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# Engineering Profession Act

CHAPTER 148

OF THE

REVISED STATUTES, 1989

**amended** 2006, c. 29; 2008, c. 15; 2009, c. 13; 2010, c. 15.

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## By-Laws of The Association

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# **An Act Respecting the Engineering Profession**

## **Short title**

1 This Act may be cited as the Engineering Profession Act. *R.S., c. 148, s. 1.*

## **INTERPRETATION**

### **Interpretation**

2 In this Act,

- (a) "Association" means the Association of Professional Engineers of the Province of Nova Scotia;
- (b) "Board" means the Board of Examiners of the Association or such members of the Board as may be deputed by the Council to examine credentials or conduct examinations;
- (c) "by-laws" means by-laws of the Association;
- (d) "certificate of registration" means a certificate in force under this Act which is issued to a member;
- (e) "Council" means the Council of the Association;
- (f) "engineer" means a person who through specialized education, training and experience is skilled in the principles and practice of engineering;
- (g) "engineering" means the science and art of designing, investigating, supervising the construction, maintenance or operation of, making specifications, inventories or appraisals of, and consultations or reports on machinery, structures, works, plants, mines, mineral deposits, processes, transportation systems, transmission systems and communication systems or any other part thereof;
- (h) "engineer-in-training" means a person enrolled as an engineer-in-training in good standing;
- (i) "licence to practise" means a licence to practise professional engineering issued and in force under this Act;
- (j) "licensed to practise" means holding a licence to practise;
- (k) "member" means a registered member of the Association in good standing;
- (l) "President" means the President of the Association;

- (m) "professional engineer" means a person who practises professional engineering;
- (n) "professional engineering" means application of engineering for gain, hire or hope of reward, either directly or indirectly;
- (na) "registrant" means either a member, a person licensed to practise or an engineer-in-training;
- (o) "Registrar" means the Registrar of the Association;
- (oa) "registration" means either a certificate of registration, a licence to practise or enrolment as an engineer-in-training;
- (p) "Secretary" means the Secretary of the Association;
- (q) "Treasurer" means the Treasurer of the Association;
- (r) "Vice-president" means the Vice-president of the Association. *R.S., c. 148, s. 2; 2009, c.13, s.1.*

## **ASSOCIATION**

### **Association continued**

3 (1) The Association of Professional Engineers of the Province of Nova Scotia, heretofore incorporated by Chapter 186 of the Acts of 1920 is continued as a body corporate and politic under the same name and shall have perpetual succession and a common seal.

(2) All persons who were members of the Association of Professional Engineers of the Province of Nova Scotia on the twenty-ninth day of March, 1945, are declared to be members of the Association of Professional Engineers of the Province of Nova Scotia as that body is continued under this Section. *R.S., c. 148, s. 3.*

### **Head office**

4 The head office of the Association shall be at Halifax. *R.S., c. 148, s. 4.*

## **OBJECTS**

### **Objects**

5 The objects of the Association are to

- (a) promote and improve the proficiency of professional engineers in all matters relating to the profession of engineering;

(b) do all such matters and things as will advance and protect the interests of professional engineers in the profession of engineering;

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

(d) 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. *R.S., c. 148, s. 5.*

## **POWERS**

### **Powers**

6 (1) The Association, in addition to all other powers vested in corporations, is authorized and empowered to

(a) provide for the government, discipline and honour of persons practising professional engineering and those enrolled as engineers-in-training within the Province;

(b) acquire, hold and dispose of real and personal property or any part thereof;

(c) borrow money for the purpose of carrying out any of the objects of the Association and give security for any money so borrowed on any of the real, personal or mixed property of the Association by way of mortgage, pledge, charge or otherwise howsoever;

(d) establish and maintain a register of professional engineers, which register shall be the official register of persons entitled to practise professional engineering within the Province;

(e) fix and collect the fees payable by any person, upon being admitted as a member, licensed to practise or enrolled as an engineer-in-training, and fix and collect the fees payable by any person desiring to write any examination prescribed by the Association with a view to becoming a member, or being enrolled as an engineer-in-training, and fix and collect the annual dues payable by members, persons licensed to practise and engineers-in-training, and exempt any person from the payment of any such fees or dues for such reason and upon such terms and conditions as the Council may from time to time determine and, by by-law, authorize the Council to fix from time to time by resolution the fees and annual dues of the Association in such manner and subject to such limits as are prescribed by by-law;

(f) assess members for any ordinary, special or extraordinary expenditures that may be deemed necessary or expedient to further any of the objects of the Association and make such assessment in the manner provided by the by-laws of the Association;

(g) 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 or before being enrolled as an engineer-in-training;

(ga) by resolution establish compulsory requirements for the continuing professional development of members with the power to exempt any member or class of members from such requirements for reasons and upon such terms and conditions as the Council may from time to time may determine;

(h) provide 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, and grant certificates of registration and licences to practise to persons so qualified to practise;

(i) arrange and establish ways and means by which persons may be trained in the profession of engineering;

(j) 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;

(k) enter into agreements on behalf of the Association or members or engineers-in-training, with any person or association of persons, as may be necessary for or incidental or conducive to the carrying out of the objects of the Association;

(ka) establish with any other professional association a joint practice board with power to review and make recommendations to the Council on professional practice issues of mutual concern;

(l) make, amend and repeal by-laws relating to the objects and powers of the Association, provided that such by-laws, amendments and repeals thereof shall have no force or effect unless and until approved by the Governor in Council;

(la) by by-law empower the Council to, by resolution, adopt, amend or rescind, in whole or in part, a Code of Ethics;

(m) 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.

