

UNDERSTANDING THE CHANGES TO THE  
***ENGINEERS ACT***



# Introduction

The Engineers Act has remained virtually unchanged since its passage in 1964, until amendments came into force on September 24, 2020 that modernized the Act in significant ways.

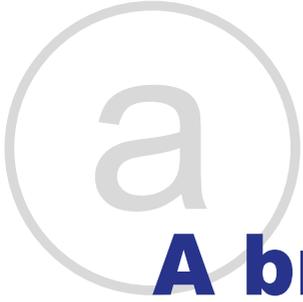
This document is intended to help engineers become familiar with the **main changes** that have been made to the Act.

## The main changes in a few words

The main changes to keep in mind are the following:

- a. The field of practice is now more broadly defined and no longer limited to reserved activities and works.
- b. A few additions have been made to the list of reserved activities.
- c. The works concerned by the reserved activities have a more encompassing definition and are not presented in the form of a list.
- d. The OIQ has been granted greater powers to fight against illegal practice.

*This document is intended to provide commentary in simple language on the amendments made by the government to the Engineers Act (Bill 29). It is not a legal opinion and should not be treated or referred to as such. The information provided does not cover all situations and is not meant as a substitute for the law or to modify its meaning. Furthermore, its commentary does not draw any conclusions about the positions that a court may take with respect to the law.*



# A broader field of practice

This is a significant change: Professional practice is no longer limited to a list of works and activities.

- Engineering practice now encompasses more than just reserved activities.
- Engineering project management is now considered part of engineering practice, even if it is not a reserved activity.

This change makes it possible to:

- cover all fields of engineering;
- adapt more easily to scientific and technological developments.

## Previous version

Previously, the field of practice was defined by a list of works (previous sec. 2) and their related reserved activities (previous sec. 3).

## Modernized Act (unofficial translation)

*1.1. The practice of engineering consists, regardless of life cycle phase of works, in engaging in scientific analysis, design, execution, alteration, operation or advisory activities applied to structures and materials as well as to processes and systems that extract, use, exchange, transform, transport or store energy, information or matter in order to produce a reliable, safe and durable environment.*

*The practice of engineering also consists in coordinating the work of persons who participate in the execution of engineering works.*

*Respect for the environment and for life, the protection of property, heritage preservation and economic efficiency are part of the practice of engineering to the extent that they are related to the engineer's professional activities.*

b

# A longer list of reserved activities

## Please note:

- ▶ The previous version of the Act presented the works first, and then the reserved activities. Notice that the order is now reversed.

Previously reserved activities are still reserved, except for measurements and layouts.

The modernized Act adds two new design activities and adds new items to the list of engineering documents that must be prepared by engineers as a reserved activity (see sections in bold).

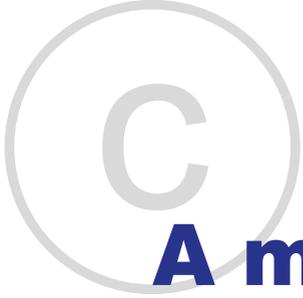
## Previous version

The previously reserved activities are still reserved (previous sec. 3), except for measurements and layouts.

## Modernized Act (unofficial translation)

*2. The following professional activities in the practice of engineering are reserved to engineers when they relate to works referred to in section 3:*

- 1. determining the concepts, parameters, equations or models that, on the basis of models derived from engineering principles, make it possible to anticipate the behaviour of structures, materials, processes or systems;**
- 2. performing tests or calculations that require using models derived from engineering principles;**
- 3. supervising work, particularly for the purpose of producing a certificate of compliance required under an Act;*
- 4. inspecting works;*
- 5. preparing, modifying, signing and sealing plans, estimates, reports, calculations, studies, drawings, **operations or maintenance manuals, decommissioning plans** or specifications;*
- 6. giving an opinion and signing and sealing a written opinion in relation to a professional activity.*



# A more encompassing description of the works concerned by reserved activities

Works are now described in general terms and not in the form of a list of industries or fields of practice.

