of the Council which, in its opinion, may constitute grounds for discipline pursuant to the Act, the Council may request in writing an investigation by the Act Enforcement Committee and the written request shall indicate the circumstances which have come to the notice of the Council.

Idem

(5) A copy of the written request from the Council shall after its receipt by the Act Enforcement Committee be forwarded to the Act Enforcement Officer who shall proceed in the manner set out in subsection (3).

(6) The Committee shall deal with such a request as if it were a complaint and the request shall be treated for purposes of the Act and bylaws in the same manner as a complaint. *Idem*

(7) The Act Enforcement Committee in accordance with the information it has received, may Powers of Committee

(a) dismiss the complaint;

(b) refer the matter in whole or in part to the Discipline Committee;

(c) take such action as it considers appropriate in the circumstances to resolve the complaint;

(d) recommend to the Council to have the matter heard by a court of competent jurisdiction in Prince Edward Island.

(8) The Act Enforcement Committee shall send or deliver a letter to the complainant and the person complained of giving the decision of the Committee on the matter. Copy of decision

(9) A complainant or person complained of who is not satisfied with the disposition of the complaint by the Act Enforcement Committee may request the Council for a review of the treatment of the complaint. Request for review by the Council

(10) Upon receipt of the recommendation referred to in clause (7)(d), the Council shall decide on its disposition and may Action by the Council

(a) refer the matter back to the Act Enforcement Committee with instructions for further investigation and reporting back to the Council;

(b) decide not to take any further action;

(c) instruct the Act Enforcement Officer to lay an information with respect to breach of the provisions of this Act or any bylaws made hereunder so as to have the matter heard by a court of competent jurisdiction in Prince Edward Island.

(11) In addition to the duties imposed under this section, the Act Enforcement Committee shall perform such other duties as are assigned to it by the Council or as prescribed in the bylaws. 1990,c.12,s.16. Duties of Committee

DISCIPLINE COMMITTEE

17. (1) The Council shall appoint a Discipline Committee composed of Discipline Committee

(a) five members of the Council, namely, the President, immediate Past-President, Vice-President and two other members of the Council with seniority as set out in the bylaws; and

(b) one lay person who is not an engineer.

(2) Any member of the Discipline Committee shall remove himself from a hearing if he knows of or if it is shown that a conflict of interest exists. Conflict of interest

Vacancies

(3) Any member of the Committee removed under subsection (2) may be replaced by any other member of the Council and if there is an insufficient number of councillors available to meet the number required to form a Discipline Committee, then the necessary members shall be selected at random from a list of Past-Presidents who are members of the Association.

Chairman

(4) The Council shall name the chairman of the Committee as well as any additional members of the Committee.

Eligibility

(5) No member of the Discipline Committee shall be a member of the Act Enforcement Committee.

Quorum

(6) Subject to subsection (7), five members of the Discipline Committee constitute a quorum, and all disciplinary decisions require the vote of the majority of the members of the Committee present at a hearing.

Idem

(7) If, after the Discipline Committee commences a hearing, not more than two members become unable to act, the remaining members shall constitute a quorum and shall have the same authority as the full committee and may complete a hearing and render a decision.

Expiry of term during proceeding

(8) Where a proceeding is commenced before the Discipline Committee, and the term of office of a member on the Committee expires or is terminated, other than for cause, before the proceeding is disposed of, but after evidence has been heard, the member shall be deemed to remain a member of the Committee for the disposition of the proceeding as if his term of office had not expired or been terminated. 1990,c.12,s.17.

PROFESSIONAL MISCONDUCT AND INCOMPETENCE

Professional misconduct

18. (1) A member, licensee, engineer-in-training or holder of a certificate of authorization may be found guilty of professional misconduct by the Discipline Committee if

(a) the member, licensee, engineer-in-training or holder of a certificate of authorization has been found guilty of an offence which, in the opinion of the Committee, is relevant to suitability to engage in the practice of engineering; or

(b) the member, licensee, engineer-in-training or holder of a certificate of authorization has been guilty, in the opinion of the Committee, of conduct that is not in the best interest of the public or tends to harm the standing of the Association.

Incompetence

(2) The Discipline Committee may find a member, licensee, or engineer-in-training incompetent if, in its opinion

(a) the member, licensee, or engineer-in-training has displayed in his professional activities a lack of knowledge, skill or judgment, or disregard for the welfare of the public of a nature or to an extent that demonstrates the member or licensee is unfit to carry out the responsibilities of a professional engineer; or

(b) the member, licensee or engineer-in-training is suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public, the member, licensee, or engineer-in-training that he no longer be permitted to engage in the practice of professional engineering, or that his practice of professional engineering be restricted. 1990,c.12,s.18.

