

This archived statute consolidation is current to December 2, 2020 and includes changes enacted and in force by that date. For the most current information, click [here](#).

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

ENGINEERS AND GEOSCIENTISTS ACT

[RSBC 1996] CHAPTER 116

Contents

- 1 Definitions and interpretation
- 2 Exemptions
- 3 Association continued as a corporation
- 4 Repealed
- 4.1 Duties and objects of the association
- 5 Membership
- 6 President and vice presidents
- 7 Registrar and executive director
- 8 Functions of council
- 9 Membership on and appointment to council
- 10 Bylaws
- 11 Ratification of bylaws
- 12 Meetings of association
- 13 Admission to membership
- 14 Issue of certificates of authorization
- 14.1 Interprovincial agreements to practice
- 14.2 Interjurisdictional agreements to practice
- 15 Board of examiners
- 16 Examinations
- 17 Investigation of certificates
- 18 Central examining board
- 19 Register
- 20 Certificate and seal
- 21 Annual fee
- 21.1 Late fees and reinstatement fees
- 21.2 Failure to pay fees
- 21.3 Reinstatement or eligibility to renew
- 22 Prohibition on practice
- 23 Injunction
- 24 No unregistered person to recover fees

25	Penalty for falsification to register
26	Fraudulent registration
27	Exemplary damages
28	Extended definitions
29	Complaints and investigations
30	Investigation committee
31	Discipline committee
32	Disciplinary inquiry
32.1	Consent orders
32.2	Alternative complaint resolution
33	Disciplinary actions
33.1	Disciplinary action in other jurisdiction
34	Conditions not met
34.1	Cancellation of certificate of authorization
35	Costs
36	Legal assistance for council
37	Right to counsel
38	Testimony under oath
39	Appeal
40	Evidence of registration
41	Personal liability protection
42	Bylaw continuation
43	<i>Offence Act</i>
44	Practice review committee
44.1	Conduct review committee
45	Court ordered production
46	Confidentiality

Definitions and interpretation

1 (1) In this Act:

"association" means The Association of Professional Engineers and Geoscientists of the Province of British Columbia;

"board" means the Board of Examiners of the association;

"certificate holder" means the corporation, partnership or other legal entity that holds a valid certificate of authorization;

"certificate of authorization" means the authorization given under the seal of the association that permits corporations, partnerships or other legal entities to practise professional engineering or professional geoscience through employees who are members or licensees;

"council" means the council of the association;

"direct supervision" means the responsibility for the control and conduct

of the engineering or geoscience work of a subordinate;

"executive director" means the executive director of the association;

"former Act" means the *Engineering Profession Act*, R.S.B.C. 1948, c. 110, and amending Acts;

"licence" means the official authorization given under the seal of the association that permits a nonresident person who meets the requirements of section 13 (4) and (5) to practise professional engineering or professional geoscience;

"licensee" means a nonresident engineer or geoscientist licensed under this Act or the holder of a limited licence under this Act;

"limited licence" means the official authorization given under the seal of the association that permits a person to practise professional engineering or professional geoscience within the scope specified in the limited licence;

"member" means a registered member of the association;

"practice of professional engineering" means the carrying on of chemical, civil, electrical, forest, geological, mechanical, metallurgical, mining or structural engineering, and other disciplines of engineering that may be designated by the council and for which university engineering programs have been accredited by the Canadian Engineering Accreditation Board or by a body which, in the opinion of the council, is its equivalent, and includes reporting on, designing, or directing the construction of any works that require for their design, or the supervision of their construction, or the supervision of their maintenance, such experience and technical knowledge as are required under this Act for the admission by examination to membership in the association, and, without limitation, includes reporting on, designing or directing the construction of public utilities, industrial works, railways, bridges, highways, canals, harbour works, river improvements, lighthouses, wet docks, dry docks, floating docks, launch ways, marine ways, steam engines, turbines, pumps, internal combustion engines, airships and airplanes, electrical machinery and apparatus, chemical operations, machinery, and works for the development, transmission or application of power, light and heat, grain elevators, municipal works, irrigation works, sewage disposal works, drainage works, incinerators, hydraulic works, and all other engineering works, and all buildings necessary to the proper housing, installation and operation of the engineering works embraced in this definition;

"practice of professional geoscience" means reporting, advising, acquiring, processing, evaluating, interpreting, surveying, sampling or

examining related to any activity that

(a) is directed towards the discovery or development of oil, natural gas, coal, metallic or non-metallic minerals, precious stones, other natural resources or water, or the investigation of surface or sub-surface geological conditions, and

(b) requires the professional application of the principles of geology, geophysics or geochemistry;

"president" means the president of the association;

"professional engineer" means a person who is registered or licensed as a professional engineer under this Act;

"professional geoscientist" means a person who is registered or licensed as a professional geoscientist under this Act;

"register" means the register kept by the registrar under this Act and formerly kept under the former Act;

"registrar" means the registrar of the association;

"registration" means entry in the register of the name of the person admitted to membership in the association.

For the purposes of the definition of **"practice of professional engineering"** in subsection (1), the performance as a contractor of work designed by a professional engineer, the supervision of construction of work as foreperson or superintendent or as an inspector, or as a roadmaster, trackmaster, bridge or building master, or superintendent of maintenance, is deemed not to be the practice of professional engineering within the meaning of this Act.

Exemptions

2 (1) Nothing in this Act prevents a person registered as an architect under any Act relating to the practice of architecture from practising the profession of architecture or requires him or her to be registered under this Act if his or her practice is confined to architecture.

(2) Nothing in this Act applies to a British Columbia or Canada land surveyor practising his or her profession, except that the land surveyor must not style himself or herself or hold himself or herself out as a professional engineer unless the land surveyor is registered or licensed under this Act.

(3) This Act does not apply to a professional forester as defined in the *Foresters Act* as long as the professional forester does not hold himself or herself out as a professional engineer or professional geoscientist.

... This Act does not apply to any member of Her Majesty's Canadian forces

while actually employed on duty.

- This Act does not affect the rights, powers or privileges of a person
- (5) to do regulated work in relation to boiler, pressure vessel and
(a) refrigeration systems and equipment under the *Safety Standards Act*, or
under the *Mines Act*.
(b) Subject to the bylaws made under section 10 (1) (b.2), nothing in this
- (6) Act or the bylaws prevents a person from assisting in the performance of any professional service or work of the kind described in the definition of "practice of professional engineering" in section 1 (1) if a professional engineer directly supervises and assumes full responsibility for the service or work.
- Subject to the bylaws made under section 10 (1) (b.2), nothing in this
- (7) Act or the bylaws prevents a person from assisting in the performance of any professional service or work of the kind described in the definition of "practice of professional geoscience" in section 1 (1) if a professional geoscientist directly supervises and assumes full responsibility for the service or work.
- Work as a contractor of work designed by a professional engineer or
- (8) professional geoscientist or as a foreperson, superintendent or inspector supervising construction or as a superintendent of maintenance is not deemed to be the practice of professional engineering or the practice of professional geoscience.
- This Act does not apply to prevent persons from acquiring mineral titles
- (9) or from performing work on mineral titles required under the *Mines Act* or the *Mineral Tenure Act* to maintain those titles in good standing as long as they do not hold themselves out as professional engineers or professional geoscientists.