This makes it possible to include more works with fewer categories.

## The five main categories are:

1. Buildings
2. Structures
3. Systems
4. Dependencies of road works
5. Industrial-scale transformation or extraction processes

## Please note:

- ▶ A work may fall into more than one category.
- ▶ «Structures» and «systems» are entirely new categories that cover a number of works or parts of works.

# 1

## Buildings



“Foundations” and “frameworks” have been replaced by the “structural components” of buildings. Electrical and mechanical systems are still included.

However, the exception made for small buildings is no longer based on a monetary threshold, but rather on the application of complete solutions taken from the Building or Construction Code for small residential or commercial buildings, or even business occupancies.

For agricultural buildings, the Act provides an exception based on specific characteristics.

### Previous version

2. e) the foundations, framework and electrical and mechanical systems of buildings the cost of which exceeds \$100,000 and of public buildings within the meaning of the Public Buildings Safety Act.

### Modernized Act (unofficial translation)

3. *The activities reserved to engineers under the first paragraph of section 2 relate to the following works:*
  - 1) *structural components and mechanical, thermal or electrical systems of buildings, except*
    - a. *a building, other than an industrial occupancy, regarding which complete acceptable solutions provided for in Part 9 of the National Building Code, as incorporated into Chapter I of the Construction Code (chapter B-1.1, r. 2), are applied; and;*
    - a. *an agricultural occupancy, other than a silo or an animal waste storage facility, and that, after the work is completed,*
      - i. *has only one storey, exterior frame studs of at least 3.6 metres in height, and does not exceed 600 m<sup>2</sup> of building area and 6 metres in height calculated from the average ground level to its ridge;*
      - ii. *has only two storeys and does not exceed 150 m<sup>2</sup> of building area;*

[...]

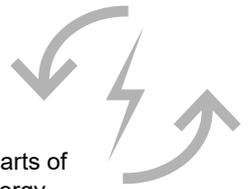
# 2. Structures



The previous Act specifically named items such as “dams” and “public roads.” In the modernized Act, many of these structures are fully or partially covered by the new definition of “[...] **structure that requires studies [...] of the materials composing or supporting it.**” [unofficial translation]

- ▶ Please note: The necessity of using “studies on the properties of the materials composing or supporting the structure” introduces a notion of risk and is meant to rule out low-risk structures, such as a house’s “For Sale” sign.
- ▶ This category includes a number of works and parts of works: crane mast, tower, airplane wing, etc.

# 3. Systems



The definition of systems concerns a number of works or parts of works, if for no other reason than the criterion of “use... energy... in electrical, mechanical or thermal form.” [unofficial translation]

- ▶ Several works in the previous section 2 are now covered by the concepts of “structures,” “systems,” or both.
- ▶ The exclusion of systems “whose malfunction does not present a risk for the safety of persons” also includes the notion of risk.

## Previous version

Section 2. – Several items cited (railways, dams, hydraulic works, industrial equipment, etc.)

## Modernized Act (unofficial translation)

*2° a temporary or permanent structure that requires using studies on the properties of the materials composing or supporting it, in particular a structure used*

- a. for the transportation of persons, material or information, such as a bridge, road, crane, pipeline or tower or the structural components of a sewer; or*
- b. for the control or use of waters, such as a dam or retention basin or the structural components of waterworks;*

Definition :

*A structure is “an assembly of components arranged to support a load.”*

*3° a system to generate, accumulate, transmit, use or distribute energy in electrical, mechanical or thermal form, such as industrial equipment or a pumping system used to treat water, excluding a system whose malfunction does not present a risk for the safety of persons and a system intended for use by a single dwelling unit.*

# 4 ■ Dependencies of road works



The terminology has been modified.

Dependencies of road works include signage.

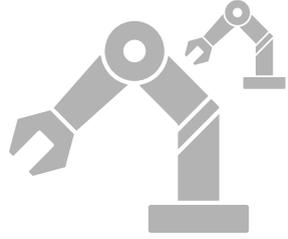
## Previous version

2. a) [...] the installations connected with a transport system [...]

