



**THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS  
OF THE PROVINCE OF MANITOBA**

**BY-LAWS  
EFFECTIVE DECEMBER 2008**

**UNDER THE ENGINEERING AND  
GEOSCIENTIFIC PROFESSIONS ACT**



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## **PART I INTERPRETATION**

### **1.1 Interpretation**

#### **1.1.1 Meaning**

Unless the context otherwise requires, the meaning of the words given in The Engineering and Geoscientific Professions Act ("the Act") applies.

#### **1.1.2 Interpretation**

If there is a dispute as to the meaning or intent of any by-law, the interpretation of council shall prevail.

#### **1.1.3 Headings**

The headings in these by-laws are for convenience of reference only and shall not affect the interpretation hereof.

### **1.2 Validity of Action**

The actions of any officer, notwithstanding that it may afterwards be discovered that there was some cause for disqualification or some defect in the election or appointment of any officer, shall be valid as if all had been regularly elected or appointed and were qualified to act.

## **PART II DEFINITIONS**

### **2.0 Definitions**

In these by-laws:

“**Act**” means The Engineering and Geoscientific Professions Act .

“**lay councillor**” means a person who is appointed to the council pursuant to sub-section 8 (2) of the Act.

“**member-in-training**” means a person who is an engineer-in-training or a geoscientist-in-training.

“**professional member**” means a person who is registered as a professional engineer or a professional geoscientist.

## **PART III ELECTIONS AND APPOINTMENTS**

### **3.1 Elections**

#### **3.1.1 Council**

##### **3.1.1.1 Nominations**

The secretary shall, at least 60 days before each annual general meeting, give or cause to be given notice to all members of the association that nominations for elected councillors will be received by the secretary up to a date which shall be 42 days before the date of the annual general meeting.

All nominations shall be made upon a form available from the secretary and shall be signed by the nominator and six other professional members. The written consent of the nominee must also be provided by the signatories.

Nominees qualified as both a professional engineer and a professional geoscientist are only eligible for election in one category and must stipulate in which category they wish to stand on the form available from the secretary for the nomination to be valid.

### **3.1.1.2 Withdrawal of Nomination**

The nomination of any nominee for election to council shall be deemed to be withdrawn upon the receipt of notice of withdrawal by the secretary, by his or her death, or by the nominee ceasing to be a professional member of the association. Upon any withdrawal of a nomination:

- a) prior to preparing the ballots, the name of the withdrawn nominee shall be left off the ballots;
- b) after preparation but before mailing the ballots, the name of the withdrawn nominee shall be struck from the ballots and a notice enclosed with the ballots advising the membership of the withdrawal;
- c) after mailing the ballots, the ballots shall be counted in accordance with the method approved by council and on file in the association office, taking into account the withdrawal of the nominee or nominees.

### **3.1.1.3 Notice of Withdrawal**

A nominee for election to the council may, at any time prior to the commencement of counting of the ballots, give notice in writing to the secretary of his or her wish to withdraw his or her nomination. The withdrawal becomes effective upon receipt of the notice by secretary.

### **3.1.1.4 Ballots**

At least 21 days before the date of the annual general meeting, the secretary shall cause to be prepared and mailed to each professional member a ballot bearing the names of those nominated for election to council. The ballots shall be accompanied by voting instructions, information on each candidate prepared on a standard form, and a declaration of his or her platform. Only professional members shall be eligible to vote, or to be elected to the council.

### **3.1.1.5 Voting**

To be valid, ballots shall be enclosed in two envelopes, with the name of the voting professional member shown on the outer envelope and with no identifying marks on the inner envelope. Ballots shall be received by the secretary no later than 9:00 a.m. on a date to be set by the president that is no more than eight days prior to the date of the annual general meeting. The registrar shall cause the eligibility of each voter, as shown on the outer envelope, to be verified and the valid envelopes to be initialed. The initialed ballot envelopes shall be delivered unopened to the scrutineers.

### **3.1.1.6 Ballot Counting and Scrutineers**

At least 10 days prior to the date of the annual general meeting, the president shall appoint three scrutineers who shall be professional members of the association but not

members of council or nominees for election to council. The election shall be decided according to the rules of proportional representation. The method for counting ballots shall be that approved by council and on file in the association office. The scrutineers shall count the votes.

The scrutineers shall provide a report of the results of the voting to the registrar. The report shall be presented at the annual general meeting. The registrar shall retain the ballots for a period of 30 days following the annual general meeting, after which they shall be destroyed.

### **3.1.1.7 Vacancies**

Section 1.01 If a vacancy shall occur among the elected councillors for any reason whatsoever, the council may fill the vacancy by appointing a registered professional member of the association, professional engineer or professional geoscientist as the case may be, to fill the vacancy for the balance of the term. If such vacancy shall occur prior to the giving of notice of the date for receipt of nominations or prior to the mailing of ballots to voting members, then notice of the vacancy and appointment, if any, shall be given to the membership at the same time. If such vacancy shall occur after the mailing of ballots to voting members, no notice of the vacancy need be given.

## **3.2 Appointments**

### **3.2.1 Registrar**

The registrar shall be appointed by the council. The term of office and remuneration of the registrar shall be determined by the council from time to time.

### **3.2.2 Secretary**

The secretary shall be appointed by the council. The term of office and remuneration of the secretary shall be determined by the council from time to time. The offices of registrar and secretary may be combined.

### **3.2.3 Executive Director**

The council may appoint an executive director. The term of office and remuneration of the executive director shall be determined by the council from time to time. The office(s) of registrar and/or secretary may be combined with that of the executive director.

### **3.2.4 Auditor**

At the annual general meeting each year an auditor shall be appointed for the ensuing year.

## **PART IV ADMINISTRATION**

### **4.1 Council**

#### **4.1.1 Composition**

There shall be ten professional members elected to the council pursuant to sub-section 7 (d) of the Act. Those elected professional members shall include, if his or her term of office as an elected councillor has not expired, the president, the vice-president and the immediate past-president. At the close of the annual general meeting in 2000, two of those elected professional members shall be professional geoscientists, with one being elected for a one-year term and the other for a two-year term. In subsequent years both shall be elected for two-year terms.

#### **4.1.2 Resignation**

An elected councillor may at any time give notice in writing to council of his or her wish to resign, and such resignation shall become effective upon the acceptance of the resignation by the council.

#### **4.1.3 Vacation of Office**

The office of an elected councillor shall be vacated by

- a) his or her ceasing to be a professional member; or
- b) his or her death; or
- c) as provided for in sub-section 8 (4) of the Act.

#### **4.1.4 Excuse of Absence**

The council shall prepare and publish a policy defining how the absence of a councillor may be excused as provided for by sub-section 8 (4) of the Act.

#### **4.1.5 Policies and Procedures**

The council shall establish operating policies and procedures for the association in accordance with sub-sections 12 (2) and 12 (3) of the Act. The policies and procedures shall be published and be made available for examination at the association office.

### **4.2 Officers**

#### **4.2.1 President**

##### **4.2.1.1 Election**

At the close of each annual general meeting of the association, the person holding the office of vice-president shall assume the office of president of the association. The president shall be a professional member of the association in good standing.

##### **4.2.1.2 Term of Office**

The term of office of the president shall be from the close of the annual general meeting of the association until the close of the next annual general meeting.

#### **4.2.1.3 Vacancy**

If the office of president becomes vacant for any reason before the expiry of the term of office, the vice-president shall assume the duties and position of the president for the balance of the term and the following term notwithstanding the provisions of 4.2.1.1.

### **4.2.2 Vice-President**

#### **4.2.2.1 Election**

The vice-president shall be elected by the council from the elected councillors, by majority vote preferably within three months and in no case more than six months after each annual general meeting of the association. Normally, no person shall hold the office of vice-president without having served as an elected member of council for a period of at least 12 months. The vice-president shall be a professional member in good standing of the association.

#### **4.2.2.2 Term of Office**

The term of office of the vice-president shall expire at the close of the next annual general meeting.

#### **4.2.2.3 Vacancy**

If the office of the vice-president becomes vacant for any reason before the expiry of the term of office, the council shall elect a replacement whose term of office shall be determined by 4.2.2.2.

### **4.2.3 Executive Committee Member**

Should the council authorize the establishment of an executive committee, a member of the council shall be elected to serve on the committee.

#### **4.2.3.1 Election**

The executive committee member shall be an elected member of the council and shall be elected by the council preferably within three months and in no case later than six months after each annual general meeting.

#### **4.2.3.2 Term of Office**

The term of office of the executive committee member shall run until the subsequent election provided for in 4.2.3.1. or until his or her term of office as a councillor expires, whichever is the earlier.