Association continued as a corporation

- 3 (1) The Association of Professional Engineers and Geoscientists of the Province of British Columbia is continued as a corporation.
- For the purposes of this Act, the association has the powers and
- (2) capacity of a natural person, including the power to acquire and dispose of property and the power to enter into contracts.
- The *Business Corporations Act* does not apply to the association unless
- (3) the Lieutenant Governor in Council, by order, provides that specified provisions of that Act apply to the association, in which case the specified provisions apply.

Repealed

4 [Repealed 2007-8-21.]

Duties and objects of the association

4.1 (1) It is the duty of the association

to uphold and protect the public interest respecting the practice
(a) of professional engineering and the practice of professional geoscience,

to exercise its powers and functions, and perform its duties,
(b) under this Act, and

to enforce this Act.

(c)

The association has the following objects:

(2)

[Repealed 2018-47-140.]

(a) to establish, maintain and enforce standards for the

(b) qualifications and practice of its members and licensees;

to promote the professions of professional engineering and

(c) professional geoscience.

Membership

5 The membership of the association consists of all members of the association who were in good standing under the former Act at the time of its repeal and all persons admitted to membership by the council under this Act as long as they remain on the register.

President and vice presidents

6 (1) The president must be elected annually by the members of the association and holders of limited licences, and holds office until a successor is elected.

The president, if present, presides at all meetings of the association and
(2) the council unless the president requests the meeting to appoint some other person to preside.

The president, or the person appointed in the president's place, votes
(3) only when the votes of the members are equally divided.

One or more vice presidents, one of whom must be designated by the
(4) council to have all the powers and rights of the president during the president's absence, must be elected annually by the members of the association and holders of limited licences.

A vice president may hold office until a successor is elected.
(5)

Registrar and executive director

- 7** (1) The council must appoint a registrar, who must be a member of the association.

The council must appoint an executive director.

- (2) The offices of registrar and executive director are held at the pleasure of
(3) the council and may be held by the same person.

Functions of council

- 8** (1) The powers conferred on the association are to be exercised by the council.

Subject to this Act and the bylaws of the association, the council

- (2) must govern, control and administer the affairs of the
(a) association,
must exercise all rights and powers vested in it under this Act,
(b) and
may pass resolutions necessary for the purposes of paragraphs
(c) (a) and (b).

Membership on and appointment to council

- 9** (1) The council consists of the president, all vice presidents, the immediate past president and councillors appointed under subsection (4) or (7) or elected under subsection (6).

Despite subsections (4), (6) and (7), a councillor whose term of office

- (2) has expired may continue to hold office until a successor is appointed or elected.

The council includes

- (3) 4 councillors appointed under subsection (4),
(a) a further number, set by bylaw of the association and being at
(b) least 8, of councillors elected by the members and holders of limited licences under subsection (6), and
the councillors, if any, appointed under subsection (7).
(c)

- (4) The Lieutenant Governor in Council must appoint 4 councillors who are not members of the association and, subject to subsection (8), each serves for a 2 year term.

[Repealed 2007-8-23.]

- (5) The association must conduct a ballot of members and holders of limited
(6) licences each year, in the manner determined by the council, to elect the councillors who are to be elected by the members and holders of limited licences and

- (a) each year the election must be for 1/2 the number of councillors to be elected by the members and holders of limited licences,
- in the event of a tie vote, the winner is the candidate with
- (b) greater seniority as a member or holder of a limited licence, and
- each councillor elected by the members and holders of limited
- (c) licences must, subject to subsection (8), serve for a 2 year term.

(7) If no member of a Faculty of Applied Science, Engineering or Geoscience in British Columbia or no professional geoscientist is elected under subsection (6) or section 6 (1) or (4), the council must appoint a member of a Faculty of Applied Science, Engineering or Geoscience in British Columbia or a professional geoscientist to the council for a one year term.

- (8) If a member of the council dies, resigns or is incapable of acting,
- (a) the other members of the council must appoint a member of the association or holder of a limited licence to fill the vacancy if the councillor is an elected member, and
 - (b) the vacancy must be filled by appointment made by the Lieutenant Governor in Council if the councillor is a government appointee.

Bylaws

- 10** (1) The council may pass, alter and amend bylaws, consistent with this Act, for the following:
- the election of the council;
 - (a) the government, discipline and honour of the members,
 - (b) licensees and certificate holders of the association, including the establishment of a code of ethics;
 - (b.1) without limiting paragraph (b), the practice and procedure for proceedings before the discipline, practice review or conduct review committee;
 - (b.2) the direct supervision of former members and licensees by members;
 - (c) the establishment of quality management programs for members, licensees and certificate holders;
 - (d) the establishment by the council of a professional practice review program for members, licensees and certificate holders, including the creation of a practice review committee to

conduct practice reviews as directed by the council, as recommended by the investigation committee or subcommittee or as referred by the registrar;

(d.1) the establishment by the council of a conduct review program for members, licensees and certificate holders, including the creation of a conduct review committee to perform conduct reviews as directed by the council, as recommended by the investigation committee or subcommittee or as referred by the registrar;

(e) the circumstances in which members, licensees or certificate holders, or a class of members, licensees or certificate holders, must hold professional liability insurance and the amount and category of professional liability insurance that must be held;

(e.1) the establishment and administration of a professional liability insurance program in any category including, without limitation, for providing the council with the power to establish terms, conditions, policies and procedures for categories of professional liability insurance;

(e.2) the circumstances and manner in which members, licensees or certificate holders, or a class of members, licensees or certificate holders, must disclose

- whether professional liability insurance is held, and
- (i) whether the insurance is applicable to the services in
- (ii) question;

(f) the management and maintenance of the association and its property, both real and personal, the investment of its funds, banking, the borrowing of money, the appointment of staff and their remuneration and generally for the carrying on of the general business of the association;

(g) the establishment, levying, payment and remission of

- [Repealed 2010-3-2.]
- (i) admission fees,
- (ii) application fees,
- (iii) licence fees,
- (iv) professional liability insurance fees, and
- (v) any other fees except, with respect to members,
- (vi) licensees and certificate holders, late fees, annual fees and reinstatement fees,

including, without limitation, for providing the council with the power to establish, levy, require payment of, and authorize

remission of, those fees;

[Repealed 2002-35-4.]

