

Chapter 2

ENGINEERS AND GEOSCIENTISTS ACT

(Assented to March 14, 2008)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

INTERPRETATION

Definitions

1. (1) In this Act,

"Association" means the Northwest Territories Association of Professional Engineers and Geoscientists, continued under section 2 of the *Engineering and Geoscience Professions Act* (Northwest Territories); (*Association*)

"licensee" means a person registered by the Association as a licensee; (*titulaire de licence*)

"member" means a person registered by the Association as a member; (*membre*)

"member-in-training" means a person registered by the Association as a member-in-training; (*stagiaire*)

"permit holder" means a firm, partnership, corporation or association of persons registered as a permit holder and holding a permit issued under subsection 23(3) of the *Engineering and Geoscience Professions Act* (Northwest Territories); (*titulaire de permis*)

"professional engineer" means a member or licensee qualified to practise professional engineering; (*ingénieur*)

"professional engineering" means any act of planning, designing, composing, measuring, evaluating, inspecting, advising, reporting, directing or supervising, or managing any of those acts, that requires the application of engineering principles; (*profession d'ingénieur*)

"professional geoscience" means any act of documenting, analysing, evaluating, interpreting or reporting on the earth's materials or on resources, forms or processes, or managing any of those acts, that requires the application of the principles of geology, geophysics or geochemistry; (*profession de géoscientifique*)

"professional geoscientist" means a member or licensee qualified to practise professional geoscience; (*géoscientifique*)

"registrant" means a member, licensee or member-in-training; (*personne inscrite*)

"registration" means registration as a member, licensee or member-in-training under section 16 of the *Engineering and Geoscience Professions Act* (Northwest Territories), or registration as a permit holder under section 23 of that Act. (*inscription*)

Meaning of direct supervision

(2) For the purposes of this Act, a person is deemed to be working under the direct supervision of a professional engineer or professional geoscientist if the circumstances under which the work is done are such that the professional engineer or professional geoscientist

- (a) has made the decisions on technical matters of policy and design; and
- (b) has exercised his or her professional judgment in all engineering or geoscientific matters that are embodied in the plans, designs, specifications, reports or other documents in respect of which the supervision is exercised.

POWERS OF ASSOCIATION

Powers and functions of Association

2. The Association has and may exercise, in Nunavut, the same powers and functions for the regulation of the professions of professional engineering, and professional geoscience, including the discipline of registrants and permit holders in relation to conduct in Nunavut, as the Association has and may exercise in the Northwest Territories pursuant to the *Engineering and Geoscience Professions Act* (Northwest Territories).

PRACTICE

Prohibition

3. (1) Subject to this Act, no person other than a member, licensee or permit holder shall

- (a) engage in the practice of professional engineering or professional geoscience;
- (b) use, orally or otherwise, the title "professional engineer", "ingénieur", "professional geoscientist", "géoscientifique" or any variation or abbreviation of those titles;
- (c) use, orally or otherwise, any name, title, occupational designation or position description in which the term "engineer", "ingénieur", "geoscientist" or "géoscientifique" appears, or use any variation or abbreviation of those names, titles, designations or descriptions in a manner that implies that he or she
 - (i) is a professional engineer or professional geoscientist, or
 - (ii) is a person qualified to practice professional engineering or professional geoscience; or

- (d) advertise, hold himself or herself out as, or act in such a manner as to imply that he or she is a professional engineer or professional geoscientist or a person so qualified.

Exemption

(2) The title "engineer", "ingénieur", "geoscientist" or "géoscientifique" may be applied to a person registered with the Association as a member-in-training when he or she works under the direct supervision of a professional engineer or professional geoscientist, as the case may be.

Employment of professionals

(3) No person shall employ under a contract of service a person, other than a member, licensee or permit holder, to practice professional engineering or professional geoscience.

Injunction

(4) The Nunavut Court of Justice may, on the application of the Association, grant an injunction restraining a person who contravenes subsection (1) or (3) from further contravention of that subsection.

