



## **BY-LAW No. 4**

### **Elections By-Law** made under

#### **The Engineers and Geoscientists Act, 2008**

**Pursuant to the powers vested in it by virtue of the Engineers and Geoscientists Act, 2008 and all other powers enabling it, the board of the Association of Professional Engineers and Geoscientists Newfoundland and Labrador (PEGNL) hereby makes, effective October 17, 2014, the following as it By-Law No. 4, to be known as the "PEGNL Elections By-Law", made pursuant to paragraphs 9.1(c) and 9.1(d) of the Act:**

#### **1. Definitions**

In this By-Law No. 4,

"Act" means the Engineers and Geoscientists Act, 2008;

"annual general meeting" means annual general meeting of PEGNL;

"board" means the board of directors established under the Act;

"elected" means a member who is appointed to the PEGNL Board of Directors, other than by ministerial appointment, following a voting process or by acclamation;

"member" means professional member or a member-in-training;

"professional member" is as defined in the Regulations;

"Regulations" means the regulations made under the Act;

Except as otherwise specified in this By-Law, terms shall have the same meaning as they have in the Engineers and Geoscientists Act, 2008 or in the Regulations made under the Act.

#### **2. Elected Positions**

**2.1** There shall be one position established as chair-elect, and this position shall be elected annually.

**2.2** There shall be one position established as chairperson, and this position shall be filled by the chair-elect elected in the previous year.

**2.3** There shall be one position established as past chair, and this position shall be filled by the chairperson who served in the previous year.

**2.4** There shall be six positions established as non-executive directors: (a) one position shall be reserved for a director whose primary place of residence is outside the Eastern District; (b) one position shall be reserved for a director who is a professional geoscientist; (c) one position shall be reserved for a director who is a professional engineer; and (d) the remaining three positions shall be established as at-large positions.

#### **3. Term and Eligibility**

**3.1** Elected board members shall be elected to serve on the board for a term of three years. In the case of a board member elected as chair-elect, the first year shall be served as chair-elect, the second year as chairperson of the board and the third year as past chair.

**3.2** Notwithstanding subsection 3.1, a board member elected as chairperson shall be elected to serve for a term of two years; the first year shall be served as chairperson and the second year as past chair.

**3.3** Notwithstanding subsection 3.1, a non-executive director elected to replace a past chair who is unable to serve an additional year as contemplated in subsection 4.3 shall be elected for a term of one year.

**3.4** Subject to subsection 3.6, an elected board member may not serve more than two (2) consecutive terms as an elected board member.

**3.5** The term of an appointed board member pursuant to subsection 4.1, 4.2, 4.3 or 4.4 shall not be considered to be an elected term pursuant to subsection 3.4.

**3.6** An elected board member who has served two (2) consecutive terms as an elected board member may serve a third consecutive term as an elected board member only if elected as chair-elect or chair for that third consecutive term.

**3.7** A sitting board member who wishes to stand for election as chair-elect or chair may only do so if he or she resigns as a board member.

**3.8** A person elected to the position of chair-elect shall not stand again for election to the position of chair-elect for at least six (6) years from his or her election as chair-elect.

#### **4. Vacancies**

**4.1** If a chair-elect resigns, dies or becomes incapable of performing his or her duties:

- (a) an additional non-executive director shall be appointed by the board within 60 days of the resignation, death or incapacity, as applicable, until the next annual election;
- (b) the current serving chairperson may be appointed by the board to continue as chairperson for an additional one year term; and
- (c) the current serving past chair may be appointed by the board to continue as past chair for an additional one year term.

**4.2** If a chairperson of the board resigns, dies or becomes incapable of performing his or her duties:

- (a) the chair-elect shall immediately succeed to the position of chairperson of the board and shall serve out both the remaining term of the former chairperson and his or her normal term as chairperson of the board;
- (b) an additional non-executive director shall be appointed by the board within 60 days of the resignation, death or incapacity, as applicable, until the next annual election; and
- (c) the current serving past chair may be appointed by the board to continue as past chair for an additional one year term.

**4.3** If a past chair resigns, dies or becomes incapable of performing his or her duties, an additional non-executive director shall be appointed by the board within 60 days of the resignation, death, or incapacity, as applicable, to fill the board vacancy until the next annual election.

**4.4** If a non-executive director resigns, dies or becomes incapable of performing his or her duties, a replacement non-executive director shall be appointed by the board within 60 days of the resignation, death, or incapacity, as applicable, to fill the board vacancy until the next annual election.

**4.5** If there is no eligible candidate, to fill a vacancy at the time of the election, a replacement non-executive director may be appointed by the Board for the normal term of the elected position, to fill the Board vacancy.

**4.6** When a chair-elect, chairperson, or past chair resigns, or becomes incapable of performing his or her duties, he or she shall not continue to serve as an elected board member in any capacity.

**4.7** If an elected board member resigns or becomes incapable of performing his or her duties at any time during his or her three year term, that board member shall be deemed to have served his or her full three year term for the purpose of determining whether he or she is eligible to be elected to another term as an elected board member.

**4.8** A member appointed as a non-executive director pursuant to subsection 4.1, 4.2, 4.3 or 4.4 shall be replaced by an elected board member in the next election following his or her appointment.

**4.9** A member appointed pursuant to subsection 4.1, 4.2, 4.3 or 4.4 is eligible as a candidate in the next election following his or her appointment if nominated in accordance with Section 5.

## **5. Nominating Procedures**

**5.1** The board shall call annually, at least two months before the date of the next annual general meeting, for nominations from the members:

- (a) for the position of chair-elect;
- (b) as necessary, for candidates to fill any vacancies on the board as the terms of any remaining transitional board members and of board members elected in accordance with this by-law expire;
- (c) as necessary, for the position of chairperson; and
- (d) as necessary, for a non-executive director to fill a vacancy in the position of past chair .

