

SECTION TWO: THE LEGISLATIVE FRAMEWORK

In this section, participants will learn about:

- The legislative environment for engineers
- The *Professional Engineers Act*

ACTIVITY: Lecture, followed by individual exercise

TIME: 1 hour, 20 min.

LEARNING OUTCOME: Participants will know what legislation affects them professionally and will have read and understood the *Professional Engineers Act*.

DESCRIPTION:

- Use the lecture notes and overheads to guide your lecture.
- Explain that the Engineering profession is regulated in the Province of Ontario by Professional Engineers Ontario (PEO), a regulatory body that ensures public safety by setting standards of admission, issuing licenses to practise professional engineering, and regulating the practise of engineering in Ontario. The rules concerning the licensing of professional engineers in Ontario are contained in provincial legislation -The Professional Engineers Act, R.S.O. 1990 Chapter 28, Regulation 941. The council may pass by-laws relating to the administrative and domestic affairs of the Association such as By-Law 1.
- Instruct participants to take out their copy of *the Professional Engineers Act* and Regulation 941 (latest revisions can be obtained from www.peo.on.ca - click Professional Engineering Act) from their Resource Package and complete the exercise on **page 32-34**. Take up answers as a class using the answer key provided.

THE LEGISLATIVE FRAMEWORK: LECTURE NOTES

Introduction

- ❑ Remind participants that being a member of a regulated profession means that there are laws governing the conduct and responsibilities of members of that profession. These laws are designed to protect the public.
- ❑ Explain that it is the responsibility of members of a particular profession to know and understand the laws that relate to that profession.
- ❑ Place Overhead 5 on the projector.
- ❑ Explain that there are two levels of government – federal and provincial – which have some role in the professions, especially with respect to the foreign-trained.
- ❑ Review the overhead, explaining the roles of various ministries, as follows:

FEDERAL MINISTRIES

Citizenship & Immigration Canada (CIC)

Responsible for legislation and policy governing immigration to Canada. Some potential immigrants are awarded “points” based on their occupation. The federal government is assuming that because your occupation is in demand here in Canada, you will integrate easily into the economy. The fact that this is not always true is being debated at the federal level and may result in changes to immigration policy.

Note that some participants may have undergone an “assessment” of their professional status as part of the immigration process. Explain that this assessment is not binding – that is, it does not mean that you are guaranteed a license to practise in Ontario.

Human Resources & Skills Development

This is the ministry that deals with Employment Insurance and provides information and resources to jobseekers – most recently through Employment Resource Centres. Beyond that, however, HRSD has no direct role in the regulated professions.

THE LEGISLATIVE FRAMEWORK (cont'd): LECTURE NOTES

PROVINCIAL MINISTRIES

Ministry of Training, Colleges & Universities: The *Constitution Act* gives exclusive authority to each province in Canada to make laws in relation to education. In Ontario, the Ministry of Education and the Ministry of Training, Colleges and Universities are responsible for the administration of laws relating to education and skills training.

Some of their responsibilities include:

- developing policy directions for adult education and labour market training
- setting standards for occupational training, particularly for trades under the *Trades Qualification and Apprenticeship Act*
- managing provincial programs to support workplace training and workplace preparation, including [apprenticeship](#), [career and employment preparation](#), and [adult literacy and basic skills](#)
- undertaking labour market research and planning
- undertaking initiatives to improve access to the professions and trades through the Access to Professions and Trades Unit.

Attorney General

The Ministry of the Attorney General holds responsibility for the *Professional Engineers Act* but it delegates responsibility for administering these regulations to the Professional Engineers of Ontario. That means that the PEO, **not the government**, is responsible for:

- Setting entry and training requirements
- Setting standards of practice
- Assessing qualifications and credentials
- Registering qualified applicants
- Disciplining members