Exemption for other professionals

(5) Nothing in this section applies to

- (a) a person practising as an architect, if his or her practice is confined to architecture,
- (b) a person who holds a commission as a Canada Lands Surveyor under the *Canada Lands Surveyors Act*, if his or her practice is confined to the activities of a land surveyor,
- (c) a person practising as a mine surveyor, or
- (d) a member of the Canadian Armed Forces while he or she is employed on duty with the Forces,

provided that he or she does not hold himself or herself out as a professional engineer or professional geoscientist.

Exemption for personal work

(6) Nothing in this section prevents a person from

- (a) performing any act of professional engineering on his or her own place, or proposed place, of residence; and
- (b) assisting in the performance of any act of professional engineering referred to in paragraph (a).

Proof of practice

(7) For the purposes of this section, proof of one act of professional engineering or professional geoscience is proof of the practice of professional engineering or professional geoscience, as the case may be.

Use of title

- 4.** (1) During the period of his or her registration, a member or licensee who is registered as being
- (a) a professional engineer, is entitled to practice professional engineering and to use the title "professional engineer" or "ingénieur" and the abbreviation "P.Eng." or "ing."; or
 - (b) a professional geoscientist, is entitled to practice professional geoscience and to use the title "professional geoscientist" or "géoscientifique" and the abbreviation "P.Geo." or "géo."

Alternate titles

- (2) A professional geoscientist referred to in paragraph (1)(b) may also
- (a) use the title professional geologist or géologue and the abbreviation "P.Geol." or "géol."; or
 - (b) use the title professional geophysicist or géophysicien and the abbreviation "P.Geoph." or "géoph."

PERMITS

Definition of "firm"

- 5.** (1) In this section, "firm" includes a partnership, corporation or association of persons.

Permits

(2) A firm may practise professional engineering or professional geoscience in the name of the firm if it is the holder of a permit issued to it under the *Engineering and Geoscience Professions Act* (Northwest Territories).

Exemption

- (3) Nothing in this section prevents a firm from practising professional engineering or professional geoscience without a permit if the work
- (a) is performed by an employee who is a member or licensee;
 - (b) is used exclusively by the firm and is not used by or delivered to another party; and
 - (c) does not affect the safety of any person.

LIABILITY

Protection from liability

- 6.** No action lies against a council member, a member of the Discipline Committee, a referee, the Executive Director, an employee of the Association or a person acting on their instructions, for anything done or not done by that person in good faith and in purporting to act in accordance with this Act or the bylaws of the Association.

OFFENCES AND PUNISHMENT

Offence and punishment - illegal practice

7. Every person who contravenes section 3 is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000.

General offence and punishment

8. Every person who contravenes a provision of this Act for which no specific punishment is provided is guilty of an offence and liable on summary conviction to a fine not exceeding \$5,000.

Limitation period

9. A prosecution under this Act may not be commenced more than two years after the day the offence is alleged to have been committed.

ASSETS AND LIABILITIES OF ASSOCIATION

Division of assets and liabilities

10. The assets and liabilities of the Association shall be divided in the circumstances and in accordance with the process established in sections 61 to 64 of the *Engineering and Geoscience Professions Act* (Northwest Territories).

CONSEQUENTIAL AMENDMENT

Condominium Act

11. **Subsection 6(1) of the *Condominium Act* is amended by**
- (a) **striking out "Engineering, Geological and Geophysical Professions Act (Northwest Territories)" in the definition "engineer" and substituting "Engineering and Geoscience Professions Act (Northwest Territories)"; and**
 - (b) **striking out "Canada Lands Surveys Act" in the definition "surveyor" and substituting "Canada Lands Surveyors Act".**

REPEAL

12. **The *Engineers, Geologists and Geophysicists Act*, S.N.W.T. 1998, c. 38, s. 5, as enacted for Nunavut by section 76.05 of the *Nunavut Act*, is repealed.**

COMING INTO FORCE

Coming into force

13. **This Act or any portion of this Act comes into force on a day or days to be fixed by order of the Commissioner.**

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