- (h) the establishment and regulation of standards of admission to
 - (i) membership and the enrolment and qualifications of candidates for admission to membership;
 - (i.1) the establishment of standards of practice or a code of conduct for members and licensees;
 - (j) the establishment and enforcement of standards for certificate holders;
 - (k) the classification of the different disciplines of professional engineering and professional geoscience and the designation of the different grades of membership in the association and limitation of the rights of members within the different disciplines and grades;
 - (k.1) the designation of specialized areas of professional engineering or professional geoscience;
 - (k.2) the qualification and certification of members, licensees or certificate holders as specialists in areas of professional engineering or professional geoscience designated under paragraph (k.1);
 - (k.3) the prohibition of members, licensees or certificate holders from holding themselves out as specialists in a designated area of professional engineering or professional geoscience unless the member, licensee or certificate holder is certified under a bylaw made under paragraph (k.2);
 - (l) the subjects of study, the examinations to be passed and the experience required as a preliminary to or on application for membership in the association, or for a licence issued under this Act;
- (m) the establishment and monitoring of compliance with standards of training and experience required for licensees, and the enrolment and qualifications for a limited licensee, including limited licences for applied science technologists;
 - (m.1) the establishment and enforcement of professional development requirements to assist in promoting and maintaining the competency and proficiency of members and licensees;
 - (m.2) the establishment of an alternative complaint resolution process to assist, in appropriate circumstances, in the resolution of complaints;

- (n) the resignation of members;
 - the establishment of requirements and procedures for the
- (n.1) reinstatement of former members, licensees and certificate holders, including, without limitation, the imposition of conditions on reinstatement and direct supervision of former members, licensees and certificate holders;
 - the calling and conduct of meetings of the association and of
- (o) the council, the necessary quorums, voting, the appointment of committees and their powers and other matters in that connection;
 - the assistance, pecuniary or otherwise, to be given to
- (p) individuals and organizations if, in the opinion of the council, the assistance will be of benefit to the public, the association or its members;
 - the promotion of better public relations in the manner and by
- (q) the means the council sees fit, including, without limitation, the publication of books, papers and periodicals;
 - the creation of divisions, committees and regional groups, and
- (r) the delegation to them of those powers and authority the council sees fit;
 - the establishment, development and administration of ancillary
- (s) bodies and the qualifications for admission to these bodies;
 - all other purposes reasonably necessary for the management,
- (t) regulation and well-being of the association.

(1.1) For the purposes of bylaws under subsection (1) (e), (e.1) or (e.2), the council, by bylaw, may

- (a) establish classes of members, licensees or certificate holders,
- (b) specify different categories of professional liability insurance,
- (c) and require that different classes of members, licensees or certificate holders hold different categories of professional liability insurance.

(1.2) The council may make bylaws under subsection (1) establishing standards of practice, a code of conduct or a quality management program that have been developed in concert with the governing body of another profession.

(2) A bylaw does not come into force until

- (a) the requirements of section 11 have been met, and
- (b) the 45 day period set by section 11 (3) ends.

Ratification of bylaws

- 11** (1) A bylaw does not come into force unless ratified by at least 2/3 of the votes cast by ballot taken under section 12 (7).

The executive director must file with the minister a copy of each bylaw,
(2) certified under the seal of the association, within 14 days after ratification.

A bylaw may be disallowed by the Lieutenant Governor in Council within
(3) 45 days after the filing of it under subsection (2).

Meetings of association

- 12** (1) An annual meeting of the association must be held, at the time and place appointed by the council, at least once in every calendar year and not more than 15 months after the preceding annual meeting.

If any annual meeting is not held as required under subsection (1), the
(2) Supreme Court, on the application of a member of the association or holder of a limited licence, may call or direct the calling of an annual meeting.

The council, at any time of its own motion, may call a general meeting
(3) of the association.

The council, on the written request of 25 members of the association or
(4) holders of limited licences or of 5 council members, must call a general meeting of the association.

A meeting called under subsection (4) must be held within 6 weeks after
(5) receipt of the request by the executive director.

Twenty-one days' written notice of the time and place of any meeting of
(6) the association must be sent by prepaid post to every member of the association in good standing and to every holder of a limited licence in good standing at the member's or holder's, as the case may be, last recorded address.

The council may, and on written request of 25 members of the
(7) association or holders of limited licences must, take a vote of the members of the association and the holders of limited licences by ballot in the manner determined by the council on any matter that, under this Act, can be voted on at a general meeting of the association.

A vote taken under subsection (7) has the same force as if the vote had
(8) been taken at a general meeting of the association.

Admission to membership

- 13** (1) The council must admit a person to membership in the association if

(a) both of the following apply:

- (i) the person is a Canadian citizen or a permanent resident of Canada;
- (ii) the person has submitted to the council the evidence referred to in subsection (1.1), or

(b) the person is a person whom the council is obliged under the *Labour Mobility Act* to admit to membership in the association.

(1.1) An applicant under subsection (1) (a) must submit to the council evidence satisfactory to the council of the following:

that the applicant has either

- (a) graduated in applied science, engineering or geoscience
 - (i) from an institute of learning approved by the council in a program approved by the council, or
 - (ii) passed examinations established by the bylaws of the association or passed examinations, requiring special knowledge in branches of learning specified by the council, of an association or institute approved by the council;

(b) that the applicant has passed special examinations required by the council;

(c) that the experience in engineering or geoscience work established by the bylaws has been obtained;

(d) that the applicant is of good character and good repute;

(e) that all examination and registration fees have been paid to the association.

(2) Despite subsection (1) or (5), the council may refuse registration or a licence to a person if

(a) the council has reasonable and probable grounds to believe that the person has been convicted in Canada or elsewhere of an offence that, if committed in British Columbia, would be an offence under an enactment of the Province or of Canada, and that the nature or circumstances of the offence render the person unsuitable for registration or licensing, or

the person has contravened this Act or the bylaws.

(3) (b) A person referred to in subsection (1) (a) who desires to become a member must comply with the bylaws relating to application for membership, and, if required to qualify by examination, must comply with section 16 (4) and (5).

(4) A person who is neither a citizen or permanent resident of Canada nor a

person referred to in subsection (1) (b), whose qualifications are those required by subsection (1.1) (a) to (d), and who desires to engage temporarily in the practice of professional engineering or professional geoscience in the Province, must first obtain a licence from the council which will entitle him or her to engage in the practice of professional engineering or professional geoscience in respect of a particular work or for a temporary period, or both, as the council decides.

(5) A person to whom subsection (4) applies must be granted the licence referred to in that subsection on

(a) producing evidence satisfactory to the council of his or her qualifications under subsection (4), and

(b) paying the established fees.

(6) Neither corporations nor partnerships as such may become members of the association.

(7) If professional engineers or professional geoscientists are employed by corporations or are members of partnerships, they individually must assume the functions of and must be held responsible as professional engineers or professional geoscientists.

(8) The council may, in writing, delegate some or all of its powers and duties under this section to the registrar, on the terms or conditions the council considers advisable.

