

Applied Science Technology Act

CHAPTER 3

OF THE

ACTS OF 1999

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An Act Respecting Certified Applied Science Technicians and Technologists

Short title

1 This Act may be cited as the *Applied Science Technology Act*. 1999, c. 3, s. 1.

Purpose of Act

2 (1) The purpose of this Act is to regulate and govern the use by a person of the designations "Certified Engineering Technician", "Certified Engineering Technologist", "Certified Applied Science Technician" and "Certified Applied Science Technologist" and the initials "CET", "C.E.T.", "AScT", "A.Sc.T.", "CTech" and "C. Tech.", or any like words, initials or expressions used alone or in combination with other words or expressions, as a professional designation indicating that a person is recognized by law as a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist of the Society of Certified Engineering Technicians and Technologists of Nova Scotia.

(2) Notwithstanding subsection (1), this Act does not restrict the right of a person to carry on any occupation. 1999, c. 3, s. 2.

Interpretation

3 (1) In this Act,

(a) "approved school or program" means a school, course of study or educational program in an applied science technology approved by the Council;

(b) "by-law" means a by-law made by the Council;

(c) "certification" means the entry of the name of a person in the register;

(d) "Certification Board" means the Certification Board established pursuant to this Act;

(e) "Certification Review Board" means the Certification Review Board established pursuant to this Act;

(f) "certified applied science technician" means a person whose name is entered in the Register as a certified applied science technician;

(g) "certified applied science technologist" means a person whose name is entered in the Register as a certified applied science technologist;

(h) "certified engineering technician" means a person whose name is entered in the Register as a certified engineering technician;

(i) "certified engineering technologist" means a person whose name is entered in the Register as a certified engineering technologist;

(j) "Complaints Committee" means the Complaints Committee established pursuant to this Act;

(k) "Council" means the Council of the Society;

(l) "Court" means the Supreme Court of Nova Scotia;

(m) "Discipline Committee" means the Discipline Committee established pursuant to this Act;

(n) "Executive Director" means the Executive Director of the Society;

(o) "member" means a certified engineering technician, a certified engineering technologist, a certified applied science technician or a certified applied science technologist and any individual whose name is entered in the Temporary Register or in any of the rosters established and maintained pursuant to this Act, the by-laws or the rules;

(p) "occupation of applied science technology" means providing services by a certified engineering technician, a certified engineering technologist, a certified applied science technician or a certified applied science technologist in accordance with

- (i) their academic qualifications, learning and experience,
 - (ii) generally accepted practices and procedures within nationally accepted codes and standards, and
 - (iii) the Society's Code of Ethics;
- (q) "prescribed" means prescribed by by-laws or rules made by the Council pursuant to this Act;
- (r) "professional incompetence" means an act or omission on the part of a member, in the occupation of applied science technology, that demonstrates a lack of knowledge, skill or judgement or a disregard for the interests of the recipient of the member's services of such a nature and to such an extent as to render the member unfit to carry on the occupation of applied science technology or to carry on the occupation of applied science technology without conditions, limitations or restrictions;
- (s) "professional misconduct" means a serious digression from established or recognized standards or rules of the Society or generally of the occupation of applied science technology and includes a breach of such rules of ethics or conduct as may be prescribed by by-law;
- (t) "Register" means the Register kept pursuant to this Act;
- (u) "Registrar" means the Registrar of the Society;
- (v) "rosters" means the rosters kept pursuant to this Act;
- (w) "rule" means a rule made by the Council;
- (x) "Society" means the Society of Certified Engineering Technicians and Technologists of Nova Scotia continued by this Act;
- (y) "Temporary Register" means the Temporary Register kept pursuant to this Act.
- (2)** The designations "Certified Engineering Technician", "Certified Engineering Technologist", "Certified Applied Science Technician" and "Certified Applied Science Technologist" and the initials "CET", "C.E.T.", "AScT", "A.Sc.T.", "CTech" and "C. Tech.", or any like words, initials or expressions used alone or in combination with other words or expressions indicating that a person is recognized by law as a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist or indicating that a person is a member of the Society in the Province, when used in an Act of the Legislature or a regulation, rule, order or by-law made pursuant to an Act of the Legislature enacted or made before or after the coming into force of this Act or when used in any public document, shall be read as including a person whose name is entered in the Register or the Temporary Register. 1999, c. 3, s. 3.