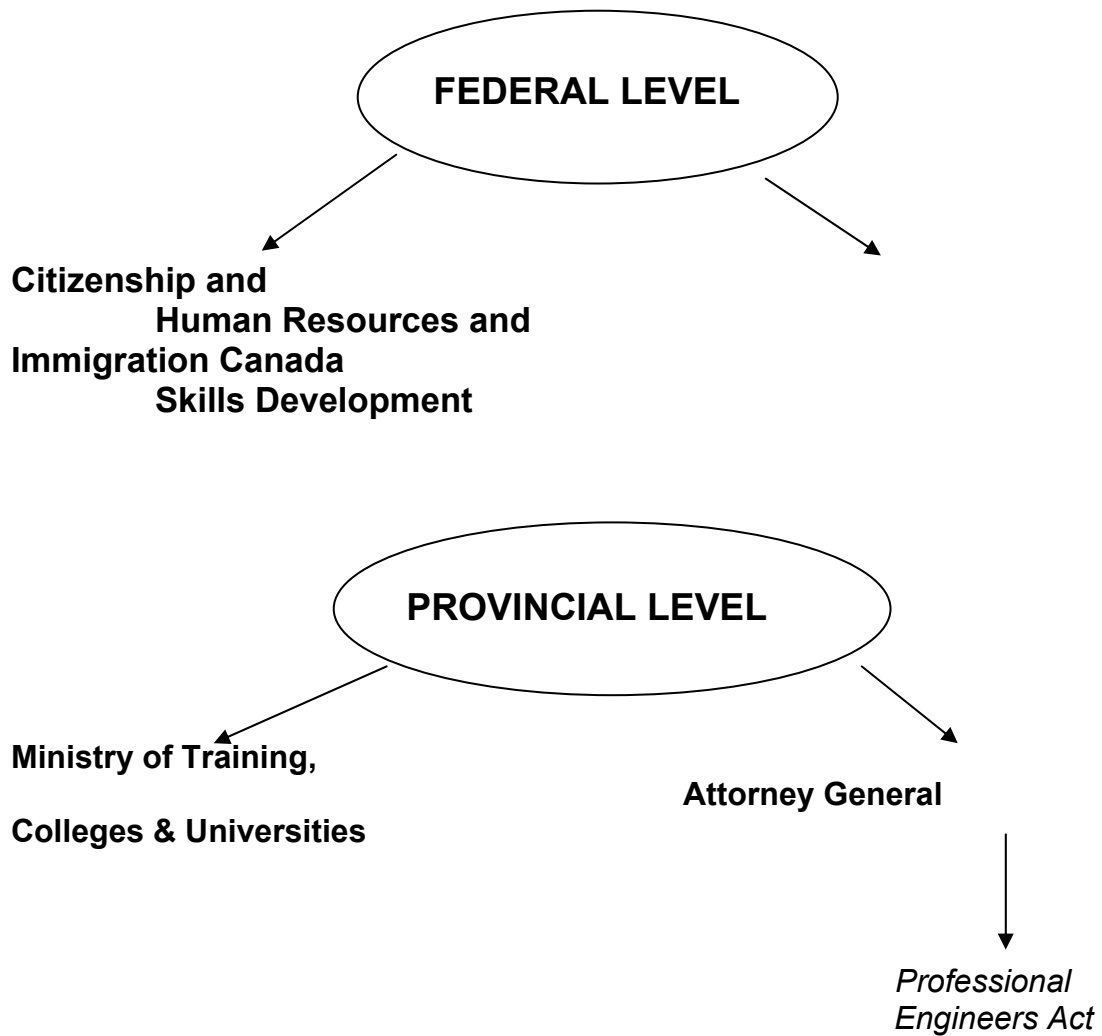
THE LEGISLATIVE FRAMEWORK (cont'd): LECTURE NOTES

However, the government may review the activities of the Council, request the council to undertake activities that are necessary and advisable, and advise the council with respect to the implementation of the Act and the regulations

Explain that the Professional Engineers Act is not the only piece of legislation that affects Engineers. Other laws more specific to the practice of particular disciplines include:

- Bridges Act*
- Building Codes Act*
- Environmental Assessment Act*
- Environmental Protection Act*
- Industrial Standards Act*
- Mining Act*
- Occupational Health and Safety Act*
- Public Utilities Act*
- Waste Management Act*

THE LEGISLATIVE FRAMEWORK



**THE LEGISLATIVE FRAMEWORK:
PROFESSIONAL ENGINEERS ACT -- ANSWER KEY**

1. Find definitions for the following:

“practice of professional engineering”

any act of designing, composing, evaluating, advising, reporting, directing or supervising wherein the safeguarding of life, health, property or the public welfare is concerned and that requires the application of engineering principles, but does not include practicing as a natural scientist

“professional engineer”

a person who holds a licence or a temporary licence to engage in the practice of professional engineering issued under the Act.

2. According to the Act, what is the purpose of the Association of Professional Engineers of Ontario (PEO)?

To regulate the practice of professional engineering and to govern its members, holders of certificates of authorization, holders of temporary licences, holders of provisional licences and holders of limited licences in accordance with the Act, the regulations and by-laws in order that the public interest may be served and protected.

3. To achieve this purpose, the PEO establishes, maintains and develops standards of:

*Knowledge & skill
Qualification and practice
Professional ethics*

4. Who is eligible for membership in the PEO?

Every person who holds a licence subject to any term condition or limitation to which the licence is subject.