(2) A Code of Ethics adopted or an amendment to a Code of Ethics pursuant to clause (1)(la) must be appended to the by-law and is a part of the by-laws. *R.S., c. 148, s. 6; 2006, c. 29, s. 1; 2009, c.13, s.2; 2010, c. 15, s.1.*

## MEMBERSHIP

### Qualifications of member

*[Under Section 7(3)(b), Council of the Association has approved the removal of the Canadian Citizenship or Permanent Residency requirement effective April 7, 2011]*

7 (1) Any person shall be entitled to be registered as a member of the Association upon filing with the Registrar satisfactory proof that such person is a citizen of Canada or is lawfully admitted to Canada for permanent residence, has tendered the fees and dues prescribed by or under the by-laws, has completed the minimal number of professional development hours prescribed by or under the by-laws in the twelve month period before application for registration as a member, and

(a) has obtained a degree in engineering from a school, college or university, which degree is approved by the Council, and has had four years experience in engineering;

(b) has obtained a degree in science, other than engineering, from a school, college or university, which degree is approved by the Council, and has had four years experience in engineering;

(c) is a registered member of an association of engineers, which association in the opinion of the Council is similarly constituted and has similar membership requirements to this Association, and furnishes the Registrar with a certificate of membership in good standing in such other association;

(d) has passed the examinations prescribed by the Council and has had sufficient number of years of experience in engineering to qualify such person in the opinion of the Council to practise professional engineering; or

(e) has had in the opinion of the Council outstanding experience in engineering.

(2) Subject to subsection 7(3), every person, who in the opinion of the Council, expressed by a resolution thereof, has complied with subsection (1), shall be registered as a member.

(3) The Association may by by-law authorize the Council to make resolutions

(a) respecting the establishment of different classes of applicants for registration;

(b) respecting the conditions for the entry into membership of persons in those classes;

(c) respecting the right of persons in those classes to be exempted from the requirement that the application for membership of persons in those classes come before either the Board or the Council, or both, for consideration and resolution before being granted membership. *R.S., c. 148, s. 7; 2006, c. 29, s. 2; 2008, c. 13, s. 1; 2009, c. 13, s. 3; 2010, c. 15, s. 1.*



7A A registrant may resign his or her registration by filing with the Registrar a resignation in writing and the registration is thereupon cancelled, subject to the continuing jurisdiction of the Council in respect of any disciplinary action arising out of the person's professional conduct while a registrant. *2009, c. 13, s.4.*

## **LICENCE TO PRACTISE**

### **Qualifications of non-resident**

8 (1) Any person, not resident of the Province, shall be entitled to a licence to practise upon tendering the fees, and dues prescribed by or under the by-laws and filing with the Registrar satisfactory proof that

(a) such person is a registered member in good standing of an association of engineers, which association in the opinion of the Council is similarly constituted and has similar membership requirements to the Association; or

(b) such person is qualified to practise professional engineering, but is a resident of a province, state or country in which there is no association similarly constituted.

(2) Every person, who in the opinion of the Council, expressed by a resolution thereof, has complied with subsection (1), shall be granted a licence to practise. *R.S., c. 148, s. 8; 2006, c. 29, s. 3.*

## **ENGINEERS-IN-TRAINING**

### **Enrolment of engineer-in-training**

9 (1) Any person who is a graduate or undergraduate in engineering or science of a school, college, or university approved by the Council or has passed examinations prescribed by the Council, may with the approval of the Council, be enrolled with the Association as an engineer-in-training.

(2) An engineer-in-training shall be subject to the control of the Council in the manner provided by this Act and the by-laws. *R.S., c. 148, s. 9.*

## **PERSONS EXEMPTED**

### **Act does not apply**

10 This Act shall not apply to any person

(a) while a member of and on duty with any branch of Her Majesty's Armed Forces;

(b) while waiting decision of the Council on his application for membership or for a licence to practise after having filed the credentials provided for by Sections 7 or 8;

(c) while applying engineering to a project on his own property for the sole use of his domestic establishment, or elsewhere to a project of a value not exceeding five thousand dollars, where in either case that engineering in the opinion of the Council does not involve safety of other persons;

(d) who holds a certificate of competency as a mine manager pursuant to the Coal Mines Regulation Act and is engaged in coal mining operations. *R.S., c. 148, s. 10.*

## **PARTNERSHIP AND COMPANIES**

### **Non-individual**

11 (1) A partnership, association of persons or body corporate, shall not as such be registered as a member of the Association or licensed to practise.

(2) A partnership, association of persons or body corporate, may undertake and carry out the application of engineering in its own name provided that one of its principal and customary functions is the application of engineering and such application of engineering is done under the supervision of a member or a full-time permanent employee thereof, who in either case is a member of the Association or is licensed to practise. *R.S., c. 148, s. 11.*

## **MEETINGS**

### **Meetings**

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

(2) Members and engineers-in-training shall be entitled to vote at a meeting of the Association. *R.S., c. 148, s. 12; 2006, c. 29, s. 4.*

## **ADMINISTRATION**

### **Council**

13 (1) There shall be a Council of the Association consisting of the President, immediate Past-president, Vice-president and eight other members, who must be residents of the Province and who shall be elected in the manner provided by the by-laws.

