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Ontario

CHAPTER 363

Operating Engineers Act

1. In this Act, Interpretation

1. "Board" means the Board of Examiners appointed for the purposes of this Act;

2. "boiler" means a pressure vessel that may be used at greater than atmospheric pressure,

   i. to generate or heat steam, or

   ii. to heat water to a temperature less than its boiling point at the maximum pressure within the vessel,

   and includes any pipe, fitting and other equipment attached thereto or used in connection therewith;

3. "brake horsepower" means the effective or useful horsepower developed by a prime mover as measured by a weigh scale and a brake applied to its driving shaft or by other means approved by the chief officer, and one brake horsepower is equivalent to 2,544 British thermal units per hour or to 0.02544 Therm-hours;

4. "certificate of qualification" means a subsisting certificate of qualification issued under this Act to an operating engineer or an operator;

5. "certificate of registration" means a subsisting certificate of registration issued under this Act for a plant;

6. "chief operating engineer" means an operating engineer who at all times has charge of and the responsibility for the safe operation of a plant, and has such other powers and duties respecting the plant and persons therein as are prescribed in this Act and the regulations;

7. "chief operator" means an operator or an operating engineer who at all times has charge of and

the responsibility for the safe operation of a compressor plant or a refrigeration plant, and has such other powers and duties respecting the plant and persons therein as are prescribed in this Act and the regulations;

8. "compressor plant" means an installation comprised of one or more compressors with prime movers and the equipment used in connection therewith for compressing but not liquefying air or any other gas to a pressure of more than 15 where the total Therm-hour rating of all such prime movers is more than 3.816;

9. "hoisting plant" means a hoist equipped with,

   i. a drum and a hoisting rope or chain, or

   ii. a hydraulic pump,

   that is driven by a prime mover or movers other than steam and that is used for raising, lowering or swinging material where the total Therm-hour rating of the prime mover or movers is,

   iii. more than 1.137 for internal combustion engines, or

   iv. 0.636 for other types of prime movers;

10. "inspector" means an inspector appointed for the purposes of this Act;

11. "low-pressure stationary plant" means an installation comprised of one or more boilers,

   i. containing steam at a pressure of 15 or less, or

   ii. containing water at a temperature at any boiler outlet of more than 212°F. and up to and including 250°F.,

   and in addition a low-pressure stationary plant may have one or more compressors and one or more refrigeration compressors, and the total Therm-hour rating of all such boilers and compressors is more than 50;

12. "Minister" means the Minister of Consumer and Commercial Relations;

13. "operating engineer" or "operator" means a person who is the holder of a certificate of qualification;

14 "plant" means a stationary power-plant, low-pressure stationary plant, steam-powered plant, compressor plant, refrigeration plant or any combination thereof, or a hoisting plant, steam hoisting plant, a portable compressor plant or a temporary heating plant;

15. "pressure" means pressure in pounds per square inch above normal atmospheric pressure;

16. "pressure vessel" means a vessel that is heated or its contents are heated by,

    i. a flame or the hot gases of combustion,

    ii. electricity,

    iii. a liquid, or

    iv. nuclear energy, either directly or indirectly;

17. "prime mover" means an initial source of motive power, and includes an electric motor, an internal combustion engine, a steam engine, a steam turbine and a gas turbine;

18. "refrigerant" means a substance that may be used to produce refrigeration by its expansion or evaporation;

19. "refrigeration plant" means an installation comprised of one or more refrigerant compressors with prime movers and the equipment used in connection therewith for compressing, liquefying at a pressure of more than 15 and evaporating a refrigerant where the total Therm-hour rating of all such prime movers is more than 2.544;

20. "regulations" means the regulations made under this Act;

21. "shift engineer" means an operating engineer who has charge of and operates a plant under the direction and supervision of a chief operating engineer and who has the authority to perform the powers and duties of the chief operating engineer when the chief operating engineer is absent from the plant;

22. "shift operator" means an operator or operating engineer who has charge of and operates a compressor or refrigeration plant under the direction and supervision of a chief operator or a chief operating engineer and who has the authority to perform the powers and duties of the chief operator or the chief operating engineer when the chief operator or the chief operating engineer is absent from the plant;

23. "stationary power plant" means an installation comprised of one or more boilers,

    i. containing steam at a pressure of more than 15, or

    ii. containing water at a temperature at any boiler outlet of more than 250°F.,

    and in addition a stationary power plant may have,

    iii. one or more boilers containing steam at a pressure of 15 or less or water at a temperature at any boiler outlet of more than 212°F. and up to and including 250°F., and

    iv. one or more compressors or refrigeration compressors,

    and the total Therm-hour rating of all such boilers and compressors is more than 17;

