



1950

c 292 Professional Engineers Act

Ontario

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CHAPTER 292

The Professional Engineers Act**1. In this Act,**Interpreta-
tion.

- (a) "Association" means the Association of Professional Engineers of the Province of Ontario;
- (b) "board" means the board of examiners of the Association;
- (c) "council" means the council of the Association;
- (d) "graduate" means a graduate from a university recognized by the council in any branch of engineering or science the practice of which constitutes professional engineering;
- (e) "licensed" means that permission has been granted by the council to a non-resident engineer to practise temporarily without being registered, and "licence" means the official certificate under the seal of the Association evidencing such permission;
- (f) "member" means a registered member of the Association;
- (g) "president" means the president of the Association;
- (h) "professional engineer" means a person who practises professional engineering;
- (i) "professional engineering" save as hereinafter mentioned means the advising on, the reporting on, the designing of, the supervising of the construction of, all public utilities, industrial works, railways, tramways, bridges, tunnels, highways, roads, canals, harbour works, lighthouses, river improvements, wet docks, dry docks, floating docks, dredges, cranes, drainage works, irrigation works, waterworks, water purification plants, sewerage works, sewage disposal works, incinerators, hydraulic works, power transmission systems, steel, concrete and reinforced concrete structures, electric lighting systems, electric power plants, electric machinery, electric apparatus, electrical communication systems and equipment, mineral property, mining machinery, mining develop-

ment, mining operations, gas and oil developments, smelters, refineries, metallurgical machinery, and equipment and apparatus for carrying out such operations, machinery, boilers and their auxiliaries, steam engines, hydraulic turbines, pumps, internal combustion engines and other mechanical structures, chemical and metallurgical machinery, apparatus and processes, and aircraft and generally all other engineering works including the engineering works and installations relating to airports, airfields and landing strips and relating to town and community planning;

- (j) "registered" means that an engineer has been admitted to membership in the Association and that his name has been enrolled in the register, and "certificate of registration" means the official certificate under the seal of the Association evidencing the same;
- (k) "registrar" means the registrar of the Association;
- (l) "secretary" means the secretary or the secretary-treasurer of the Association;
- (m) "undergraduate" means a student enrolled at but not graduated from a university recognized by the council in a course in any branch of engineering or science the practice of which constitutes professional engineering;
- (n) "vice-president" means a vice-president of the Association. R.S.O. 1937, c. 237, s. 1; 1946, c. 75, s. 1.

Where Act
not to bar
practice of
profession.

2. Nothing in this Act shall prevent or be deemed to prevent,

- (a) any person from performing his duties in His Majesty's armed forces;
- (b) any member or licensee of the Ontario Association of Architects under *The Architects Act* or any employee of such member or licensee acting under the direction and responsibility of such member or licensee from performing professional engineering services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an architect;
- (c) any person from practising his trade or calling of a stationary engineer who holds a certificate under *The Operating Engineers Act* or from so designating himself;

Rev. Stat.,
c. 21.

Rev. Stat.,
c. 265.

- (d) any person from practising his profession, trade or calling as a bacteriologist, chemist, geologist, mineralogist or physicist;
- (e) any person from advising on or reporting on any mineral property or prospect, or from advising on, reporting on, designing, or supervising the construction of any mining plant, mining machinery, mining development, mining operations, gas and oil developments, smelters, refineries, metallurgical machinery, or equipment, apparatus, or plant or anything in connection therewith for carrying out such operations, or chemical machinery, apparatus or processes;
- (f) any person from operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master,

or to require any such person to become registered or licensed under this Act to so perform or practise. 1946, c. 75, s. 2.

3.—(1) All persons registered as professional engineers under this Act shall constitute the “Association of Professional Engineers of the Province of Ontario” and shall be a body politic and corporate, with perpetual succession and a common seal. What shall constitute Association.

(2) The head office of the Association shall be at the City of Toronto. R.S.O. 1937, c. 237, s. 3 (1, 2). Head office.

(3) The Association may purchase, acquire or take by gift, devise, bequest or donation for the purposes of the Association and the furtherance of its objects but for no other purposes or objects and may sell, mortgage, lease or otherwise dispose of, any real or personal property. 1946, c. 75, s. 3. Power to acquire and hold property.