**THE LEGISLATIVE FRAMEWORK:
PROFESSIONAL ENGINEERS ACT -- ANSWER KEY**

5. The Council of the Association may make regulations governing many issues, including:

- Fixing the number of members to be elected to the Council, etc. (7.1.1)*
 - Prescribing forms of applications for licences, etc. (7.1.10)*
 - Governing the use of names and designations in the practice of professional engineering (7.1.15)*
 - Providing for the maintenance and inspection of registers of members of the PEO (7.1.16)*
 - Providing for the setting of schedules of suggested fees for professional engineering services and for the publication of the schedules (7.1.18)*
- (Note: there are many more possible responses, listed in 7.1 – 7.32)**

6. Outline the roles and duties of the following committees:

Complaints:

The Complaints Committee considers and investigates complaints made by members of the public or members of the association regarding the conduct or actions of licence holders and Certificate of Authorization holders.

Discipline:

The Discipline committee considers and determines allegations of professional misconduct or incompetence against a member of PEO, or a holder of a Certificate of Authorization, a temporary licence, a limited licence or a provisional licence. In addition, the committee considers and decides upon an application for reinstatement or an application for removal of the suspension of licences and Certificates of Authorization

Fees Mediation:

The Fees Mediation Committee mediates or arbitrates fees disputes between engineers, engineering companies and their clients.

**THE LEGISLATIVE FRAMEWORK:
PROFESSIONAL ENGINEERS ACT -- ANSWER KEY**

Academic Requirements Committee:

The Academic Requirements Committee assists the Registrar in assessing the academic qualifications of licence applicants who do not hold an undergraduate degree in engineering from a program accredited by the Canadian Engineering Accreditation Board (CEAB)

Experience Requirements Committee:

The Experience Requirements Committee assists the Registrar, as necessary, in determining if an applicant's work experience is acceptable for licensing purposes. The committee also advises on whether the experientially gained knowledge of an applicant who has not graduated from an engineering program accredited by the Canadian Engineering Accreditation Board provides sufficient basis to warrant waiving his/her assigned technical examination program

7. Look at Regulation 941 sections 72(1) and 72 (2).

What is considered...

"Negligence"

An act or an omission in the carrying out of the work of a practitioner that constitutes a failure to maintain the standards that a reasonable and prudent practitioner would maintain in the circumstances.

"Harassment"

Engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known as unwelcome and that might reasonably be regarded as interfering in a professional engineering relationship

**THE LEGISLATIVE FRAMEWORK:
PROFESSIONAL ENGINEERS ACT -- ANSWER KEY**

What is considered... (cont'd):

“Professional misconduct”

- Negligence;*
- Failure to make reasonable provision for the safeguarding of life, health or property of a person who may be affected by the work for which the practitioner is responsible;*
- Failure to act to correct or report a situation that the practitioner believes may endanger the safety or the welfare of the public;*
- Failure to make responsible provision for complying with applicable statutes, regulations, standards, codes, by-laws and rules in connection with work being undertaken by or under the responsibility of the practitioner;*
- Signing or sealing a final drawing, specification, plan, report or other document not actually prepared or checked by the practitioner;*
- Failure of practitioner to present clearly to the practitioner’s employer the consequences to be expected from a deviation proposed in work, if the professional engineering judgement of the practitioner is overruled by non-technical authority in cases where the practitioner is responsible for the technical adequacy of professional engineering work;*
- Breach of the Act or regulations;*
- Undertaking work the practitioner is not competent to perform by virtue of the practitioner’s training and experience*
- Failure to make prompt, voluntary and complete disclosure of an interest, direct or indirect, that might in any way be or be construed as, prejudicial to the professional judgment of the practitioner in rendering service to the public, an employer or a client, and in particular carrying out any of the following acts without making such a prior disclosure;*
 - *Accepting compensation in any form for a particular service from more than one party*
 - *Submitting a tender of acting as a contractor in respect of work upon which the practitioner may be performing as a professional engineer*
 - *Participating in the supply of material or equipment to be used by the employer or client of the practitioner*
 - *Contracting in the practitioner’s own right to perform professional engineering services for other than the practitioner’s employer*
 - *Expressing opinions or making statements concerning matters within the practice of professional engineering of public interest where the opinions or statements are inspired or paid for by other interests*

**THE LEGISLATIVE FRAMEWORK:
PROFESSIONAL ENGINEERS ACT -- ANSWER KEY**

What is considered...