(2) The President shall hold office until his successor is elected and shall act as presiding officer at the meetings of the Council and of the Association voting only when the votes are evenly divided.

(3) The Vice-president shall have all the powers of the President in the absence of the latter.

(4) The Council shall appoint annually a Registrar, a Secretary and a Treasurer, who shall perform the duties assigned to them by this Act and by the by-laws and the Council may appoint one person to any one or more of the offices of Registrar, Secretary and Treasurer.

(5) The Council shall appoint annually such other officers as may be necessary for carrying out the provisions of this Act and the by-laws.

(6) The members of the Council, officers and examiners appointed under this Act and the by-laws shall be paid such fees and expenses as are prescribed by the by-laws.

(7) The Council shall provide for the general management of the affairs and business of the Association and shall carry on and transact the same in accordance with this Act and the by-laws. *R.S., c. 148, s. 13; 2006, c. 29, s. 5.*

## **EXAMINATIONS**

### **Board of Examiners**

14 The Council shall, in the manner provided by the by-laws, appoint annually a Board of Examiners consisting of members who are residing within the Province and may at any time fill any vacancies on the Board, replace any member thereof and add to its number. *R.S., c. 148, s. 14.*

### **Duties**

15 The Board of Examiners shall, in the manner provided by the by-laws,

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

(b) set and conduct the examinations of candidates for membership and enrolment as engineers-in-training and file the results thereof. *R.S., c. 148, s. 15.*

### **Central Examining Board**

16 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 such Central Examining Board all or any of the powers possessed by the Association in respect of the examination of candidates for membership or enrolment as an engineer-in-training, provided that the examination shall be held within the Province. *R.S., c. 148, s. 16.*

## **DISCIPLINE OF MEMBERS**

### **Discipline by Council**

- 17 (1) A complaint against a registrant may be initiated by any person.
- (2) A complaint must be in writing and filed with the Secretary.
- (3) Upon the filing of the complaint, the Secretary or the Secretary's designate shall forthwith by written notice
- (a) advise the registrant complained against that the complaint has been made;
  - (b) enclose a copy of the complaint; and
  - (c) advise the registrant complained against that the registrant has the opportunity to provide the Secretary with a written response to the complaint within fourteen days of the date that a copy of the complaint was sent to the registrant.
- (4) The Secretary or the Secretary's designate shall forward the response of the registrant complained against, if any, to the complainant.
- (5) The complainant may submit a written response to the response of the registrant complained against within ten days of the response of the registrant being forwarded to the complainant by the Secretary.
- (6) The Secretary or the Secretary's designate shall forward the complainant's response, if any, to the registrant complained against.
- (7) The registrant complained against may respond in writing to the complainant's further response within ten days of complainant's further response being forwarded to the registrant by the Secretary.
- (8) The Secretary or the Secretary's designate shall forward to the complainant any further response received from the registrant complained against.
- (9) The Secretary or the Secretary's designate shall refer the complaint to the Complaints Committee, together with any written responses from the registrant complained against and the complainant upon the earliest of the following events occurring:
- (a) upon the registrant failing to respond to the written notice issued pursuant to clause (3)(c) within fourteen days following the issuance of the notice;
  - (b) upon either the registrant or the complainant failing to respond to the response forwarded to either person within the response times set out in subsection (5) or (7); or

(c) upon receipt of the further response of the registrant pursuant to subsection (7). *2009, c. 13, s. 5; 2010, c. 15, s. 2.*

17A (1) Where, in the absence of a complaint, circumstances come to the notice of the Secretary that, in the Secretary's opinion, may constitute grounds for discipline pursuant to this Act, the Secretary may prepare a report thereon in writing for submission to the Complaints Committee.

(2) The Secretary shall

(a) forward a copy of the report forthwith after its preparation to the registrant who is the subject of the report; and

(b) advise the registrant who is the subject of the report that the registrant has the opportunity to provide the Secretary with a written response concerning the report within fourteen days of its being forwarded by the Secretary.

(3) After the expiration of fourteen days, the Secretary or the Secretary's designate shall refer the report to the Complaints Committee together with any written response from the registrant who is the subject of the report.

(4) The Complaints Committee shall deal with such a report as if it were a complaint, and the report must be treated for purpose of this Act and by-laws in the same manner as a complaint. *2009, c. 13, s. 5.*

17B The complaint process must not be used for any extraneous or improper purpose including, but not limited to, use

(a) for the purpose of harassing a registrant of the Association into providing relief that is beyond that which the member was retained to furnish or that may be more appropriately available through civil litigation or other processes;

(b) by a party adverse in interest to a client or a registrant complained against, for the purpose of harassing such client or registrant;

(c) as a form of discovery or for the gathering of information in another proceeding; or

(d) for commercial gain. *2009, c. 13, s. 5.*

17C (1) The Council shall appoint, from among the members of the Association, a Complaints Committee composed of not fewer than five members.

(2) Members of the Complaints Committee shall be appointed for terms up to and including three years, as the Council determines.

(3) In the case of a vacancy in the Complaints Committee, the Council may appoint another member of the Association to fill the vacancy for such term as the Council determines.