#### **4.2.3.3 Vacancy**

If the office of the executive committee member becomes vacant for any reason before the expiry of the term of office, the council may elect a replacement whose term of office is determined by 4.2.3.2.

### **4.2.4 Past-President**

#### **4.2.4.1 Term of Office**

The term of office of the past-president shall expire at the close of the next annual general meeting.

#### **4.2.4.2 Vacancy**

If the office of the past-president becomes vacant for any reason before the expiry of the term of office, the council may appoint a replacement from among the other past-presidents of the association. His or her term of office shall be determined by 4.2.4.1

### **4.3 Duties**

#### **4.3.1 Councillors**

##### **4.3.1.1 Governance**

Councillors shall be responsible for ensuring that the council prepares, revises when appropriate, publishes and adheres to a Governance Manual developed for guidance in carrying out its responsibility for the association's overall performance.

##### **4.3.2 President**

The president, if present, shall preside at all meetings of the association, of the council, and of the executive committee. He or she shall be responsible for the performance of such duties and exercising of such powers as are set out in these by-laws and as may from time to time be assigned by the council

##### **4.3.3 Vice-President**

The vice-president shall be responsible for the performance of such duties and exercising of such powers as are set out in these by-laws and as may from time to time be assigned by council. In the absence of the president, the vice-president shall assume all the duties and powers of the president.

##### **4.3.4 Executive Committee Member**

The executive committee member shall be responsible for the performance of such duties and exercising of such powers as are set out by these by-laws and as may from time to time be assigned by council. In the absence of both the president and the vice-president he or she shall assume their duties and powers.

##### **4.3.5 Registrar**

The duties and authority of the registrar, other than as prescribed by the Act and these by-laws, shall be assigned from time to time by the council.

##### **4.3.6 Secretary**

In addition to the duties required by the Act, the secretary shall conduct, or cause to be conducted, the correspondence of the association and council; shall attend all annual general meetings, special meetings and their adjournments, either in person or by substitute appointed for a specific meeting as determined by the council; and shall keep or cause to be kept a correct record of the proceedings.

The secretary shall send or cause to be sent all notices that are to be sent to the members of the association and council. The secretary, or any other person deputed by council, shall receive all payments to the association, collect or cause to be collected all dues, fees and assessments levied by council or the association, and ensure that correct accounts are kept. The secretary shall distribute the Auditor's

Report and Statement of Financial Position, or cause it to be distributed, at or before the annual general meeting, and perform such other duties as council may from time to time prescribe.

#### **4.3.7 Executive Director**

If the council appoints an executive director, his or her duties and authority shall be as assigned from time to time by the council.

#### **4.3.8 Auditor**

The Auditor, after receiving the financial records of the association, shall prepare an Auditor's Report and Statement of Financial Position of the association in accordance with generally accepted accounting principles and auditing standards and deliver it to the secretary within the period set out in procedures established by the council.

### **4.4 Care of Funds**

#### **4.4.1 Banking**

The council shall ensure that all money received on behalf of the association is deposited in the name of the association in a bank or other deposit-gathering institution, that is a member of the Canadian Deposit Insurance Corporation or in a credit union established in such a way as to guarantee the deposits.

#### **4.4.2 Payments**

All cheques shall be signed by either:

- a) the secretary and such other staff person as council may by resolution appoint; or
- b) such other staff person as council may by resolution appoint and countersigned by such other member of council as council may by resolution appoint.

#### **4.4.3 Investments**

The council shall ensure that when funds of the association are invested they are held secure through means set out in policies and procedures approved by the council.

#### **4.4.4 Insurance**

The council shall ensure that the association maintains security arrangements and insurance coverage against loss of funds that the association may sustain resulting from employee dishonesty, destruction, disappearance, wrongful abstraction or forgery.

### **4.5 Boards and Committees**

In addition to the committees established by the Act, the council may, from time to time, appoint boards or committees for the purpose of facilitating the business of the association. Subject to the provisions of the Act appointees to boards and committees may, in addition to professional members, include members-in-training, temporary licensees, specified scope of practice licensees, students and members of the public. When establishing any board or committee, the council shall provide terms of reference for the board or committee which terms shall include:

- a) the purpose for the committee;
- b) the method by which, and by whom, the members are appointed;

- c) the method by which, and by whom, its chair shall be appointed; and
- d) the committee's or board's right to establish its own order of agenda.

#### **4.5.1 Registration Committee**

The registration committee appointed under sub-section 14(1) of the Act shall be comprised of professional members and at least one person who is not, and never has been, a professional member, member-in-training or licensee of the association.

#### **4.5.2 Executive Committee**

The council may appoint an executive committee consisting of the president, who shall be the chair, the vice-president, the immediate past-president, one member of the council and the association's executive director, if appointed, who shall be an ex-officio member. The executive committee may, on the authority of the council, attend to matters for which the executive director, or other officer, does not have authority and that require attention between meetings of the council and serve as a finance committee.

#### **4.6 Notices**

Any notice required to be given to members of the association shall be deemed to have been given if:

- (a) mailed at any post office within the time specified in the by-laws for such notice to the latest address on record at the association office as given to the association by the intended recipient; or
- (b) sent by electronic or other means within the time specified in the by-laws to any member who has so requested such transmission and identified the appropriate address to which it is to be sent.

A declaration by the secretary of either of these actions shall be conclusive evidence of the sending of such notice.

The accidental omission to give notice to any member of the association or member of council or the non-receipt of any notice by such person shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

In computing the date when notice must be given under any provision requiring a specified number of days' notice of any meeting or other event, the date of giving notice shall be excluded and the date of the meeting or other event shall be included.

#### **4.6.1 Exclusion**

Nothing in these by-laws prevents the distribution of information to members by electronic or other means where such distribution is deemed by the Secretary to be useful to the members.

#### **4.7 Powers**

The council shall carry out the powers of the association granted under section 6 of the Act.

#### **4.8 Head Office**

The location of the head office shall be determined from time to time by the council.

#### **4.9 Compensation**

No professional member, member-in-training, temporary licensee, specified scope of practice licensee, serving as an officer, councillor or committee member, other than association employees serving in an ex-officio capacity, shall receive a salary or honorarium for such service.

The amount of any honoraria paid to councillors appointed under sub-section 7 (e) of the Act and non-members appointed to boards or committees established under 4.5 shall be in accordance with published policies.

### **PART V MEETINGS**

#### **5.0 Distance Conferencing**

The council shall prepare and publish policies and procedures for determining when, and between which locations, distance conferencing may be provided by the association at an annual general meeting or a special meeting.

#### **5.1 Annual General Meeting**

The annual general meeting of the professional members of the association shall be held in the Province of Manitoba on any date after September 10th, but prior to October 31st, in each year as council may decide. Temporary licensees, specified scope of practice licensees, members-in-training and students are entitled to attend and participate subject to restrictions in these by-laws. Members of the public, subject to application to the registrar and the availability of space, are entitled to observe.

##### **5.1.1 Notice**

No fewer than 30 days notice shall be given.

##### **5.1.2 Quorum**

The quorum required for transaction of business at an annual general meeting shall be 50 professional members. If, within an hour after the time appointed for the meeting, a quorum has not been achieved, the meeting shall be postponed. The council shall determine the time and place and give no fewer than ten days notice of such postponed meeting.

##### **5.1.3 Agenda**

The agenda items for the annual general meeting must include:

- a) Approval of the Agenda
- b) Report of the President
- c) Accepting or Correcting Minutes
- d) Business Arising out of the Minutes
- e) Declaration of the Result of the Ballot
- f) Consideration of the Auditors Report
- g) Appointment of an Auditor
- h) By-Law Changes
- i) Resolutions
- j) Other Business.

This order may be changed by the president, if necessary, to suit the business in hand.

#### **5.1.4 Resolutions**

Resolutions put forward at an annual general meeting must be in writing, signed by the mover and seconder and received by the secretary no less than 48 hours prior to the commencement of the meeting. Either the mover or the seconder must be present in person or by distance conferencing at the meeting for the resolution to be considered. Resolutions adopted at the meeting shall be considered by the council, but are not binding on the council. The council shall report on the disposition of any such resolution at the next annual general meeting.

### **5.2 Special Meetings**

#### **5.2.1 Purpose**

Special meetings of the association shall be held at the call of the president, or the council, or on receipt by the secretary of a requisition signed by not fewer than 20 professional members. Members requesting a special meeting shall provide the secretary with a copy of the motion or motions to be presented at the meeting. No business shall be dealt with except that for which the meeting was called. When a meeting has been requested, the council shall hold the meeting within 60 days of receipt of the signed requisition.

#### **5.2.2 Notice**

Not fewer than 15 days' notice shall be given for a special meeting. The notice shall specify the business to be brought forward. A copy of the motion or motions to be presented shall accompany the notice.