Issue of certificates of authorization

14 (1) The council must issue a certificate of authorization to a corporation, partnership or other legal entity for the practice of professional engineering or for the practice of professional geoscience if the council is satisfied that the corporation, partnership or other legal entity

(a) has on its active staff members or licensees who directly supervise and assume responsibility for the practice of professional engineering or for the practice of professional geoscience undertaken by the corporation, partnership or other legal entity, and

(b) has satisfied the requirements of this section and the bylaws of the association.

(2) An application for a certificate of authorization, on a form provided by the council, must be filed with the registrar, together with the application fee specified by the council, and, to remain valid, the certificate holder must pay all fees specified by the council for certificate holders.

(3) If the practice of professional engineering or the practice of professional

geoscience is carried on by a certificate holder as permitted under subsection (1), the estimates, specifications, reports, documents or plans prepared and delivered must

- (a) be signed and dated by, and sealed with the stamp of, the member or licensee of the association who is responsible for them and who supervised the preparation of them, and
- (b) show in a manner specified by the council the words "APEGBC CERTIFICATE OF AUTHORIZATION", together with the certificate number and expiry date.

(4) A certificate holder engaged in the practice of professional engineering or in the practice of professional geoscience in its own name as permitted under subsection (1) must keep the association advised of the names of the members or licensees of the association who are on the active staff of the certificate holder and who are directly supervising and assuming responsibility for the practice of professional engineering or for the practice of professional geoscience.

(5) The members or licensees named for the purposes of subsection (4) by a certificate holder

- (a) are the authorized representatives of the certificate holder for all purposes under this Act,
- (b) are subject to any inquiries under the Act, and
- (c) must immediately advise the registrar on relinquishing for any reason this responsibility for the certificate holder.

(6) A certificate of authorization issued to a corporation, partnership or other legal entity is valid for the calendar year for which it was issued provided the certificate holder complies with this Act and the bylaws governing certificate holders.

(7) A corporation, partnership or other legal entity that holds a certificate of authorization must be registered by the registrar as a certificate holder but not as a member or licensee.

(8) Despite subsection (1), the council may refuse to issue or renew a certificate of authorization if the applicant for the certificate of authorization or the certificate holder, as the case may be, or a member or licensee described in subsection (1) (a),

- (a) has been convicted in Canada or elsewhere of an offence that, if committed in British Columbia, would be an offence under an enactment of the Province or of Canada and, in the circumstances, renders the person unsuitable for the practice of professional engineering or for the practice of professional geoscience,

- (b) has contravened this Act, the bylaws or the code of ethics of the association, or
- has demonstrated incompetence, negligence or unprofessional
- (c) conduct.

[Repealed 2007-8-28.]

(9)

Interprovincial agreements to practice

14.1 (1) In this section, "**governing body**" means the governing body of professional engineering or professional geoscience in another province of Canada.

Despite section 13, the council may enter into an agreement with a

(2) governing body to permit an engineer or a geoscientist who is qualified in the province of the governing body to practise professional engineering or professional geoscience, as the case may be, in British Columbia.

In permitting a professional engineer or professional geoscientist to

(3) practise in British Columbia in accordance with an agreement under subsection (2), the council may

- attach conditions or limitations to the permission,
- (a) impose a fee, and
- (b) require the payment of a fine imposed by a governing body.
- (c)

Interjurisdictional agreements to practice

14.2 (1) In this section, "**governing body**" means the governing body of professional engineering or professional geoscience, or a profession considered by the council to be equivalent to one or both of those, in a jurisdiction that is outside of Canada.

Despite section 13, the council may enter into an agreement with a

(2) governing body to permit an engineer or a geoscientist who is qualified in that jurisdiction to practise professional engineering or professional geoscience, as the case may be, in British Columbia.

An agreement referred to in subsection (2) may specify qualifications

(3) that are considered by the council to be equivalent to those required under this Act for admission to membership or the granting of a licence under section 13 and that, if met by the engineer or geoscientist, as the case may be, from the other jurisdiction, satisfy the requirements under section 13 for admission to membership or the granting of a licence.

Board of examiners

15 (1) The council must

- (a) appoint a board of examiners annually, and fill vacancies in the board as they occur.
- (b) The board must examine all candidates for admission to membership
- (2) when an examination is required under this Act.

Examinations

- 16** (1) Regular examinations of candidates for admission must be held in British Columbia at least once in each year at places and times decided by the council.

- (2) Special examinations, at the discretion of council, may be held if the candidate or candidates for them deposit in advance with the registrar both a sum sufficient to defray the expenses of the special examinations and the appropriate examination fees established under the bylaws.

- The council must establish the scope of and procedure at examinations.
- (3) A candidate for examination must give at least 2 months' notice in writing to the registrar of the candidate's intention to take the examination, and with the notice must pay the fees established under the bylaws for the grade of examination to be taken.

- (5) If the candidate passes the final examination, he or she must pay the remainder of the admission fees established under the bylaws before receiving a certificate of registration.

- (6) As soon as possible, and not later than 21 days after the close of each examination, the members of the board who have conducted the examination must make and file with the registrar a certificate showing the results of the examination.

- (7) On the filing of a certificate under subsection (6), the council must notify the candidate of the result of the examination and of its decision on the candidate's application.

- (8) The board must file with the registrar the examination papers submitted to the candidates, together with the answers of each candidate, and must attach to them a certified copy of its report with the marks awarded to each candidate in each subject of the examination.

- (9) The documents referred to in subsection (8) must remain on file in the office of the registrar, and are open to inspection by any candidate, or by any person authorized in writing by the candidate, during regular office hours for a period of at least 6 months following the examination.

- (10) If the candidate fails an examination, the candidate may, on payment of the established fee, take any subsequent regular examination.

- (11) If a candidate has failed an examination 3 times, he or she may only

take the examination again with the permission of the council.

Investigation of certificates

- 17** (1) The council must cause the examination of all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining registration.

The council may require the holder of credentials referred to in

- (2) subsection (1) to attest, by oath or affidavit, any matter involved in his or her application.

Central examining board

- 18** (1) The council may

establish jointly with the council of any other association

- (a) similarly constituted, in one or more of the other provinces, a central examining board, and

delegate to the central examining board all or any of the

- (b) powers possessed by the board respecting the examinations of candidates.

Any examination conducted by the central examining board must be

- (2) held in at least one place in British Columbia if so requested by the council.

Register

- 19** The registrar must do the following:

continue the register of members kept under the former Act;

- (a) enter in the register the full name and address of each member

- (b) and the date of issue of each registration;

make the register available for public inspection during normal

- (c) business hours;

keep a record of licensees, certificate holders and members of

- (d) each grade of membership in the association;

enter in the record the full name and address of each licensee

- (e) and certificate holder and the date of issue of each licence and certificate of authorization.

Certificate and seal

- 20** (1) The registrar, on direction of the council, must issue

a certificate of registration to each member of the association

- (a) on registration of that member, and

.. . a certificate of licence or a certificate of limited licence to each

licensee.