(4) All fees, fines and penalties receivable and recoverable under this Act shall belong to the Association. R.S.O. 1937, c. 237, s. 3 (4). Fees, fines, etc.

4.—(1) The Council may pass by-laws or amendments to existing by-laws for, By-laws.

- (a) the admission and registration of members and the recording of licensees, and of graduates, undergraduates and persons serving under articles;
- (b) prescribing a code of professional ethics;
- (c) defining “unprofessional conduct”, “gross negligence”, “incompetence” and “serious criminal offence” for the purposes of subsection 1 of section 28;

- (d) the keeping of a register of members and licensees;
- (e) the fixing of dates and places of meeting of the Association and the council;
- (f) the government and discipline of the members;
- (g) the election of the council;
- (h) the remuneration and reimbursement of members of the council;
- (i) The election or appointment of the officers of the Association;
- (j) the fixing, levying and collecting of a fee not exceeding \$25 on each application for registration as a member or for a licence to practise or for recording as a graduate, undergraduate or person serving under articles and for the fixing, levying and collecting of an annual fee not exceeding \$10 from each member or licensee;
- (k) the management of the property of the Association;
- (l) the establishment of scholarships, bursaries and prizes;
- (m) instituting and providing means for increasing the knowledge and skill of professional engineers, for advancing their status and well-being, and for maintaining a high standard of professional ethics among them;
- (n) the application of the funds of the Association for the purposes aforesaid and the furtherance of its objects; and the investment of its funds not immediately required as aforesaid, in securities authorized by law for the investment of trust funds;
- (o) generally all such other purposes as may be deemed necessary or convenient for the management of the Association and the conduct of its business. 1946, c. 75, s. 4, *part*; 1947, c. 80, s. 1.

Idem.

(2) As between members of the Association the ruling of council on the construction and interpretation of its by-laws shall be final. 1946, c. 75, s. 4, *part*.

By-law to be submitted to members of Association.

5. No by-law or amendment to a by-law, passed by council on or after the 4th day of June, 1946, shall be valid or acted upon until it has been,

- (a) submitted to the members of the Association for approval by means of a letter-ballot returnable

within 30 days after the mailing thereof and unless a majority of those voting within the prescribed time have approved thereof; and

- (b) approved by the Lieutenant-Governor in Council. 1946, c. 75, s. 5.

6. For the purposes of representation upon the council and for registration, and for such purposes only as are hereinafter set out, membership of the Association shall be subdivided into the following branches: civil, mechanical and industrial, chemical and metallurgical, electrical, mining. R.S.O. 1937, c. 237, s. 6 (1); 1946, c. 75, s. 6 (1); 1949, c. 76, s. 1. Classification.

7. Additional branches may be established by the Lieutenant-Governor in Council upon the petition of not less than 100 registered members of the Association, provided such petition is approved by the council, or upon petition of 200 members of the Association if such approval is not obtained. R.S.O. 1937, c. 237, s. 7. Additional branches.

8.—(1) The council shall consist of a president, a first vice-president and a second vice-president, an immediate past-president and three councillors from each branch of the Association, all of whom shall be registered members of the Association and domiciled in Ontario. 1946, c. 75, s. 7 (1), *part.* Council.

(2) The president, who shall be elected annually by vote of members, shall hold office until his successor is elected, shall act as presiding officer at the meetings of the council and of the Association, voting only when the votes are evenly divided, and on his retirement shall hold office as councillor for the next year succeeding. R.S.O. 1937, c. 237, s. 8 (2). President.

(3) The vice-presidents shall be elected annually by vote of the members and the first vice-president shall have all the powers of the president during his absence, and the second vice-president shall have all the powers of the president during the absence of the president and the first vice-president, provided always that if the second vice-president resides in Toronto and the first does not the council may by resolution authorize the second vice-president to have all or any part of the powers of the president while the president and first vice-president are absent from Toronto. Vice-presidents, election of.

