

Professional Engineers Act Amended

On December 14, 2017, the *Stronger, Fairer Ontario Act* (Bill 177) passed third reading in the legislature and received Royal Assent from the lieutenant governor. Schedule 34 of this act contains amendments to the *Professional Engineers Act* designed to improve public safety and transparency related to the practice of engineering in Ontario. These changes also address issues raised by the June 2012 Algo Centre Mall Collapse and the ensuing Elliot Lake Commission of Inquiry. The text of the amended/new sections appears below. To download a copy of the full act and regulation as amended, please visit http://www.peo.on.ca/index.php?ci_id=1812&la_id=1.

PROFESSIONAL ENGINEERS ACT

Subsection 5 (2) of the *Professional Engineers Act* is amended by striking out “subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of the person’s professional conduct while a member” at the end.

Paragraph 27 of subsection 7 (1) of the Act is repealed and the following substituted:

- 27. governing the continuing education of members and holders of temporary licences, provisional licences and limited licences, including,
 - i. providing for the development or approval of continuing education and professional development programs,
 - ii. requiring members and holders to successfully complete or participate in such programs,
 - iii. providing for sanctions for non-compliance, including suspension or cancellation of a person’s licence, temporary licence, provisional licence or limited licence until the person is in compliance, or the imposition of additional requirements in order to be considered to be in compliance;

Subsection 8 (3) of the Act is repealed and the following substituted:

Confirmation

(3) If a by-law passed by the Council requires it, the by-law is not effective until it is confirmed, in the manner specified by the Council, by a majority of the members of the Association who vote on the by-law.

Subsection 14 (2) of the Act is repealed and the following substituted:

Grounds for refusal, suspension or revocation

(2) The Registrar may refuse to issue or may suspend or revoke a licence if the Registrar is of the opinion, on reasonable and probable grounds,

- (a) that the past conduct of the applicant for or the holder of the licence affords grounds for the belief that the applicant or holder will not engage in the practice of professional engineering in accordance with the law and with honesty and integrity;

(b) that the holder of the licence does not meet the requirements or the qualifications for the issuance of the licence set out in the regulations; or

(c) that there has been a breach of a term, condition or limitation of the licence.

Clause 15 (8) (c) of the Act is amended by striking out “a condition” and substituting “a term, condition or limitation”.

Clause 18 (2) (c) of the Act is amended by striking out “a condition” and substituting “a term, condition or limitation”.

Subsection 19 (1) of the Act is repealed and the following substituted:

Notice of proposal to not issue or to revoke, suspend

(1) If the Registrar proposes any of the following, the Registrar shall serve notice of the proposal, together with written reasons, on the applicant:

1. A refusal to issue, or a suspension or revocation of, a licence under subsection 14 (2).
2. A refusal to issue, or a suspension or revocation of, a certificate of authorization under subsection 15 (8).
3. A refusal to issue, or a suspension or revocation of, a temporary licence, provisional licence or limited licence under subsection 18 (2).

Subsection 19 (7) of the Act is repealed and the following substituted:

Powers of Registration Committee, refusal to issue

(7) Following a hearing under this section respecting a refusal to issue a licence, certificate of authorization, temporary licence, provisional licence or limited licence, the Registration Committee shall make one of the following orders:

1. If the Committee determines on reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity, the Committee shall direct the Registrar to issue the licence, certificate of authorization, temporary licence, provisional licence or limited licence to the applicant.
2. If the Committee determines on reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations, the Committee shall,
 - i. direct the Registrar to refuse to issue the licence, certificate of authorization, temporary licence, provisional licence or limited licence,
 - ii. exempt the applicant from any of the requirements of this Act or the regulations and direct the Registrar to issue the licence, certificate of authorization, temporary licence, provisional licence or limited licence, if the Committee determines on reasonable grounds that the applicant will engage in the practice of professional engineering with competence and integrity, or

iii. direct the Registrar to issue the licence, certificate of authorization, temporary licence, provisional licence or limited licence subject to such terms, conditions or limitations as the Committee specifies, if the Committee determines on reasonable grounds that the terms, conditions or limitations are necessary in order to ensure that the applicant will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity.