(2) A certificate of registration must show the signatures of the president and the registrar and bear the seal of the association.

(3) A certificate of registration constitutes evidence of registration at the date of issue.

(4) On receipt of the annual fee in each year, the registrar must provide the member with evidence that the member's certificate of registration is renewed.

(5) A member must display the member's certificate of registration and a licensee must display the licensee's certificate of licence or limited licence in a prominent place in the office or other place of business of the member or licensee.

(6) On receipt of a certificate of registration or a certificate of licence, a professional engineer

- (a) is entitled to use the title "professional engineer" or an abbreviation of that title approved by the council, and
- (b) must be provided with a seal or stamp by the association, bearing the engineer's name, the words "Professional Engineer, Province of British Columbia" and other designation required by the bylaws.

(7) On receipt of a certificate of registration or a certificate of licence, a professional geoscientist

- (a) is entitled to use the title "professional geoscientist" or an abbreviation of that title approved by the council, and
- (b) must be provided with a seal or stamp by the association, bearing the geoscientist's name, the words "Professional Geoscientist, Province of British Columbia" and other designation required by the bylaws.

(8) On issuing a certificate of limited licence, the association must provide the licensee with a seal or stamp, bearing the licensee's name, the words "Limited Licensee" and any other information required by the bylaws.

(9) A member or licensee receiving a seal or stamp under this section must use it, with signature and date, to seal or stamp estimates, specifications, reports, documents, plans or things that have been prepared and delivered by the member or licensee in the member's or licensee's professional capacity or that have been prepared and delivered under the member's or licensee's direct supervision.

Annual fee

- 21** (1) The council, by resolution passed by at least 2/3 of the council members, may
- (a) set an annual fee to be paid by members, licensees and certificate holders, and
 - (b) set the date on or before which the annual fee must be paid.
- (2) On or before the date set by the council under subsection (1), every member, licensee and certificate holder must pay to the executive director or other person authorized by the council the applicable annual fee set by the council under subsection (1).
- (3) If the council does not set a date under subsection (1), the annual fee must be paid on or before January 1 in the year for which it is imposed.
- (4) The council, in its sole discretion, may remit the annual fee owing by a person under subsection (2).

Late fees and reinstatement fees

- 21.1** (1) The council may establish late fees and reinstatement fees for members, licensees or certificate holders by a resolution supported by 2/3 of the councillors, and may levy and require payment of those fees.
- (2) The council, in its sole discretion, may remit a late fee or reinstatement fee owing by a person under subsection (1).

Failure to pay fees

- 21.2** (1) If a person fails to pay the annual fee or any other fee imposed under this Act, other than a late fee or a reinstatement fee, by the time the fee is required to be paid, the council must provide to the person at his or her last recorded address notice demanding payment of the fee.

- (2) Subject to sections 32.1 (5) and 32.2 (3), if a person is still in default 30 days after notice under subsection (1) of this section is sent, the council may do one or both of the following:

- (a) require the person to pay a late fee in addition to the unpaid fee;
- (b) cancel the person's registration, licence or certificate of authorization without further notice.

- (3) The annual fee or any other fee that a person is required to pay under this Act is a debt due by the person to the association, and, in addition to any other remedy but subject to sections 32.1 (5) and 32.2 (3), is recoverable with costs by the association in any court of competent jurisdiction.

Reinstatement or eligibility to renew

21.3 (1) If any unpaid fee, late fee and reinstatement fee related to a registration, licence or certificate of authorization cancelled under section 21.2 is remitted or paid,

(a) the council may reinstate the registration, licence or certificate of authorization, or

(b) the licensee or certificate holder is eligible to reapply for a licence or certificate of authorization.

(2) A registration, licence or certificate of authorization that is reinstated under subsection (1) has the same force and effect and the same terms and conditions as it had immediately before it was cancelled.

Prohibition on practice

22 (1) Except as permitted under this Act, an individual or corporation, partnership or other legal entity must not do any of the following:

(a) engage in the practice of professional engineering or professional geoscience;

(b) assume, verbally or otherwise, the title of professional engineer or professional geoscientist;

(c) advertise or use, or permit to be advertised or used, in any manner whatsoever, in connection with the name of the individual, corporation, partnership or other legal entity, or otherwise,

(i) the title of professional engineer or professional geoscientist,

(ii) any word, name, title or designation mentioned in the definition of "practice of professional engineering" or "practice of professional geoscience", or any combination or abbreviation of them, or

(iii) any other word, name, title, designation, descriptive term or statement implying, or calculated to lead any other person to believe, that the individual, corporation, partnership or other legal entity is a professional engineer or professional geoscientist or is ready or entitled to engage in, or is engaged in, the practice of professional engineering or professional geoscience as defined in section 1 (1);

(d) act in a manner that leads any person to believe that the individual, corporation, partnership or other legal entity is authorized to fill the office of or act as a professional engineer or professional geoscientist;

(e) advertise, use or display a sign, card, letterhead or other device representing to the public that the individual, corporation, partnership or other legal entity is a professional engineer or professional geoscientist or an individual, corporation, partnership or other legal entity ready or entitled to engage in the practice of professional engineering or professional geoscience or holding out the individual, corporation, partnership or other legal entity to be a professional engineer, professional geoscientist or certificate holder.

Subsection (1) does not apply

- (2) to an individual who is a member of the association or holds a
- (a) licence, other than a limited licence, issued by the association, or
- (b) to a corporation, partnership or other legal entity that has on its active staff members or licensees who directly supervise and assume responsibility as this Act provides for the practice of professional engineering or professional geoscience undertaken by the corporation, partnership or other legal entity.

- (3) An individual who holds a limited licence must not engage in the practice of professional engineering or professional geoscience except in a manner consistent with the scope of the limited licence and according to the provisions of that limited licence.

Injunction

23 (1) If there is a breach or threatened breach by any person or corporation, partnership or other legal entity of any provision of this Act, the association is entitled, in an action brought for that purpose, to an injunction to restrain the person or corporation, partnership or other legal entity from continuing or committing the breach.

- (2) Until the trial of the action and adjudication on it, the court, on being satisfied that there is reason to believe that the person or corporation, partnership or other legal entity has committed or is likely to commit a breach of this Act, must grant an interim injunction.

No unregistered person to recover fees

24 (1) Except as provided in this Act, a person is not entitled to recover any fee or remuneration in any court of law in British Columbia for any work done or service rendered that is within the definition of "practice of professional engineering" or of "practice of professional geoscience" unless the person is a member of the association and holds a certificate

of registration or is licensed under the provisions of this Act at the time the work is done or service rendered.

- Except as provided in this Act, a corporation is not entitled to recover
- (2) any fee or remuneration in any court of law in British Columbia for any work done or service rendered that is within the definition of "practice of professional engineering" or of "practice of professional geoscience" in this Act.