#### **5.2.3 Quorum**

The quorum required for transaction of business at a special meeting shall be 40 professional members. If, within an hour after the time appointed for the meeting a quorum has not been achieved, the meeting shall be postponed or cancelled by the president. The council shall determine the time and place and give no fewer than ten days notice of such postponed meeting.

### **5.3 Chair**

The president, shall be the chair of all meetings of the association and of council. In the absence of the president, the vice-president, past president and the member of the executive committee, if any, then the professional member of council with the earliest date of registration with the association shall take the chair for the purpose of nomination and election of a chair pro tempore. The chair shall not vote, except in the event of a tie, in which case he or she shall cast the deciding vote. If the chair wishes to enter any discussion, he or she must relinquish the chair for the duration of the discussion on the matter at hand.

### **5.4 Procedure**

The proceedings at meetings of the association and the council shall be governed by the rules set down in "Robert's Rules of Order", except as otherwise provided by the by-laws of the association, or in the case of the annual general meeting or a special meeting, as specifically established by a motion supported by a two-thirds majority of professional members voting on said motion at said meeting.

## **5.5 Voting**

### **5.5.1 Eligibility**

Only those professional members present in person, or by distance conference, if distance conferencing is provided for such meeting, are entitled to vote at the annual general meeting or at a special meeting of the association.

### **5.5.2 Proxy**

There shall be no right to vote or be represented by proxy.

### **5.5.3 Validity of Vote**

No objection to the validity of any vote shall be effective except at the meeting and time at which such vote is taken and the objection is entered before the meeting begins discussion of the next item on the agenda. The chair of the meeting shall be the sole and absolute judge of the validity of every vote tendered at any meeting or ballot, including any to which an objection has been raised.

## **5.6 Adjournments**

Meetings of the association may be adjourned from time to time by a motion supported by a majority of the professional members present. Such motion shall state the date and time of the reconvened meeting and shall thereby constitute due notice. No business shall be transacted at any reconvened meeting other than the business left unfinished at the meeting from which the adjournment took place.

## **5.7 Minutes**

The minutes of all meetings of the association or the council, as recorded and signed by the chair of a following meeting and the secretary shall, in the absence of evidence to the contrary, be deemed to be a correct record of the proceedings of any such meetings.

## **5.8 Meetings of the Council**

The president and the council shall establish the frequency, agenda and procedure of meetings of the council. Special meetings of the council shall be held at the call of the president, or by requisition signed by two councillors. At least 24 hours' notice shall be given of all meetings of the council. Meetings of the council or parts thereof not otherwise declared by the council to be in camera shall be open for professional members, licensees, members-in-training and students to be present as observers, provided that they give 24 hours notice of intention.

## **PART VI ADMISSIONS**

### **6.1 Manual of Admissions**

The requirements, policies and procedures applicable to the approval of an application for admission to, enrollment with, or licensure by, the association shall be set out in the association's "Manual of Admissions". It shall be authorized by the council and published and available from the office of the association.

## **6.2 Qualifications**

### **6.2.1 Academic Qualification**

The evidence of academic qualification required for membership under clause 15 (1) (b) of the Act, shall be as set out in the Manual of Admissions.

### **6.2.2 Experience Qualification**

The evidence of sufficient relevant work experience required for membership under clause 15 (1) (c) of the Act, shall be based on at least four years' engineering or geoscientific work experience, subject to the provisions of the Manual of Admissions.

## **6.3 Other Requirements**

### **6.3.1 Member-In-Training Requirement**

To be eligible for enrollment as a member-in-training, an applicant must submit evidence to the registration committee that he or she:

- a) is academically qualified for registration as a professional member;
- b) has passed a professional practice test on the Act, these by-laws and the Code of Ethics established under Part XIII;
- c) has subscribed to and agrees to abide by the Code of Ethics established under Part XIII; and
- d) agrees to comply with the requirements of the association's pre-registration program

### **6.3.2 Pre-Registration Program**

There shall be a pre-registration program for members-in-training. The requirements of such program shall be set out in the Manual of Admissions and shall include a requirement to pass an approved professional practice examination.

## **6.4 Registration by Reinstatement**

### **6.4.1 Resigned in Good Standing**

A person who has resigned from professional membership in accordance with these by-laws, if not qualified for registration under sub-section 15 (2) of the Act, must when applying for reinstatement or licensure, and subject to any additional conditions or exemptions set out in the Manual of Admissions.

#### **6.4.2.1 Removed for Non-Payment and Registered Elsewhere in Canada**

A person whose name has been removed from the register pursuant to sub-section 24(2) of the Act, and who is otherwise qualified for registration under sub-section 15 (2) of the Act, shall be subject to any additional conditions or exemptions set out in the Manual of Admissions, when applying for reinstatement or licensure.

#### **6.4.2.2 Removed for Non-Payment and Not Registered Elsewhere in Canada**

A person whose name has been removed from the register pursuant to sub-section 24 (2) of the Act, and who is not qualified for registration under sub-section 15 (2) of the Act, shall be subject to any additional conditions or exemptions set out in the Manual of Admissions, when applying for reinstatement or licensure.

### **6.4.3 Membership Cancelled**

A person whose name has been removed from the register pursuant to clause 47 (1) (j) of the Act may, subject to any conditions or recommendations contained in the order of the discipline committee, apply for reinstatement. Whether qualified for registration under sub-section 15 (2) of the Act or not, such person shall, when applying for reinstatement or licensure, subject to the provisions of the Manual of Admissions:

- a) provide evidence of sufficient relevant professional engineering or professional geoscientific work experience;
- b) subscribe to and agree to abide by the Code of Ethics established under Part XIII;
- c) pass the association's professional practice test; and
- d) if so required by the registration committee, pass an approved professional practice examination.

## **6.5 Appeals**

### **6.5.1 To the Registration Committee**

The Manual of Admissions shall provide for and set out the process and requirements for an applicant to appeal decisions of the office of the registrar and any admissions-related committee, other than those of the registration committee.

### **6.5.2 Decisions of the Registration Committee**

The Manual of Admissions shall provide for and set out the process and requirements for an applicant to appeal decisions of the registration committee as provided for under section 21 of the Act.

### **6.5.3 Deposits**

The amount of the deposit to be made on an appeal under sub-section 21 (2) of the Act shall be determined by the council.

## **PART VII MEMBERSHIP**

### **7.0 Provision**

The categories of membership in the association shall be as set out in this part.

### **7.1 Professional Members**

#### **7.1.1 Practising Member**

Professional members who are not in either the retired member category, the life member category, the provisional member category, or are otherwise subject to conditions of practice based on dues relief, are practising members and hold all the responsibilities, rights and privileges conferred on a professional engineer or a professional geoscientist, as the case may be, by the Act and these by-laws.

#### **7.1.2 Retired Member**

Professional members who enter the retired member category shall not be practicing professional engineering or professional geoscience and shall not at that time intend to return to the practice. They shall hold all the responsibilities and rights and privileges conferred on a professional engineer or a professional geoscientist by the

Act and these by-laws, excepting the right to practice professional engineering or professional geoscience, and they:

will not be issued a validation sticker for their certificate of registration as provided for under these by-laws; and are required to surrender all seals issued in accordance with Part 8 of the Act.

Professional members in the retired member category shall confirm annually at the time of the payment of their annual dues that they have not been and will not be practicing professional engineering or professional geoscience as the case may be.

#### **7.1.2.1 Life Membership**

Life membership may, upon application, be granted to any practising member or retired member who:

- a) is at least 70 years of age; and
- b) has been a member of the association, or one of the constituent associations of the Canadian Council of Professional Engineers, for 30 years, or in the case of a professional geoscientist, has practised or been a member of the Association for a combined total of 30 years; and
- c) has retired from all gainful employment.

Once life membership is granted he or she shall, without further payment of dues, hold the same responsibilities and rights and privileges of members in the retired category.

#### **7.1.3 Honorary Life Member**

Honorary life membership, may be granted by unanimous decision of council to a professional member who has, in the opinion of council, rendered meritorious service to the association, or the profession, and who has preferably been a registered professional member for not less than 35 years. Professional members in the honorary life membership category shall pay no annual dues and hold all the rights and privileges conferred on a professional engineer or a professional geoscientist by the Act and these by-laws.