HEARINGS

Notice of hearing to person complained of

19. (1) Upon referral of a complaint to it, the Discipline Committee shall set a time and place for the holding of a hearing by the Committee to deal with the complaint and a hearing shall commence within sixty days following referral of the complaint unless otherwise agreed to by the parties and notice of the time and place of the hearing shall be sent by the secretary to the person complained of at least ten days before the hearing, and the notice shall advise the person complained of that he may appear in person or by or with counsel at the hearing, or at any adjournments thereof.

Procedure

(2) A hearing shall be commenced by the laying of a complaint by the Act Enforcement Officer and the prosecution of the complaint shall be carried forward by the Act Enforcement Officer or his designate.

Idem

(3) No member of the Discipline Committee shall participate in a decision of the Committee unless he was present throughout the hearing and heard the evidence and argument of the parties.

Failure to appear

(4) If a person complained of or his representative fails to appear at the hearing, the Discipline Committee may proceed with the hearing in the absence of such person upon receiving proof in the form of a statutory declaration that due notice of the hearing had been given or mailed to the person complained of and the Committee may deal with the complaint and take such action as it considers appropriate in the circumstances to resolve the complaint as long as such is consistent with this Act and the bylaws.

Independence of members

(5) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject matter of the hearing, other than at a previous hearing of the Committee and shall not communicate directly or indirectly in relation to the subject matter of the hearing with any person or with any party or his

representative except upon notice to and opportunity for all parties to participate, but the Committee may seek legal advice.

Parties to proceedings

(6) In proceedings before the Discipline Committee, the Association and the member, licensee, engineer-in-training or the holder of a certificate of authorization, whose conduct is being investigated, are parties.

Rights of person complained of

(7) A member, licensee, engineer-in-training or holder of a certificate of authorization whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded the right to be heard and to examine, prior to the hearing, any written or documentary evidence that will be produced, or any report the contents of which will be given in evidence at the hearing.

Hearings behind closed doors

(8) Hearings of the Discipline Committee shall be held behind closed doors unless the person complained of requests a public hearing, and in its discretion, the Discipline Committee is satisfied that a public hearing is in the interest of the public and of the engineering profession.

Witnesses

(9) The Discipline Committee, or someone designated by it to act on its behalf, may by summons in a form prescribed in the bylaws, require the attendance before it of any person whose evidence may be material to the subject matter of the hearing and may order any person to produce such records, reports or other documents as appear necessary for the purpose of the hearing.

Idem

(10) A person served with a summons shall attend and answer all questions concerning matters being inquired into at the hearing and shall produce to the Discipline Committee all records, reports or other documents that are under his custody or control.

Testimony taken under oath

(11) The testimony of any witness will be taken under oath or affirmation which may be administered by the chairman of the Discipline Committee or any person designated to do so on his behalf.

Failure to appear before Committee

(12) If a person on whom a summons has been served, either personally or by leaving a copy of the summons with some adult person at his last or most usual place of residence or business, fails to appear before the Discipline Committee, or upon appearing refuses to be sworn or refuses without sufficient cause to answer any question relevant to the hearing, the Committee may by application to a judge of the Supreme Court cause the person to be cited for contempt under the provisions of the rules of court in the same manner and to the same extent as if the alleged contempt took place in proceedings before the Supreme Court.

(13) The oral evidence taken before the Discipline Committee shall be recorded and, if requested, copies of the transcript shall be furnished to the parties at their own expense.

Oral evidence recorded

(14) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter has been finally determined. 1990,c.12,s.19; 2008,c.20,s.72(27).

Documents to be returned

PROCEDURE FOLLOWING HEARING

20. (1) All findings of the Discipline Committee shall be based exclusively on evidence submitted to it.

Findings of Committee

(2) Upon completion of the hearing, the Discipline Committee may pass a resolution dismissing the complaint or, if the Discipline Committee finds a member, licensee, engineer-in-training or the holder of a certificate of authorization guilty of professional misconduct or incompetence, or in breach of any of the requirements of this Act or any bylaws made hereunder, the Committee may, by order, do any one or more of the following:

Penalties for professional misconduct or incompetence

(a) revoke the right to practise professional engineering for a stated period of time after which time the person or holder of certificate of authorization may reapply for membership, license to practise, enrollment as an engineer-in-training or certificate of authorization;

(b) suspend the right to practise professional engineering for a stated period, not exceeding twenty-four months;