(4) A quorum of the Complaints Committee consists of three members.

(5) The Council shall appoint the Chair and Vice-chair of the Complaints Committee. *2009, c.13, s. 5.*

17D (1) The Complaints Committee shall investigate complaints regarding disciplinary matters concerning a registrant and upon doing so may

(a) obtain additional information, orally or in writing from the member, the complainant or any other person;

(b) interview the registrant, the complainant or any other person;

(c) obtain outside assistance to further the investigation;

(d) employ such experts as the Committee considers necessary;

(e) undertake such other steps as the Committee determines are required for a thorough investigation.

(2) The Complaints Committee is not required to hold a hearing or to afford any person an opportunity for a hearing or an opportunity to make oral submissions before making a decision or giving a direction under this Section or Section 17E.

(3) The Complaints Committee may require a registrant to

(a) submit to physical or mental examinations by such qualified persons as the Committee designates;

(b) submit to an inspection or audit of the registrant's work, products of service and practice by such qualified persons as the Committee designates;

(c) undergo such examinations of engineering and allied skills, knowledge and professional practice as the Committee directs to assess the registrant's competency to practise engineering;

(d) produce records and accounts kept with respect to the registrant's practice.

(4) Where a registrant fails to comply with subsection (3), the Complaints Committee may suspend or restrict the registration or licence to practise until the member, person licensed to practise or engineer-in-training complies.

(5) Where the Complaints Committee has required a registrant to submit to examinations or submit to inspection or audit of the registrant's practice by a qualified person designated by the Committee, the Committee shall provide the member with a copy of any report it receives from the designated qualified person. *2009, c. 13, s. 5.*

17E (1) The Complaints Committee may

(a) dismiss a complaint if it determines that the complaint is frivolous or vexatious or not advanced in good faith or advanced for an extraneous or improper purpose as identified in Section 17B;

(b) dismiss a complaint if it finds that there are not reasonable or probable grounds to believe that the registrant complained against has breached the Act or by-laws or is guilty of unprofessional conduct, negligence or misconduct in the execution of the duties of the registrant's office;

(c) attempt to resolve the complaint if, in the opinion of the Committee, the complaint may be satisfactorily resolved and the resolution of the complaint would properly balance the protection of the public and the rights of the registrant complained against;

(d) refer a complaint to the Discipline Committee if it finds that there are probable and reasonable grounds to believe that the registrant complained against has breached the Act or by-laws or is guilty of unprofessional conduct, negligence or misconduct in execution of the duties of the registrant's office;

(e) refer a complaint to the Discipline Committee if it finds that a registrant has been convicted of a criminal offence by any court of competent jurisdiction.

(2) A referral pursuant to clause (1)(d) or (e) must include a written report containing a summary of the investigation and identification of the issues that the Discipline Committee may wish to determine.

(3) The Complaints Committee shall provide a copy of its report to Discipline Committee to the registrant complained against.

(4) The Secretary shall advise, in writing, the registrant and the complainant of the disposition of a complaint by the Complaints Committee. *2009, c. 13, s. 5.*

17F (1) A complainant who is not satisfied with the disposition of the complaint by the Complaints Committee may apply to the Chair of the Discipline Committee for a review of the treatment of the complaint by the Complaints Committee by submitting a written appeal to the Secretary within thirty days of the decision to the Complaints Committee.

(2) An appeal must set out the reasons why the complainant considers the complaint to have received improper treatment.

(3) Upon receipt of a written appeal of the disposition of a complaint by the Complaints Committee, the Chair of the Discipline Committee shall appoint a member of the Discipline Committee to act as review officer for the purpose of considering the appeal.

(4) The member appointed as review officer must have had no prior knowledge of the complaint and cannot participate in the disciplinary hearing if the subject-matter of the complaint comes before the Discipline Committee.

(5) The review officer may request the disclosure of such information regarding the treatment of the complaint as the review officer considers necessary.

(6) Within thirty days of receiving a written application for review from a complainant, the review officer shall inquire into the treatment of the complaint and

(a) dismiss the appeal if the review officer considers it to be frivolous or vexatious or not advanced in good faith;

(b) dismiss the appeal if the review officer considers the complaint to have been properly treated by the Complaints Committee;

(c) remit the complaint back to the Complaints Committee for further consideration if the review officer determines that the complaint was not fairly treated by the Committee; or

(d) refer the matter to the Discipline Committee for hearing together with a statement of the issues identified by the review officer if the officer is satisfied that the complaint was not fairly treated by the Complaints Committee and should not be remitted to the Complaints Committee for further consideration. *2009, c. 13, s. 5.*

17G (1) The Council shall appoint not fewer than ten members of the Association to serve on the Discipline Committee.

(2) The Council may appoint not more than two persons who are not registrants to serve on the Discipline Committee.

(3) The Council shall appoint the Chair and Vice-chair of the Discipline Committee.

(4) Members of the Discipline Committee shall be appointed for terms up to three years, as the Council determines.

(5) In the case of a vacancy in the Discipline Committee, the Council may appoint another member of the Association or a person who is not a registrant, as the case may be, to fill the vacancy for such term as the Council determines.

(6) The Vice-chair of the Discipline Committee may do any act assigned herein for the Chair of the Committee if the Chair is unable or unwilling to act.

