

**RULES OF PROCEDURE OF THE REGISTRATION COMMITTEE
OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS OF ONTARIO**

(made under s. 25.1 of the *Statutory Powers Procedure Act*)

Rule 1 - Interpretation and Application of Rules

1.1 Definitions

In these Rules, unless the context requires otherwise

“*Act*” means the *Professional Engineers Act*, R.S.O. 1990, c. P.28, as amended

“*applicant*” means applicant for a licence or applicant for or holder of a temporary licence, provisional licence, limited licence, or a Certificate of Authorization

“*Association*” means the Association of Professional Engineers of Ontario

“*Committee*” means the Registration Committee of the Association

“*Committee Chair*” means the Chair of the full Committee

“*Registration panel*” means a panel of Committee members selected by the Committee Chair to conduct a hearing or motion

“*electronic*” with respect to a proceeding, means a proceeding held by telephone conference call, video conference, or some other form of electronic technology allowing persons to communicate with and hear one another

“*hearing*” means the process before a Registration panel constituted under s. 19 of the *Act* which commences with the filing of a Notice of Hearing

“*licence*” means a licence to engage in the practise of professional engineering and issued under this *Act*, and includes a temporary licence, provisional licence or a limited licence

“*motion*” is a request made to a Registration panel to make an order in a particular proceeding

“*motion participant*” is a party and any other person who would be affected by the order sought

“*Notice of Hearing*” means a document issued by the Association which sets out the basis upon which the Registrar proposes to refuse to issue a licence or a Certificate of Authorization

“*parties*” means the Registrar and the applicant

“*Pre-Hearing Conference*” means a stage in Registration proceedings at which there may be a candid, without prejudice discussion of the strength of the applicant’s case and the Registrar’s case and the potential narrowing of issues to be determined by the Registration panel assigned to conduct the hearing

“*proceeding*” means a motion or hearing before a Registration panel

“*SPPA*” means the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended

1.2 Application of Rules

The Rules apply to all proceedings referred to the Registration Committee of the Association for hearing and determination and take effect January 13, 2005.

1.3 Interpretation of Rules

These Rules shall be liberally construed to secure a determination that is fair and just.

Rule 2 - Disclosure

- 2.1.** The Association will make such timely disclosure to the applicant, as is required by law, including:
- a) All relevant information (whether inculpatory or exculpatory) in the Association's possession, unless it is privileged as a matter of law;
 - b) In the case of written or documentary evidence, copies of the written or documentary evidence, or an opportunity to examine the evidence.
 - c) In the case of evidence of an expert, at least 25 days before the hearing, the identity of the expert and a copy of the expert's written report, or, if there is no written report, a written summary of the evidence.
- 2.2** The obligation on the Association to disclose is a continuing one. Consequently, after initial disclosure has been made, it is incumbent upon the Association to provide timely disclosure of information subsequently obtained and information previously considered irrelevant, but whose relevance has subsequently become apparent.
- 2.3** Evidence led by the Association is not admissible unless the Association has made timely disclosure as required by Rules 2.1 and 2.2.
- 2.4** The applicant shall afford the Registrar an opportunity to examine before the hearing any written or documentary evidence that will be produced, or any report, the contents of which will be given in evidence at the hearing, in accordance with s. 19(11) of the *Act*.
- 2.5** Evidence of an expert led by an applicant is not admissible unless the applicant gives the Association, at least 10 days before the hearing, the identity of the expert and a copy of the expert's written report or, if there is no written report, a written summary of the evidence.
- 2.6** A Registration panel may, in its discretion, allow the introduction of evidence that is inadmissible under Rules 2.4 - 2.5 above, and may make directions it considers necessary to ensure that the opposing party is not prejudiced.

Rule 3 - Pre-Hearing Conferences

- 3.1** On request of either the Registrar or the applicant, the Committee Chair may direct that a pre-hearing conference be held.
- 3.2** A pre-hearing conference shall be presided over by a single member of the Committee selected by the Committee Chair.
- 3.3** During the course of a pre-hearing conference, the parties and the Chair of the pre-hearing may consider, on a without prejudice basis:
- a) The settlement of any or all of the issues to be brought before a Registration panel;
 - b) The simplification of the issues;
 - c) The facts or evidence that may be agreed upon;
 - d) The dates by which any steps in the proceeding are to be taken or begun;
 - e) The estimated duration of the hearing;
 - f) Identify procedural and legal issues that might have to be resolved by the Registration panel; and
 - g) Any other matter that may assist in the just and most expeditious disposition of the hearing.
- 3.4** The member of the Committee who presides at a pre-hearing conference shall not be a member of the Registration panel assigned to the hearing, unless the parties consent.

Rule 4 – Procedural and Interlocutory Motions

- 4.1 In advance of a hearing, a procedural motion may be brought before a Registration panel of 1 or 3 members of the Registration Committee, selected by the Committee Chair in accordance with s. 4.2 of the *SPPA*.
- 4.2 After a hearing commences, a procedural or interlocutory motion may, at the discretion of the Chair of the Registration panel that is conducting the hearing, be brought before 1 or 3 members of that panel.
- 4.3 All procedural or interlocutory issues shall be raised in a motion as soon as possible and shall be heard on a day that is at least two weeks before the day upon which the hearing is scheduled to commence unless the nature of the motion requires that it be heard during the hearing itself.
- 4.4 A person bringing a procedural or interlocutory motion shall provide to the other motion participants, the Notice of Motion and materials in support of the motion by the Tuesday that is at least 10 days before the motion is to be heard.
- 4.5 The other motion participants shall provide their materials to the person bringing the motion by the Tuesday that is at least 3 days before the motion is to be heard.
- 4.6 Where the parties consent, a Registration panel before which a procedural or interlocutory motion is brought, may hold a written hearing of the motion in accordance with s. 5.1 of the *SPPA*.
- 4.7 Where a written hearing of the motion is held, the Registration panel shall fix the dates and times by which submissions and/or evidence shall be provided to the responding party and the Registration panel by the moving party, and provided to the moving party and the Registration panel by the responding party.
- 4.8 Where the parties consent, a Registration panel before which a procedural or interlocutory motion is brought may hold an electronic hearing of the motion in accordance with s. 5.2 of the *SPPA*.