SOCIETY

Incorporation of Society

4 The Society of Certified Engineering Technicians and Technologists of Nova Scotia, incorporated pursuant to the *Societies Act*, is hereby continued as a body corporate. 1999, c. 3, s. 4.

Council

5 (1) A Council of the Society, consisting of not less than ten directors, is responsible for the administration of this Act and shall control, govern and manage, or supervise the control, government and management of, the business and affairs of the Society.

(2) The number of directors, their respective terms of office, the manner of their appointment or election and their qualifications shall be established and governed by the by-laws of the Society and the by-laws may provide for alternative directors, for the filling of vacancies and for the appointment of additional directors. 1999, c. 3, s. 5.

By-laws

6 (1) Unless otherwise provided by this Act or the by-laws, the Council may, by resolution, make, amend or repeal any by-laws regulating the business or affairs of the Society and, without restricting the generality of the foregoing, may make, amend or repeal by-laws

(a) governing and regulating

(i) the admission, suspension, expulsion, removal, discipline and re-instatement of members, the conditions precedent to membership in the Society and the conditions for continued membership in the Society,

(ii) the certification and renewal, suspension, cancellation, and re-instatement of certification of certified engineering technicians, certified engineering technologists, certified applied science technicians and certified applied science technologists, including the imposition of limitations, restrictions and conditions on any certification issued or granted pursuant to this Act;

(b) establishing one or more categories of membership and determining the rights, privileges and obligations of the members of each category;

(c) creating and organizing local regions, branches or other subsections of the Society and governing the management of such regions, branches or subsections;

(d) approving or accrediting schools, courses of study or educational programs in applied science technology and establishing terms and conditions for approval or continued approval of such schools, courses of study and educational programs, including basic standards of curricula;

- (e) determining the method of setting annual certification or membership fees payable to the Society and providing for the collection of the fees;
- (f) providing for the election or appointment, removal and remuneration of and establishing the powers and duties of officers, officials, employees and agents of the Society or the Council;
- (g) creating and governing committees for the carrying out of the business and affairs of the Council and the Society;
- (h) delegating to officers, officials, employees or committees any of the duties, powers and privileges of the Council;
- (i) fixing and regulating the quorum, time, place, calling, conduct and business of annual, special and general meetings of the Society, the Council and committees of the Society or the Council, and establishing the method of voting, including voting by mail, proxy voting, delegate voting or other means and establishing the qualifications of persons entitled to vote;
- (j) developing, establishing, maintaining and administering
 - (i) standards for the education programs leading to certification as an applied science technologist or technician,
 - (ii) standards for continuing education and requiring the participation in continuing education programs by certified engineering technicians, certified engineering technologists, certified applied science technicians and certified applied science technologists,
 - (iii) rules of ethics or conduct for certified engineering technicians, certified engineering technologists, certified applied science technicians and certified applied science technologists;
- (k) respecting and governing the management and disposition of trust, charitable or benevolent funds committed to the care of the Society;
- (l) setting the fiscal year of the Society, determining the place where the head office of the Society shall be located and the place or places where other offices of the Society shall be located;
- (m) determining the aspects, subjects or matters of the business and affairs of the Society that may be regulated and governed by rules of the Council;
- (n) authorizing the making of co-operative or affiliation arrangements with any institution, organization or professional body in any jurisdiction;

(o) respecting and governing such subjects, matters and things as the Council considers appropriate to administer this Act or to advance or protect the interests of the public, the Society or the members,

and, subject to subsection (2), the by-laws are valid, binding and effective from the date of the Council's resolution enacting the by-law until the by-law is amended or repealed by an ordinary resolution at an annual, special or general meeting of the Society called for that purpose or until the by-law ceases to be effective pursuant to subsection (4) and, where a by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

(2) By-laws relating to matters referred to in clauses (1)(a), (b), (c), (f), (i), (j) or (m) are not effective or may not be acted upon until confirmed by an ordinary resolution at an annual, special or general meeting of the Society and, where a by-law is amended by ordinary resolution at a meeting, it becomes effective in the form in which it is amended.