(7) The Discipline Committee shall receive and process all complaints referred by the Complaints Committee and all appeals from decisions of the Complaints Committee and such other or additional duties as may be assigned it by the Council. *2009, c. 13, s. 5.*



17H (1) Upon referral of a complaint to the Discipline Committee, the Chair of the Committee shall appoint not more than five members of the Committee to serve as a disciplinary panel for the complaint and shall set a time and place for the holding of a hearing to deal with the complaint.

(2) The Secretary shall send notice of the time and place of the disciplinary hearing to the registrant complained against at least thirty days before the hearing, and the notice must advise the registrant that the registrant may appear in person or by or with counsel at the hearing.

(3) The notice must also set forth the nature of the allegations that must be considered by the disciplinary panel at the disciplinary hearing.

(4) The disciplinary panel shall appoint one of its members to serve as chair of the disciplinary panel.

(5) A majority of members of the disciplinary panel is a quorum. *2009, c. 13, s. 5.*

17I (1) At any time prior to the commencement of the disciplinary hearing, the Secretary may, together with the registrant complained against, tender a written joint recommendation for the disposition of the complaint.

(2) The joint recommendation must be conditional upon its acceptance by the disciplinary panel. *2009, c. 13, s. 5.*

17J (1) Where a disciplinary panel accepts a joint recommendation for the disposition of a complaint, the panel shall confirm such acceptance by issuing an order that incorporates a joint statement of facts and the joint recommendation for the disposition of the complaint.

(2) The disciplinary panel's acceptance of a joint statement of facts and a joint recommendation for the disposition of the complaint is final and binding on the registrant complained against.

(3) A disciplinary hearing is not required if a disciplinary panel accepts a joint recommendation. *2009, c. 13, s. 5.*

17K (1) Where a disciplinary panel rejects a joint recommendation for the disposition of a complaint, the chair of the disciplinary panel shall refer the complaint back to the Chair of the Discipline Committee who shall appoint not more than five members of the discipline committee to serve as a disciplinary panel for the complaint and shall set a date and time for the commencement of a disciplinary hearing.

(2) The disciplinary hearing of a complaint must proceed without reference to the proposed joint statement of facts and joint recommendation for the disposition of the complaint.

(3) No member of the disciplinary panel that considered the joint statement of facts and joint recommendation for the disposition of the complaint may be a member of the new disciplinary panel. *2009, c. 13, s. 5.*

17L Notwithstanding that a member of the Complaints Committee or a disciplinary panel has ceased to hold office by reason of lapse of appointment, the member remains seized with the jurisdiction to complete any matter the Committee or panel has commenced and, for this purpose, the member continues to have the same powers, privileges and duties as are provided by this Act or the by-laws. *2009, c. 13, s. 5.*

17M (1) A disciplinary panel shall hold a disciplinary hearing at the time and date specified, and or at adjournment or continuation thereof.

(2) A disciplinary hearing must be held in camera unless the registrant complained against requests a public hearing, and the disciplinary panel, in its discretion, is satisfied that a public hearing is in the interest of the public. *2009, c. 13, s. 5.*

17N The parties to the disciplinary hearing are the Association and the registrant complained against. *2009, c. 13, s. 5.*

17O (1) A disciplinary panel shall hear each case in the manner it considers fit.

(2) Where the registrant complained against fails to appear at a disciplinary hearing, the disciplinary panel may proceed with the hearing in the absence of such person upon receiving proof in the form of a statutory declaration from the Secretary that due notice of the disciplinary hearing was given or mailed to the registrant complained against.

(3) The chair of the disciplinary panel has the right to administer oaths.

(4) The disciplinary panel may require a registrant to

(a) submit to physical or mental examinations by such qualified persons as the Disciplinary Committee designates;

(b) submit to an inspection or audit of the registrant's work, products of service and practice by such qualified persons as the Disciplinary Committee designates;

(c) undergo such examinations of engineering and allied skills, knowledge and professional practice as the disciplinary panel directs to assess the registrant's competency to practise engineering;

(d) produce records and accounts kept with respect to the registrant's practice.

(5) Where a registrant fails to comply with subsection (4), the disciplinary panel may suspend or restrict the registrant's registration or licence to practise until the registrant complies.

(6) Where a disciplinary panel has required a registrant to submit to examinations or submit to inspection or audit of the registrant's practice by a qualified person designated by the disciplinary panel, the disciplinary panel shall provide the registrant with a copy of any report it receives from the designated qualified person. *2009, c. 13, s. 5.*

17P (1) A disciplinary panel has the same powers of taking evidence, compelling the attendance of witnesses, compelling the production of books, paper and documents, and of punishing for contempt or the failure to comply with the orders of the disciplinary panel, as a commissioner appointed under the Public Inquiries Act.

(2) All oral evidence adduced at a disciplinary hearing must be given under oath and recorded.

(3) A certified copy of the transcript of a disciplinary hearing must be made available to the registrant complained against at the registrant's request and expense. *2009, c. 13, s. 5.*

17Q Throughout a disciplinary hearing, the registrant complained against is entitled to all the rights of natural justice, including the right to be represented by legal counsel, to know all the evidence considered by the disciplinary panel, to present evidence and to cross-examine witnesses. *2009, c. 13, s. 5.*

17R (1) Notwithstanding any other provision of this Act, in urgent and compelling circumstances the Chair of the Discipline Committee, upon the advice of the Complaints Committee, may, without a hearing, in the interest of the public, immediately suspend the licence of a registrant or immediately impose restrictions on a temporary basis on the registration of a registrant.