Powers of Registration Committee, suspension or revocation

(7.1) Following a hearing under this section respecting a proposal to suspend or revoke a licence, certificate of authorization, temporary licence, provisional licence or limited licence, the Registration Committee shall make one of the following orders:

1. If the Committee determines on reasonable grounds that the applicant meets the requirements and qualifications of this Act and the regulations and will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity, the Committee shall direct the Registrar not to suspend or revoke the licence, certificate of authorization, temporary licence, provisional licence or limited licence.
2. If the Committee determines on reasonable grounds that the applicant does not meet the requirements and qualifications of this Act and the regulations, the Committee shall,
 - i. direct the Registrar to suspend or revoke, as the case may be, the licence, certificate of authorization, temporary licence, provisional licence or limited licence,
 - ii. exempt the applicant from any of the requirements of this Act or the regulations and direct the Registrar not to suspend or revoke the licence, certificate of authorization, temporary licence, provisional licence or limited licence, if the Committee determines on reasonable grounds that the applicant will engage in the practice of professional engineering with competence and integrity, or
 - iii. direct that the applicant's licence, certificate of authorization, temporary licence, provisional licence or limited licence be made subject to such terms, conditions or limitations as the Committee specifies, if the Committee determines on reasonable grounds that the terms, conditions or limitations are necessary in order to ensure that the applicant will engage in the practice of professional engineering or in the business of providing services that are within the practice of professional engineering with competence and integrity.

Subsection 19 (16) of the Act is repealed and the following substituted:

Applicant

(16) In this section,

“applicant” means the applicant for, or the holder of, a licence, temporary licence, provisional licence, limited licence or certificate of authorization, as the case may be.

Subsection 21 (1) of the Act is amended by adding the following paragraph:

3.1 The date of every hearing held before the Discipline Committee in respect of which a notice of hearing is sent on or after the day Schedule 34 to the Stronger, Fairer Ontario Act (Budget Measures), 2017 comes into force, and a record of every decision made at such a hearing, including the date on which the decision was issued, the penalty that was imposed, and access to the text of the decision including reasons.

Section 21 of the Act is amended by adding the following subsection:

Electronic version

(4) The Registrar may make information contained in the registers available to the public electronically.

Subsection 22 (1) of the Act is amended by striking out “subject to the continuing jurisdiction of the Association in respect of any disciplinary action arising out of the person’s professional conduct while a member or holder” at the end.

The Act is amended by adding the following section:

Continuing jurisdiction

Former members, holders

22.1 (1) A member who resigns or a holder of a licence, temporary licence, provisional licence, limited licence or certificate of authorization that is cancelled or revoked continues to be subject to the jurisdiction of the Association in respect of any professional misconduct or incompetence referable to a time when the person was a member or holder.

During suspension

(2) For greater certainty, a person whose licence, temporary licence, provisional licence, limited licence or certificate of authorization is suspended remains subject to the continuing jurisdiction of the Association for all purposes under this Act.

Clause 27 (5) (a) of the Act is repealed and the following substituted:

(a) select a panel from among the members of the Committee that includes at least one of each of the persons appointed under paragraphs 2, 3 and 4 of subsection (1) and that may include one or more of the persons appointed under paragraph 1 of that subsection;

Subsection 30 (5) of the Act is amended by striking out “shall be furnished only to the parties” and substituting “shall be furnished to any person”.

Section 30 of the Act is amended by adding the following subsections:

Copies of evidence

(5.1) The Registrar shall provide a copy of any document received in evidence in the proceeding to any person who requests it and pays the specified fee.

Limitation

(5.2) Subsections (5) and (5.1) are subject to any applicable order made under subsection (4.1).

Section 38 of the Act is amended by adding the following subsection:

Non-application, disclosure by Registrar where risk of harm

(1.1) Subsection (1) does not apply to the disclosure of such matters or information by the Registrar, if there are reasonable grounds to believe that there may be a risk of harm to any person or property or to the public welfare.

Commencement

This Schedule comes into force on the day the Stronger, Fairer Ontario Act (Budget Measures), 2017 receives Royal Assent.