

Appendix 1. Extracts from Regulation 941/90

Practitioners should be familiar with all aspects of the *Professional Engineers Act* and its regulations. The sections provided in this guideline have particular relevance to professional practice.

1. Professional Misconduct

Section 27 of the *Professional Engineers Act* gives the Discipline Committee the authority to hear and determine allegations of professional misconduct or incompetence against a practitioner. The following section of O. Reg. 941/90 identifies those actions or omissions by a practitioner that can be used as the grounds for a discipline case by the association.

72. (1) In this section,
“harassment” means 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;
“negligence” means 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. R.R.O. 1990, Reg. 941, s. 72(1); O. Reg. 657/00, s. 1(1).
- (2) For the purposes of the Act and this Regulation, “professional misconduct” means,
- (a) negligence,
 - (b) 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,
 - (c) failure to act to correct or report a situation that the practitioner believes may endanger the safety or the welfare of the public,
 - (d) 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,
 - (e) signing or sealing a final drawing, specification, plan, report or other document not actually prepared or checked by the practitioner,

- (f) failure of a practitioner to present clearly to the practitioner’s employer the consequences to be expected from a deviation proposed in work, if the professional engineering judgment of the practitioner is overruled by non-technical authority in cases where the practitioner is responsible for the technical adequacy of professional engineering work,
- (g) breach of the Act or regulations, other than an action that is solely a breach of the code of ethics,
- (h) undertaking work the practitioner is not competent to perform by virtue of the practitioner’s training and experience,
- (i) 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, to an employer or to a client, and in particular, without limiting the generality of the foregoing, carrying out any of the following acts without making such a prior disclosure:
 - 1. Accepting compensation in any form for a particular service from more than one party.
 - 2. Submitting a tender or acting as a contractor in respect of work upon which the practitioner may be performing as a professional engineer.
 - 3. Participating in the supply of material or equipment to be used by the employer or client of the practitioner.
 - 4. Contracting in the practitioner’s own right to perform professional engineering services for other than the practitioner’s employer.
 - 5. 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,

- (j) conduct or an act relevant to the practice of professional engineering that, having regard to all the circumstances, would reasonably be regarded by the engineering profession as disgraceful, dishonourable or unprofessional,
 - (k) failure by a practitioner to abide by the terms, conditions or limitations of the practitioner's licence, provisional licence, limited licence, temporary licence or certificate,
 - (l) failure to supply documents or information requested by an investigator acting under section 33 of the Act,
 - (m) permitting, counselling or assisting a person who is not a practitioner to engage in the practice of professional engineering except as provided for in the Act or the regulations,
 - (n) harassment. R.R.O. 1990, Reg. 941, s. 72(2); O. Reg. 657/00, s. 1(2); O. Reg. 13/03, s. 19.
- v. competence in the performance of any professional engineering services that are undertaken.
2. A practitioner shall,
 - i. regard the practitioner's duty to public welfare as paramount,
 - ii. endeavour at all times to enhance the public regard for the practitioner's profession by extending the public knowledge thereof and discouraging untrue, unfair or exaggerated statements with respect to professional engineering,
 - iii. not express publicly, or while the practitioner is serving as a witness before a court, commission or other tribunal, opinions on professional engineering matters that are not founded on adequate knowledge and honest conviction,
 - iv. endeavour to keep the practitioner's licence, temporary licence, provisional licence, limited licence or certificate of authorization, as the case may be, permanently displayed in the practitioner's place of business.

2. The Code of Ethics

Practitioners are bound as an obligation of their licence to practise professional engineering to comply with the code of ethics given in section 77, O. Reg. 941/90. The code of ethics is a set of principles and rules that describe the kinds of professional conduct that are considered appropriate or inappropriate by the profession. Practitioners must apply these rules in governing all their professional assignments. Decisions and choices made by practitioners must reflect the values and principles set out in the code.

77. The following is the Code of Ethics of the Association:

1. It is the duty of a practitioner to the public, to the practitioner's employer, to the practitioner's clients, to other members of the practitioner's profession, and to the practitioner to act at all times with,
 - i. fairness and loyalty to the practitioner's associates, employers, clients, subordinates and employees,
 - ii. fidelity to public needs,
 - iii. devotion to high ideals of personal honour and professional integrity,
 - iv. knowledge of developments in the area of professional engineering relevant to any services that are undertaken, and
2. A practitioner shall act in professional engineering matters for each employer as a faithful agent or trustee and shall regard as confidential information obtained by the practitioner as to the business affairs, technical methods or processes of an employer and avoid or disclose a conflict of interest that might influence the practitioner's actions or judgment.
3. A practitioner must disclose immediately to the practitioner's client any interest, direct or indirect, that might be construed as prejudicial in any way to the professional judgment of the practitioner in rendering service to the client.
4. A practitioner who is an employee-engineer and is contracting in the practitioner's own name to perform professional engineering work for other than the practitioner's employer, must provide the practitioner's client with a written statement of the nature of the practitioner's status as an employee and the attendant limitations on the practitioner's services to the client, must satisfy the practitioner that the work will not conflict

- with the practitioner's duty to the practitioner's employer, and must inform the practitioner's employer of the work.
6. A practitioner must co-operate in working with other professionals engaged on a project.
 7. A practitioner shall,
 - i. act towards other practitioners with courtesy and good faith,
 - ii. not accept an engagement to review the work of another practitioner for the same employer except with the knowledge of the other practitioner or except where the connection of the other practitioner with the work has been terminated,
 - iii. not maliciously injure the reputation or business of another practitioner,
 - iv. not attempt to gain an advantage over other practitioners by paying or accepting a commission in securing professional engineering work, and
 - v. give proper credit for engineering work, uphold the principle of adequate compensation for engineering work, provide opportunity for professional development and advancement of the practitioner's associates and subordinates, and extend the effectiveness of the profession through the interchange of engineering information and experience.
8. A practitioner shall maintain the honour and integrity of the practitioner's profession and without fear or favour expose before the proper tribunals unprofessional, dishonest or unethical conduct by any other practitioner. R.R.O. 1990, Reg. 941, s. 77; O. Reg. 48/92, s. 1; O. Reg. 13/03, s. 21.