(c) accept the undertaking of the member, licensee, engineer-in-training or holder of a certificate of authorization to limit the professional work in the practice of engineering to the extent specified in the undertaking;

(d) impose terms, conditions or limitations on the member, licensee or engineer-in-training including, but not limited to the successful completion of a particular course of study, as specified by the Committee;

(e) impose specific restrictions on the member, licensee or engineer-in-training or holder of a certificate of authorization including

(i) requiring the member, licensee, or engineer-in-training to engage in the practice of engineering only under the personal supervision and direction of a member,

(ii) requiring the member, licensee, or engineer-in-training to not alone engage in the practice of engineering,

(iii) requiring the member, licensee, engineer-in-training or the holder of the certificate of authorization to submit to periodic

inspections by the Committee, or its designate, of documents, records and work of the member, licensee, engineer-in-training or the holder of a certificate of authorization in connection with his practice of engineering,

(iv) requiring the member, licensee, engineer-in-training or the holder of the certificate of authorization to report to the Discipline Committee or its designate on such matters with respect to the member's, licensee's, engineer-in-training or holder's practice of engineering for such period and times, and in such form, as the Committee may specify;

(f) reprimand, admonish or counsel the member, licensee, engineer-in-training or the holder of certificate of authorization, and if considered warranted, direct that the fact of the reprimand, admonishment or counselling be recorded on the register for a stated or unlimited period of time;

(g) direct that the imposition of a penalty or order be suspended or postponed for such period, and upon such terms, or for such purpose, including

(i) the successful completion by the member, licensee, or engineer-in-training of a particular course of study,

(ii) the production to the Committee or its designate of evidence satisfactory to it that any physical or mental handicap in respect of which the penalty was imposed has been overcome.

Decision in writing

(3) The Discipline Committee shall give its decision, together with reasons, in writing to the Council.

Copy to person complained of

(4) A copy of the decision of the Discipline Committee shall be hand delivered or sent by prepaid registered mail or courier to the complainant and the person complained against.

Evidence

(5) All evidence given at the hearings shall be retained as prescribed in the bylaws.

Notice of penalty

(6) Where no appeal has been taken pursuant to section 21 within the time prescribed for the filing of notices of appeal, the Council

(a) may cause notice of any resolution reprimanding and censuring a person complained of to be given to members of the Association by publication in such form and in such manner as Council shall determine;

(b) shall cause notice of any resolution suspending or cancelling a certificate of registration, license to practise, enrollment as an engineer-in-training or certificate of authorization of a person complained of, to be given to the members of the Association by publication in such form and in such manner as Council shall

determine, and Council may give such further notice as it shall decide.

No notice pending appeal

(7) In the event that an appeal from a resolution of the Discipline Committee is taken pursuant to section 21, no such notice shall be given unless and until the resolution of the Discipline Committee is upheld on appeal and the periods for the taking of any further appeals have expired.

Surrender of license, certificate and seal

(8) Subject to subsections 21(4) and (5), where a certificate of registration, license to practise, certificate of enrollment as engineer-in-training, or certificate of authorization is revoked or suspended, the former holder thereof shall forthwith deliver the certificate of registration, license to practise, certificate of enrollment, or certificate of authorization and any related seal to the Registrar.

Legal assistance

(9) The Council or its designate may in the execution of its duties regarding Act enforcement employ at the expense of the Association such legal or other assistance as it thinks necessary.

Recovery of costs

(10) The Council may direct that the person, partnership, association of persons or corporation, whose conduct is the subject of inquiry shall reimburse the Association for expenses incurred by it under subsection (9) if during the course of inquiry that person, partnership, association of persons or corporation is proven guilty of the offence alleged in the complaint, and if the finding of the inquiry is confirmed as the result of any subsequent appeal. 1990,c.12,s.20.

APPEALS

Appeals

21. (1) A party to proceedings before the Discipline Committee may appeal within thirty days from the date of the decision or order of the Discipline Committee to a judge of the Supreme Court in accordance with the rules of court.

Copy of record

(2) Upon the request of a party desiring to appeal and upon payment of the fee as prescribed in the bylaws, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including a copy of the documents received in evidence and the decision or order appealed from.

Powers of court

(3) An appeal under this section may be on questions of law or fact or both, and the court may

(a) affirm, vary or rescind the decision of the Discipline Committee;

(b) direct the Council to take any action which it has the power to take; or

(c) refer the matter back to the Council for rehearing in whole or in part, in accordance with such directions as the court considers proper.

Effective date of suspension, etc.

(4) Where the Discipline Committee revokes, suspends or restricts a membership, license, certificate of enrollment or certificate of authorization on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision, unless the court to which the appeal is taken otherwise orders.