24. "steam hoisting plant" means a hoist equipped with a drum and a hoisting rope or chain that is driven by a steam-driven prime mover and used for raising, lowering or swinging material;

25. "steam-powered plant" means a turbine or engine having a Therm-hour rating of more than 3.816 driven by steam,

    i. from a boiler that is not owned by or under the control of the user of the turbine or engine, or

    ii. from another plant of the user of the turbine or engine;

26. "temporary heating plant" means one or more boilers, with or without compressors, that supply

heat to a project as defined in the *Occupational Health and Safety Act* or to a shaft, tunnel, caisson or coffer dam to which the regulations made under that Act apply and that operates at a pressure, R.S.O. 1980, c. 321

i. of not more than 15 and has a total Therm-hour rating of more than 50, or

ii. of more than 15 and has a total Therm-hour rating of more than 17;

27. "Therm-hour" means 100,000 British thermal units per hour or 39.3082 brake horsepower;

28. "Therm-hour rating" means the Therm-hour rating of a plant as determined under this Act or the regulations;

29. "user" means the person in control of a plant as owner, lessee or otherwise, but does not include its operating engineer or operator as such. R.S.O. 1970, c. 333, s. 1; 1972, c. 1, ss. 49, 82 (3); 1972, c. 41, s. 1.

2. This Act does not apply to, **Exemptions**

(*a*) a person who performs work in connection with a plant other than the actual operation of it;

(*b*) a person, other than an operating engineer or operator, engaged in installing, testing or repairing a plant;

(*c*) an elevating device as defined in the *Elevating Devices Act*; R.S.O. 1980, c. 135

(*d*) a shaft hoist or other hoist used in mining within the meaning of the *Mining Act*; R.S.O. 1980, c. 268

(*e*) an overhead bridge-type crane that is not equipped with a boiler and that operates on a fixed runway;

(*f*) a plant that is subject to inspection by the Canadian Transport Commission or the National Energy Board;

(*g*) any boiler used in connection with an open-type hot water heating system where there are no intervening valves between the boiler and any direct vent to the atmosphere;

(*h*) a stationary power plant or low-pressure stationary plant while used in connection with any growing operation except a growing operation being carried on in a greenhouse where any person, other than the user of the plant or his immediate family, is employed or works in connection with the growing operation;

(*i*) a hoisting device,

(i) that is used exclusively for raising, lowering or towing motor vehicles,

(ii) that is mounted on a motor vehicle used exclusively for fire fighting,

(iii) that is mounted on a motor vehicle and used exclusively for loading or unloading materials carried by the motor vehicle, or

(iv) of a class that is exempted by the regulations;

(*j*) a compressor that, in the opinion of the chief officer, is situated in a remote area to which a person does not normally have access, and that is controlled automatically or by remote manual control;

(*k*) a compressor of the centrifugal, screw, turbine, rotary vane or rotary lobe type;

(*l*) a compressor or refrigeration compressor that operates at a pressure of 15 or less;

(*m*) a compressor or an installation comprised of more than one compressor, whether or not connected to a registered plant, where,

(i) the Therm-hour rating of the prime mover of the compressor is 1.145 or less, or

(ii) the Therm-hour rating of the prime mover of each compressor of the installation is 1.145 or less and the total Therm-hour rating of the installation is 3.816 or less;

(*n*) a refrigerant compressor or an installation comprised of more than one refrigerant compressor, whether or not connected to a registered plant, where,

(i) the Therm-hour rating of the prime mover of the refrigerant compressor is 0.7632 or less, or

(ii) the Therm-hour rating of the prime mover of each refrigerant compressor of the installation is 0.7632 or less and the total Therm-hour rating of the installation is 2.544 or less;

(*o*) a compressor of a class that is exempted by the regulations;

(*p*) a boiler or an installation comprised of more than one boiler, whether or not connected to a registered plant, where,

(i) the boiler contains steam at a pressure of 15 or less, or water at a temperature at any boiler outlet of 250° F. or less, has a Therm-hour rating of 10 or less, and is not connected to another boiler, or

(ii) each boiler of the installation contains steam at a pressure of 15 or less, or water at a temperature at any boiler outlet of 250° F. or less, and each boiler has a Therm-hour rating of 10 or less, and the total Therm-hour rating of the installation is 50 or less;

(*q*) a boiler or an installation comprised of more than one boiler, whether or not connected to a registered plant, where,

(i) the boiler contains steam at a pressure of more than 15 or water at a temperature at any boiler outlet of more than 250° F., has a Therm-hour rating of 5 or less and is not connected to another boiler, or

