

Recent Act and Regulation changes made under the *Professional Engineers Act*

On February 28, 2003, the following changes to the *Professional Engineers Act*, R.S.O. 1990, Chapter P. 28 and Regulation 941 made under the Act were proclaimed and are now in force.

The changes are listed under subject headings and access to the complete legislation can be obtained from the Ontario Government website at:

http://192.75.156.68/DBLaws/Statutes/English/90p28_e.htm, for the Act, and http://192.75.156.68/DBLaws/Regs/English/900941_e.htm for Regulation 941.

Provisional Licences

Addition to the Act to allow for provisional licences to be issued to applicants for full licensure who have satisfied all requirements for licensure with the exception of the required 12 months of engineering work experience in a Canadian jurisdiction, under the supervision of a professional engineer licensed in a Canadian jurisdiction.

Professional Engineers Act

Section 1 – New:

“provisional licence” means a provisional licence to engage in the practice of professional engineering issued under subsection 14(7).

Section 2(3):

“holders of provisional licences” added.

Section 7(1), 9, 9vi., 10, 13, 15, 16, 25, 26:

“provisional licences” added.

Section 7(2)(a); Section 8(1)6 and 7;

Section 12(1):

“provisional licence” added.

Section 14(7) – New:

The Registrar shall issue a provisional licence, to be valid for one year, to a natural person who has applied for a licence in accordance with the regulations and has complied with all the requirements of subsection (1) except the Canadian experience requirement set out in paragraph 4 of section 33(1) of Regulation 941 of the Revised Regulations of Ontario, 1990.

Section 18(1), (2)(a), (b) and (c):

“provisional licence” added.

Section 19(1)(b):

“provisional licence” added.

Section 19(2): Repealed and replaced by the following:

Subsection (1) does not apply in respect of a proposal to refuse to issue a licence, a temporary licence, a provisional licence or a limited licence where the applicant previously held a licence, a certificate of authorization, a temporary licence, a provisional licence or a limited licence that was suspended or revoked as a result of a decision of the Discipline Committee.

Section 19(7)(a), (b)(i) and (ii), (c), (10), (16); Section 21(1); Section 22(1) and (2); Section 24(1); Section 26(2); Section 27(5); Section 28(1)(a), (2), (3), (4), (5), (6) and (7); Section 29(1) and (2); Section 30(1), (2) and (10); Section 32(2)(a) and (3); Section 33(1), (2), (4)(b) and (7); Section 36; Section 37(1), (2) and (3); Section 41(1) and (2); Section 42; Section 46(1):

“provisional licence” added.

Ontario Regulation 941

Section 1 – New:

The term “provisional licence” is added to the definition of practitioner.

Section 44.1(1) and (2) – New:

44.1(1) The Registrar may grant a provisional licence to an applicant who complies with the requirements of paragraphs 1, 2, 3 and 5 of subsection 33(1).

(2) The following conditions apply to every provisional licence:

1. The provisional licence is valid for 12 months from the date of issue. It may be renewed once for up to 12 months if the Registrar is of the opinion that renewal is necessary to enable the applicant to acquire the experience required by paragraph 4 of subsection 33(1).
2. The holder of the provisional licence is entitled to practise professional engineering only under the supervision of a professional engineer, and shall not issue a final drawing, specification, plan, report or other document unless the supervising professional engineer also signs and dates it and affixes his or her seal to it.

Section 52(3.1) – New:

Every holder of a provisional licence shall have a seal of a design approved by the Council, the impression of which shall include,

- (a) the surname and initials of the holder of the provisional licence;
- (b) the words “Provisional Licensee” and “Association of Professional Engineers of Ontario”;
- (c) the provisional licence number;
- (d) the date of expiry; and
- (e) a statement that the holder is entitled to practise professional engineering only under the supervision of a professional engineer, and shall not issue a final drawing, specification, plan, report or other document unless the supervising engi-

neer also signs and dates it and affixes his or her seal to it.

Sections 53, 54, 55, 72(2)(k), 75, 77 2.iv.:
“provisional licence” added.

Section 82.1 – New:

The registration fee for an applicant for registration as a holder of a provisional licence is \$175.00.

Enforcement

Addition to the Act to prohibit use of the term “engineer” in a manner that will lead to the belief that the person may engage in the practice of professional engineering.

Professional Engineers Act

Section 12(3)(f) – New:

From using the title “engineer” or an abbreviation of that title in a manner that is authorized or required by an Act or regulation.

Section 40(2)(a.1) – New:

Uses the title “engineer” or an abbreviation of that title in a manner that will lead to the belief that the person may engage in the practice of professional engineering;

Section 40(2)(2.1) – New:

In a proceeding for an alleged contravention of clause (2)(a.1), the burden of proving that the use of the title or abbreviation will not lead to the belief referred to is on the defendant, unless the defendant’s use of the title or abbreviation is authorized or required by an Act or regulation.

False Representation

Extends limitation period in proceedings from six months to two years.