(3) Council shall cause the text of a by-law enacted by it to be sent to all members with the notice of the next annual meeting following the enactment or with the notice of any special or general meeting called for the purpose of considering the by-law and, at such meeting, the by-law may be confirmed, rejected, repealed or amended by an ordinary resolution.

(4) Where a by-law is repealed at a meeting of the Society or where the Council does not send the by-law to the members as required by subsection (3), the by-law ceases to be effective and no subsequent Council resolution making that by-law or any by-law having substantially the same purpose or effect is effective until it is confirmed in the manner set out in subsection (2). 1999, c. 3, s. 6.

Rules

7 Unless otherwise provided by this Act or the by-laws, the Council may, by resolution, make any rule not contrary to the by-laws regulating any of the aspects, subjects or matters of the business or affairs of the Society as may be governed by by-law and any rule is valid, binding and effective from the date of the resolution of Council until amended or repealed by an ordinary resolution at an annual, special or general meeting of the Society called for the purpose of considering the rule. 1999, c. 3, s. 7.

Preservation of rights and legality of acts

8 No act or thing done in reliance on, or right acquired under or pursuant to, a by-law or rule that is subsequently repealed or amended is prejudicially affected by the repeal or amendment. 1999, c. 3, s. 8.

Exemption from Regulations Act

9 The *Regulations Act* does not apply to the Society or any by-law, rule or resolution made by the Society or the Council, but a by-law or rule of the Society or the Council shall be available for inspection by any person at the head office of the Society at all reasonable times during business hours, free of charge. 1999, c. 3, s. 9.

Executive Committee

10 (1) There shall be an Executive Committee of Council, composed of members of Council that may, between meetings of Council or at such other times as may be prescribed, carry out any of the duties and exercise any of the powers and privileges of the Council and such other duties as may be assigned to it by the Council, the by-laws or the rules.

(2) The number of members of the Executive Committee, their respective terms of office, the manner of their appointment or election and their qualifications shall be established and governed by the by-laws. 1999, c. 3, s. 10.

Executive Director and Registrar

11 (1) Council may appoint an Executive Director of the Society who holds office during the pleasure of the Council.

(2) Council may appoint a Registrar of the Society who holds office during the pleasure of Council.

(3) The Executive Director and the Registrar are at all times subject to the directions of Council.

(4) The offices of Executive Director and Registrar may both be held by one person at the same time. 1999, c. 3, s. 11.

REGISTER

Register and Temporary Registrar

12 (1) The Registrar shall keep or cause to be kept

(a) a Register in which shall be entered the name and address of every person who has been granted membership pursuant to this Act, the by-laws or the rules;

(b) a Temporary Register in which shall be entered the name and address of every person who is permitted to hold himself or herself out as a member pursuant to this Act, the by-laws or the rules under such circumstances, conditions, limitations and restrictions and for such temporary and limited periods of time as are set out in the by-laws or the rules; and

(c) rosters of members in which shall be entered the name and address of every person who has been granted membership in a category of membership established by the by-laws or the rules, other than persons whose names are entered in the Register.

(2) The Register shall be divided into

(a) a part in which shall be entered the names of persons qualified pursuant to the by-laws or rules for certification as a certified engineering technician or certified applied science technician;

(b) a part in which shall be entered the names of persons qualified pursuant to the by-laws or rules for certification as a certified engineering technologist or certified applied science technologist; and

(c) such other parts as may be prescribed, in which shall be entered the names of persons qualified pursuant to the by-laws or rules for such classifications and levels of certification as may be prescribed.

(3) The Register and the Temporary Register shall be open for inspection by any person at the head office of the Society at all reasonable times during regular business hours, free of charge, but an officer or employee of the Society may refuse any person access to, or the privilege of inspecting, the registers if there is cause to believe that the person is seeking access or inspection primarily for a commercial purpose. 1999, c. 3, s. 12.

Rights of persons registered

13 (1) A person whose name is entered in the Register, subject to any conditions, limitations or restrictions set out in the person's certificate, the by-laws or the rules, is entitled to hold himself or herself out as a "Certified Engineering Technician", a "Certified Engineering Technologist", a "Certified Applied Science Technician" or a "Certified Applied Science Technologist", as the case may be, and use the designations "CET", "C.E.T.", "CTech", "C.Tech.", "AScT" or "A.Sc.T.", as the case may be.