#### **7.1.4 Members on Deferred Dues**

Professional members or members-in-training who are:

- a) unemployed; or
- b) not working due to illness or disability; or
- c) attending a full time post-graduate university program relevant to the practice of professional engineering or professional geoscience; or
- d) experiencing circumstances having equal merit.

may be allowed to enter the deferred dues category on terms and conditions established by the council. Such professional members or members-in-training shall be eligible to have their annual dues deferred or reduced. Professional members in this category whose practice has been interrupted for more than 48 months as a result of the circumstances which gave rise to such deferral or reduction may be required to demonstrate that they have obtained a minimum number of months of acceptable professional engineering or professional geoscience work experience during the preceding eight years before returning to the practising member category.

### **7.1.5 Provisional Member**

Applicants who have 48 months of qualifying work experience and who have satisfied all of the requirements for registration of the Manual of Admissions, other than for the 12 month required period of work experience in a Canadian environment, may be registered as a provisional member until such time as the full work experience requirement is satisfied and on the conditions that:

- (a) the provisional member does not use the suffix “P.Eng.” or “P.Geo.”, but may, at his or her option, continue to use EIT or GIT;
- (b) all work issued by the provisional member is sealed by a professional engineer or professional geoscientist, as the case may be;
- (c) the provisional member and his or her supervisor submit semi-annual work experience reports over the period of the provisional membership in accordance with the Manual of Admissions;
- (d) registration to full professional membership is subject to the provisions of the Manual of Admissions; and
- (e) if, at the end of 36 months of provisional membership, the person has not yet become registered as a professional member, the provisional membership converts to member–in-training status.

### **7.2 Other**

The council shall establish policies and procedures that define the responsibilities, rights and privileges of temporary licensees, specified scope of practice licensees, members-in-training and students.

### **7.3 Notice of Delivery Address**

**7.3.1** Each professional member shall advise the registrar of the address to which the Association is to direct all correspondence to the member.

**7.3.2** Each professional member shall advise the registrar of any change in the address to which the Association is to direct all correspondence to the member, within 30 calendar days of the effective date of the change of address.

**7.3.3** Each professional member shall provide the registrar with the name and address of any person designated to receive correspondence from the Association on the member’s behalf, with respect to:

- (a) Complaints, charges and disciplinary matters involving the member;
- (b) Professional liability insurance reports, claims or processes involving the member; and
- (c) The member’s failure to pay monies owing to the association

### **7.4 Requirement to Respond**

**7.4.1** Where the Association makes a written request to a member for a response within a specified period, the member shall provide a written response within the specified time period and shall provide the information, explanation or records in the possession of or under the control of the member. A written request sent to the mailing address of the member, or the member’s designate, appearing in the records

of the Association shall be deemed to have been delivered three working days following the date of being sent by registered mail, and shall be deemed to have been received by the member.

**7.4.2** Failure of the member to submit a written response as required under sub-section 7.4.1 may constitute professional misconduct.

**7.4.3** Where a member fails to respond to a written request as required under sub-section 7.4.1, the person, investigation committee or sub-committee conducting an investigation may proceed with the investigation without the member's response.

## **PART VIII CERTIFICATE OF AUTHORIZATION**

### **8.1 Information to be Provided**

The information to be provided by the applicant for a Certificate of Authorization under sub-clauses 16 (2) (b) (ii) and 16 (2) (b) (iii) of the Act shall be submitted to the Association at the time of application for the certificate on a form provided by the registrar.

### **8.2 Changes in Designated Members or Temporary Licensees**

#### **8.2.1 Designated Members or Temporary Licensees**

Members or Temporary Licensees designated by the holder of a Certificate of Authorization under sub-clause 16 (2) (b) (ii) of the Act shall notify the registrar in writing within 30 days of ceasing to be in charge of the practice of professional engineering or professional geoscience on the holder's behalf.

#### **8.2.2 Persons Responsible for Compliance**

The person or persons designated by the holder of a Certificate of Authorization under sub-clause 16 (2) (b) (iii) of the Act shall notify the registrar in writing within 30 days of ceasing to hold responsibility for compliance with the Act and the by-laws on the holder's behalf.

### **8.3. Current Information**

#### **8.3.1 Information**

The current list of information to be provided by the holder of a Certificate of Authorization under sub-section 16 (4) of the Act shall be submitted to the Association with its application for the annual renewal of the certificate of authorization.

#### **8.3.2 Request**

In addition to the provisions of sub-section 16 (3) of the Act, the registrar may issue a notice of request for current information under sub-section 16 (4) of the Act upon notification of a change from a person or persons designated under sub-clauses 16 (2) (b) (ii) and 16 (2) (b) (iii), or at any other time that he or she has reason to believe that the holder is not in compliance with sub-section 16 (3).

### **8.3.3 Revised Information to be Provided**

Revisions to the information to be provided by the holder of a Certificate of Authorization under sub-clauses 16 (2) (b) (ii) and 16 (2) (b) (iii) of the Act shall be submitted to the registrar in writing.

## **PART IX DUES AND FEES**

### **9.1 Annual Dues**

#### **9.1.1 Practising Category**

The annual dues to be paid by a professional member for any given year shall be dictated by the financial needs of the association, and shall be established by the council during the preceding year.

#### **9.1.2 Retired Category**

The annual dues to be paid by a professional member in the retired category for any given year shall be a percentage, determined annually by the council, of the annual dues payable by practising professional members.

#### **9.1.3 Temporary Licence**

The annual dues to be paid by a temporary licensee for any given year shall accompany an application under section 17 of the Act, shall be dictated by the financial needs of the association, and shall be established by the council during the preceding year.

#### **9.1.4 Specified Scope of Practice Licence**

(This section purposely left blank)

#### **9.1.5 Certificate of Authorization**

The annual dues to be paid by a holder of a Certificate of Authorization for any given year shall accompany an application under section 16 of the Act, shall be dictated by the financial needs of the association, and shall be established by the council during the preceding year.

#### **9.1.6 Member-in-Training**

The annual dues to be paid by a member-in-training for any given year shall be a percentage, determined annually by the council, of the annual dues payable by practising professional members.

#### **9.1.7 Student**

The annual dues to be paid by a student for any given year and which shall accompany an application for enrollment shall be established by the council during the preceding year.

#### **9.1.8 Dues Relief**

The council may, at its discretion, defer, reduce or waive the annual dues of professional members, members-in-training, or members in the retired category. The annual dues to

be paid by a professional member or member-in-training in the deferred dues category for any given year shall be a percentage, determined annually by the council, of the annual dues payable by practising professional members. Waiver of the annual dues of a professional member, member-in-training, or member in the retired category shall be made only on the basis of circumstances deemed by the registrar to be more onerous than those for eligibility for entry to the deferred dues category.

#### **9.1.9 Provisional Member**

The annual dues to be paid by a member in the provisional member category for any given year shall be a percentage, determined annually by the council, of the annual dues payable by practising professional members.

### **9.2 Fees**

#### **9.2.1 Member-In-Training**

The fees and dues applicable to an application for enrollment as a member-in-training, as prescribed under sub-section 19 (d) of the Act, shall comprise a non-refundable admission fee, plus the annual dues for a member-in-training, in amounts set by council annually.

#### **9.2.2 Registration**

The fees and dues applicable to an application for registration as a professional member, as prescribed under clause 15 (1) (f) of the Act, shall comprise a non-refundable admission fee, plus the annual dues, in amounts set by council annually.

#### **9.2.3 Specified Scope of Practice Licence**

(This section purposely left blank)

#### **9.2.4 Certificate of Authorization**

##### **9.2.4.1 Application**

The fees and dues applicable to an application for a certificate of authorization, as prescribed under sub-section 16 (2) (c) of the act, shall comprise a non-refundable administration fee in an amount to be set annually by council plus the annual dues for a certificate of authorization, prorated in accordance with the policies of the council.

##### **9.2.4.2 Renewal**

The fees and dues applicable to the annual renewal of a certificate of authorization shall comprise a non-refundable administration fee in an amount to be set annually by council plus the annual dues for a certificate of authorization.

#### **9.2.5 Reinstatement**

The dues and fees required to accompany an application for reinstatement to any of the categories of professional membership, as provided for in sub-section 24 (2) of the Act, shall comprise:

- a) a non-refundable admission fee in an amount to be set annually by council;
- b) the annual dues, pro-rated in accordance with the provisions of the Manual of Admissions;

c) a non-refundable de-registration fee.

#### **9.2.6 Review of Academic Credentials**

There shall be a fee for an assessment of the academic credentials, which are not recognized through the Manual of Admissions as providing evidence of academic qualification for professional membership. The fee shall not exceed the cost to the association of such assessment and shall be set annually by the council.

#### **9.2.7 Examinations**

There shall be a fee for each examination written for the purposes of providing the evidence of academic qualification. Additionally, there shall be an annual administration fee, payable by the examinee for each year, or part thereof, during which the examinee qualifies and elects to be eligible to write examinations. Both fees shall be set annually by the council.