(4) Two councillors shall be elected annually from each branch of the Association by the votes of the registered members in such branch, but any member registered before the 4th day of June, 1946 in more than one branch may vote in Councillors.

only one branch according to his selection, and he may transfer his vote to any other branch in which he is registered upon the approval of the council, and one councillor from each branch of the Association shall be appointed by the Lieutenant-Governor in Council for a term not exceeding five years.

Secretary and treasurer, appointment of.

(5) The council shall appoint a registrar and a secretary and a treasurer who shall hold office during the pleasure of the council and any two or more of such offices may be held by one person. 1946, c. 75, s. 7 (1), *part*.

Vacancies.

(6) In case of the death, resignation or incapacity of any officer or councillor the office shall be declared vacant by the council and, except in the case of a councillor appointed by the Lieutenant-Governor in Council, the council shall fill the vacancy in such manner as may be provided by the by-laws of the Association for the balance of the term, and absence from three consecutive meetings may be treated by the council as incapacity.

Idem.

(7) In the case of a vacancy in the office of a councillor appointed by the Lieutenant-Governor in Council, the Lieutenant-Governor in Council may fill the vacancy. 1946, c. 75, s. 7 (2).

Members of council to control registration and licensing.

9.—(1) The members of the council representing each branch shall control, subject to the terms of this Act, the conditions for registration and for licensing in such branch, including credentials, examinations and exemptions.

Powers of council.

(2) The council as a whole shall have the power to review the establishment of and the carrying out of the conditions for registration as administered by the representative councillors from all branches, and shall have the power to require the representatives of such branches to modify their administration in order to maintain a standard of qualification in members satisfactory to the council.

Revocation of certificates.

(3) The revocation of certificates and the reissuing of such certificates, the questions of discipline, fines, suspensions, expulsion, finance, overlapping of practice in branches, and all matters not coming within the provisions of subsection 1 shall be dealt with by the council as a whole. R.S.O. 1937, c. 237, s. 9.

Qualification for membership.

10.—(1) Any applicant for membership who,

(a) is resident in Ontario;

(b) is of the full age of 21 years or over;

- (c) has passed the examinations prescribed by the council or is exempted therefrom pursuant to this Act;
- (d) has had five years or more experience in engineering work satisfactory to council; and
- (e) provides satisfactory evidence of good character,

shall be registered by the council as a member of the Association.

(2) Each applicant for membership shall submit upon the forms prescribed by the council evidence of his educational qualifications and engineering experience, a proper certificate as to his age, such information as may be required as to his residence and at least three references as to his character and engineering experience, and he may be required by council to verify the statements set out in his application by affidavit or statutory declaration.

Evidence of qualifications.

(3) Each application for membership shall state the branch in which the applicant desires to be enrolled and the application shall be referred to those members of council who represent that branch for their consideration and such councillors or a majority of them shall report to the council as to whether or not they consider the engineering experience acquired by the applicant to be satisfactory.

Report of councillors for branch.

(4) If the applicant is a graduate in any branch of engineering or of science, the practice of which constitutes professional engineering, from a university recognized by the council, the applicant, upon presenting evidence of the actual time during which he was under instruction in the university shall be granted the time spent under such instruction in reduction of the period of engineering experience above required, but the total exemption granted shall not exceed four years.

Credit for time spent at university.

(5) In determining the examinations to be prescribed for the applicant regard shall be had to whether or not he is a graduate of a university recognized by the council and to the examinations which he has passed to obtain his degree and the council on the advice of the members of council representing the branch to which the applicant seeks admission or a majority of them may, having regard to the examinations passed by the applicant to obtain his university degree, grant exemption to him from the prescribed examinations required for registration as a member of the Association or from some of such examinations. 1946, c. 75, s. 9, *part*.

Credit for examinations passed at university.

11. Any person resident in Ontario who is a duly registered member of an association of professional engineers in any

Members of associations of other provinces.

province of Canada similarly constituted to this Association, may upon application made to council be admitted to membership upon satisfactory proof of residence and of membership in such association. 1946, c. 75, s. 9, *part.*

Members of other associations.