(2) Where the registration of a registrant has been suspended or subjected to restrictions pursuant to subsection (1), the Secretary or the Secretary's designate shall, forthwith, cause written notice of the suspension or restriction to be transmitted to the registrant.

(3) The registrant whose registration has been suspended or subjected to restrictions pursuant to subsection (1) may request a meeting with the Complaints Committee within ten days of the notice issued by the Secretary pursuant to subsection (2) by submitting a request in writing to the Secretary.

(4) The Secretary or the Secretary's designate shall cause the request to be transmitted to the Complaints Committee as soon as practical.

(5) The Complaints Committee shall, upon receipt of the request from the registrant, provide an opportunity for a meeting within ten days of the receipt of the written request and the Committee shall within seven days after the meeting confirm, vary or terminate the suspension or restrictions imposed pursuant to subsection (1) in writing and transmit its decision as quickly as practicable to the Secretary.

(6) The Secretary or the Secretary's designate shall cause the registrant to be advised of the Complaint Committee's decision.

(7) Where the Complaints Committee confirms or varies the suspension or restriction, the matter must be referred to the Chair of the Discipline Committee who shall appoint a disciplinary panel and the panel shall commence a hearing to inquire into the suspension, or restriction and the conduct of the registrant giving rise to the suspension or restriction within thirty days, unless the

registrant requests a hearing date that is more than thirty days after the referral of the matter to the Chair of the Discipline Committee.

(8) Where a decision is made pursuant to subsection (1) and the registrant does not request a meeting with the Complaints Committee within ten days of receiving notice of the decision made pursuant to subsection (1), the matter must be referred to the Chair of the Discipline Committee who shall appoint a disciplinary panel and the panel shall hold a hearing within forty days of the date of the decision made pursuant to subsection (1) unless the registrant requests a hearing date that is more than forty days after the decision made pursuant to subsection (1).

(9) For the purpose of calculating time in subsection (3), a registrant shall be presumed to have received notice of the decision made pursuant to subsection (1) two business days after the date the notice of the decision is sent to the registrant by the Secretary or the Secretary's designate by registered mail.

(10) A disciplinary panel may, upon the commencement of a hearing, vary or terminate a suspension or restrictions imposed by the Complaints Committee. *2009, c. 13, s. 5.*

17S (1) Upon completion of a disciplinary hearing, the disciplinary panel may, where it finds that the registrant is not guilty, dismiss the complaint.

(2) Where a disciplinary panel finds any registrant guilty of

(a) unprofessional conduct, negligence or misconduct in the execution of the duties of registrant's office; or

(b) any breach of this Act or of the by-laws,

or finds that a registrant has been convicted of a criminal offence by any court of competent jurisdiction, the disciplinary panel may by order

(c) cancel or suspend the certificate of registration, licence to practise or enrolment of any engineer-in-training;

(d) impose terms, restrictions, conditions or limitations on the certificate of registration;

(e) reprimand and censure the registrant and, where warranted, direct that the fact of the reprimand or censure be recorded in the register for a prescribed or indefinite period of time;

(f) in respect of orders of revocation or suspension, direct that the finding and the order of the disciplinary panel be published in detail or in summary and either with or without including the name of the registrant in the official publication of the Association and in such other manner or medium as the disciplinary panel considers appropriate in the particular case;

(g) impose such fine as the disciplinary panel considers appropriate to a maximum of five thousand dollars to be paid by the registrant to the Minister of Finance for payment into the Consolidated Fund;

(h) require that a registrant undergo such treatment, testing or assessment as is deemed appropriate;

(i) impose such other disposition as it considers appropriate.

(3) A decision of a disciplinary panel has effect immediately upon service on the member or from such time as the panel may direct.

(4) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of the Complaints Committee, the Discipline Committee or a disciplinary panel, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the complaint process, including any information gathered in the course of an investigation or produced for the Complaints Committee, the Discipline Committee or a disciplinary panel.

(5) Subsection (4) does not apply to documents or records that have been made available to the public by the Association.

(6) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee or a disciplinary panel is not admissible in a civil proceeding other than an appeal or a review pursuant to this Act. *2009, c. 13, s. 5.*

17T (1) In this Section, "costs of the Association" include

(a) expenses incurred during the investigation into a complaint and in preparing for and conducting a hearing; and

(b) solicitor and client costs and disbursements incurred during a Complaints Committee investigation, in preparation for and during a disciplinary hearing by the disciplinary panel.

(2) Where a disciplinary panel has made a finding of guilt or finds that a conviction of a criminal offence has occurred, the disciplinary panel, in addition to those remedies identified in subsection 17S(2), may

(a) require that a registrant pay to the Association all or a portion of the costs of the Association; and

(b) make it a condition of the registration of a registrant that such costs be paid forthwith, or at such time and on such terms as the disciplinary panel may fix.