Penalty for falsification to register

- 25** If the registrar makes or causes to be made any wilful falsification in any matters relating to the register, he or she commits an offence and is liable on conviction to a penalty of not more than \$2 000.

Fraudulent registration

- 26** A person must not obtain or attempt to obtain registration under this Act for himself or herself or for another person by intentionally making or causing to be made any false representation, either verbally or in writing.

Exemplary damages

- 27** (1) An act prohibited in section 22 or 26 is a tort actionable by the association without proof of damage.

- An individual, corporation, partnership or other legal entity that
- (2) contravenes section 22 or 26 is liable to pay exemplary damages of not more than \$25 000 to the association whether or not the individual, corporation, partnership or other legal entity has been convicted of an offence arising from the same circumstances.

- In an action under subsection (1), it is sufficient proof of the
- (3) contravention to prove that the defendant has committed a single act of the kind prohibited.

Extended definitions

- 28** In sections 29 to 35:

"certificate holder" includes a former holder of a certificate of authorization under this Act;

"discipline committee" means the discipline committee appointed under section 31;

"investigation committee" means the investigation committee appointed under section 30;

"licensee" includes a former licensee, a holder of a limited licence and a former holder of a limited licence;

"member" includes a former member, a registered member and a person who holds any grade of membership in the association as specified in the bylaws.

Complaints and investigations

- 29** (1) If the association receives a complaint against a member, licensee or certificate holder, the registrar must
- designate a member to review the complaint,
 - (a) refer the complaint to the practice review or conduct review
 - (b) committee established under the bylaws to review the complaint, or
 - close the complaint file and give written reasons for the closure
 - (c) to the complainant and the member, licensee or certificate holder against whom the complaint was made.

If after the review the member designated under subsection (1) or the

(2) practice review or conduct review committee to which a complaint is referred under subsection (1) considers that further investigation is warranted, the member or the committee, as the case may be, must submit a report to the investigation committee recommending further investigation and stating the reasons for the recommendation.

If an inquiry under section 32 is not held in response to a complaint, the

(3) council must have the complainant, and the member, licensee or certificate holder against whom the complaint was made, informed of the reasons.

Investigation committee

- 30** (1) The council must appoint an investigation committee of at least 5 persons, of whom one may be a non-member of the association, to hold office for a term determined by the council.

The council may terminate an appointment to the investigation

(2) committee and may fill a vacancy on the committee.

The investigation committee or a subcommittee composed of one or

(3) more of its members appointed by the investigation committee may, on receipt of a report under section 29 or subsection (7.1) of this section or whenever it considers it appropriate, investigate a member, licensee or certificate holder.

A member, licensee or certificate holder being investigated under

(4) subsection (3) must

- provide the committee or subcommittee conducting the
- (a) investigation with any information or records in the possession

or control of the member, licensee or certificate holder that the committee or subcommittee may require,

(b) answer, within a reasonable time and in the manner specified by the committee or subcommittee, any inquiries of the committee or subcommittee, and

appear, on request, before the committee or subcommittee.

(c)
(5) A member, licensee or certificate holder must not refuse to comply with this section on the grounds of confidentiality.

(6) If the investigation is being conducted by a subcommittee under subsection (3), the subcommittee must prepare a report of its findings and recommendations for the investigation committee.

(7) The investigation committee or subcommittee may make recommendations to the member, licensee or certificate holder that was investigated following an investigation under subsection (3), or

(i) on receipt of a report under subsection (6), or

(ii) refer the matter for review to the practice review or conduct review committee established under the bylaws recommending a practice review or conduct review and stating the reasons for the recommendation.

(7.1) On conclusion of a review, the practice review or conduct review committee may, as it considers appropriate,

(a) make recommendations to the member, licensee or certificate holder that was the subject of the review, and

(b) prepare a report of its findings and recommendations for the registrar, investigation committee or subcommittee, as the case may be.

(8) The investigation committee or subcommittee may inform the complainant, if any, of the recommendations made under subsection (7) (a) or (7.1) (a).

(9) Subject to subsection (10), if the investigation committee has reasonable and probable grounds to believe that a member, licensee or certificate holder

(a) has been convicted in Canada or elsewhere of an offence that, if committed in British Columbia, would be an offence under an enactment of the Province or of Canada, and that the nature or circumstances of the offence render the person unsuitable for registration or licensing,

(b) has contravened this Act or the bylaws or the code of ethics of the association, or

has demonstrated incompetence, negligence or unprofessional
(c) conduct,

the investigation committee must cause its recommendation for an inquiry to be delivered to the discipline committee.

(10) If the investigation committee has reasonable and probable grounds to believe that a member, licensee or certificate holder has contravened section 21 or a bylaw made under section 10 (1) (g) or (m.1), the investigation committee may cause its recommendation for an inquiry to be delivered to the discipline committee.

Discipline committee

31 (1) The council must appoint a discipline committee of at least 5 members of the association to hold office for a term determined by the council.

(2) The council may terminate an appointment to the discipline committee and may fill a vacancy on the committee.

(3) The discipline committee may establish one or more panels composed of at least 3 members of the discipline committee.

(4) On matters referred to a panel by the discipline committee, a panel has the power and authority of the discipline committee.

(5) The discipline committee may refer a matter that is before the committee to a panel or a matter that is before a panel to the discipline committee or another panel, and may terminate an appointment to a panel and fill a vacancy on a panel before the hearing of evidence.

(6) A person who has participated in a review or an investigation of a matter must not participate as a member of the discipline committee in an inquiry under section 32 concerning that matter.

(7) If the discipline committee considers that a delay in holding an inquiry under section 32 concerning a member, licensee or certificate holder would be prejudicial to the public interest, the discipline committee, without giving the member, licensee or certificate holder an opportunity to be heard, may suspend the membership, licence or certificate of authorization, or restrict the scope of practice, of the member, licensee or certificate holder, until an inquiry and decision under section 32.

(8) If the discipline committee decides to act under subsection (7), it must give written notice to the member, licensee or certificate holder of its decision, of the reasons for it and of the right of the member, licensee or certificate holder to apply to the Supreme Court to have the suspension or restriction removed.

(9) The suspension of a membership, licence or certificate of authorization, or restriction of the scope of practice, ordered under subsection (7) is not effective until the earlier of

(a) the receipt by the member, licensee or certificate holder of the written notice, or

(b) 3 days after the day written notice is mailed to the member, licensee or certificate holder at the last address of the member, licensee or certificate holder on file with the association.

(10) An affidavit of the officer or employee of the association that sent the notice under subsection (9) (b) is proof the notice was sent as required under subsection (8) in the absence of evidence to the contrary.

(11) A member, licensee or certificate holder whose membership, licence or certificate of authorization is suspended, or whose scope of practice is restricted, under subsection (7), may apply to the Supreme Court to have the suspension or restriction removed, and the court may make any order respecting the suspension or restriction that it considers appropriate.