(ii) each boiler of the installation contains steam at a pressure of more than 15 or water at a temperature at any boiler outlet of more than 250° F., and each boiler has a Therm-hour rating of 5 or less, and the total Therm-hour rating of the installation is 17 or less;

(*r*) any boiler, compressor or refrigerant compressor that was installed as an unattended plant before the 16th day of June, 1972;

(*s*) a coiled tube boiler containing steam at a pressure of 15 or less or water at a temperature at any boiler outlet of 250° F. or less and having a water content of 150 Imperial gallons or less;

(*t*) a coiled tube boiler containing steam at a pressure of more than 15 or water at a temperature at any boiler outlet of more than 250° F. and having a water content of 75 Imperial gallons or less. R.S.O. 1970, c. 333, s. 2; 1972, c. 41, s. 2.

Chief officer, examiners and inspectors

3.—(1) There shall be appointed a chief officer, three or more examiners and such inspectors as are necessary to administer and enforce this Act and the regulations, and such persons shall be subject to the direction and control of the Minister.

Powers of inspection

(2) The chief officer, an inspector or any person authorized in writing by the Minister may enter and inspect any building or premises where he has reason to believe a plant is being installed or operated. R.S.O. 1970, c. 333, s. 3.

Board of Examiners

4.—(1) There shall be a Board of Examiners composed of the chief officer and the examiners mentioned in section 3, one of whom may be appointed as chairman.

Quorum

(2) A majority of the members of the Board constitutes a quorum whether or not a vacancy exists on the Board. R.S.O. 1970, c. 333, s. 4.

Information

5.—(1) The chief officer may, for the purposes of this Act require a user or a manufacturer of a boiler or prime mover,

(*a*) to furnish him with information; or

(*b*) to perform tests to establish the proper Therm-hour rating of a boiler or prime mover.

Rating by actual test

(2) Where a test to establish the Therm-hour rating is performed under clause (1) (*b*) in a manner satisfactory to the chief officer, the rating as established by the test is the Therm-hour rating, notwithstanding sections 11, 12 and 13. R.S.O. 1970, c. 333, s. 5.

Registration of plants

6.—(1) Every user of a plant shall, before operating it, register it with the chief officer.

Idem

(2) Where two or more plants of a user are located on the same premises, such plants shall, unless the chief officer determines otherwise, be registered as one plant. R.S.O. 1970, c. 333, s. 6.

Certificates of registration and registration plates

7.—(1) The chief officer, upon application in the prescribed form and upon payment of the prescribed fee,

shall issue to the user of a plant a certificate of registration or a registration plate, as the case requires.

Contents of certificates of registration

(2) Every certificate of registration shall show,

(*a*) the registration number;

(*b*) the name of the user of the plant;

(*c*) the Therm-hour rating of the plant;

(*d*) the maximum pressures at which the safety valves on boilers, compressors or refrigeration compressors are respectively set to relieve pressure; and

(*e*) the classes of operating engineers or operators required for the plant.

Contents of registration plates

(3) Every registration plate shall show,

(*a*) the registration number; and

(*b*) the Therm-hour rating of the plant. R.S.O. 1970, c. 333, s. 7.

Display of certificate of registration

8.—(1) The user of a plant shall conspicuously display its certificate of registration in the engine room, compressor room or boiler room of the plant.

Display of plate

(2) The user of a hoisting plant or a steam hoisting plant shall conspicuously display its registration plate in the cab or in some equally protected position in the plant. R.S.O. 1970, c. 333, s. 8.

Reregistration

9. Where the setting of a safety valve or the Therm-hour rating of a registered plant is changed, the user of the plant shall notify the chief officer in writing within fifteen days with full particulars of such change in setting or Therm-hour rating and, where the change is sufficient to change the classes of operating engineers or operators required for the plant, he shall return the certificate of registration or registration plate, as the case may be, to the chief officer, together with the prescribed plant registration application form and the prescribed fee, and thereupon the chief officer shall issue a new certificate of registration or a new registration plate, as the case may be, for the plant. R.S.O. 1970, c. 333, s. 9.

Conversion of existing plants to Therm-hour rating

10. The registered horsepower of every plant or part thereof in use on the 16th day of June, 1969 shall be converted

from a horsepower basis to a Therm-hour basis in accordance with the following provisions:

1. The Therm-hour rating of a boiler, other than an electric boiler, is the horsepower of the boiler shown on the certificate of registration for the plant under the predecessor of this Act multiplied by 2 and divided by 3.

2. The Therm-hour rating of an electric boiler is the horsepower of the boiler shown on the certificate of registration for the plant under the predecessor of this Act divided by 3.

