

Appendix A - Relevant Legislation

PART 1: LEGISLATION PERTAINING TO COUNCIL

APEGBC's Council is established by the *Engineers and Geoscientist Act*, sections 7, 8 and 9, and bylaw 3, which are set out below:

ACT

Registrar and executive director

- 7(1) The council must appoint a registrar, who must be a member of the association.
- (2) The council must appoint an executive director.
- (3) The offices of registrar and executive director are held at the pleasure of the council and may be held by the same person.

Functions of council

- 8(1) The powers conferred on the association are to be exercised by the council.
- (2) Subject to this Act and the bylaws of the association, the council
 - (a) must govern, control and administer the affairs of the association,
 - (b) must exercise all rights and powers vested in it under this Act, and
 - (c) may pass resolutions necessary for the purposes of paragraphs (a) and (b).

Membership on and appointment to council

- 9(1) The council consists of the president, all vice presidents, the immediate past president and councillors appointed under subsection (4) or (7) or elected under subsection (6).
- (2) Despite subsections (4), (6) and (7), a councillor whose term of office has expired may continue to hold office until a successor is appointed or elected.
- (3) The council includes
 - (a) 4 councillors appointed under subsection (4),
 - (b) a further number, set by bylaw of the association and being at least 8, of councillors elected by the members and holders of limited licenses under subsection (6), and
 - (c) the councillors, if any, appointed under subsection (7).
- (4) The Lieutenant Governor in Council must appoint 4 councillors who are not members of the association and, subject to subsection (8), each serves for a 2 year term.
- (5) [Repealed 2007-8-23.]
- (6) The association must conduct a ballot of members and holders of limited licenses each year, in the manner determined by the council, to elect the councillors who are to be elected by the members and holders of limited licenses and
 - (a) each year the election must be for 1/2 the number of councillors to be elected by the members and holders of limited licenses,
 - (b) in the event of a tie vote, the winner is the candidate with greater seniority as a member or holder of a limited licence, and

- (c) each councillor elected by the members and holders of limited licenses must, subject to subsection (8), serve for a 2 year term.
- (7) If no member of a Faculty of Applied Science, Engineering or Geoscience in British Columbia or no professional geoscientist is elected under subsection (6) or section 6 (1) or (4), the council must appoint a member of a Faculty of Applied Science, Engineering or Geoscience in British Columbia or a professional geoscientist to the council for a one year term.
- (8) If a member of the council dies, resigns or is incapable of acting,
 - (a) the other members of the council must appoint a member of the association or holder of a limited licence to fill the vacancy if the councillor is an elected member, and
 - (b) the vacancy must be filled by appointment made by the Lieutenant Governor in Council if the councillor is a government appointee.

BYLAWS

Election of council

- 3 (a)(i) The members and limited licensees shall elect 10 councillors.
- (ii) Nominations for the office of president and offices of vice president and for elected members of the council shall be made by a nominating committee.

Nominating committee - composition

- (a.1) The immediate past president shall be the chair of the nominating committee. In the event that the immediate past president is unable to act then a chair shall be appointed by council or failing that the chair shall be elected by the members present at the meeting.

No member of council may serve on the nominating committee, except in the capacity of chair.

Members of the committee shall be selected as follows:

- (i) Each year the council shall direct that the duly constituted geographical branches appoint 8 members or limited licensees to the nominating committee
- (ii) The council shall appoint additional members or limited licensees to the committee to bring the total number of members to 14.
- (iii) The committee will include at least one P.Geo. and one P.Eng.

Nominating committee - procedure

- (b) The nominating committee shall nominate one or more candidates for the office of president and at least one more candidate than there are offices of vice president to be filled. Such nominations shall be made, in the case of president, from members or limited licensees who shall have served for at least 2 full years as a councillor prior to the date of taking office and, in the case of vice president, from members or limited licensee's who shall have served for at least one full year as a councillor prior to the date of taking office, provided that in each case such members or limited licensees are available.
- (c) Providing that in each case candidates are available, the nominating committee shall nominate at least 3 more candidates than there are vacancies to be filled on the council, with at least one candidate from each of the groups of disciplines of:

- (1) Engineering:
 - (i) civil and surveying
 - (ii) electrical and computer
 - (iii) mechanical, industrial, naval and marine, and nuclear
 - (iv) mining, geological, geophysical, petroleum and metallurgical
 - (v) chemical, forest, agricultural and bio-resource, biomedical, structural and environmental.
- (2) Geoscience:
 - (i) geology, geophysics and geochemistry.

Nominees in any discipline that is not listed shall be assigned to one of the 6 groups of disciplines at the discretion of council.

In the case of a vacancy in the council due to the incapacity, resignation or death of an elected member of council, the other members of council shall appoint a member or limited licensee of the association to fill the vacancy until the next regular election when the vacancy shall be filled through election by members and limited licensees of the association.