12. Any person resident in Ontario who is a registered member of any association or institute in other parts of the Commonwealth of Nations or in the United States of America similarly constituted to this Association and which grants reciprocal privileges, and who applies for membership in this Association, may be admitted to membership upon producing to council satisfactory proof of such residence and of membership in such association or institute. 1946, c. 75, s. 9, *part.*

GRADUATES, STUDENTS AND APPRENTICES

Recording persons with the Association.

13. Persons who are engaged as apprentices or assistants to professional engineers and who contemplate writing the prescribed examinations of the Association and undergraduates and graduates who have not completed the full five years of engineering experience within the meaning of this Act and who contemplate applying for registration on the completion of such experience may be recorded with the Association but not as members of the Association until fully qualified and upon being recorded shall be subject to the control of the council and to the by-laws of the Association. 1946, c. 75, s. 9, *part.*

LICENSING

Members of associations of other provinces not resident in Ontario.

14.—(1) Any person resident in Canada but not in Ontario who is a registered member of an association of engineers similarly constituted of any other province of Canada may upon application obtain from the registrar a licence to practise as a professional engineer in Ontario upon production of evidence of his registry in such other province.

Consulting specialist not resident in Canada.

(2) Any person who is not resident in Canada, but who in the opinion of the members of council in any branch is recognized as a consulting specialist in such branch of engineering, and has had not less than 10 years of experience in the practice of his profession, or who presents evidence to satisfy such members of council that he has equal qualifications with those required for registration in such branch of the profession, may, with the approval of the members of council of such branch, be granted a licence to practise in that branch.

Person from province where no association.

(3) Any professional engineer who is resident in a province of Canada in which there is no association of engineers similarly constituted to the Association may obtain a licence to practise

in a branch of engineering, subject to the approval of the members of council representing such branch.

(4) In the event of an applicant for a licence failing to obtain it promptly for any reason unrelated to his professional capacity or his own neglect he may practise as a professional engineer in Ontario for a period of not more than three months without such licence. Practise by applicant for licence.

(5) Any such licence granted under the provisions of this section shall be in the form and be limited to the period and for the work provided by subsection 4 of section 22. 1946, c. 75, s. 9, *part.* Form and conditions of licence.

15. Any person who is employed as a professional engineer by a public service corporation, public utilities or Government department, who is by reason of his employment required to practise as a professional engineer in provinces other than that of his residence, may so practise in Ontario without holding a non-resident licence or payment of fee, providing such person can on demand of the council produce credentials satisfactory to the council showing that he is a registered member of an association of engineers similarly constituted by some other province of Canada. R.S.O. 1937, c. 237, s. 18. Employee of public service corporation, etc.

MEMBERSHIP

16.—(1) Only a person who is a member of the Association or who has obtained a licence shall be entitled to take and use the title "Professional Engineer", or "Registered Professional Engineer" or any abbreviation thereof, or except as herein otherwise provided to take and use the title "Engineer" or any abbreviation thereof in such context or in such a manner as to lead to the belief that he is a professional engineer. 1946, c. 75, s. 10. Use of titles.

(2) Each member of the Association shall have a seal, the impression of which shall contain the name of the engineer and the words "Registered Professional Engineer" and "Province of Ontario", with which seal he shall stamp all official documents and plans, and the design of such seal shall be approved by the council. R.S.O. 1937, c. 237, s. 19 (2). Seal.

17. A person applying for membership who has served in an engineering capacity with the armed forces of Canada or her allies during World War II shall be granted as part of the term of employment required before registration the whole time of such service or such part thereof as the council may direct. 1946, c. 75, s. 11. Members of the forces.

PARTNERSHIP

Co-partnership.

18.—(1) In the case of two or more persons carrying on a practice as professional engineers in co-partnership, only such members who are registered or licensed under this Act shall individually assume the function of a professional engineer.

Firm or corporation not to be deemed a member.

(2) A firm or corporation of professional engineers shall not, as such, be deemed to be a member of the Association or be licensed to practise. R.S.O. 1937, c. 237, s. 22.

EXAMINATIONS

Board of examiners.

19. The council shall appoint annually a board of examiners from nominations made by members of council representing each of the branches. 1946, c. 75, s. 12.

Examinations.