(2) A person whose name is entered in the Temporary Register is entitled to the privileges and rights referred to in subsection (1) for such limited period of time, in such circumstances and subject to such conditions, limitations and restrictions as may be prescribed. 1999, c. 3, s. 13.

Removal of name from Register

14 (1) The Registrar shall remove or cause the removal of the name of any person from the Register or one or more of the rosters, who fails to meet or maintain the qualifications and standards for entry in such Register or roster.

(2) The certification of a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist terminates and ceases to have effect when the person's name is removed from the Register. 1999, c. 3, s. 14.

Effect of disciplinary action outside Province

15 A person who was entitled to use any designation indicating that the person was a member of a society pursuant to the laws governing or concerning the occupation of applied science technology in any other jurisdiction and who has been suspended from or otherwise restricted in or disqualified from using any such designation in another jurisdiction by reason of misconduct, dishonesty or incompetence is not entitled to apply for certification pursuant to this Act until such time as the suspension, restriction or disqualification has been removed in the other jurisdiction. 1999, c. 3, s. 15.

CERTIFICATION

Certificate of certification

16 (1) The Registrar shall issue or cause to be issued annually, or at such other times as may be set out in the rules, a certificate of certification or a validation seal to be affixed to a previously issued certificate to persons whose names are entered in the Register or the Temporary Register, and each certificate or validation seal shall state the date on which it expires and any conditions, limitations or restrictions imposed on the certification of the person in respect of whom the certificate or validation seal is issued.

(2) No person is entitled to have the person's name entered in the Register or to receive a certificate or validation seal unless the person

(a) has satisfied the prescribed requirements for certification; and

(b) has paid all applicable prescribed fees.

(3) A person whose certification has been suspended or revoked shall, without demand, forthwith deliver the certificate or validation seal to the Registrar. 1999, c. 3, s. 16.

Evidentiary effect of statement

17 A statement certified under the hand of the Registrar respecting the records of the Society or the certification of a person is admissible in evidence in any proceeding as *prima facie* proof of the facts set out in the certificate relating to the certification of a person or the lack of certification and any condition, limitation or restriction in respect of the certification of a person. 1999, c. 3, s. 17.

Prerequisites to entitlement to certification

18 An applicant for certification who

(a) fulfills the requirements of approved applied science technology experience and education prescribed by the rules or set out in a manual of experience and education approved by the rules;

(b) provides satisfactory evidence of good character;

(c) pays the prescribed fees; and

(d) meets such other criteria and has such other qualifications as may be prescribed,

following consideration of the person's application by the Certification Board, and upon approval of the Council, is entitled to become certified as a member of the Society and to have the person's name entered in the part of the Register that the Council determines to be appropriate. 1999, c. 3, s. 18.

Certification Board

19 (1) The Council shall appoint and maintain a Certification Board and a Certification Review Board consisting of members of the Society and such other persons as the Council may select.

(2) The quorum, number of members of the Certification Board and the Certification Review Board, their terms of office, qualifications and the manner of their appointment shall be established and governed by the by-laws, and the by-laws may regulate the powers, procedures, functions and operations of the Certification Board and the Certification Review Board and may permit the establishment of panels of either Board to act for and to carry out and exercise all the duties and powers of the respective Boards.

(3) The duties of the Certification Board are to

(a) recommend to the Council the standards and grades that should be recognized by the certification procedure as provided for in this Section;

(b) conduct or approve examinations, including national examinations, of candidates for certification at such times and at such places as the Certification Board may direct;

(c) consider all applications for certification, review the qualifications of all applicants and recommend to the Council those applicants it considers to have met the qualifications required for certification set out in this Act, the by-laws or the rules; and

(d) carry out the duties and functions and exercise the powers and privileges as may be assigned by the Council.

(4) At the written request of a person whose application for certification has not been recommended to the Council by the Certification Board and upon payment of the prescribed fees, the Certification Review Board shall review the application for certification of the person and may

(a) confirm the decision of the Certification Board; or

(b) refer the application to the Certification Board for reconsideration and make such recommendations to the Certification Board as it deems appropriate. 1999, c. 3, s. 19.