#### **9.2.8 Late Payment**

There shall be a late payment fee applicable when a professional member or member-in-training fails to pay his or her annual dues within two months of the date on which they are payable. The fee shall be set annually by the council.

#### **9.2.9 De-registration**

Applicants for reinstatement as a professional member or member-in-training whose name has been removed from the register for omission to pay annual dues shall pay a de-registration fee. The fee shall be set annually by the council.

#### **9.2.10 Insurance**

The Association may, in discretion of the Council, participate in any program providing professional liability insurance to any or all members, members-in training or licensees and the Council may establish fees payable by such members, members-in training or licensees in respect of any such program.

#### **9.2.11 Other Fees**

Other fees as may be required for the processing of applications for admission or enrollment or for the maintenance of membership shall be authorized by and specified in the policies and procedures provided for under these by-laws.

#### **9.2.12 Provisional Member**

The fees and dues applicable to an application for provisional membership shall comprise a non-refundable admission fee, plus the annual dues for a provisional member in amounts set by council annually.

### **9.3 Payment**

The registrar shall determine the time that the payment of dues and fees shall be deemed to have been received by the association.

**PART X RESIGNATION AND REMOVAL****10.1 Resignation**

A professional member or member-in-training may, by written notice of resignation, withdraw from membership or enrollment respectively.

Such withdrawal is subject to payment of the proportion of the annual dues prorated monthly based on the receipt of the notice, plus any late payment fee that is applicable.

**10.2 Removal for Omission to Pay Dues**

When the name of a professional member or member-in-training is subject to removal from the register in accordance with sub-section 24 (2) of the Act, and the council has determined the date on which the payment is due, the time of the payment shall be determined as in 9.3.

**PART XI PRACTICE REQUIREMENTS****11.1 Use of the Seal****11.1.1 Professional Member's Seal**

The professional member when affixing his or her manual seal in conformance with the Act shall validate it by signing the document in the vicinity of the seal and indicating the date upon which it was affixed.

**11.1.2 Temporary Licensee's Seal**

The holder of a temporary licence when affixing his or her manual seal in conformance with the Act shall validate it by signing the document in the vicinity of the seal, showing his or her licence number and its expiry date directly below the seal, and indicating the date upon which it was affixed.

**11.1.3 Specified Scope of Practice Licensee's Seal**

(This section has been purposely left blank)

**11.1.4 Affixing the Seal**

An image of the manual seal may be affixed through the use of either an inked stamped impression, or an electronic file. In either case the image of the seal is not to be left unsigned or undated. The signed and dated image of that seal shall not be duplicated as an electronic file.

**11.1.5 Electronic Seal**

(This section has been purposely left blank)

**11.2 Charges and Salaries**

Any schedule of suggested professional charges or any report on professional salaries that may be adopted or published by the association from time to time are guidelines only and are not to be construed as setting either a minimum or maximum charge or salary for any engineering or geoscientific work.

### **11.3 Declaration of Compliance**

Beginning with the 2004 membership year, members in the practising category shall be asked to make the following declaration at the time of the payment of the annual dues for the renewal of registration.

"I declare that I have, on an ongoing basis, acquired the knowledge, skills and level of awareness necessary to undertake the professional services that I currently provide, or intend to provide, to my employer and clients, and to fulfill my professional responsibilities to the public."

Any failure to so declare shall be recorded in the member's file.

## **PART XII CERTIFICATES, SEALS AND STAMPS**

### **12.1 Certificates**

#### **12.1.1 Certificate of Registration**

The certificate of registration issued to each professional member shall have his or her name inscribed thereon and shall state that the person is entitled to engage in the practice of professional engineering, or professional geoscience as the case may be, in the Province of Manitoba. It should be prominently displayed in the member's place of practice.

##### **12.1.1.1 Validity of Certificate of Registration**

The certificates of registration shall not be valid unless it bears a sticker issued by the association indicating that the certificate is valid for the period shown on the sticker.

#### **12.1.2 Certificate of Temporary License**

The certificate of temporary license issued to each holder of a temporary license has his or her name inscribed thereon stating that the person is entitled to engage temporarily in the practice of professional engineering, or professional geoscience as the case may be, in the Province of Manitoba for the time period stated thereon. It should be prominently displayed in the licensee's place of practice.

#### **12.1.3 Certificate of Specified Scope of Practice Licensee**

(This section has been purposely left blank)

#### **12.1.4 Certificate of Authorization**

The certificate of authorization issued to each holder will have the name of the legal entity inscribed thereon stating that the entity is entitled to engage in the practice of professional engineering, or professional geoscience as the case may be, in the Province of Manitoba for the time period stated thereon.

**12.1.4.1 Validity of Certificate of Authorization**

The certificate of authorization shall not be valid unless it bears a sticker issued by the association indicating that the certificate is valid for the period shown on the sticker.

**12.1.4.2 Ownership of Certificate of Authorization**

Each seal issued by the association shall remain the property of the association and shall be returned to the registrar upon the suspension or cancellation of registration or non-renewal of the certificate of authorization.

**12.2 Seals****12.2.1 Professional Member's Seal**

The registrar shall issue the manual seal in accordance with sub-section 26 (1) of the Act. A member shall not acquire a seal from any other source.

**12.2.2 Temporary Licensee's Seal**

The association does not issue a seal to the holder of a temporary license.

**12.2.3 Specified Scope of Practice Licensee's Seal**

(This section has been purposely left blank)

**12.3 Stamps****12.3.1 Certificate of Authorization Stamp**

The form of identification required under sub-section 26(4) of the Act shall include the identity of the holder and a number on a stamp issued by the Association. The image of the stamp may be reproduced by the holder of the Certificate of Authorization and incorporated in electronic documents.

**12.4 Electronic Seal**

(This section has been purposely left blank)

**PART XIII CODE OF ETHICS****13.0 Code of Ethics**

The Code of Ethics approved by the council on May 9, 2000, is hereby adopted as the Code of Ethics of the association.

**PART XIV LIABILITY INSURANCE REQUIREMENTS****14.1 Certificate of Authorization****14.1.1 Terms and Conditions**

In establishing the amounts, terms and conditions of the professional liability insurance, or alternatives thereto, required of the holder of a Certificate of Authorization under section 16 (2) of the Act, the Council shall provide for terms, exclusions and conditions consistent with normal insurance industry practice.

#### **14.1.2 Changes to the Policy of Insurance**

The holder of the certificate of authorization shall notify the registrar in writing, and shall inform each current client within 10 days of the receipt of any notice of amendment to, or cancellation of, the policy of insurance upon which the certificate of insurance provided with the application for the certificate of authorization was issued.

#### **14.2 Professional Member**

Section 1.02 Each professional member before undertaking to provide professional services to a client shall either:

- a) have professional liability insurance coverage through a policy held by the member, or his or her employer; or
- b) shall notify the client that he or she does not have professional liability coverage.

If not so insured, he or she shall receive from each client written authority to provide those services without insurance.

If so insured, the professional member shall within ten days inform each current client of any change in insured status or coverage, or of written notice of change by the insurer.

#### **14.3 Temporary Licensee**

The liability insurance requirements for a temporary licensee shall be the same as those set out in 14.2.

#### **14.4 Specified Scope of Practice Licensee**

(This section has been purposely left blank)

### **PART XV COMPLAINTS AND DISCIPLINE**

#### **15.0 Discipline By-Law pursuant to Sub-section 12(1) and Part 10 of the Act**

Each professional member, holder of a certificate of authorization, temporary licensee, specified scope of practice licensee or member-in-training is required to practice in accordance with the highest standards of professional conduct and to comply with the Act, these by-laws and the code of ethics of the association. Failure to do so shall constitute either unskilled practice of professional engineering or professional geoscience or professional misconduct, or both.

#### **15.1 Complaint**

**15.1.1** The registrar shall forward any complaint meeting the requirements of the Act to the chair of the investigation committee who shall call a meeting of the investigation committee to consider such complaint.

## **15.2 Investigation Committee**

**15.2.1** The council shall appoint the members of the investigation committee in accordance with the Act to hold office for a term established from time to time by council and the council may at any time revoke the appointment of any person or persons or fill any vacancy or vacancies or appoint an additional person or persons to the investigation committee.

**15.2.2** Upon the expiry of the term of any member of the investigation committee, such member shall be eligible for appointment to a subsequent term or terms in the discretion of the council.

**15.2.3** Decisions of the investigation committee and any sub-committee thereof shall be by majority vote of those members of the committee or the sub-committee present in person at a duly constituted meeting.