Rule 5- Production of Documents from Third Parties

- 5.1** A summons for the production of documents that are not in the Association's possession shall not require the production of any documents before the commencement of the hearing.
- 5.2** A motion relating to the production of documents from third parties by summons as described in Rule 4 shall not be heard until the commencement of the hearing.

Rule 6 - Electronic Hearings

- 6.1** Pursuant to s. 5.2 of the *SPPA*, a Registration panel may hold all or part of a hearing by telephone conference call, videoconference or any other form of electronic communication, unless a party objects and satisfies the panel that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice. A party may not object to an electronic hearing where the only purpose of the hearing is to deal with procedural matters.
- 6.2** For the purposes of this rule, a hearing includes a pre-hearing conference, a motion, and a Registration hearing.
- 6.3** A party requesting an electronic hearing shall give notice of an electronic hearing at least 30 days before the hearing and the Registration panel shall provide an opportunity to the parties to make submissions on the issue.
- 6.4** The notice of an electronic hearing shall include:
- (a) a statement of the time and purpose of the hearing, and details about the manner in which the hearing will be held;
 - (b) a statement that the only purpose of the hearing is to deal with procedural matters, if that is the case;
 - (c) a statement that the party notified may, if the purpose of the hearing is to deal with matters other than procedure, by satisfying the Registration panel that holding an electronic hearing is likely to cause the party significant prejudice, require the Registration panel to hold the hearing as an oral hearing, and an indication of the procedure to be followed for the purpose; and
 - (d) a statement that if the party notified neither acts under clause (c), if applicable, nor participates in the hearing in accordance with the notice, the Registration panel may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding.
- 6.5** Subject to Rule 6.1, where the purpose of the hearing is to deal with procedural matters or a pre-hearing conference, the electronic hearing shall proceed by way of telephone conference call, unless the panel orders otherwise.
- 6.6** Subject to Rule 6.1, where the purpose of the electronic hearing is to hear the evidence of a witness, the hearing shall proceed by way of videoconference, unless the parties consent, or the panel orders otherwise.
- 6.7** If all or part of a hearing is conducted by electronic means, all of the parties are entitled to receive every document that the Registration panel receives. For the purpose of this rule, a document includes a sound recording, videotape, film, photograph, drawing, chart, graph, map and information recorded or stored by means of any device.

- 6.8** Where it is not reasonably practical to produce a copy of a document (such as a photograph), the parties shall have a right of reasonable access to the document.
- 6.9** At least 48 hours before an electronic proceeding is scheduled to commence, every person participating in the proceeding shall give notice to the parties of the telephone number and location where he or she can be reached for the proceeding.
- 6.10** Every person participating in the proceeding shall ensure that he or she can be reached at the telephone number provided at least five minutes before the proceeding is scheduled to commence.
- 6.11** Every person participating in the electronic hearing shall deliver every document, in sequentially numbered pages, that he or she intends to rely upon, at least five days before the hearing.
- 6.12** Before an electronic hearing proceeds, the Association shall file with the Registration panel a consent to the electronic hearing executed by the applicant. The consent shall include an acknowledgement that the applicant understands that the applicant may object to the hearing being held as a electronic hearing, if the purpose of the hearing is not procedural.

Rule 7 – Written Hearings

- 7.1** A Registration panel may hold all or part of a hearing in writing if it believes that it is just and equitable to do so, unless a party objects.
- 7.2** If all or part of a hearing is conducted in writing, all the parties are entitled to receive every document that the Registration panel receives. For the purpose of this rule, a document includes a sound recording, videotape, film, photograph, drawing, chart, graph, map and information recorded or stored by means of any device.
- 7.3** Before a hearing in writing proceeds, the Association shall file with the Registration panel:
- (a) a consent to the written hearing executed by the applicant. The consent shall include an acknowledgement that the applicant understands that the applicant may object to the hearing being held as a written hearing;
 - (b) a statement executed by the applicant confirming whether the applicant admits or denies the allegations contained in the Notice of Hearing;
 - (c) an Agreed Statement of Facts executed by the applicant.
- 7.4** Submissions by counsel for the parties, or the applicant (in the case of an unrepresented applicant) as to whether the Registration panel ought to direct the Registrar to issue a licence or certificate of authorization to the applicant, may be made in writing or electronically as the parties agree and the Registration panel directs.

Rule 8 – Costs

- 8.1** Subject to Rule 8.2, a Registration panel may order a party to pay all or part of another party's costs of the hearing.
- 8.2** The Registration panel shall not make an order to pay costs under this Rule unless the conduct or course of conduct of a party has been unreasonable, frivolous or vexatious or the party has acted in bad faith.
- 8.3** The amount of costs ordered under this Rule shall be determined after hearing submissions from the parties and, if necessary, hearing further evidence.