COMPLAINTS AND DISCIPLINE

Interpretation of Sections 21 to 26

20 In Sections 21 to 26,

(a) "complaint" means a complaint, report or allegation in writing and signed by the complainant regarding the conduct, actions, competence, character, fitness or ability of a member;

(b) "member" includes a former member and any person whose name is or was entered in any Register or roster of the Society. 1999, c. 3, s. 20.

Treatment of complaints

21 (1) The Council shall cause an investigation to be carried out by the Complaints Committee of every complaint received, if the complaint in substance alleges that a member

(a) has been guilty of

(i) professional misconduct or professional incompetence as a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist,

(ii) conduct unbecoming a member, including any conduct that might adversely affect the standing or good name of the occupation of applied science technology or the Society,

(iii) any conduct in breach of this Act, the by-laws or the Code of Ethics, or

(iv) dishonesty; or

(b) is suffering from an ailment or condition rendering the member unfit or incapable of carrying on the occupation of applied science technology.

(2) All complaints against a member received by the Society or the Council shall be delivered forthwith by the Registrar to the Chair of the Complaints Committee and a copy of the complaint shall immediately be forwarded to the member. 1999, c. 3, s. 21.

Complaints Committee

22 (1) The Council shall maintain a standing committee to be known as the Complaints Committee.

(2) The Complaints Committee shall be composed of certified engineering technicians, certified engineering technologists, certified applied science technicians or certified applied science technologists and no member of the Committee shall be a director of the Council or a member of the Discipline Committee.

(3) The quorum, number of members, terms of office, qualifications and the manner of the appointment of members of the Complaints Committee shall be established and governed by the by-laws, and the by-laws may regulate the powers, procedures, functions and operations of the Committee and permit the establishment of panels of the Committee to act for and to carry out and exercise all the duties and powers of the Committee.

(4) The Council shall appoint one of the members of the Complaints Committee to be the Chair of the Committee.

(5) The Complaints Committee shall

(a) consider and investigate all complaints delivered to it and attempt to resolve informally any complaint if the Committee deems it appropriate; and

(b) perform such duties as may be assigned to it by the Council, the by-laws or the rules.

(6) The Complaints Committee shall consider only written evidence and, in this Section, "evidence" includes any documents that may be presented to the Committee.

(7) The Complaints Committee may engage such persons as it deems necessary, including legal counsel, to assist it in the consideration and investigation of complaints and, subject to the by-laws, shall determine its own rules of procedure.

(8) A member against whom a complaint has been made is entitled to

(a) prompt notice that a complaint has been received by the Complaints Committee or that Council has caused an investigation to be commenced by the Committee and a copy of the complaint;

(b) copies of all evidence presented to the Complaints Committee in writing concerning the complaint; and

(c) at least fourteen days notice of the first meeting of the Complaints Committee called to consider the complaint, accompanied by copies of all evidence in writing concerning the complaint, other than privileged documents, then in the possession of the Committee and the opportunity after such notice to submit to the Committee, in writing, any explanation, evidence, documents or representation the member may wish to make concerning the complaint or investigation.

(9) After reviewing all the evidence presented to it, the Complaints Committee shall determine whether the complaint warrants further consideration and may

(a) dismiss the complaint; or

(b) refer the complaint to the Discipline Committee.

(10) A complainant who is dissatisfied with a decision made pursuant to clause 9(a) may appeal, within thirty days, to the Discipline Committee. 1999, c. 3, s. 22.

Discipline Committee

23 (1) The Council shall maintain a standing committee to be known as the Discipline Committee.

(2) The Discipline Committee shall be composed of certified engineering technicians, certified engineering technologists, certified applied science technicians or certified applied science technologists but no member of the Committee shall be a director of the Council.

(3) The quorum, number of members, terms of office, qualifications and the manner or the appointment of the members of the Discipline Committee shall be established and governed by the by-laws, and the by-laws may regulate the powers, procedures, functions and operations of the Committee and permit the establishment of panels of the Committee to act for and to carry out and exercise all the duties and powers of the Committee.