3. The Therm-hour rating of the prime mover of any type of compressor is the brake horsepower of the prime mover of the compressor shown on the certificate of registration for the plant under the predecessor of this Act multiplied by 0.02544.

4. The Therm-hour rating of a plant having boilers only is the total of the Therm-hour ratings of its boilers.

5. The Therm-hour rating of a plant having any type of compressors but no boilers is the total of the Therm-hour ratings of the prime movers of its compressors.

6. The Therm-hour rating of a plant having boilers and any type of compressors is the horsepower rating of the plant shown on its certificate of registration under the predecessor of this Act multiplied by 2 and divided by 3. R.S.O. 1970, c. 333, s. 10.

Interpretation

11.—(1) In this section,

(*a*) "altered" means that the maximum capacity of the boiler to heat water or to generate or heat steam while in normal continuous operation has been changed;

(*b*) "installed" means that the boiler is so placed and so equipped that in the opinion of the chief officer it is ready for use, and "reinstalled" has a corresponding meaning.

Therm-hour rating, boilers

(2) The Therm-hour rating of a boiler, other than an electric boiler, that is installed, reinstalled or altered on or after the 16th day of June, 1969 shall be the maximum number of British

thermal units in the total heat content of the water or steam entering its inlet subtracted from the total heat content of the water or steam leaving its outlet per hour, as determined by its manufacturer for its normal, continuous operation, divided by 100,000.

Idem, electric boilers

(3) The Therm-hour rating of an electric boiler that is installed, reinstalled or altered on or after the 16th day of June, 1969 shall be the maximum number of kilowatts supplied to the boiler per hour, as determined by its manufacturer for its normal, continuous operation, multiplied by 3413 and divided by 100,000. R.S.O. 1970, c. 333, s. 11.

Therm-hour rating, prime movers

12. The Therm-hour rating of a prime mover, other than an electric motor or an internal combustion engine, is the maximum brake horsepower, as determined by its manufacturer for its normal, continuous operation, multiplied by 0.02544. R.S.O. 1970, c. 333, s. 12.

Therm-hour rating, electric motors

13.—(1) The Therm-hour rating of an electric motor is the lesser of,

(*a*) the maximum brake horsepower, as determined by its manufacturer for its normal, continuous operation, multiplied by 0.02544; or

(*b*) the maximum kilowatt rating of the motor, as determined by its manufacturer for its normal, continuous operation, modified where necessary for the type of service in which it is used, multiplied by 0.03413.

Idem, internal combustion engines

(2) The Therm-hour rating of an internal combustion engine is,

(*a*) the maximum brake horsepower, as determined by the engine manufacturer for its normal, continuous operation, multiplied by 0.02544; or

(*b*) where the manufacturer of the engine has not determined its maximum brake horsepower for its normal, continuous operation, the Therm-hour rating is the product of the following formula multiplied by 0.02544:

$$\frac{(\textit{diameter of cylinders in inches})^2 \times \textit{number of cylinders}}{1.4}$$

Exception

(3) Where, in the opinion of the chief officer, the Therm-hour rating of an engine cannot be determined under clause (2) (*b*), the chief officer may establish the Therm-hour rating of the engine. R.S.O. 1970, c. 333, s. 13.

Therm-hour rating, plants

14.—(1) The Therm-hour rating,

(*a*) of a stationary power plant is the total of the Therm-hour ratings of its boilers and of the prime movers of its compressors;

(*b*) of a low-pressure stationary plant is the total of the Therm-hour ratings of its boilers and of the prime movers of its compressors;

(*c*) of a compressor plant that has motive power other than steam is the total of the Therm-hour ratings of the prime movers of its compressors;

(*d*) of a refrigeration plant that has motive power other than steam is the total of the Therm-hour ratings of the prime movers of its compressors;

(*e*) of a steam-powered plant is the total of the Therm-hour ratings of its prime movers.

Exceptional cases

(2) Where a plant does not fall within one of the clauses of subsection (1), its Therm-hour rating shall be determined by the chief officer.

Idem, combination plants

(3) Where two or more plants of a user are located on the same premises and are registered as a plant, its Therm-hour rating is the total of the Therm-hour ratings of such plants. R.S.O. 1970, c. 333, s. 14.

Classes of operating engineers

15.—(1) Operating engineers shall be classified as follows:

1. Stationary engineer (fourth, third, second or first class).
2. Provisional stationary engineer (fourth, third or second class).
3. Hoisting engineer.
4. Steam-hoisting engineer.