**15.2.4** The chair of the investigation committee may appoint one or more of the members of the committee as a sub-committee to review and investigate any complaint referred to the investigation committee and such sub-committee has all of the authority and power of the investigation committee to review and investigate a complaint, except to the extent that the exercise of any such authority or power by a sub-committee is expressly limited by any other provision of these by-laws and all references in these by-laws to the investigation committee shall mean and include any sub-committee of the investigation committee unless the context indicates the contrary.

**15.2.5** If only one member of the investigation committee is appointed as a sub-committee, that member shall also be the chair of the sub-committee and if more than one member of the investigation committee is appointed then the chair of the investigation committee shall designate one such member as the chair of the sub-committee and the chair of such sub-committee has all the authority and power of the chair of the investigation committee and all references in these by-laws to the chair of the investigation committee shall mean and include the chair of any sub-committee of the investigation committee unless the context indicates the contrary.

**15.2.6** No person shall sit as member of the investigation committee or any sub-committee thereof investigating any complaint in which

- a) such person, or a member of his or her firm, is the complainant or has advised the complainant in connection with the subject matter of the complaint;
- b) such person or any member of his or her firm will be a witness;
- c) such person, or a member of his or her firm, is the investigated person; or
- d) a member of his or her firm has been retained to assist the investigation committee in investigating the complaint.

- 15.2.7** The investigation committee or, with the approval of the investigation committee a sub-committee of the investigation committee, may retain the services of experts and professionals to assist in reviewing and investigating any complaint.
- 15.2.8** The investigation committee may review and investigate any other matters related to professional conduct or the skill in practice of the investigated person which come to the attention of the investigation committee in the course of the investigation of the complaint.
- 15.2.9** The investigation committee may, when consulted, offer advice to professional members, holders of a certificate of authorization, temporary licensees, specified scope of practice licensees or members-in-training on questions of proper professional conduct and the investigation committee shall prepare, or cause to be prepared, a report to the council on advice given from time to time.
- 15.2.10** The investigation committee may from time to time prepare and publish, or cause to be prepared and published, practice notes on issues affecting the practices of professional engineering and professional geoscience.

### **15.3 Investigation Committee Procedures**

- 15.3.1** The investigation committee shall meet and consider complaints referred by the registrar and shall assess whether an investigation is warranted. In so doing it
- a) may, subject to obtaining the written concurrence of both the complainant and the investigated person, undertake to resolve the matter or matters at issue through an alternative dispute resolution process prescribed by the Council not exceeding 30 days in duration before taking a decision; and
  - b) shall, if an investigation is not warranted, dismiss the complaint; or
  - c) shall, if an investigation is warranted, investigate the complaint.
- 15.3.2** If the investigation committee dismisses a complaint, either before or after an investigation or mediation, the chair of the investigation committee shall direct the registrar to so notify the investigated person and the complainant and to notify the complainant of the complainant's right to appeal such dismissal to the council.
- 15.3.3** If the investigation committee determines that an investigation is warranted, the chair of the investigation committee shall direct the registrar to notify the investigated person of the complaint and the investigation and to notify the complainant of the investigation.
- 15.3.4** Whether or not an investigation has been undertaken, the complainant and any professional member, holder of a certificate of authorization, temporary licensee, specified scope of practice licensee or member-in-training shall provide to the investigation committee, within 10 working days of receipt of a request therefore, any information, documentation and records, which in the opinion of the investigation committee is material to the complaint.
- 15.3.5** Upon completing any review or investigation, the sub-committee conducting same shall report its findings to the investigation committee.

- 15.3.6.1** When proceeding under clause 35(1) (f) of the Act, the investigation committee may, in addition to other action provided for in the Act or these by-laws
- a) formulate a charge;
  - b) formulate a penalty to be imposed upon a conviction on the charge, subject to review and approval or amendment by a delegate appointed by the chair of the discipline committee; and
  - c) formulate the text of any public statement to be made upon a conviction on the charge and establish where those statements will be published.
- 15.3.6.2** When proceeding under clause 35(1)(f) of the Act, the investigation committee may prescribe any order or action which the discipline committee is empowered to prescribe under section 15.6.5 or 15.6.6 of these by-laws or under section 47 or 48 of the Act.
- 15.3.6.3** The chair of the investigation committee shall instruct the registrar to notify the investigated person of the charge, penalty, public statement and place or places of publication proposed under section 15.3.6.1 of these by-laws and to further notify the investigated person that
- a) the investigated person may make written or oral representation to the investigation committee as to the appropriateness of the proposal, provided that the investigated person so notifies the registrar of his or her intention to do so within 10 working days of receipt of the notice;
  - b) should the investigated person elect not to make such representation, then he or she must provide a written consent to or rejection of the proposal within 10 working days of receipt of the notice; and
  - c) if the investigated person does not accept the proposal, or any other proposal made following the aforementioned representation, or if the investigated person fails to respond within 10 working days of receipt of the notice, that the charge shall be referred to the discipline committee for a hearing in accordance with sections 15.5 and 15.6 of these by-laws .
- 15.3.6.4** When the certificate of registration, certificate of authorization, temporary license or specified scope of practice license is suspended or canceled, the holder of such certificate or license shall not practice professional engineering or professional geoscience, as the case may be, during the period of the suspension or cancellation.
- 15.3.7.1** The investigation committee, as provided in clause 35(1)(e) of the Act, may issue a formal caution to the investigated person by way of censure or disapproval of his or her conduct and such caution shall not be the subject of appeal.
- 15.3.7.2** Within 10 working days of receipt of a notice of the investigation committee's decision to issue a caution, the investigated person may accept such caution by notice to the registrar.
- 15.3.7.3** If the investigated person fails to accept the caution or fails to respond within 10 working days of receipt of the notice referred to in section 15.3.7.2 of this by-law, the investigation committee shall formulate a charge and refer such charge to the discipline committee.

- 15.3.7.4** Subject to sections 15.3.10 and 15.3.7.5 of this by-law, a formal written caution shall remain confidential unless the investigated person is thereafter convicted of any charge by the discipline committee or is subsequently disciplined pursuant to clause 35(1)(f) of the Act, at which time the formal written caution and the circumstances giving rise to same shall be referred to the discipline committee or the investigation committee, as the case may be, to assist it in determining the appropriate penalty for the subsequent conviction.
- 15.3.7.5** Where a formal written caution is issued, the registrar shall give notice thereof to the complainant.
- 15.3.8.1** If the investigation committee accepts a voluntary withdrawal under clause 35(1) (d) of the Act, it may direct the investigated person to take counseling or to waive, reduce or repay money paid to the investigated person as provided in clauses 47(1)(h) and (l) of the Act.
- 15.3.8.2** If the investigation committee accepts a voluntary withdrawal it shall cause a report to be placed in the withdrawn person's file recording that fact and any decision made by the investigation committee.
- 15.3.9** Once notice of any charge has been given to the investigated person, the registrar may disclose the existence and the particulars of the charge to the association and to the public.
- 15.3.10** After completing its review or investigation, the investigation committee shall direct the registrar to give to the investigated person and to the complainant a notice setting out the action taken by the investigation committee under sub-section 35(1) of the Act together with the rights of appeal provided under the Act and the requirement for the complainant to provide reasons for appeal pursuant to section 15.4.1 of the by-law.
- 15.3.11.1** If the complainant does not appeal the action taken by the investigation committee before the expiry of the appeal period, the chair of the investigation committee shall direct the registrar to notify the council of the action taken by the investigation committee under sub-section 35(1) of the Act.
- 15.3.11.2** If the complainant appeals the action taken by the investigation committee before the expiry of the appeal period, the chair of the investigation committee shall direct the registrar to notify the president of the association of the action taken by the investigation committee under sub-section 35(1) of the Act, the reasons for the action and the appeal by the complainant.
- 15.3.11.3** If a penalty is imposed against any person under clause 35(1)(f) of the Act, the notice referred to in this section 15.3.11 shall include the name of the person, the action taken and the penalty .
- 15.3.12** Where in the opinion of the registrar an investigated person has failed to perform in accordance with the terms of any formal written caution issued by the investigation

committee, the registrar shall refer the matter to the chair or the investigation committee and such referral shall constitute a new complaint.