(4) The Council shall appoint one of the members of the Discipline Committee to be the Chair of the Committee.

(5) The Discipline Committee shall, subject to the by-laws, conduct its proceedings in accordance with its own rules of procedure and may do all things and engage such persons, including legal counsel, as it deems necessary to provide for the investigation, hearing and consideration of a complaint or appeal, and in no case is the Discipline Committee bound to follow the technical rules of evidence or procedure applicable in judicial proceedings.

(6) The Discipline Committee shall

(a) consider and investigate complaints referred to it by the Complaints Committee or the complainant and attempt to resolve informally any complaint if the Committee deems it appropriate; and

(b) perform such duties as may be assigned to it by the Council.

(7) The Discipline Committee shall

(a) consider the complaint, hear the evidence, ascertain the facts and make a decision with respect to the merits of each complaint as to whether the member is guilty of a matter referred to in clause 21(1)(a) or is suffering from an ailment or condition referred to in clause 21(1)(b), in such manner as the Committee deems fit; and

(b) where the Discipline Committee in its absolute discretion at any time after the receipt of a complaint deems it necessary or advisable, without hearing, require any member to produce records or documents in the member's possession or custody or under the member's control or in the possession or custody or control of any corporation of which the member is a director, officer

or shareholder and, where the member fails to produce the records or documents, the Discipline Committee may suspend the member's certification or membership until the member produces the records or documents, unless the member is prohibited by law from producing the records or documents.

(8) After reviewing all of the evidence presented to it the Discipline Committee may, as part of its decision with respect to the merits of any complaint, do one or more of the following:

(a) order that the member's certification or membership be suspended for a specific period of time during which the member's name shall be removed from the Register, the Temporary Register or any roster in which the member's name is entered;

(b) order that the member's certification or membership be suspended pending the satisfaction and completion of such conditions as may be ordered by the Committee;

(c) order that the member's certification or membership be revoked and the member's name be removed from the Register, the Temporary Register or any roster in which the member's name is entered;

(d) order that conditions or limitations be imposed on the member's certification or membership and so inform the member's employer, if any;

(e) issue a reprimand;

(f) dismiss the complaint;

(g) impose such fine as the Committee considers appropriate, not exceeding five thousand dollars, to be paid by the member to the Society for the use of the Society and recoverable by the Society by civil action for debt;

(h) order that the imposition of any penalty be suspended or postponed for such period of time and upon such terms and conditions as the Committee deems appropriate;

(i) order that the decision of the Committee or notice of the decision be published in such manner as the Committee deems fit; or

(j) make such order as the Committee deems just.

(9) Before commencing an investigation into a complaint, the Discipline Committee may order that security for costs be paid to the Society by the complainant in such amount and on such terms as the Committee may deem just, and the Committee is not obligated to proceed with an investigation until the security for costs is paid.

(10) Notwithstanding anything contained in this Act, where at any time a member admits any allegation in a complaint alleging a matter set out in subsection 21(1) and the member waives, in writing, the right to any other or further hearing or proceedings pursuant to Sections 21 to 26, the Discipline Committee may

(a) agree to cancel all hearings or proceedings and to accept the member's resignation on such terms and conditions as the Committee may specify; or

(b) make any order, finding or decision that may be made pursuant to this Section or Section 29. 1999, c. 3, s. 23.

Evidence and burden of proof

24 (1) Any party to a hearing may obtain from the Court subpoenas for the attendance of witnesses and the production of books, documents and things at the hearing, and failure to comply with a subpoena or refusal to give evidence is a contempt of court.

(2) The testimony of witnesses shall be taken under oath or solemn affirmation which any member of the Discipline Committee may administer.

(3) The burden of proof in all proceedings before the Discipline Committee is the balance of probabilities. 1999, c. 3, s. 24.

Suspension

25 The Registrar may, without hearing, order the suspension of the certification or membership of a member if the Registrar has reasonable and probable grounds for believing that the member in question has been convicted of a criminal offence of such kind or type that, in the opinion of the Registrar, the continued certification or membership of the member in question would immediately affect the good name of the Society or the profession and, upon the Registrar ordering the suspension, the Discipline Committee shall immediately commence an investigation. 1999, c. 3, s. 25.