"Professional misconduct" (cont'd):

- Conduct or an act relevant to the practice of professional engineering that would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional;
- Failure of a practitioner to abide by the terms, conditions or limitations of the practitioner's licence, limited licence, temporary licence or Certificate of Authorization;
- Failure to supply documents or information requested by an investigator acting under this Act
- Permitting, counselling or assisting a person whom is not a practitioner to engage in the practice of professional engineering.
- Harassment

1. Are any of the precepts stated in the Code of Ethics different from those governing your profession in your homeland?

Answers can vary. Code of Ethics is Section 77 of Regulation 941.

9. See Regulation 941, Sections 56 to 71, for information about designation as a Consulting Engineer.

i. What are the eligibility criteria for designation as a Consulting Engineer?

You must be a PEO member in good standing; have been continuously engaged for not less than two years in the independent practice of professional engineering in the Province of Ontario; have at least five years of acceptable experience in excess of the four- year experience requirement for licensure) and has passed the examinations prescribed by the Council (where applicable)

ii. How long is the period of designation?

Five years.

**THE LEGISLATIVE FRAMEWORK:
PROFESSIONAL ENGINEERS ACT -- ANSWER KEY**

9. See Regulation 941, Sections 56 to 71, for information about designation as a Consulting Engineer (cont'd).

iii. Under what conditions may an applicant person be redesignated?

If they are a member, currently engaged in independent practice of professional engineering in Ontario and has during the five years since the date of issue of the applicant's most recent designation as a consulting engineer had acceptable professional engineering experience

10. In Regulation 941, Sections 47-50, look up:

The requirements for the issuance of a Certificate of Authorization

The applicant for a C of A must designate a professional engineer who is employee or partner in the firm to assume professional responsibility for the services provided that are within the practice of professional engineering. In addition, the designated engineer must have at least five years of professional engineering experience following the conferral of a degree from an accredited university or the completion of an equivalent education, e.g. PEO exams.

11. What documentation is required when applying for a C of A?

Names and addresses of the applicant, partners or all officers and directors and of the licence holders who will assume responsibility for and supervise the services provided by the applicant.

A certificate certifying that the information in the application is correct, and in the case of an application for a general certificate of authorization, what the primary function of the applicant is or will be to provide services in the practice of professional engineering to the public.

The applicant must also certify in a form that will be supplied by the Registrar that the applicant carries professional liability insurance. In the absence of insurance, they are required to disclose to each and every client that they do not hold liability insurance and obtain the client's written acknowledgement of this disclosure. This does not mean, however, that the holder of C of A is absolved of any liability

**THE LEGISLATIVE FRAMEWORK:
PROFESSIONAL ENGINEERS ACT -- ANSWER KEY**

12. **How long is a C of A valid?** *One year, renewable*
13. **Is a holder of a C of A allowed to use the designation “consulting engineer” when offering engineering services to the public?**

No, the C of A allows the engineer to work for themselves but it does not allow him to use the designation “consulting engineer” and vice versa the title “consulting engineer” does not give the holder of this title the right to offer engineering services to the public, they must hold a C of A to do this. However, a holder of a C of A can apply for the consulting engineer designation. The primary purpose of the designation “consulting engineer” is to establish a minimum acceptable level of experience (currently 5 years) for a C of A wishing to use it. Receipt of the designation also means that the applicant has been subject to both the screening process and to peer review by the professional engineers.

**THE LEGISLATIVE FRAMEWORK:
PROFESSIONAL ENGINEERS ACT**

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- “professional engineer”

2. According to the Act, what is the purpose of the Association of Professional Engineers Ontario (PEO)?

3. To achieve this purpose, the PEO establishes, maintains and develops standards of:

4. Who is eligible for membership in the PEO?

5. The Council of the Association may make regulations governing many issues, including:

6. Outline the roles and duties of the following committees:

a. Complaints

b. Discipline

c. Fees Mediation

d. Academic Requirements Committee

e. Experience Requirements Committee

7. Look at Regulation 941 sections 71(1) and 72(2). What is considered:

- “negligence”: _____
- “professional misconduct”: _____

8. Are any of the precepts stated in the Code of Ethics (Section 77) different from those governing your profession in your homeland?

9. See Regulation 941, Sections 56 to 71, for information about designation as a Consulting Engineer.

iv. What are the eligibility criteria for designation as a Consulting Engineer?

v. How long is the period of designation?

vi. Under what conditions may an applicant person be redesignated?

10. In Regulation 741, In Sections 47-50, look up the procedures for the issuance of a Certificate of Authorization (C of A)

11. What documentation is required when applying for a C of A?

12. How long is a C of A valid? _____

13. Is a holder of a C of A allowed to use the designation “consulting engineer” when offering engineering services to the public?