#### **15.4 Appeal of Dismissal of Complaint to Council**

- 15.4.1** The registrar shall not accept any appeal made under sub section 36(1) of the Act unless such appeal is accompanied by the complainant's reasons in writing specifying the errors alleged to have been made by the investigation committee.
- 15.4.2** Decisions of the committee of the council appointed pursuant to sub-section 36(2) of the Act shall be by majority vote of those members of the committee present in person at a duly constituted meeting.
- 15.4.3** No person shall sit as a member of the committee of council appointed pursuant to sub-section 36(2) of the Act considering any appeal in which
- a) such person, or a member of his or her firm, is the complainant or has advised the complainant in connection with the subject matter of the complaint;
  - b) such person or any member of his or her firm has been or will be a witness;
  - c) such person, or a member of his or her firm, is the investigated person; or
  - d) a member of his or her firm has been retained to assist the investigation committee in investigating the complaint.
- 15.4.4** Any appeal to the committee of the council pursuant to sub-section 36(2) of the Act shall be an appeal on the record of the proceedings before the investigation committee and any action taken by the investigation committee under sub-section 35(1) of the Act.
- 15.4.5** Upon the committee of the council being appointed pursuant to sub-section 36(2) of the Act, the registrar shall give to each member of the committee, to the investigated person and to the complainant a copy of the notice of appeal, the reasons for appeal, the record of the proceedings before the investigation committee and any action taken by the investigation committee under sub-section 35(1) of the Act.
- 15.4.6** The committee of the council:
- a) shall provide the complainant and the investigated person an opportunity to make a written submission regarding the appeal in accordance with time limits that it may set; and
  - b) provided that both the complainant and the investigated person make a written submission, may, in its discretion, afford the complainant and the investigated person an opportunity to make an oral submission.
- 15.4.7** In the course of considering the appeal, the committee of council may receive further evidence prior to making its decision if it considers that the further evidence is necessary to make a fair assessment of the appeal, and in that event, the committee of council may set its own procedure as how the additional evidence is to be received.
- 15.4.8** Within 10 working days of the decision of the committee of council, the chair of the committee shall forward, or cause to be forwarded, to the registrar a report and any order or action taken by it.

**15.4.9** The registrar shall, on receiving the decision of the committee of council, give to the investigated person, the complainant and the investigation committee a notice setting out the decision of the committee of council and any order or action taken by the committee.

## **15.5 Discipline Committee**

**15.5.1** The council shall appoint the members of the discipline committee in accordance with the Act to hold office for a term established from time to time by the council and the council may at any time revoke the appointment of any person or persons or fill any vacancy or vacancies or appoint an additional person or persons to the discipline committee.

**15.5.2** Upon the expiry of the term of any member of the discipline committee, such member shall be eligible for appointment to a subsequent term or terms in the discretion of the council.

## **15.6 Hearing Procedures**

**15.6.1** Upon receipt of a charge from the investigation committee, the chair of the discipline committee shall immediately arrange for the discipline committee to hold a hearing into the charge in accordance with the provisions of the Act and these by-laws.

**15.6.2** The chair of the discipline committee shall direct the registrar to give to the investigated person and the complainant, at least 30 days before the date of any hearing, notice of the date, time and place of the hearing together with a copy of the charge or charges to be heard.

**15.6.3.1** The hearing before the discipline committee shall commence on a date within 120 days after the date on which the charge is referred to the discipline committee.

**15.6.3.2** Where the chair of any panel is not the chair of the discipline committee, the chair of the panel has all the authority and power of the chair of the discipline committee and all references to the chair of the discipline committee in these by-laws shall mean and include the chair of any panel, unless the context indicates the contrary.

**15.6.3.3** All references to the discipline committee in these by-laws shall mean and include any panel of the discipline committee, unless the context indicates the contrary.

**15.6.3.4** No person shall sit as a member of any panel of the discipline committee hearing any charge in which

- a) such person, or a member of his or her firm, is the complainant or has advised the complainant in connection with the subject matter of the complaint that gave rise to the charge;
- b) such person, or a member of his or her firm has been or will be a witness or expert witness;

- c) such person or a member of his or her firm is the person who is subject to the charge;
- d) a member of his or her firm was retained to assist the investigation committee in investigating the complaint which gave rise to the charge.

**15.6.3.5** The investigation committee shall present the evidence of the professional misconduct or unskilled practice of professional engineering or professional geoscience to the discipline committee and may instruct and be represented by counsel and may hire such expert witnesses as are necessary to assist in the presentation of the evidence.

**15.6.3.6** The discipline committee may accept any evidence that it considers to be credible and reliable and is not bound by the rules of law concerning evidence.

**15.6.3.6.1** The discipline committee may accept written certification by the registrar regarding the Act, the By-laws and the Code of Ethics applicable to the charge(s) being heard.

**15.6.3.6.2** The discipline committee may accept written certification by the registrar, or by a person authorized by the registrar to issue such documents, regarding documents served on the investigated person during the course of the investigation which gave rise to the charge(s) being heard.

**15.6.3.7** The chair of the discipline committee may adjourn a hearing from time to time and may reconvene the hearing on such notice as he or she considers appropriate.

**15.6.3.8** The discipline committee may investigate and hear any other matter concerning the conduct of an investigated person that comes to its attention in the course of its proceedings, but in that event, the discipline committee shall declare its intention to investigate such other matter and the discipline committee shall permit the investigated person sufficient opportunity to prepare his or her answer to such other matter.

**15.6.3.9** Decisions of the discipline committee and any panel thereof shall be by majority vote of those members of the committee or panel present in person at a duly constituted meeting.

**15.6.3.10** After the hearing and due consideration of the evidence and of the representations made, the discipline committee may find that the conduct of an investigated person constitutes

- a) unskilled practice of professional engineering or professional geoscience, or
- b) professional misconduct,

or both, and may issue an order in accordance with section 47 or 48 of the Act.

**15.6.4.1** Within 10 working days of the discipline committee's decision, the chair of the panel shall forward or cause to be forwarded to the chair of the discipline committee and to the council a report on the hearing and if an order has been made against any person under section 47 or 48 of the Act, the report shall include the name of such person, the decision and the order.

- 15.6.4.2** The discipline committee shall direct the registrar to give to the investigated person and to the complainant a notice setting out the decision of the discipline committee and any order made under section 47 or 48 of the Act together with the rights of appeal provided under the Act.
- 15.6.5** If the discipline committee finds that the conduct of an investigated person constitutes neither unskilled practice of professional engineering or professional geoscience nor offensive conduct, the decision of the discipline committee shall not be published unless the investigated person requests that the decision be published.
- 15.6.6** Any publication of an order or decision of the discipline committee may be made by the registrar in any one or more of
- a) any regular or special publication of the association;
  - b) the Manitoba Gazette;
  - c) any newspaper that is circulated in all or any community of the province of Manitoba.
- 15.6.7** When the certificate of registration, certificate of authorization, temporary license or specified scope of practice license is suspended or canceled, the holder of such certificate or license shall not practice professional engineering or professional geoscience during the period of the suspension or cancellation.

## **15.7 Appeal of Hearing Decisions and Orders**

- 15.7.1** An appeal under sub-section 53(1) of the Act shall be commenced by giving to the registrar notice of appeal within 30 days from the date on which notice of the decision and any order of the discipline committee is given to the investigated person, provided that the registrar shall not accept any such appeal unless it is accompanied by the cash deposit referred to in section 15.7.2 of these by-laws and the appellant's reasons in writing specifying the errors alleged to have been made by the discipline committee.
- 15.7.2** Every notice of appeal under sub-section 53(1) of the Act shall be accompanied by a cash deposit of \$500.00 unless such deposit is waived by the council.
- 15.7.3** The registrar shall, on receiving a notice of appeal under subsection 53(1) of the Act and the cash deposit required herein, give to each member of the council, the investigated person and to the complainant a copy of the notice of appeal, the appellant's written reasons for appeal, the record of the proceedings before the discipline committee and the decision and any order of the discipline committee.
- 15.7.4** Upon receipt of a notice of appeal, the appellant's written reasons and the requisite cash deposit, the president shall immediately arrange for the council to hold a hearing of the appeal in accordance with the provisions of the Act and these by-laws.