20.—(1) Examinations of candidates for registration or for licence shall be held at least once per annum, at such place or places as the council may direct. R.S.O. 1937, c. 237, s. 24 (1).

Scope of examinations.

(2) The scope of the examinations and the methods of procedure shall be prescribed by the board of examiners, subject to the approval of council, with special reference to the applicant's ability to design and supervise engineering works which will ensure the safety of life and property. 1946, c. 75, s. 13.

Board to examine degrees, diplomas, etc.

(3) The board shall examine all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining registration or licence to practise, if referred to them by the council, and may require the holder of such degree, diploma, certificate or other credentials to attest on oath, orally or by affidavit concerning the matter of his application.

Candidate to submit to examination.

(4) The candidate shall submit to an examination before the board, or before such members of the board as may be deputed by the council to conduct such examination, on such branch or branches of professional engineering as the candidate may select.

Result of examination to be filed with secretary.

(5) As soon as possible after the close of each examination the members of the board who have conducted such examination shall make and file with the secretary a certificate stating the result of such examinations, whereupon the council shall notify each candidate of the result of his examination and of their decision upon his application.

Failure.

(6) A candidate failing on examination may after an interval of not less than nine months be examined again.

(7) The council shall from time to time prescribe the fees payable by candidates for examination, which fees shall be payable in advance by the candidates. R.S.O. 1937, c. 237, s. 24 (3-7).

21. The council shall have power to establish conjointly 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 said council respecting the examinations of candidates for admission to practise, provided that any examination conducted by such central examining board shall be held in at least one place in Ontario. R.S.O. 1937, c. 237, s. 25.

REGISTER AND REGISTRAR

22.—(1) The registrar shall issue to each member admitted to the Association a certificate of membership signed by the president or a vice-president and the registrar, and bearing the seal of the Association.

(2) Every member shall keep his certificate of membership prominently displayed in his place of business.

(3) Every certificate of membership shall be the property of the Association and shall be returned forthwith by the member to the Association when his membership ceases.

(4) The registrar shall issue a licence to practise to any person entitled thereto, such licence to specify the work upon which and the name of the employer in Ontario by whom the holder of the licence is to be employed and the period for which it is issued, but in no case shall the period extend beyond the end of the calendar year in which the licence is issued.

(5) The registrar shall enroll in the register provided by the council the names of all persons admitted to the Association by the council, also the names of all persons licensed by the council.

(6) The registrar shall keep a record of persons engaged as apprentices or assistants to professional engineers, and undergraduates and graduates who make application to be recorded pursuant to section 13. 1946, c. 75, s. 14.

23. The registrar shall keep the register correct and in accordance with the provisions of this Act and the instructions of the council. R.S.O. 1937, c. 237, s. 27.

24. The annual fee due from a member shall be deemed to be a debt due the Association and may be recoverable with

the costs of same from such member in the name of the council or of the Association in any court of competent jurisdiction. R.S.O. 1937, c. 237, s. 28.

Non-payment of fees.

25.—(1) Where the annual fee of any member is not paid within six months from the date upon which it became due the secretary shall send a written notice of such default by prepaid registered post to the member's last known address as shown on the register and if payment is not made within one month thereafter the registrar, upon the direction of the council, shall cause the name of the member to be erased from the register and thereupon the member shall cease to be a member.

Resignation.

(2) Any member whose fees are paid up who desires to resign from the Association shall send written notice thereof to the secretary, whereupon the registrar shall cause the name of the member to be erased from the register and thereupon the member shall cease to be a member.

Re-admission.

(3) Any member who ceased to be a member under subsection 1 upon payment of the fees owing at the time he ceased to be a member and the fee for the current year, or any member who ceased to be a member under subsection 2 upon payment of the fee for the current year, and in either case upon production of evidence of good character satisfactory to the council, shall be re-admitted as a member. 1949, c. 76, s. 2, *part*.

Appeal.

26. Where the council refuses,

- (a) to register any applicant for membership;
- (b) to register any applicant for re-admission; or
- (c) to issue a licence to practise to any applicant therefor,

the person aggrieved may apply to a judge of the Supreme Court who upon due cause shown may make an order directing the council to register the name of such person as a member or to grant a licence to practise, or may make such other order as may be warranted by the facts, and the council shall forthwith comply with such order and such order shall be final. 1949, c. 76, s. 2, *part*.