(3) The Secretary shall provide the registrant and the complainant and such other persons as the disciplinary panel considers appropriate with a copy of the decision of the disciplinary panel. *2009, c. 13, s. 5.*

17U Where no appeal has been taken pursuant to subsection 17V(1) within the time prescribed for the filing of notices of appeal,

(a) the disciplinary panel's decision must be reported either on a named or unnamed basis, to members of the Association by publication in such form and in such manner as the Council considers appropriate;

(b) the disciplinary panel may, in its discretion, order that a notice of suspension or revocation of licence be printed in whatever newspaper and on as many occasions as the disciplinary panel directs;

(c) in the event that an appeal from an order of the disciplinary panel is taken pursuant to subsection 17V(1), no such notice shall be given unless and until the order of the disciplinary panel is upheld on appeal and the periods for the taking of any further appeals have expired. *2009, c. 13, s. 5.*

17V (1) A registrant subject to an order issued by the disciplinary panel under subsection 17S(2) may, within thirty days of the issuance of the order, appeal from such order to the Supreme Court of Nova Scotia on any point of law.

(2) A registrant who intends to commence an appeal pursuant to subsection (1) shall give ten days prior notice of registrant's intention to appeal to the Secretary.

(3) A registrant who commences an appeal pursuant to subsection (1) shall forthwith serve the notice of appeal on the Secretary or the Secretary's designate.

(4) Upon receipt of a notice of appeal filed pursuant to subsection (1), the Secretary or the Secretary's designate shall prepare and file with the Supreme Court of Nova Scotia a record of the disciplinary hearing which must include a copy of the transcript of the hearing, the decision of the disciplinary panel and the evidence before the disciplinary panel certified by the chair of the disciplinary panel.

(5) Where a matter is appealed to the Supreme Court of Nova Scotia pursuant to subsection (1), the Court may pending its determination of the appeal grant a stay of any order or any part of an order made by the disciplinary panel pursuant to subsection 17S(2), where in its discretion it deems fit. *2009, c. 13, s. 5.*

17W No action for damages lies against the Council, the Secretary, any committee member, officer or employee of the Council

(a) for any act or failure to act, or any proceeding initiated or taken, in good faith under this Act, or in carrying out their duties or obligation as an officer, employee, or committee member under this Act and the regulations; or

(b) for any decision, order or resolution made or enforced in good faith under this Act and the regulations. *2009, c. 13, s. 5.*

## **REGISTRATION**

### **Register, certificates and licences**

18 (1) The Registrar shall keep a register provided by the Council and enroll therein in the manner provided by the by-laws the names of all persons who are members, licensed to practise or engineers-in-training and the register shall be open for public inspection at all times without charge.

(2) The Registrar upon resolution of the Council and receipt of the fee prescribed by or under the by-laws shall issue a certificate of registration or licence to practise to a person accepted for membership or licensed to practise and the form of the certificate or licence shall be prescribed in the by-laws.

(3) All certificates of registration and licences to practise shall expire on the thirty-first day of December in the year in which they are issued, but shall be renewable for one year upon the payment of the dues prescribed by or under the by-laws.

(4) If the Council refuses to pass a resolution authorizing any person to be registered as a member or licensed to practise, or if the Registrar refuses to register or issue a certificate of registration or licence to practise to such a person, the person aggrieved, upon serving ten days notice thereof upon the Secretary, shall have the right to apply to a judge of the Trial Division of the Supreme Court, who, upon due cause shown, may grant an order directing the Council and the Registrar to register the name of the person as a member of the Association or to issue to the person a licence to practise, or make such other order as may be warranted by the facts, and the Council shall forthwith comply with the order. *R.S., c. 148, s. 18; 2006, c. 29, s. 6.*

## **ANNUAL DUES**

### **Annual dues**

19 (1) Every person, who is a member, licensed to practise or engineer-in-training, shall pay on the first day of January in each year to the Treasurer or any person deputed by the Council to receive it, the annual dues prescribed by or under the by-laws, which dues shall be deemed to be a debt due by such person and recoverable with costs in the name of the Association in any court of competent jurisdiction.

(2) If any member, person licensed to practise or engineer-in-training omits to pay the annual dues prescribed by or under the by-laws before the thirty-first day of March of the year for which

they are due, the Registrar, after issuing ten days notice by registered letter addressed to the last known address of such person on the register, shall cause the name of such person to be erased from the register and such person shall thereupon cease to be deemed to be a member, licensed to practise or engineer-in-training, but such person shall at any time thereafter, upon paying such dues and any arrears thereof, be entitled to have a certificate of registration or licence to practise re-issued to him or to be re-enrolled as an engineer-in-training. *R.S., c. 148, s. 19; 2006, c. 29, s. 7.*

## **CONTINUING PROFESSIONAL DEVELOPMENT**

19A (1) Every member shall, unless exempted by a resolution of the Council, provide to the Registrar by the first day of January in each year, certification in a form prescribed by the Council, that the member is in compliance with the Association's Continuing Professional Development Guidelines as prescribed or under the by-laws.