Classes of operators

(2) Operators shall be classified as follows:

1. Compressor operator.
2. Refrigeration operator (B or A class). R.S.O. 1970, c. 333, s. 15.

Stationary engineers (4th class), what qualified to do

16.—(1) A person holding a stationary engineer's (fourth class) certificate of qualification is qualified,

(*a*) to act as chief operating engineer in charge of,

(i) any stationary power plant of not more than 50 Therm-hours where the Therm-hour rating of refrigeration compressors is not more than 2.544 and the Therm-hour rating of compressors, including any refrigeration compressors, is not more than 5.088,

(ii) any low-pressure stationary plant of not more than 134 Therm-hours,

(iii) any steam-powered plant of not more than 7.632 Therm-hours,

(iv) any refrigeration plant of not more than 5.088 Therm-hours,

(v) any compressor plant of not more than 10.176 Therm-hours,

(vi) any plant referred to in subclause (ii) or (iii) whose total Therm-hour rating includes the Therm-hour rating of refrigeration compressors of not more than 3.816 Therm-hours or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 7.632 Therm-hours;

(*b*) to act as shift engineer in,

(i) any stationary power plant of not more than 134 Therm-hours where the Therm-hour rating of refrigeration compressors is not more than 5.088 and the Therm-hour rating of compressors, including any refrigeration compressors, is not more than 10.176,

(ii) any low-pressure stationary plant of not more than 400 Therm-hours,

(iii) any steam-powered plant,

(iv) any refrigeration plant of not more than 20.352 Therm-hours,

(v) any compressor plant,

(vi) any plant referred to in subclause (ii) or (iii) whose total Therm-hour rating includes the Therm-hour rating of refrigeration compressors of not more than 15.264 or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 30.528 Therm-hours;

(*c*) to act as assistant shift engineer in,

(i) any stationary power plant of not more than 400 Therm-hours,

(ii) any low-pressure stationary plant, steam-powered plant, refrigeration plant or compressor plant.

Idem, stationary engineers (3rd class)

(2) A person holding a stationary engineer's (third class) certificate of qualification is qualified,

(*a*) to act as chief operating engineer in charge of,

(i) any stationary power plant of not more than 134 Therm-hours where the Therm-hour rating of refrigeration compressors is not more than 5.088 and the Therm-hour rating of compressors, including any refrigeration compressors, is not more than 10.176,

(ii) any low-pressure stationary plant of not more than 400 Therm-hours,

(iii) any steam-powered plant,

(iv) any refrigeration plant of not more than 20.352 Therm-hours,

(v) any compressor plant,

(vi) any plant referred to in subclause (ii) or (iii) whose total Therm-hour rating includes the Therm-hour rating of refrigeration compressors of not more than 15.264 Therm-hours or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 30.528 Therm-hours;

(*b*) to act as shift engineer in,

(i) any stationary power plant of not more than 400 Therm-hours that includes the Therm-hour rating of refrigeration compressors of not more than 15.264 Therm-hours or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 30.528,

(ii) any low-pressure stationary plant, steam-powered plant, compressor or refrigeration plant;

(*c*) to act as assistant shift engineer in any plant.

Idem, stationary engineers (2nd class)

(3) A person holding a stationary engineer's (second class) certificate of qualification is qualified,

(*a*) to act as chief operating engineer in charge of,

(i) a stationary power plant of not more than 400 Therm-hours that includes the Therm-hour rating of refrigeration compressors of not more than 15.264 Therm-hours or the Therm-hour rating of compressors, including any refrigeration compressors, of not more than 30.528 Therm-hours,

(ii) any low-pressure stationary plant, steam-powered plant, compressor or refrigeration plant;

(*b*) to act as shift engineer in any plant.

Idem, stationary engineers (1st class)

(4) A person holding a stationary engineer's (first class) certificate of qualification is qualified to act as chief operating engineer in charge of any plant.

Idem, compressor operators

(5) A person holding a compressor operator's certificate of qualification is qualified to act as a chief or shift operator in any compressor plant whose prime mover is not a steam engine or steam turbine.

Idem, refrigeration operators (class B)

(6) A person holding a refrigeration operator's (class B) certificate of qualification is qualified,

(*a*) to act as chief operator in a refrigeration plant of not more than 20.352 Therm-hours or in any compressor plant whose prime mover is not a steam engine or steam turbine;

(b) to act as a shift operator in any refrigeration or compressor plant whose prime mover is not a steam engine or steam turbine.

Idem, refrigeration operators (class A)

(7) A person holding a refrigeration operator's (class A) certificate of qualification is qualified to act as chief or shift operator in any compressor or refrigeration plant whose prime mover is not a steam engine or steam turbine.