Evidence of registration.

27. The certificate of registration under the seal of the Association shall be *prima facie* evidence of registration. R.S.O. 1937, c. 237, s. 31.

SUSPENSION OR EXPULSION

Reprimand, censure, suspension, expulsion.

28.—(1) The council may, in its discretion, suspend or cancel the membership or licence of any person who has been

guilty of unprofessional conduct, or of gross negligence or incompetence or of continued breach of the by-laws of the Association, or any member or licensee convicted of a serious criminal offence by a court of competent jurisdiction, or may reprimand or censure such member or licensee.

(2) The council shall not take any such action until after Procedure. a complaint under oath has been filed with the secretary or the registrar, and a copy forwarded to the member or licensee accused, who shall be given an opportunity of submitting evidence in his defence and the council shall not suspend or cancel a membership or licence without having previously summoned the member or licensee to appear before the council, nor without having heard evidence under oath offered in support of the complaint and in behalf of the member or licensee accused.

(3) The council shall have the same powers as commissioners Powers of council. Rev. Stat., c. 308. under *The Public Inquiries Act* to compel witnesses to appear and give evidence under oath in the manner and under penalties prescribed by such Act, and all such evidence shall be taken in writing or by a duly qualified stenographer.

(4) Any person whose membership or licence has been Appeal. suspended or cancelled may within 15 days after the date of the order of suspension or cancellation appeal to the Court of Appeal from such order and the practice and procedure in such appeal shall be the same as upon an appeal from the judgment of the Supreme Court judge presiding at a trial, and the Court of Appeal shall have power to confirm, vary, vacate or set aside such order or to make such other order as it may deem just, and to make an order for payment of the costs of the appeal, and there shall be no further or other appeal.

(5) Pending an appeal the member or licensee whose Pending appeal. membership or licence is suspended or cancelled may continue to practise, but unless the order of suspension or cancellation is set aside he shall not practise after the appeal has been disposed of, except that in the case of a suspension, he may practise upon and after the expiry of the period of suspension. 1946, c. 75, s. 15, *part.*

29. No action shall be brought against the council or No action. any member or officer thereof for anything done under this Act or under any by-law passed in accordance therewith. 1946, c. 75, s. 15, *part.*

PENALTIES

30. Any person in Ontario who, not being registered as a member of the Association in Ontario, or licensed by the Association, Penalty when unregistered or unlicensed person practises.

- (a) uses verbally or otherwise the title of professional engineer, or makes use of any addition to or abbreviation of such title, or of any words, name or designation that will lead to the belief that he is a professional engineer or a member of the Association, or except as permitted by section 2 uses the title or designation "Engineer" in such a manner as will lead to the belief that he is a professional engineer or member of the Association;
- (b) advertises or holds himself out or, except as provided by section 2, conducts himself in any way or by any means as a member of the Association or professional engineer; or
- (c) engages in the practice of professional engineering,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$200 for the first offence, and of not less than \$200 and not more than \$500 or imprisonment for a term of not more than three months, or both, for any subsequent offence. 1946, s. 75, s. 15, *part, amended*.

Wilful falsification of register.

31. If the registrar makes or causes to be made wilful falsification of the register, or in matters connected therewith, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100. R.S.O. 1937, c. 237, s. 34, *amended*.

Fraudulent representation as to qualifications for membership.

32. Any person who wilfully procures or attempts to procure for himself registration as member in the Association by making, producing or causing to be made or produced any fraudulent representation or declaration, either verbal or written, and any person knowingly aiding and assisting him therein, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$200. R.S.O. 1937, c. 237, s. 35, *amended*.

Penalties payable to Association.

33. Every penalty recovered for an offence against this Act shall be paid over by the convicting magistrate to the Association. R.S.O. 1937, c. 237, s. 36, *part*.

Limit of time for commencement of proceedings.

34. No proceedings shall be commenced for any violation of the provisions of this Act after one year from the date of the committing of such violation. R.S.O. 1937, c. 237, s. 37.