



Investigative Panels Criteria for Interim Suspensions and Restrictions *Improved Public Interest*

To protect the public, it is important that APEGA could respond quickly to suspend or restrict a Member's licence or a Permit Holder's permit when there is serious risk to the public.

Background

- This briefing note amends the *Authority of the Registrar* Discussion Paper recommendations that were presented and endorsed by Council following the fall 2015 consultations.
- In the fall of 2015 it was recommended to amend the *Engineering and Geoscience Professions Act (EGP Act)* to explicitly authorize:
 - the Registrar to suspend or impose interim restrictions on a Member or Permit Holder on an expedited basis in emergent circumstances
 - the Investigative Committee to impose interim restrictions on a Member or Permit Holder on an expedited basis in emergent circumstances (the existing *EGP Act* authorizes the Investigative Committee to suspend on an interim basis)
 - Council also endorsed proposed recommendations to amend the *EGP Act* to explicitly authorize investigative panels to become the decision makers and have the same authority as the Investigative Committee currently has. (*Modernizing the Investigation Process* Discussion Paper)
 - The circumstances under which this authority could be exercised would be based on criteria clearly described and established in the *General Regulation*.

Why is this important?

- To protect the public, it is important that APEGA could respond quickly to suspend or restrict a Member's licence or a Permit Holder's permit when there is a question of serious risk to the public. The main concern in these cases is timeliness.
- The ability to respond quickly and efficiently in such cases will be available with the introduction of decision-making investigative panels under the new *EGP Act*. As a result, public safety can be addressed by giving investigative panels, rather than the Registrar or full Investigative Committee, the authority to impose interim suspensions and restrictions.

- The decision-making authority will rest with a group of peers and is consistent with other professional, self-regulating bodies

Proposed legislative change

- It is recommended that the *EGP Act* be amended as follows:
 - The authority to impose interim suspensions and interim restrictions on Members and Permit Holders will rest with investigative panels (rather than with the Registrar or Investigative Committee).
- It is recommended that the *General Regulation* be amended to add a section describing the circumstances under which investigative panels can impose interim suspensions and restrictions on Members and Permit Holders pending the outcome of preliminary investigations or discipline proceedings. These circumstances would include:
 - when there are reasonable grounds to believe that a serious and imminent risk exists to life, personal safety, or health of the public or environment, in accordance with criteria approved by Council
 - when a delay in holding proceedings under this part would be prejudicial to the public interest, in accordance with criteria approved by Council
 - when a Member is convicted of an offence that would render a Member unsuitable to practise engineering or geoscience or adversely affect the reputation of the professions, in accordance with criteria approved by Council

Examples of Relevant Existing Legislation

Below are examples of similar provisions found in other pieces of legislation in Canada.

The Engineering and Geoscientific Professions Act, Manitoba

Section 37(1) Notwithstanding anything in this Act the investigation committee may, when there is a question of serious risk to the public, suspend the certificate of registration, certificate of authorization, temporary licence, specified scope of practice licence or enrolment as an engineering intern or geoscience intern of the investigated person pending the outcome of proceedings under this part.

Engineering Profession Act, Nova Scotia

Section 17R(1) Notwithstanding any other provision of this Act, in urgent and compelling circumstances the Chair of the Discipline Committee, upon the advice of the Complaints Committee, may, without a hearing, in the interest of the public, immediately suspend the licence of a registrant or immediately impose restrictions on a temporary basis on the registration of a registrant.

Engineers and Geoscientists Act, British Columbia

Section 31(7) If the discipline committee considers that a delay in holding an inquiry under section 32 concerning a member, licensee or certificate holder would be prejudicial to the public interest, the discipline committee, without giving the member, licensee or certificate holder an opportunity to be heard, may suspend the membership, licence or certificate of authorization, or restrict the scope of practice, of the member, licensee or certificate holder, until an inquiry and decision under section 32.

Chartered Professional Accountants Act, Alberta

Section 108(1) If a registrant is convicted of an indictable offence in any court in Canada or convicted of an offence outside Canada that would be regarded as an indictable offence in Canada, the registrant must give notice of the conviction, within 21 days after its occurrence, to the CPAA.

(3) The discipline tribunal roster chair must consider the nature and seriousness of the offence and may convene a discipline tribunal, which may, after providing the registrant with an opportunity to provide information and make representations,

(i) suspend the registrant's registration or restrict the registrant's practice for a stated period or pending compliance with specified conditions