Idem, other grounds

(5) Where the Discipline Committee revokes, suspends or restricts a membership, license, certificate or enrollment or certificate of authorization on grounds other than for incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, when the Committee considers that it is appropriate for the protection of the public, the Committee may so order. 1990,c.12,s.21; 2008,c.20,s.72(27).

NOTICE

Service of notice

22. (1) All notices required to be given or mailed under the provisions of the Act and bylaws shall be deemed to have been given or mailed, if mailed prepaid in any post office within the time specified for such notice, addressed to the person entitled to the notice at his address as it appears on the register.

Evidence of notice

(2) A statutory declaration of the secretary or Act Enforcement Officer shall be conclusive evidence of the giving and mailing of such notice, and, unless the contrary is proven, service of the notice shall be deemed to have been effected following seven days after posting. 1990,c.12,s.22.

PENALTIES

Practising without registration, license or certificate

23. (1) Any person, not being a member or licensee or engineer-in-training or a person whose certificate of registration, license to practise, or certificate of engineer-in-training has been revoked or suspended under this Act, who

(a) engages in the practice of engineering;

(b) uses verbally or otherwise the title of professional engineer or any abbreviation of such title, or any name, word, description or designation that may lead any person to believe that the person is a professional engineer, a member of the Association, licensed to practise, or entitled to practise professional engineering;

(c) advertises, holds out or conducts himself in any way implying or leading any person to believe that such person is a professional

engineer, a member of the Association, licensed to practise, or entitled to practise professional engineering; or

(d) wilfully procures or attempts to procure registration or licensing under this Act for himself or for another person by making, producing or causing to be made or produced any fraudulent representation or declaration, either verbal or written,

commits an offence punishable upon summary conviction.

Practising without certificate of authorization

(2) Any partnership, association of persons, or corporation which does not hold a valid certificate of authorization under section 6, which

(a) engages in the practice of professional engineering;

(b) uses verbally or otherwise any name, title, description or designation that may lead any person to believe that such partnership, association of persons, or corporation is qualified or entitled to undertake or carry out the application of engineering; or

(c) advertises, holds out or conducts itself in any way implying or intending to lead any person to believe that such partnership, association of persons or corporation is qualified or entitled to undertake or carry out the application of engineering,

commits an offence punishable on summary conviction.

Permitting to practise without registration of license

(3) Any person who, or any partnership, association of persons, or corporation which directs or permits any person or employee, who is not a member, licensee, or engineer-in-training to engage in the practice of engineering commits an offence punishable on summary conviction.

Penalties

(4) Any person, partnership or any partner thereof, association of persons or any member thereon, corporation or any director thereof who commits an offence under this section is liable, on summary conviction

(a) for the first offence to a fine of not less than $1,000 and not more than $5,000;

(b) for the second and each subsequent offence, to a fine of not less than $5,000 and not more than $10,000, or to imprisonment for a term of not more than six months, or to both; and

(c) upon failure to pay a fine imposed under clause (a) or (b), to imprisonment for a term of not more than six months.

Additional restrictions

(5) Upon conviction of any person or holder for an offence under subsections (1),(2) or (3), the judge convicting the person or holder may in addition prohibit that person or holder from engaging in the practice of professional engineering or from doing anything for which the person or holder was convicted.

Penalty when not otherwise provided for

(6) Any person who refuses or wilfully neglects to perform any of the duties imposed by this Act, or who violates any of the provisions of this

Act, shall be liable on summary conviction to a penalty, when not otherwise provided for, of not less than $100 and not more than $5,000.

Information how laid

(7) Any information for the prosecution of any person, partnership, association of persons or corporation under this Act may be laid by any member, licensee, engineer-in-training or holder or any person appointed by the Council.

Certificate of Registrar evidence

(8) A certificate purporting to be under the hand of the Registrar and bearing the seal of the Association shall be evidence in any court or elsewhere of the issuance of a certificate of registration, license to practise, certificate of engineer-in-training or certificate of authorization or the non-issuance thereof.

Offences, proof required

(9) In any prosecution under this Act, it shall be sufficient proof of the offence alleged if it be proved that the person accused had done or committed a single act of the kind complained of.

Multiple offences

(10) Any information or complaint for contravening the provisions of this Act may be for one or more offences and no information, complaint, warrant, conviction or other proceeding for prosecution under this Act shall be deemed objectionable or insufficient by reason of the fact that it relates to two or more offences. 1990,c.12,s.23; 1994,c.58,s.6.