Idem, steam hoisting engineers

(8) A person holding a steam hoisting engineer's certificate of qualification is qualified to operate any steam hoisting plant or hoisting plant.

Idem, hoisting engineers

(9) A person holding a hoisting engineer's certificate of qualification is qualified to operate any hoisting plant or portable compressor plant whose prime mover is not a steam engine or steam turbine.

Idem, stationary engineers, steam hoisting engineers

(10) A person holding a certificate of qualification of any class of stationary engineer or of a steam hoisting engineer is qualified to operate a portable compressor plant, a temporary heating plant or a portable boiler used in connection with any portable machinery or a device for melting ice or snow.

Idem, holders of provisional certificates

(11) A person holding a provisional certificate of qualification under section 23 is qualified to perform the same work and duties as an operating engineer or operator holding a corresponding certificate of qualification. R.S.O. 1970, c. 333, s. 16.

Trainees

17. A person who is obtaining qualifying experience for his first certificate of qualification may not perform work in connection with the actual operation of a plant except under the personal direction and supervision of an operating engineer or operator. R.S.O. 1970, c. 333, s. 17.

Shift operators for compressors in stationary plants

18. Where a low-pressure stationary plant or stationary power plant has a compressor or a refrigeration compressor, the user of the plant may employ one or more compressor operators or one or more refrigeration operators, as the case may be, as shift operator or shift operators for the compressor. R.S.O. 1970, c. 333, s. 18.

Absence due to sickness or holidays

19. Where an operating engineer or operator is absent from his plant due to sickness or while on holidays, an operating engineer or operator holding a certificate not more than one class lower than the certificate of the operating engineer or operator who is absent may, during the absence, operate the plant for not more than thirty days per year or such greater

number of days per year as the chief officer may authorize in writing in any particular case. R.S.O. 1970, c. 333, s. 19.

Temporary absences

20. While a plant is in operation, an operating engineer or an operator qualified to be in charge of such a plant shall be present in its boiler room, compressor room or engine room, as the case may be, or, where it is not enclosed, he shall be present in its immediate vicinity,

(*a*) unless an operating engineer or an operator holding a certificate of qualification that is not more than one class lower is present during his absence;

(*b*) unless his absence is authorized by the regulations,

and unless, in either case, he is satisfied at the time of his leaving the plant that it is operating safely. R.S.O. 1970, c. 333, s. 20.

Increase in Therm-hour rating

21. Where a plant has been operated by an operating engineer or operator in compliance with this Act and the regulations and the Therm-hour rating of the plant is increased so that the operating engineer or operator, as the case may be, is no longer qualified to operate the plant and he has operated the plant continuously for three consecutive years immediately before the increase, he may continue to operate the plant for such period and under such terms and conditions as the regulations prescribe. R.S.O. 1970, c. 333, s. 21.

Certificate of qualification

22.—(1) The Board shall issue, in accordance with the regulations, a certificate of qualification to any person who,

(*a*) shows proof satisfactory to the Board of having acquired the qualifying experience required by the regulations;

(*b*) passes the examination conducted by the Board, or furnishes evidence that he has successfully completed a course of training that the Minister has approved for the purpose upon the advice of the board of review; and

(*c*) pays the fee prescribed by the regulations.

Term

(2) Every certificate of qualification remains in force as prescribed by the regulations. 1972, c. 41, s. 3.

Provisional certificates of qualification

23.—(1) The Board may, upon payment of the prescribed fee and in accordance with the regulations, issue a provisional certificate of qualification without examination to any

person who, in the opinion of the Board, holds a subsisting certificate issued by another province of Canada that qualifies the person to perform the work and duties of an operating engineer or operator in such province.

Idem

(2) A provisional certificate under subsection (1) shall be one grade lower than the certificate of qualification that, in the opinion of the Board, corresponds to the certificate issued by the other province.

Term

(3) Every provisional certificate of qualification remains in force for one year from the date of issue, unless sooner suspended or cancelled, and is not renewable. R.S.O. 1970, c. 333, s. 23.

Cancellation or suspension of certificate of qualification

24. Subject to section 25, the Board may cancel or suspend a certificate of qualification if the operating engineer or operator,

(*a*) is habitually intemperate in his use of alcoholic beverages or is addicted to the use of drugs;

(*b*) operates a plant when his ability to do so is impaired by alcohol or a drug;

(*c*) is declared to be mentally incompetent or becomes physically incapable of safely performing his duties;

(*d*) is incompetent or negligent in the discharge of his duties as an operating engineer or operator;

(*e*) has obtained his certificate through misrepresentation or fraud;

(*f*) maliciously destroys his employer's property;

(*g*) allows another person to operate under his certificate;

(*h*) attempts to obtain a certificate by false means for another person;

(*i*) fails to give the notice required by section 31;

(*j*) leaves the employ of his employer without having given his employer at least seven days notice in writing of his intention to leave;

(*k*) furnishes information for the use of the Board respecting an applicant for a certificate without knowing that the information is true; or

(*l*) contravenes any of the provisions of this Act or the regulations. R.S.O. 1970, c. 333, s. 24 (1); 1971, c. 50, s. 64 (1).