- (d) The list of candidates, nominated by the nominating committee, signed by the chair of the nominating committee and accompanied by the written consent of the nominees shall be placed in the hands of the registrar and shall be published at least 90 days prior to the annual meeting.
- (e) Nominations of candidates for president, vice presidents, and councillors may also be made in writing by any 25 or more members or limited licensees. Such nominations, signed by the members or limited licensees making the nomination and accompanied by the written consent thereto of the nominees, shall be in the hands of the registrar not later than 30 days after publication of the list of candidates nominated by the nominating committee.
- (f) The registrar shall prepare a ballot containing the names of all candidates nominated by the nominating committee and those nominated by 25 or more members or limited licensees.
- (g) The election of president, vice presidents, and the 10 councillors shall be by ballot. President and vice presidents shall be elected for a 1 year term. Half of the elected councillors shall be elected each year for a 2 year term except as provided under subsections (c) and (k).
- (h) Voting shall be closed at noon on the 15th day prior to the annual meeting. Ballots received after that time shall not be counted.
- (i) Voting for more than the number of officers or councillors to be elected shall render that part of the ballot invalid. Voting for less than the full slate of candidates shall not invalidate the ballot.
- (j) Ballots shall be counted at least 10 days prior to the annual meeting under the supervision of 3 members appointed by council.
- (k) The successful candidates for the offices of president, and vice president and for members of council shall be those who have received the largest number of votes. When there is more than one office of vice president, the candidate receiving the largest number of votes shall be elected first vice president and the candidate receiving the second largest number of votes shall be elected second vice president. If there are any vacancies in council to be filled the candidate or candidates receiving the next highest number of votes shall be elected for the unexpired term or terms to be filled. In the event of a tie vote between 2 or more candidates, the person or persons to be declared elected shall be the senior in membership or licensure of the association.

On completion of the counting of the ballots, the chair of the ballot-counting committee shall deliver to the president or to the registrar the results of the poll, together with the tally sheets. The president or the registrar shall inform each candidate in the election of the results and the results shall be announced at the annual meeting by the chair of the meeting. The officers and councillors so elected shall take office at the close of the annual meeting.

PART 2: LEGISLATION RELATING TO COUNCIL MEETINGS

Sections 6 and 12 of the *Engineers and Geoscientists Act* and bylaw 6 govern the conduct of Council meetings and are set out below:

ACT

President and vice presidents

- 6(1) The president must be elected annually by the members of the association and holders of limited licenses, and holds office until a successor is elected.
- (2) The president, if present, presides at all meetings of the association and the council unless the president requests the meeting to appoint some other person to preside.
- (3) The president, or the person appointed in the president's place, votes only when the votes of the members are equally divided.
- (4) One or more vice presidents, one of whom must be designated by the council to have all the powers and rights of the president during the president's absence, must be elected annually by the members of the association and holders of limited licenses.
- (5) A vice president may hold office until a successor is elected.

BYLAWS

Proceedings of council

- 6 (a) The council of the association may meet together for the dispatch of business, adjourn, and otherwise regulate their meetings, as it sees fit. Questions arising at any meeting shall be decided by a majority of votes. Three councillors may at any time summon a meeting of the council, giving 7 days' notice to all members of the date, hour and place and purpose of such meeting.
- (b) The quorum necessary for the transaction of the business of the council shall be 50% of the members of council.
- (c) A resolution assented to and adopted in writing under the hands of the councillors or passed by electronic means, although not passed at a council meeting, shall be of the same force and effect as if it had been duly passed at a council meeting.
- (d) In the absence of both the president and the vice presidents the councillors present may choose one of their number to be chair of the meeting, and the chair so chosen shall exercise all the functions and authority of the president for the transaction of business at that meeting.

- (e) The council may delegate any of its powers to committees. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the council.
- (f) The council may appoint the chair of any committee. If council does not appoint a chair then the committee shall elect one of their number as chair. If at any meeting the chair is not present within 10 minutes after the time appointed for holding the meeting, the members present may choose one of their number to be chair of the meeting.
- (g) A committee may meet and adjourn as it sees fit. Questions arising at any meeting shall be determined by a majority of the members present, and in the case of an equality of votes, the chair shall have a casting vote.
- (h) The council shall cause minutes to be made in books provided for the purpose of recording:
 - (1) All appointments of officers, examining board, and staff made by the council.
 - (2) The names of the councillors present at each meeting of the council and of any committee of the council.
 - (3) All resolutions and proceedings of all meetings of the association and of the council and of committees of the council.

PART 3: AMENDMENTS TO APEGBC'S LEGISLATION

The *Engineers and Geoscientists Act* is a provincial statute and can only be amended by the Legislature. APEGBC members and licensees do not vote on proposed amendments to the Act but are typically advised of and consulted on proposed changes, subject to any confidentiality requirements imposed by government.