(2) Where any member fails to provide certification of compliance as required by subsection (1) by the thirty-first day of March in any year, the Registrar shall, after issuing ten days notice by registered letter addressed to the last known address of the member on the register, cause the name of the member to be erased from the register and the member thereupon ceases to be a member but such person shall, at any time thereafter upon providing confirmation of compliance with the continuing professional development requirements in the by-laws be entitled to be reinstated on the register. *2009, c. 13, s. 6.*

## **PENALTIES**

### **Illegal practice by non-member**

20 Any person, not a member or licensed to practise, or whose certificate of registration or licence to practise has been suspended or cancelled under this Act, who

(a) practises professional engineering;

(b) uses verbally or otherwise the title of professional engineer or any abbreviation of such title, or any name, title, description or designation that may lead 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

(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,

shall be liable upon summary conviction to a fine of not less than one hundred dollars nor more than two hundred dollars and costs, and on failure to pay the same, to imprisonment for not more than three months for the first offence, and for any subsequent offence to a fine of not less than two hundred dollars nor more than five hundred dollars and costs, and on failure to pay the same, to imprisonment for not more than six months. *R.S., c. 148, s. 20.*



### **Illegal practice by non-individual**

21 Any partnership, association of persons or body corporate, not having as a partner or full-time permanent employee a person who is a member or licensed to practise, that

(a) undertakes or carries out the application of engineering;

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

shall be guilty of an offence and the partnership or any partner thereof, the association of persons or any member thereof, or the body corporate, or any director thereof shall be liable upon summary conviction to a fine of not less than one hundred dollars nor more than five hundred dollars and costs and on failure to pay the same to imprisonment for not more than three months for the first offence, and for any subsequent offence to a fine of not less than two hundred dollars and not more than one thousand dollars and on failure to pay the same to imprisonment for not more than six months. *R.S., c. 148, s. 21.*

### **Penalty for permitting illegal practice**

22 Any person who, or any partnership, association of persons, or body corporate which directs or permits any member or employee, who is not a member or licensed to practise, to apply engineering shall be guilty of an offence and such person, partnership or any partner thereof, association of persons or any member thereof, or body corporate or any director thereof, shall be liable upon summary conviction to a fine of not less than one hundred dollars and not more than five hundred dollars and costs and on failing to pay the same to imprisonment for not more than three months for the first offence, and for any subsequent offences to a fine of not less than two hundred dollars and not more than one thousand dollars and costs and on failure to pay the same, to imprisonment for not more than six months. *R.S., c. 148, s. 22.*

### **Falsifying register**

23 The Registrar, if he makes or causes to be made any wilful falsification in any way relating to the register, shall be liable upon summary conviction to a fine of not less than one hundred dollars nor more than two hundred dollars and costs and on failure to pay the same to imprisonment for not more than three months. *R.S., c. 148, s. 23.*

### **False representation**

24 Any person who wilfully has or attempts to have himself or any other person registered as a member, licensed to practise, or enrolled as an engineer-in-training by making or producing or

causing to be made or produced any false or fraudulent representation or declaration, either verbally or in writing, or any person knowingly aiding or assisting him therein, shall be liable upon summary conviction to a fine of not less than one hundred dollars nor more than two hundred dollars and costs and on failure to pay the same to imprisonment for not more than three months. *R.S., c. 148, s. 24.*

### **Laying of information**

25 Any information for the prosecution of any person under this Act may be laid by any member or any person appointed by the Council. *R.S., c. 148, s. 25.*

### **Certificate as prima facie evidence**

26 A certificate purporting to be under the hand of the Registrar and bearing the seal of the Association shall be prima facie evidence in any court or elsewhere of the issuance of a certificate of registration or a licence to practise, or of the non-issuance thereof. *R.S., c. 148, s. 26.*

### **Prosecution**

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

(2) An information or complaint for contravening 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. *R.S., c. 148, s. 27.*

### **Payment of fine**

28 All fines imposed under this Act and recovered on summary conviction shall be paid over by the convicting judge to the Association. *R.S., c. 148, s. 28.*

### **Limitation period**

29 No proceeding shall be commenced for any violation of this Act after one year from the date of the committing of the violation. *R.S., c. 148, s. 29.*

## **ACTIONS AGAINST MEMBERS**

### **Action against member or Council**

30 No action shall be brought against the Council or any committee, officer, member or complainant for anything bona fide done under this Act and by-laws. *R.S., c. 148, s. 30.*

## **SEALS**

### **Seals of Association and members**

31 (1) The Association shall have a corporate seal.

(2) Every person registered as a member under this Act shall have a seal, the impression of which shall bear the name of the member and the words "Professional Engineer, Province of Nova Scotia", with which he shall stamp all official documents and plans prepared by him. *R.S., c. 148, s. 31.*

## **BY-LAWS**

### **Procedure to pass, amend or repeal by-law**

32 (1) A proposed new by-law or the amendment or repeal of an existing by-law shall be presented in writing to the Council signed by at least ten members or approved by resolution of the Association or Council.

(2) The proposed by-law, amendment or repeal shall then be sent by the Secretary without delay in the form of a letter ballot to every member of the Association, and the ballot shall be returnable at a date to be fixed by the Council.

(3) Immediately after such date, scrutineers appointed by the Council shall count the ballots and report the result to the Council.

(3A) Notwithstanding subsections (2) and (3), voting under this Section may be conducted by electronic or other alternative means or combination of means as may be authorized by resolution of the Council, in which case all other requirements of this Section apply with necessary adaptations.

(4) If at least two thirds of the valid ballots affirmatively approve of the proposed by-law, amendment or repeal, the Secretary shall submit the proposed by-law, amendment or repeal to the Governor in Council for approval. *R.S., c. 148, s. 32; 2006, c. 29, s. 8.*