Notice of proposal to suspend, etc., certificate

25.—(1) Where the Board proposes to refuse to renew or proposes to suspend or cancel a certificate of qualification, it shall serve notice of its proposal, together with written reasons therefor, on the holder of the certificate.

Hearing

(2) A notice under subsection (1) shall inform the holder of the certificate that he is entitled to a hearing by a judge if he applies therefor to a judge of the county or district court for the county or district in which he resides, within fifteen days after the notice under subsection (1) is served on him, and he may so apply for such a hearing.

Powers of Board where no hearing

(3) Where a holder of a certificate does not apply to a judge for a hearing in accordance with subsection (2), the Board may carry out the proposal stated in its notice under subsection (1).

Powers of Board where hearing

(4) Where a holder of a certificate applies to a judge for a hearing in accordance with subsection (2), the judge shall appoint a time for and hold the hearing and, on the application of the Board at the hearing, may by order direct the Board to carry out its proposal or refrain from carrying out its proposal and to take such action as the judge considers the Board ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the Board.

Service of notice by Board

(5) The Board may serve notice under subsection (1) personally or by registered mail addressed to the holder of the certificate at his address last known to the Board and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Extension of time for application

(6) A judge to whom application is made by a holder of a certificate for a hearing under this section, may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the holder of the certificate pursuant to a hearing and that there are

reasonable grounds for applying for the extension, and may give such directions as he considers proper consequent upon the extension.

Continuation of certificate pending renewal

(7) Where, within the time prescribed therefor or, if no time is prescribed, prior to the expiry of his certificate, a holder of a certificate has applied for renewal of his certificate and paid the prescribed fee, his certificate shall be deemed to continue,

(*a*) until the renewal is granted; or

(*b*) where he is served with notice that the Board proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision. 1971, c. 50, s. 64 (3), *part*.

Parties

26.—(1) The Board, the holder of the certificate who has applied for the hearing and such other persons as are specified by the judge are parties to the proceedings before a judge under section 25.

Notice of hearing

(2) Notice of a hearing under section 25 shall afford to the holder of the certificate a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the retention of the certificate.

Examination of documentary evidence

(3) A holder of a certificate who is a party to proceedings under section 25 shall be afforded an opportunity to examine before 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.

Recording of evidence

(4) The oral evidence taken before the judge at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

(5) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1970, c. 50, s. 64 (3), *part*.

R.S.O. 1980, c. 484

Appeal from decision of judge to court

27.—(1) Any party to proceedings before a judge under section 25 may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Records to be filed in court

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Supreme Court the record of the proceedings before him in which the decision or order was made, which together with the transcript of the evidence before the judge if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister entitled to be heard

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal

(4) The Divisional Court may, on the appeal, affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper under this Act and the regulations and may order the Board to do any act or thing it is authorized to do under this Act and as the court considers proper and for such purpose the court may substitute its opinion for that of the Board or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1971, c. 50, s. 64 (4), *part*.

Appeal from decision of chief officer

28.—(1) Any person who deems himself aggrieved by a decision of the chief officer under this Act or the regulations may, within ten days after the decision comes to his attention, appeal to a judge of the county or district court for the county or district in which the plant, boiler or other subject-matter to which the decision relates is located, by notice in writing sent by prepaid mail to the chief officer and the judge.

Powers of judge on appeal

(2) Where a person has appealed to a judge under subsection (1), the judge shall appoint a time for a hearing and shall hear the appeal and may affirm, rescind or vary the decision of the chief officer and may direct the chief officer to take any action that he is authorized to take under this Act or the regulations and as the judge considers proper, and for such purpose the judge may substitute his opinion for that of the chief officer.

Application of s. 25

(3) Subsection 25 (6) applies with necessary modifications to an appeal under this section.

Parties

(4) The chief officer, the appellant and such other persons as the judge may specify are parties to an appeal under this section.

Decision of judge final

(5) A decision of a judge under this section is final. 1971, c. 50, s. 64 (4), *part*.

Effect of decision pending disposal of appeal

29. The bringing of an appeal under section 27 or 28 does not affect the operation of the decision appealed from pending disposition of the appeal. 1971, c. 50, s. 64 (4), *part*.