The creation and alteration of Bylaws is governed by sections 10 and 11 of the *Engineers and Geoscientists Act* and bylaw 13. Members and licensees are consulted on proposed amendments to bylaws in accordance with the Bylaw Consultation Policy:

ACT

Bylaws

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

recommended by the investigation committee or subcommittee or as referred by the registrar;

- (d.1) the establishment by the council of a conduct review program for members, licensees and certificate holders, including the creation of a conduct review committee to perform conduct reviews as directed by the council, as recommended by the investigation committee or subcommittee or as referred by the registrar;
- (e) the circumstances in which members, licensees or certificate holders, or a class of members, licensees or certificate holders, must hold professional liability insurance and the amount and category of professional liability insurance that must be held;
 - (e.1) the establishment and administration of a professional liability insurance program in any category including, without limitation, for providing the council with the power to establish terms, conditions, policies and procedures for categories of professional liability insurance;
 - (e.2) the circumstances and manner in which members, licensees or certificate holders, or a class of members, licensees or certificate holders, must disclose
 - (i) whether professional liability insurance is held, and
 - (ii) whether the insurance is applicable to the services in question;
- (f) the management and maintenance of the association and its property, both real and personal, the investment of its funds, banking, the borrowing of money, the appointment of staff and their remuneration and generally for the carrying on of the general business of the association;
- (g) the establishment, levying, payment and remission of
 - (i) [Repealed 2010-3-2.]
 - (ii) admission fees,
 - (iii) application fees,
 - (iv) licence fees,
 - (v) professional liability insurance fees, and
 - (vi) any other fees except, with respect to members, licensees and certificate holders, late fees, annual fees and reinstatement fees, including, without limitation, for providing the council with the power to establish, levy, require payment of, and authorize remission of, those fees;
- (h) [Repealed 2002-35-4.]
- (i) the establishment and regulation of standards of admission to membership and the enrolment and qualifications of candidates for admission to membership;
 - (i.1) the establishment of standards of practice or a code of conduct for members and licensees;
- (j) the establishment and enforcement of standards for certificate holders;
- (k) the classification of the different disciplines of professional engineering and professional geoscience and the designation of the different grades of membership in the association and limitation of the rights of members within the different disciplines and grades;
 - (k.1) the designation of specialized areas of professional engineering or professional geoscience;
 - (k.2) the qualification and certification of members, licensees or certificate holders as specialists in areas of professional engineering or professional geoscience designated under paragraph (k.1);
 - (k.3) the prohibition of members, licensees or certificate holders from holding themselves out as specialists in a designated area of professional

- engineering or professional geoscience unless the member, licensee or certificate holder is certified under a bylaw made under paragraph (k.2);
 - (l) the subjects of study, the examinations to be passed and the experience required as a preliminary to or on application for membership in the association, or for a licence issued under this Act;
 - (m) the establishment and monitoring of compliance with standards of training and experience required for licensees, and the enrolment and qualifications for a limited licensee, including limited licenses for applied science technologists;
 - (m.1) the establishment and enforcement of professional development requirements to assist in promoting and maintaining the competency and proficiency of members and licensees;
 - (m.2) the establishment of an alternative complaint resolution process to assist, in appropriate circumstances, in the resolution of complaints;
 - (n) the resignation of members;
 - (n.1) the establishment of requirements and procedures for the reinstatement of former members, licensees and certificate holders, including, without limitation, the imposition of conditions on reinstatement and direct supervision of former members, licensees and certificate holders;
 - (o) the calling and conduct of meetings of the association and of the council, the necessary quorums, voting, the appointment of committees and their powers and other matters in that connection;
 - (p) the assistance, pecuniary or otherwise, to be given to individuals and organizations if, in the opinion of the council, the assistance will be of benefit to the public, the association or its members;
 - (q) the promotion of better public relations in the manner and by the means the council sees fit, including, without limitation, the publication of books, papers and periodicals;
 - (r) the creation of divisions, committees and regional groups, and the delegation to them of those powers and authority the council sees fit;
 - (s) the establishment, development and administration of ancillary bodies and the qualifications for admission to these bodies;
 - (t) all other purposes reasonably necessary for the management, regulation and well-being of the association.
- (1.1) For the purposes of bylaws under subsection (1) (e), (e.1) or (e.2), the council, by bylaw, may
- (a) establish classes of members, licensees or certificate holders,
 - (b) specify different categories of professional liability insurance, and
 - (c) require that different classes of members, licensees or certificate holders hold different categories of professional liability insurance.
- (1.2) The council may make bylaws under subsection (1) establishing standards of practice, a code of conduct or a quality management program that have been developed in concert with the governing body of another profession.
- (2) A bylaw does not come into force until
- (a) the requirements of section 11 have been met, and
 - (b) the 45 day period set by section 11 (3) ends.

Ratification of bylaws

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

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

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

BYLAWS

Change of bylaws

- 13 (a) The introduction of new bylaws and the amendment or repeal of existing bylaws shall be effected in the manner prescribed in sections 10 and 11 of the Act.
- (b) Any request by a member or members or limited licensee or limited licensees of the association for the introduction of a new bylaw, or the amendment or repeal of an existing bylaw, shall be given in writing to the registrar and shall be considered by the council within 60 days of the receipt of such request. If necessary a ballot shall be taken as provided in section 12 of the Act, and if the proposed new bylaw, amendment or repeal of existing bylaw is approved by a two-thirds majority of the votes cast, such action shall be considered as a mandate to the council.