Rights of member subject to complaint

26 (1) In all proceedings before the Discipline Committee, the member against whom a complaint is made or in respect of whom an investigation is commenced

(a) may be represented by legal counsel, at the member's own expense;

(b) shall be entitled to a full right to examine, cross-examine and re-examine witnesses in accordance with the rules of procedure established by the Discipline Committee;

(c) shall be entitled to receive copies of all documents presented to the Discipline Committee in connection with the complaint or investigation, unless the documents are privileged by law;

(d) shall be entitled to at least fourteen days written notice of the date of the first hearing of the Discipline Committee; and

(e) shall receive prompt notice of and a copy of the decision rendered.

(2) Subsection 41(1) does not apply to a discipline proceeding pursuant to Sections 21 to 26. 1999, c. 3, s. 26.

Appeal to Court

27 (1) Where

(a) a complainant is dissatisfied with a decision of the Discipline Committee;

(b) a member against whom a complaint has been made is dissatisfied with a decision of the Discipline Committee; or

(c) an applicant for certification is dissatisfied with a decision of the Certification Board, after such decision has been considered by the Certification Review Board,

the person may, within thirty days of the date on which notice of the decision is mailed to the last known address of the person, appeal the decision to the Court and shall, within fourteen days, serve a copy of the notice of appeal on the Registrar.

(2) A notice of appeal pursuant to subsection (1) shall set forth the grounds of appeal and state the relief sought. 1999, c. 3, s. 27.

Order or decision on appeal and standing of Society

28 (1) The Court may make any order or decision that the Discipline Committee or the Certification Review Board, as the case may be, could have made and may make such order as to costs as may be just.

(2) The Society has standing to appear and participate in any appeal to the Court.

(3) Notwithstanding that an appeal to the Court has been instituted in respect of a decision or order, that decision or order continues to be valid and binding and no stay of proceedings may be granted prior to the hearing of the appeal. 1999, c. 3, s. 28.

Costs

29 (1) The Discipline Committee or the Court, may order that the costs of an investigation, proceeding, hearing or appeal pursuant to this Act be paid to any one or more of the Society or the parties, in whole or in part, by

(a) the member against whom the complaint was made, except where the complaint is completely dismissed without any other decision, finding or order adverse to that member; or

(b) the complainant or person at whose request the complaint was made or an investigation was commenced if the Discipline Committee or the Court is of the opinion that the complaint or investigation was unwarranted,

and it may be made a condition of the certification of any member that such costs be paid forthwith where the costs are imposed pursuant to clause (a) or where the complainant referred to in clause (b) is a member.

(2) Before hearing an appeal, the Court may order that security for costs be paid to the Society by the appellant in such amount and upon such terms as the Court deems just.

(3) In this Section, "costs" includes

(a) all costs, expenses and disbursements and all legal costs, on a solicitor and client basis, and other expenses of any kind incurred by the Society, the Complaints Committee, the Discipline Committee, the Certification Board or the Certification Review Board in relation to an investigation, proceeding, hearing or appeal;

(b) honoraria and expenses paid to members of the Complaints Committee, the Discipline Committee, the Certification Board or the Certification Review Board in relation to an investigation, proceeding, hearing or appeal; and

(c) the legal costs, on a solicitor and client basis, and expenses and disbursements incurred by any other party to an investigation, proceeding, hearing or appeal. 1999, c. 3, s. 29.

GENERAL

Trustee or custodian

30 The Society may act as trustee or custodian of any funds or property that may be committed for any purpose to the care or management of the Society. 1999, c. 3, s. 30.

Conduct of meetings

31 The Council and any committee of the Council or the Society may conduct meetings by telephone or other communication facilities in the manner and on the terms and conditions established by the by-laws or the rules, and persons participating in a meeting by such means are deemed to be present in person at the meeting. 1999, c. 3, s. 31.

Effect of certain documents

32 A resolution, report, recommendation, decision, finding or order of the Council or a committee of the Council or the Society in writing signed by all directors or persons entitled to vote on such resolution, report, recommendation, decision, finding or order, or signed counterparts thereof, is as valid as if passed, enacted, determined or made at a meeting of the Council or a committee. 1999, c. 3, s. 32.