**5.2** The board shall appoint a Nominating Committee of at least three members, which committee can include outgoing members of the board who are not intending to run for a position on the board in the upcoming annual election.

**5.3** The Nominating Committee shall establish a slate of candidates that ensures the board composition complies with the residency and professional representation requirements described in subsection 2.4 after the election is held.

**5.4** A candidate, to be duly nominated for election to the board, must:

- (a) be a professional member registered with PEGNL and in professional good standing
- (b) reside in the Province of Newfoundland and Labrador;
- (c) comply with at least one of the residency or professional representation requirements if no at-large position is to be filled in the election;
- (d) not be disqualified to run under Section 3 or under the Act;
- (e) submit, by the date and in the form prescribed by the board, nomination papers signed by at least three (3) members registered with PEGNL and in professional good standing, or be nominated by the Nominating Committee; and
- (f) submit a short biographical description.

## **6. Ballot Preparation**

**6.1** In the event that there is more than one nominee for any vacancy on the Board, the Nominating Committee shall prepare a ballot for an election. Where only one eligible nominee is brought forward by the Nominating Committee for any vacancy, that nominee shall be acclaimed to the Board.

**6.3** A copy of the ballot shall be mailed or notification of the online site with access code shall be emailed to each member of PEGNL at least one month before the date of the next annual general meeting of PEGNL.

**6.4** Ballots shall be mailed to the last mailing address for that member of which PEGNL has notice with instructions to return the ballot, by mail, courier or hand delivery; or shall be emailed to the last email address for that member with web site location and associated access codes with instructions to vote online; in time to be received by the chief executive officer at the head office of PEGNL not less than four days prior to the said meeting. Preference will be given to sending to the member's email address only where it exists. Where it doesn't exist or bounces, the printed ballot method will be used .

## **7. Voting Procedures**

**7.1** The voting procedures for elections to the board shall be in accordance with the following:

- (a) the election shall be a secret ballot process;
- (b) the form of the ballot and the instructions included with the ballot package mailed to the member shall be consistent with voting by secret ballot. The online voting will also be consistent with secret ballot voting, and;
- (c) where voting is to be by printed ballot, the printed ballot shall be delivered for receipt by the chief executive officer at the head office of PEGNL not less than four (4) days prior to the next annual general meeting of PEGNL, by use of the pre-addressed, postage-paid, return envelope to be provided

with the ballot package. Where voting is online, such voting will be completed not less than four(4) days prior to the next annual general meeting of PEGNL.

**7.2** The chief executive officer shall take reasonable steps to ensure that ballots received in accordance with this Section are kept secure and in a manner consistent with the secret ballot process.

**7.3** The board shall appoint a Scrutineer Committee made up of such persons as deemed appropriate by the board, provided that the number of persons appointed to such Committee shall not be less than three (3), shall include at least one member, and shall not include a sitting board member or a candidate in the current election.

**7.4** Not more than three (3) days before the annual general meeting, all ballots duly received in accordance with subsection 7.6(c), along with the names of any Board members to be acclaimed, shall be delivered by the chief executive officer, or in his or her absence, by another person designated by the Nominating Committee, to the Scrutineer Committee.

**7.5** The Scrutineer Committee shall record the votes cast by members for the positions to be filled by the election and shall submit to the annual general meeting the names of those acclaimed or elected to those positions by majority vote.

**7.6** Candidates shall be selected for submission to the annual general meeting in the following order:

(a) if no sitting non-executive director is resident outside Eastern District, the candidate who is resident outside Eastern District receiving the greatest number of votes shall be selected as the director holding the position reserved for a member resident outside Eastern District;

(b) if no sitting non-executive director is a professional geoscientist, the candidate who is a professional geoscientist receiving the greatest number of votes, excluding any candidate selected pursuant to subsection 7.6(a) as applicable, shall be selected as the director holding the position reserved for a professional geoscientist;

(c) if no sitting non-executive director is a professional engineer, the candidate who is a professional engineer receiving the greatest number of votes, excluding any candidates selected pursuant to subsections 7.6(a) and (b) as applicable, shall be selected as the director holding the position reserved for a professional engineer; and

(d) the candidates polling the greatest numbers of votes, excluding any candidates selected pursuant to subsections 7.6(a), (b), and (c) as applicable, shall be selected in order of decreasing number of votes to fill any remaining vacancies.

**7.7** In the event of a tie for candidates to be elected to vacancies based on region of residence or professional designation, the Scrutineer Committee may use professional designation to break the tie if it facilitates the election of all candidates receiving the same number of votes to the board.

**7.8** The chairperson of the board or other presiding officer at the annual general meeting shall declare such members duly elected. The Scrutineer Committee's report and all ballots delivered to the Scrutineer Committee shall be retained for at least three (3) months after the annual general meeting before they are destroyed.

**7.9** If a candidate contests the election result for the position for which he or she stood for election and requests a recount:

(a) a new Scrutineer Committee shall be appointed by the board and the new committee shall recount the ballots;

(b) candidates may be present or be represented at such a recount;

(c) the results shall be dealt with, as set forth above, and shall be announced to the members of PEGNL as soon as practicable; and

(d) such recounts shall be final and binding.

**7.10** Subject to subsection 7.7, any tie for a vacancy on the board shall be broken by secret ballot of all members present at the annual general meeting.

**7.11** If the board determines that there has been an irregularity in any election, the board may:

(a) declare the election null and void and direct a new election;

(b) ratify the election if the irregularity is deemed by the board to be inconsequential to the validity of the election; or

(c) take such further or other action as the board deems necessary to remedy the irregularity.