- 15.7.5.1** The president shall direct the registrar to give to the investigated person and the complainant, at least 30 days before the date of any appeal hearing, notice of the date, time and place of the appeal hearing.
- 15.7.5.2** The appeal hearing shall commence on a date within 90 days after the date of giving of the notice of appeal and the appellant's written reasons to the registrar and payment of the cash deposit pursuant to sections 15.7.1 and 15.7.2 of these by-laws.
- 15.7.6.1** The discipline committee, the investigated person and the complainant may appear and be represented by counsel at the hearing of an appeal before the council.
- 15.7.6.2** A member of the council shall not participate in or hear the appeal if
- a) he or she was a member of any committee of the council which considered any appeal of any decision of the investigation committee in the matter;
  - b) he or she was a member of either the investigation committee or the discipline committee when the matter was under consideration by either of these committees;
  - c) he or she, or a member of his or her firm, is the complainant or has advised the complainant in connection with the subject matter of the complaint that gave rise to the appeal;
  - d) he or she, or any member of his or her firm, has been a witness or expert witness in any proceeding dealing with the subject matter of the appeal;
  - e) he or she, or a member of his or her firm is the investigated person who is the subject of the appeal
  - f) he or she, or a member of his or her firm was retained to assist the investigation committee in investigating the complaint which is the subject of the appeal; or
  - g) he or she has prior knowledge of or an interest in the matter which might be deemed as being a conflict of interest in the matter.
- 15.7.6.3** Any appeal to the council pursuant to sub-section 53(1) of the Act shall be an appeal on the record of the proceedings before the discipline committee and the decision and any order of the discipline committee.
- 15.7.6.4** The council on hearing the appeal may
- a) grant adjournments and reconvene the proceedings from time to time or reserve the determination of the matters before it for a future meeting of the council; and
  - b) on granting special leave for that purpose, receive further evidence; and
  - c) draw inferences of fact and make any determination or finding that, in its opinion, ought to have been made by the discipline committee.
- 15.7.7.1** Within 10 days of the council's decision, the president shall forward, or cause to be forwarded, to the registrar a report and any order made under subsection 53(4) of the Act.
- 15.7.7.2** The registrar shall, on receiving the council's decision, give to the investigated person, the complainant and the discipline committee a notice setting out the council's decision and any order made under subsection 53(4) of the Act together with the rights of appeal provided under the Act.

## **15.8 Notices**

**15.8.1** Any notification or notice to be given under any provision of this part of the by-laws shall be given by personal service upon the person to whom such notification or notice is to be given, or by registered mail, postage prepaid and

- a) if to the registrar, addressed to the head office of the association, and
- b) if to any other person, addressed to his or her address as recorded in the records of the association, and

any such notification or notice given by prepaid registered mail shall be deemed to have been received by the person to whom it is addressed on the third business day following mailing unless at the time of mailing, there is an actual or threatened disruption of postal services.

## **15.9 Records, Confidentiality and Release of Information**

**15.9.1** Any complaint, decision or other information relating to the conduct of any investigated person or reviewed or investigated by the investigation committee or discipline committee shall be recorded and retained in the association file for that person.

**15.9.2** Subject to sections 15.9.3.1 and 15.9.3.2 of these by-laws, no person other than the council, the registrar, the investigation committee, the discipline committee, the registration committee or the legal counsel to the council or to any such committee shall have access to the association file of the person reviewed or investigated.

**15.9.3.1** In the case of the discipline committee, access to the association file of an investigated person shall be limited to those instances in which the discipline committee seeks information to assist it in assessing an appropriate penalty after that person has been found guilty of unskilled practice or professional misconduct.

**15.9.3.2** In the case of the registration committee, access to the association file of any person shall be limited to those instances in which the registration committee seeks information to assist it in assessing an application for reinstatement for such person.

**15.9.4.1** Except as otherwise provided in the Act or in these by-laws, information regarding any complaint shall not be disclosed except as follows

- a) during the course of any review or investigation, to the registrar, to the investigation committee, any consultant to the investigation committee, the investigated person, the complainant and their respective legal counsel;
- b) during the course of any hearing before the discipline committee, to the registrar, the discipline committee, the investigation committee, any consultant to the investigation committee, the investigated person, the complainant and their respective legal counsel;
- c) during the course of any appeal to the council, to the registrar, the council, the discipline committee, the investigation committee, any consultant to the investigation committee, the investigated person, the complainant and their respective legal counsel;
- d) pursuant to any action under clauses 35(1)(d) or (f) of the Act, in accordance

- e) with the terms of such action; and
- f) upon a conviction and the expiry of all appeal periods, in such manner as the registrar, the council, the discipline committee or any committee of the association may see fit.

**15.9.4.2** Nothing herein prohibits the investigation committee or discipline committee from disclosing information regarding any complaint to any person if, in the opinion of the investigation committee or the discipline committee, such disclosure is necessary to review, assess, investigate or hear a complaint or to prepare any order or report thereon or to provide a response to an application of stay of order pursuant to section 37 of the Act.

**15.9.4.3** Notwithstanding section 15.9.4.1 of these by-laws, if in the course of any investigation or review the investigation committee determines there are reasonable grounds to believe that the condition in an engineering or geoscientific work is dangerous or threatening to health, life, limb or property, the investigation committee shall cause this condition to be called promptly to the attention of the authority having jurisdiction over the matter and, where possible, to the attention of the person having professional responsibility and the owner.

## **15.10 Notice to Other Associations**

**15.10.1** Where an investigated person in respect of whom any action has been taken by the investigation committee or any order has been made by the discipline committee, as confirmed or varied on appeal, is known to the registrar to be registered or licensed by any other association of professional engineers or association of professional geoscientists in any other province or foreign jurisdiction, then unless such action or order is an action or order dismissing the complaint, the registrar shall, following the expiration or waiving of all appeal periods, provide to such association or associations a copy of such action or order and any written decision in respect thereof.

## **15.11 Miscellaneous**

**15.11.1.1** In addition to the annual fee the council shall, when necessary, establish and maintain a special fund for the purpose of administering and enforcing the discipline provisions of these by-laws. The fund shall be established and maintained by assessing the general membership an amount set by the council from time-to-time. Non-payment of this special assessment is deemed to be non-compliance with section 24 of the Act.

**15.11.1.2** The registrar shall disburse such funds as may be required for the purpose of investigations conducted by the investigation committee or for the purpose of formal hearings of the discipline committee and appeals therefrom. The fund shall be administered by the registrar, who shall report on it to the general membership at least once a year at the annual general meeting, and an annual auditors' statement shall be prepared on it.

**15.11.1.3** The use of funds for the purposes of this part shall not be limited by the amount in the special fund.

**15.11.2** All of the within by-law becomes effective immediately upon adoption of the within by-law by the association.

**15.11.3** By-law 43 of the association is hereby repealed except with regard to any complaint for which, before the date the within by-law becomes effective

- a) a hearing has commenced before the discipline committee; or
- b) a hearing has been commenced on an appeal to the council regarding a decision of the discipline committee,

and in either of these cases, the hearing shall be conducted in accordance with by-law 43 as it was immediately prior to its repeal unless the investigated person and the complainant and the council all agree to conducting the hearing in accordance with these by-laws.

## **PART XVI CHAPTERS**

### **16.0 Chapters**

The council may, from time to time, establish chapters of the association, and adopt a constitution and by-laws for each chapter. The chapter shall comprise professional members, licensees and members-in-training who are resident in a geographic area determined by the council. Subject to the by-laws of the chapter, members of the public may participate in the activities of the chapter, but shall not have voting privileges.

## **PART XVII BY-LAW CHANGES**

### **17.1 Proposal**

These by-laws may be varied or revoked, or a new by-law adopted, as set out in 17.2 to 17.6 on the basis of a proposal. Such proposals shall either be adopted by the council or shall be requested and signed by not fewer than six professional members and given to the secretary at least 45 days before the annual general meeting, or special meeting, of the association at which it is to be considered.

### **17.2 Coming into Effect**

The proposal shall come into effect only after it is approved:

- a) by a majority vote, of a duly convened meeting of the association; and
- b) subsequently by a majority of those professional members voting in a letter ballot following its approval.

### **17.3 Notice of Proposal**

The secretary shall notify the professional members of the by-law proposal at least 15 days prior to the meeting at which there will be a vote to approve the proposal for a letter ballot.

**17.4 Approval for Letter Ballot**

Approval to put a proposal to a letter ballot must be approved by the professional members present in person or by distance conference at an annual meeting or a special meeting.

**17.5 Letter Ballot**

Ballots shall be mailed to all professional members within 15 days after the meeting at which the proposal was approved. They may be returned up until 9:00 a.m. 30 days following the date of mailing.

**17.6 Accompanying Information**

The nature and extent of the information accompanying the proposal and the letter ballot shall be decided by the president in accordance with a policy adopted from time to time by the council.

**17.7 Return of Ballots**

To be valid, ballots must be enclosed in an envelope, with the name of the voting professional member shown on the envelope. The registrar shall cause the eligibility of each voter, as shown on the outer envelope to be verified and the valid envelopes to be initialed.

**17.8 Ballot Counting**

The initialed ballot envelopes shall be delivered unopened to the president. The ballots shall be counted by persons appointed by the president in accordance with a policy adopted from time to time by the council.



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Grant Koropatnick, P.Eng.  
Registrar

Ratified December 8, 2008









**THE ASSOCIATION OF PROFESSIONAL ENGINEERS AND GEOSCIENTISTS  
OF THE PROVINCE OF MANITOBA**

**870 Pembina Highway  
Winnipeg, Manitoba R3M 2M7  
Telephone: (204) 474-2736  
Fax: (204) 474-5960  
[www.apegm.mb.ca](http://www.apegm.mb.ca)**