(12) A discipline committee member who takes part in the decision under subsection (7) must not sit on any inquiry or appeal with respect to any matter that was the subject of the decision taken under subsection (7).

Disciplinary inquiry

32 (1) [Repealed 2007-8-34.]

(2) On receipt of the investigation committee's recommendation under section 30 (9) or (10) for an inquiry, the discipline committee must cause an inquiry to be held before it by causing written notice of an inquiry to be personally served on the person who is the subject of the inquiry or, failing personal service, by leaving the notice at, or by mailing it by registered mail to, the person's last address on file with the association.

(3) Notice under subsection (2) must be given at least 14 days before the inquiry unless this requirement is waived by the person who is the subject of the inquiry.

The notice must include all of the following:

- (4)
- (a) a statement of the time, place and purpose of the inquiry;
 - (b) a reference to the statutory authority under which the inquiry will be held;
 - (c) a statement that if the person who is the subject of the inquiry does not attend the inquiry, the discipline committee may proceed with the subject matter of the inquiry in that person's

absence and make findings of fact and its decision without further notice to that person.

(5) In the event of nonattendance of the person who is the subject of the inquiry, the discipline committee, on proof of service of the notice under subsection (2), which proof may be made by affidavit, may proceed with the subject matter of the inquiry in that person's absence and make findings of fact and its decision without further notice to that person.

(6) The discipline committee, or any member of the discipline committee, may issue a subpoena for the attendance of a witness at an inquiry and for the production of records by the witness at the inquiry.

(7) Failure of a witness to attend or produce the required records makes the witness, on application by the association to the Supreme Court, liable to be committed for contempt as if in breach of an order or a judgment of the Supreme Court.

Consent orders

32.1 (1) After serving notice of an inquiry under section 32 (2) to the person who is the subject of the inquiry, and before the commencement of the inquiry, the discipline committee, in writing, may propose to that person the making of a consent order under subsection (2) (a) of this section for the voluntary resolution of one or more matters to be dealt with at the inquiry.

(2) A consent order is made if

- (a) the person who is the subject of an inquiry under section 32 (2) accepts the proposal of the discipline committee under subsection (1) of this section, or
- (b) an agreement is reached under section 32.2 (2) between the person who is the subject of an inquiry under section 32 (2) and the discipline committee.

(3) A consent order made under subsection (2) (a) must contain

- (a) the terms set out in the proposal made by the discipline committee under subsection (1),
- (b) one or more admissions by the person who is the subject of the inquiry in relation to one or more of the matters to be dealt with at the inquiry, and
- (c) one or more of the orders set out in section 33 (2).

(4) A consent order made under subsection (2)

- (a) has the same effect as an order made under section 33 (2),
- (a) and

(b) may be dealt with under section 34 if conditions in the consent order are not met.

(5) After a consent order is made under subsection (2), no further action may be taken under this section and sections 21.2, 29 to 32, 32.2 and 33 with respect to the matters contained in the consent order.

(6) If the person to whom a proposal under subsection (1) is made rejects the proposal,

- (a) an inquiry under section 32 (2) respecting the matters contained in the proposal must proceed as though the proposal had not been made,
- (b) the discipline committee conducting the inquiry must not consider the admissions contained in the proposal or the terms of the proposal in determining the matters or in making an order under section 33 (2) respecting the matters, and
- (c) a person who participated in making the proposal under subsection (1) must not participate as a member of the discipline committee in the inquiry concerning those matters.

Alternative complaint resolution

32.2 (1) At any time before the commencement of an inquiry under section 32 (2), the person who is the subject of the inquiry, the registrar and the discipline committee may agree that alternative complaint resolution, as provided in the bylaws, will commence between the person who is the subject of the inquiry and the discipline committee respecting one or more matters to be dealt with at the inquiry.

(2) If the discipline committee and the person who is the subject of the inquiry reach an agreement respecting one or more of the matters to be dealt with at the inquiry, a consent order may be made under section 32.1 (2) (b) on the terms set out in the agreement.

(3) No further action may be taken under this section and sections 21.2, 29 to 32.1 and 33 with respect to a matter referred to in subsection (1) of this section unless the discipline committee determines that an agreement respecting the matter cannot be reached within a reasonable period of time.

(4) If the discipline committee determines that an agreement respecting a matter referred to in subsection (1) cannot be reached within a reasonable period of time,

- (a) an inquiry under section 32 (2) respecting the matter must proceed,
- (b) the discipline committee conducting the inquiry must not

consider the information disclosed during the alternative complaint resolution process in determining the matter or in making an order under section 33 (2) respecting the matter, and

- (c) a member of the discipline committee who participated in the alternative complaint resolution process must not participate as a member of the discipline committee in the inquiry concerning the matter.

Disciplinary actions

33 (1) After an inquiry under section 32, the discipline committee may determine that the member, licensee or certificate holder

- (a) has been convicted in Canada or elsewhere of an offence that, if committed in British Columbia, would be an offence under an enactment of the Province or of Canada, and that the nature or circumstances of the offence render the person unsuitable for registration or licensing,
- (b) has contravened this Act or the bylaws or the code of ethics of the association, or
- (c) has demonstrated incompetence, negligence or unprofessional conduct.

If the discipline committee makes a determination under subsection (1), (2) it may, by order, do one or more of the following:

- (a) reprimand the member, licensee or certificate holder;
- (b) impose conditions on the membership, licence or certificate of authorization of the member, licensee or certificate holder;
- (c) suspend or cancel the membership, licence or certificate of authorization of the member, licensee or certificate holder;
- (d) impose a fine, payable to the association, of not more than \$25 000 on the member, licensee or certificate holder.

The discipline committee must give written reasons for any action it (3) takes under subsection (2).

If a member, licensee or certificate holder is suspended from practice, (4)

- (a) the registration, licence or certificate of authorization is deemed to be cancelled during the term of the suspension, and
- (b) the suspended member, licensee or certificate holder is not entitled to any of the rights or privileges of membership and must not be considered a member while the suspension continues.

Disciplinary action in other jurisdiction

33.1 (1) A member or licensee must inform the council of disciplinary action taken against the member or licensee by a body that governs the practice of professional engineering or professional geoscience in another province of Canada or another jurisdiction outside Canada.

The council may, after becoming aware of disciplinary action against a
(2) member or licensee by a body that governs the practice of professional engineering or professional geoscience in another province of Canada, refer the matter to the discipline committee.

After providing an opportunity to be heard to a member or licensee
(3) referred to in subsection (2), the discipline committee may, without causing an inquiry to be held, make one or more of the orders in section 33 (2) that it considers equivalent to the order made in the other province.

If the discipline committee makes an order under subsection (3), section
(4) 33 (3) and (4) applies.