LIMITATION OF ACTIONS

Limitation for proceeding under the Act

24. (1) No action or other proceeding shall be commenced against a member, licensee, engineer-in-training or holder of a certificate of authorization for any violation of this Act after two years from the date the violation became known or ought to have become known.

Protection for Council, officers, etc.

(2) No action or other proceedings shall be brought against the Council or any committee, officer, member, employee, agent or appointee of the Association for anything done in good faith under the provisions of this Act and the bylaws, or for any neglect or default in the performance or exercise in good faith of duty or power under this Act.

Liability of members is limited

(3) No member, licensee, engineer-in-training or holder of a certificate of authorization shall be personally liable for any debt of the Association beyond the amount of the unpaid dues if such a member, licensee, engineer-in-training or holder of certificate of authorization has not contravened the provisions of this Act, but all property of the Association shall be liable for the payment of the debts of the Association. 1990,c.12,s.24.

SEALS

25. (1) The Association shall have a corporate seal. Corporate seal

(2) Every member shall have a seal of a design approved by the Council, the impression of which shall contain the name of the member and the words "Professional Engineer, Province of Prince Edward Island". Seal of members

(3) Every person granted a license to practise by the Association shall have a seal of a design approved by the Council, the impression of which shall contain the name of the licensee, and the words "Licensed Professional Engineer, Province of Prince Edward Island". Seal of licensee

(4) All final drawings, specifications, plans, reports and other documents involving the practice of professional engineering when issued shall bear the signature, date and the seal of the professional engineer who prepared or approved them. Use of seals

(5) No person shall use drawings, plans and documents pertaining to engineering works in the province except where the same have affixed thereto the seal and signature of a member or licensee. Plans, etc. must have seal

(6) Every member or licensee who does not sign, date and affix his seal to all final drawings, specifications, plans, reports and other engineering documents prepared by him or under his direct supervision may be subject to disciplinary proceedings for professional misconduct. 1990,c.12,s.25. Members, licensee must use seal on final work

INJUNCTION

26. The Association may apply to a judge of the Supreme Court in accordance with the provisions of the rules of court for an injunction restraining any person or corporation from practising or attempting to practise professional engineering, or from doing or attempting to do anything contrary to the provisions of this Act, or contrary to any bylaw passed under the authority of this Act. 1990,c.12,s.26; 2008,c.20,s.72(27). Injunction

RECOVERY OF CHARGES

FOR PROFESSIONAL ENGINEERING SERVICES

27. No person, partnership, association of persons, or corporation shall be entitled to the payment or recovery of any fees or charges in any court, or otherwise, for any service performed within the practice of professional engineering unless, at the time the services were performed, Recovery of charges for professional engineering services

the person was registered or licensed under this Act or the partnership, association of persons, or corporation was the holder of a valid certificate of authorization. 1990,c.12,s.27.

BYLAWS

Bylaws, powers to make

28. (1) The Association may make bylaws relating to the administrative and domestic affairs of the Association consistent with the provisions of this Act for

(a) the discipline and honor of the profession, and the discipline and control of its members, licensees, engineers-in-training, and holders of certificates of authorization;

(b) prescribing the amount and requiring the payment of annual dues and other fees;

(c) the examination and admission of candidates for membership, license to practise, engineer-in-training and certificate of authorization;

(c.1) the establishment and enforcement of mandatory professional development programs for its members;

(d) fixing the financial year of the Association and providing for the audit of the accounts and transactions of the Association;

(e) calling, holding and conducting of meetings of the Council and the duties of members of the Council;

(f) calling, holding and conducting of meetings of the membership of the Association;

(g) prescribing the duties of the officers of the Association;

(h) prescribing forms and providing for their use;

(i) providing procedures for the making, amending and revoking of the bylaws;

(j) borrowing of money by the Association and the giving of security therefor;

(k) membership of the Association in other organizations the objects of which are not inconsistent with and are complementary to those of the Association, the payment of annual assessments and provision for representatives at meetings; and

(l) all other purposes necessary for the management of the affairs of the Association and the exercise of any of the powers conferred by this Act.

Ratification

(2) All bylaws and amendments thereof shall become effective only after ratification by two thirds of the votes received from members of the Association in good standing.

Approval

(3) Any bylaw made under this Act shall be subject to the approval of the Lieutenant Governor in Council. 1990,c.12,s.28; 2004,c.3,s.2.

Transitional

29. A person registered as a member, licensed to practise professional engineering or enrolled as an engineer-n-training under the former Act on the date this Act comes into force shall be deemed to be registered, licensed or enrolled under the equivalent provision of this Act. 1990,c.12,s.29.

Repeal

30. The former Act is repealed. 1990,c.12,s.30.