Posting of certificates

30. Every operating engineer or operator shall display conspicuously his certificate of qualification in the engine room, compressor room or boiler room of the plant in which the operating engineer or operator works, except in the case of a steam hoisting or hoisting engineer, in which case he shall carry the certificate upon his person. 1972, c. 41, s. 4, *part*.

Duty to notify of absence

31. Every operating engineer or operator who,

(*a*) knows that he will be absent from his duties; or

(*b*) is unable to commence or continue his duties,

shall immediately make every reasonable effort in the circumstances to so notify his chief operating engineer or chief operator or shift engineer or shift operator, or, if none, his employer. R.S.O. 1970, c. 333, s. 28.

Prohibitions, operation by other than operating engineer or operator

32.—(1) No person other than an operating engineer who holds a certificate of qualification shall perform the work and duties of an operating engineer, and no person other than an operating engineer or operator who holds a certificate of qualification shall perform the work and duties of an operator.

Employment of unqualified persons prohibited

(2) No person shall employ,

(*a*) any person who is not an operating engineer to perform the work and duties of an operating engineer or operator, or any person who is not an operator to perform the work and duties of an operator; or

(*b*) any operating engineer or operator to operate a plant that he is not qualified under this Act to operate.

Work prohibited, unless qualified therefor

(3) No operating engineer or operator shall perform any work or duties of an operating engineer or operator that he is not qualified under this Act to perform. R.S.O. 1970, c. 333, s. 29.

Operation of plants

33. No person shall use or operate a plant or cause a plant to be used or operated except in accordance with this Act and the regulations. R.S.O. 1970, c. 333, s. 30.

34. No person shall knowingly make a false statement or entry in an application, log book or document required by this Act or the regulations to be submitted or kept or knowingly furnish information under this Act or the regulations that is false, or knowingly make use of any such false statement, entry or information. 1972, c. 41, s. 5. False statements

35.—(1) Every person who contravenes or fails to comply with any of the provisions of this Act or the regulations, or hinders or obstructs any person in the performance of his duties under this Act or the regulations, is guilty of an offence against this Act and on conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than twelve months, or to both. Offences

(2) Where the circumstances constituting an offence against this Act continue from day to day and a prosecution has been commenced in respect of the offence, the offence shall be deemed to have been repeated on each day the circumstances continue. R.S.O. 1970, c. 333, s. 31. Continuing offence

36.—(1) The Lieutenant Governor in Council may appoint a board of review consisting of a chairman and equal numbers of representatives of plant users and operating engineers, Board of review

(*a*) to advise the Minister as to the effectiveness of the Act and regulations in ensuring safety in connection with the operation of plants;

(*b*) to evaluate and advise the Minister as to equipment and operating procedures in ensuring safety in connection with the operation of plants;

(*c*) to advise the Minister, management and labour in connection with the training and employment of operating engineers and operators.

(2) The Lieutenant Governor in Council may fix the terms of office and the remuneration of the members of the board of review. Terms of office and remuneration

(3) The Lieutenant Governor in Council may fill any vacancy in the membership of the board of review. Vacancies

(4) The board of review is responsible to the Minister. R.S.O. 1970, c. 333, s. 32. Responsible to Minister

37. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) prescribing the qualifications of members of the Board and of inspectors;

(*b*) prescribing the qualifications of applicants for certificates of qualification and provisional certificates of qualification and the evidence required to be furnished by such applicants as to previous training and experience;

(*c*) prescribing courses of training or study for applicants for certificates of qualification;

(*d*) prescribing the powers and duties of chief operating engineers, chief operators, shift engineers and shift operators;

(*e*) prescribing the conditions of re-examination of applicants for certificates of qualification who have failed to pass the examinations required by the Board;

(*f*) providing for the issue, renewal and reinstatement of certificates of qualification and for the issue of provisional certificates of qualification;

(*g*) prescribing the method of establishing the Therm-hour ratings of internal combustion engines, or any class thereof, not specified in this Act;

(*h*) classifying plants and exempting any class from any provision of this Act or the regulations;

(*i*) respecting the operation of plants or any class of plants;

(*j*) providing for the isolation of boilers and compressors by means of seals or otherwise;

(*k*) authorizing and prescribing the circumstances and periods of absence for the purposes of section 20;

(*l*) prescribing the periods during which and the terms and conditions upon which operating engineers and operators may continue to operate plants whose Therm-hour rating has been increased;

(*m*) prescribing forms and providing for their use;

(*n*) providing for and prescribing fees. R.S.O. 1970, c. 333, s. 33; 1971, c. 50, s. 64 (5).