Conditions not met

34 (1) If the discipline committee imposes conditions under section 33 (2) (b) and the discipline committee subsequently is satisfied that these conditions have not been met, it may propose, in addition to any order under section 33 (2), one or more of the following:

imposition of further conditions;

- (a) suspension or cancellation of the membership, licence or
- (b) certificate of authorization;

imposition of a fine, payable to the association, of not more
(c) than \$25 000 on the member, licensee or certificate holder.

Notice of the proposal in subsection (1) and the reasons for it must be
(2) given, in the manner set out in section 32 (2), to the person on whom the conditions were imposed, setting out the proposal and giving the person at least 28 days from the date that notice is given to deliver to the discipline committee any written submissions the person wishes to make.

After the time for delivering written submissions has elapsed, the
(3) discipline committee may take the proposed action without a further inquiry if

no submissions have been made, or

- (a) on reviewing the submissions that have been made the
- (b) discipline committee remains satisfied that the conditions have

not been met.

Cancellation of certificate of authorization

- 34.1** The council must inform the Registrar of Companies if a certificate of authorization is cancelled under section 21.2 (2) (b), 33 (2) (c) or 34 (3).

Costs

- 35** (1) If the discipline committee makes a determination under section 33 (1), the discipline committee may direct that reasonable costs of and incidental to the investigation under section 30 and the inquiry under section 32, including reasonable fees payable to solicitors, counsel and witnesses, or any part of the costs, be paid by the person, and the costs may be determined by the committee.

- If the allegations that were the subject of an inquiry under section 32
- (2) are not proven, the discipline committee may direct that reasonable costs of and incidental to the inquiry and any further inquiry, including reasonable fees payable to solicitors, counsel and witnesses, or any part of the costs, be paid by the association, and the costs may be determined by the committee.

- If the discipline committee directs that costs be paid and determines the
- (3) amount under subsection (1) or (2), the amount may be assessed by the registrar or district registrar of the Supreme Court, in the judicial district in which the inquiry under section 32 takes place, as special costs under the Supreme Court Civil Rules, as nearly as they are applicable.

- If the certificate of the registrar certifying the amount of costs awarded
- (4) under subsection (3) is filed with the court, it may be enforced as if it were an order of the court.

- If the discipline committee has directed costs against a person under
- (5) subsection (1) and the costs have not been paid, the discipline committee may order that, without a further inquiry, the membership or licence of that person be suspended or cancelled until the costs are paid.

Legal assistance for council

- 36** For the purpose of carrying out its duties under this Act, the council may employ, at the expense of the association, legal counsel or assistance the council thinks necessary or proper.

Right to counsel

- 37** A person whose status or conduct is the subject of inquiry also has the right to be represented by counsel.

Testimony under oath

- 38** The testimony of witnesses must be taken under oath, which a member of the discipline committee may administer.

Appeal

- 39** (1) Any person who feels aggrieved by an order of the discipline committee under section 33 (2), or whose application for membership in the association, or for a licence has been refused under section 13 (1) (d) or 13 (2), may appeal from the order or refusal of the application to the Supreme Court within 42 days from the date of that order or refusal.

- A corporation, partnership or other legal entity, other than an individual,
- (2) aggrieved by an order of the discipline committee under section 33 (2), or whose application for a certificate of authorization is refused under section 14 (1) or (8), may appeal the order or refusal of the application to the Supreme Court within 42 days of the making of the order or refusal.

- The appellant must appeal by filing in the Vancouver Registry of the
- (3) Supreme Court a notice of appeal setting out the ground on which the appeal is based.

- With the notice of appeal, the appellant must also file a copy of the
- (4) proceedings, the evidence taken, the order of the council or discipline committee in the matter, and the reasons, if any, certified by the registrar of the association.

- The appellant must cause to be served on the registrar of the
- (5) association a copy of the notice of appeal.

- The notice of appeal must state a place and time, not less than 7 clear
- (6) days after the service of it, on which the appeal is to be heard.

- On hearing the appeal, the court may

- (7) sustain, reverse, alter or amend the order,
- (a) remit the matter to the council or discipline committee for
- (b) rehearing, or
- make any order as to costs or otherwise as to the court seems
- (c) right.

- An appeal must be heard and determined on its merits, and must not be
- (8) defeated merely because of a technical defect in the proceedings.

- The registrar of the association, on the request of any person desiring to
- (9) appeal, must provide the person, on payment by that person of the costs of the transcripts provided, with a certified copy of all proceedings,

reports, orders, reasons and the papers on which the council or discipline committee has acted in making the order complained of.

Evidence of registration

- 40** In any proceedings or prosecution under this Act in which proof is required that any person is or is not a member of the association, a certificate purporting to be signed by the registrar and under the seal of the association that the person is or is not a member of the association is proof in the absence of evidence to the contrary of the fact so certified, without proof of the signature or of the seal or of the person signing being in fact the registrar.

Personal liability protection

- 41** (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against the members of the council, an employee or officer of the association, a member of the association or an individual acting on behalf of the association or under the direction of the council because of anything done or omitted

in the performance or intended performance of any duty under
(a) this Act, or

in the exercise or intended exercise of any power under this
(b) Act.

- Subsection (1) does not apply to a person referred to in that subsection
(2) in relation to anything done or omitted by that person in bad faith.

- Subsection (1) does not absolve the association from vicarious liability
(3) arising out of anything done or omitted by a person referred to in that subsection for which the association would be vicariously liable if this section were not in force.

Bylaw continuation

- 42** The bylaws passed under the former Act remain in effect until new bylaws or amendments are passed and approved under this Act.

Offence Act

- 43** Section 5 of the *Offence Act* does not apply to this Act or to bylaws made under this Act.

Practice review committee

- 44** If a practice review committee is created under section 10 (1) (d), a member, licensee or certificate holder
(a) must, on request, provide the practice review committee with

- any relevant information, record, document or thing, and
may not refuse to comply with a request under paragraph (a)
(b) on the grounds of confidentiality.

Conduct review committee

- 44.1** If a conduct review committee is created under section 10 (1) (d.1), a member, licensee or certificate holder
must, on request, provide the conduct review committee with
(a) any relevant information, record, document or thing, and
may not refuse to comply with a request under paragraph (a)
(b) on the grounds of confidentiality.

Court ordered production

- 45** On application by the council to the Supreme Court, the Supreme Court may order that a person produce any record or thing to an officer, committee or subcommittee of the association, or to a person designated by the council, if the court is satisfied that it is relevant to and reasonably required by the officer, committee or subcommittee for
an investigation of the conduct of a current member, licensee
(a) or certificate holder, or
a review of the professional practice of a current member,
(b) licensee or certificate holder.

Confidentiality

- 46** (1) A person acting under this Act must keep confidential all facts, information and records obtained or provided under this Act or under a former enactment, except so far as public duty requires or this Act or the bylaws permit the person to make disclosure of them or to report or take official action on them.
Except in a proceeding under this Act, a person to whom subsection (1)
(2) applies must not in any civil proceeding be compelled to give evidence respecting any facts, information or records obtained in the course of the person's duties.