Exemption from liability

33 None of the Society, the Council or any of the committees of the Council or the Society, or any member, officer or employee of any of those bodies, is liable for any loss or damage of any kind suffered or incurred by any person as a result of anything done or not done, any proceedings taken or any order made or enforced by it or them in good faith in the administration of or pursuant to this Act, the by-laws or the rules. 1999, c. 3, s. 33.

Deemed date of receipt of notice

34 Where notice is required or permitted to be made or given pursuant to this Act, the by-laws or the rules, a notice is deemed to have been received seven days after the mailing by registered mail postage prepaid of the notice to the last known address of the person to whom the notice is directed. 1999, c. 3, s. 34.

OFFENCE AND PENALTY

Failure to inform employer

35 (1) A person authorized to hold himself or herself out as a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist pursuant to this Act who fails to inform the person's employer of any condition, limitation or restriction is guilty of an offence.

(2) In subsection (1), it is sufficient proof of the offence alleged if it is proved that the accused has done or committed a single act of the kind alleged. 1999, c. 3, s. 35.

Prohibition

36 Except as provided in this Act, the by-laws or the rules, no person, other than a person whose name is entered in the Register or the Temporary Register, shall

(a) publicly or privately, whether or not for hire, gain or hope of reward hold himself or herself out in any way as being a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist of the Society; or

(b) assume or use any title, name, designation, initials or description, including those referred to in this Act, that does or could lead the public to believe that the person is a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist of the Society. 1999, c. 3, s. 36.

Offence

37 A person who knowingly furnishes false or misleading information in or in respect of any application made pursuant to this Act, the by-laws or the rules or in any statement or return required to be furnished pursuant to this Act, the by-laws or the rules, is guilty of an offence. 1999, c. 3, s. 37.

Penalties

38 A person who is guilty of an offence under this Act, the by-laws or the rules is liable, on summary conviction, for the first offence to a fine not exceeding two thousand dollars and, for each subsequent offence, to a fine not exceeding five thousand dollars or, in default of payment, to imprisonment for a term not exceeding six months, or both. 1999, c. 3, s. 38.

Enforcement by injunction

39 Where a member or former member or an applicant for certification does or attempts to do anything contrary to this Act or any by-law or rule made pursuant to this Act, the doing of such thing may be restrained by an injunction of the Court at the instance of the Council acting in the name of the Society. 1999, c. 3, s. 39.

Further right to injunction

40 Where a person, other than a person referred to in Section 39, does or attempts to do anything contrary to this Act, the doing of such thing may be restrained by an injunction of the Court at the instance of the Council acting in the name of the Society. 1999, c. 3, s. 40.

Prosecutions

41 (1) No prosecution by the Society or any other person for an offence under this Act shall be commenced after the expiration of one year from the date of the last act that is part of the alleged offence.

(2) The Council may institute and carry on or authorize any person to institute and carry on the prosecution of an offence under this Act.

(3) Where a violation of this Act continues for more than one day, each day that the violation continues is deemed a separate offence. 1999, c. 3, s. 41.

TRANSITIONAL

Effect of existing certification

42 The name and address of every person who, at the coming into force of this Act, is a certified engineering technician, certified engineering technologist, certified applied science technician or certified applied science technologist of the Society of Certified Engineering Technicians and Technologists of Nova Scotia pursuant to the by-laws of the Society shall be entered in the Register in such part as may be designated by the Council. 1999, c. 3, s. 42.

Preservation of certain rights

43 (1) Nothing in this Act affects the powers and duties, tenure of office or terms of remuneration of any director or officer of the Society or any committee appointed before the coming into force of this Act, or anything done or suffered, or any right, title or interest acquired before the coming into force of this Act, or any legal proceedings or remedy in respect of any such thing, right, title or interest.

(2) Until repealed, altered or amended pursuant to this Act, a by-law, regulation or rule of the Society made or fees prescribed and in force at the coming into force of this Act shall, notwithstanding any conflict with this Act, continue in force and have effect as if made pursuant to this Act. 1999, c. 3, s. 43.

Proclamation

44 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 1999, c. 3, s. 44.

Proclaimed - August 4, 1999

In force - August 4, 1999