Professional Engineers Act

Section 41(3) – Is repealed and the following substituted:

No proceeding shall be commenced in respect of an offence under subsection (1) or (2) after the expiration of two years after the date on which the offence was, or is alleged to have been, committed.

Confidentiality

Brings in a penalty for contravening the confidentiality section.

Professional Engineers Act

Section 38(3) – New:

Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Section 38(4) – New:

No proceeding shall be commenced in respect of an offence under subsection (1) after the expiration of two years after the date on which the offence was, or is alleged to have been, committed.

Discipline Committee

Allows for non-member Lieutenant Governor-in-Council Appointees to sit on a Discipline Committee, open hearings, and establishes panels of the committee to hear matters.

Additional Members

Professional Engineers Act

Section 27(1.1) – New:

The Discipline Committee may also include one or more persons appointed

by the Council from among the members of the Council appointed by the Lieutenant Governor in Council under clause 3(2)(c).

Section 27(6) – New:

When a matter is referred to the Discipline Committee for hearing and determination, the chair may,

- (a) select from among the members of the Committee a panel composed of at least one person described in clause (1)(a), at least one person described in clause (1)(b), at least one person described in clause (1)(c), and, if the Council has made an appointment under subsection (1.1), at least one person described in that subsection;
- (b) designate one of the members of the panel to chair it;
- (c) refer the matter to the panel for hearing and determination; and
- (d) set a date, time and place for the hearing.

Powers of Panel

Professional Engineers Act

Section 27(7):

A panel established under subsection (6) has all the powers and responsibilities of the Discipline Committee with respect to the hearing and determination of the matter referred to the panel.

Section 30(4) – Subsection (4) is repealed and the following substituted:

Public Hearings

Hearings of the Discipline Committee shall be open to the public, subject to subsection (4.1).

Section 30(4.1):

Exception

The Discipline Committee may order that the public be excluded from all or part of a hearing if the following conditions are satisfied:

1. The person whose conduct is being investigated delivers to the Registrar, before the day fixed for the hearing or part, a written request that the hearing or part be closed.
2. The Discipline Committee is satisfied that,
 - i. matters involving public security may be disclosed at the hearing or part, or
 - ii. financial or personal or other matters may be disclosed at the hearing or part, of such a nature that the desirability of avoiding public disclosure of these matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public.

Admission Appeal

To allow appeals of Experience Requirements Committee and Academic Requirements Committee decisions to be heard.

Professional Engineers Act

Section 14(4) is deleted.

Member Seals

Addition to add the member's licence number to a seal.

Ontario Regulation 941

Section 52(1)(c) – New:

The licence number.

Section 52(1.1) – New:

If a Member's seal was issued before the day

subsections 11(1) to (65) of Schedule B to the *Government Efficiency Act, 2001* come into force, clause (1)(c) does not apply.

Experience Outside Canada

Allows for the experience to be counted if acquired in a Canadian jurisdiction and supervised by a Canadian professional engineer.

Ontario Regulation 941

Section 33(2) – New:

Experience acquired outside Canada satisfies the requirements of paragraph 4 of subsection (1) if,

- (a) it is obtained while the applicant is,
 - (i) employed by an employer whose head office is located in Canada, and
 - (ii) supervised by one or more persons who are legally authorized to engage in the practice of professional engineering in a Canadian jurisdiction; and
- (b) in the Council's opinion, the experience provides the applicant with,
 - (i) the necessary practical skill for the practice of professional engineering, and
 - (ii) sufficient familiarity with the applicable Canadian codes, regulations and standards for the practice of professional engineering.

Limited Licence

Removes the requirement that employers be named on a limited licence certificate or seal.

Ontario Regulation 941

Section 45: – Is revoked and the following substituted:

The following conditions apply to every limited licence:

1. The practice of professional engineering by the holder of the limited licence must be limited to the services specified in the limited licence.
2. When the holder of the limited licence ceases to provide the services specified in the limited licence, the holder must notify the Registrar and return to the Registrar the limited licence and the seal issued to the holder. R.R.O. 1990, Reg. 941, s. 45.

Section 46 – Paragraphs 6 and 7 are revoked and the following is substituted:

6. A holder of a limited licence who returns the limited licence and related seal to the Registrar and afterwards proposes to resume providing the services specified in the limited licence is entitled to be issued a new limited licence and related seal limited to the services specified in the previous limited licence.

Registrar

Added to require that the Registrar be a member of PEO.

Professional Engineers Act

Section 3(8) – New:

...Registrar, who shall be a member of the Association,...

Section 8(1) – New:

Role of Registrar

The Registrar is responsible for the administration of the Association and reports to the Council.

Ontario Regulation 941

The term "Executive Director" is repealed in Section 1 and substituted by "Registrar" and in the following sections of the Regulation: Section 12(4)(a) and (b); Section 13(8)(a) and (b); Section 14(3)(a); Section 17; Section 18; Section 19(1); Section 21(f); Section 23(1); Section 29(d).