## Modernized Act (unofficial translation)

[...]

*Such professional activities also relate to the dependencies of a road work.*



# 5 ■ Industrial-scale transformation or extraction processes

The previous Act referred to “industrial equipment.” The new version handles the notion of “processes” more broadly.

- ▶ The design of an industrial process is now clearly included in the Act.

This paragraph also covers “works of a mining character” and works “intended for utilization of the processes of applied chemistry or physics” in the previous Act.

- ▶ Please note: Industrial equipment and its components are also covered by the “systems” and “structures” described above.

## Previous version

2. c) works of an [...] mining character

[...]

i) industrial work or equipment involving public or employee safety.

## Modernized Act (unofficial translation)

[...]

*For the purposes of the first paragraph, industrial-scale transformation or extraction processes, excluding a process to extract a forest resource, are considered to be works.*

*A system for the discharge, collection or treatment of waste water from an isolated dwelling referred to in a regulation made under the Environment Quality Act (chapter Q-2), as well as a private waterworks system and a private system for the treatment, disposal or reclamation of residual materials intended for use by a single dwelling unit having not more than six bedrooms, are excluded from the first paragraph.*



# Exceptions

The new Act keeps most of the exceptions, including the exception for employees working under the supervision of an engineer.

Some exceptions have been clarified.

New exceptions are introduced (see bold sections).

## Previous version

See the previous section 5.

## Modernized Act (unofficial translation)

5. *Nothing in this Act shall:*

1. *infringe on the rights granted by law to architects, provided that they have the collaboration of an engineer for works referred to in subparagraph 1 of the first paragraph of section 3, or prevent them from collaborating with an engineer who retains their services for works referred to in that section;*
2. *infringe on the rights granted by law to another professional;*
3. *infringe on the rights granted by law to members of the Corporation of Master Pipe-Mechanics of Québec or the Corporation of Master Electricians of Québec;*
4. *prevent an owner, a contractor, a superintendent or a foreman from coordinating the works;*
5. *prevent a person from engaging in an activity reserved to engineers, provided that the person does so in accordance with a regulation made pursuant to subparagraph h of the first paragraph of section 94 of the Professional Code (chapter C-26);*
6. *prevent bacteriologists or physicists from engaging in their activities;*
7. *prevent a person from engaging in an activity relating to ore prospecting;*
8. *restrict the normal practice of the art or trade of artisans or skilled tradespersons;*
9. **prevent a municipality from supervising work it carries out itself insofar as the work is for minor repairs that do not alter the original design of the works;**
10. **prevent a person from engaging in activities related to teaching and research for an educational institution;**
11. *prevent a person from contributing, as an employee or under the supervision of an engineer, to the preparation or modification of plans, estimates, reports, calculations, studies, drawings, operations or maintenance manuals, decommissioning plans or specifications;*
12. **prevent a person from performing a duty that has been delegated to him or for which he has been authorized pursuant to a law or a regulation under the responsibility of Transport Canada;**
13. **prevent a person from engaging in his computer activities;**
14. **prevent a person entrusted with the enforcement of an act from performing a duty specified in said act.**



# The OIQ's greater powers to fight illegal practice

The new Act introduces a new offence: **allowing the use of plans and specifications that have not been signed or sealed.**

There are no changes as concerns unlawful use of the title and illegal practice of the profession.

The penalties and time periods have been harmonized for all the types of offences:

- ▶ The limitation period (prescription) is 3 years after the date on which the prosecutor becomes aware of the commission of the offence, and 7 years after the commission of the offence.
- ▶ The maximum fine rises from \$10,000 to \$62,500 for individuals, and \$125,000 for organizations.

The OIQ has also been granted greater powers when it comes to obtaining documents.

## Previous version

See the previous section 24.

## Modernized Act (unofficial translation)

*24. No one may, for the carrying out of works referred to in section 3, use or allow the use of plans or specifications not signed and sealed by an engineer.*

*Despite the first paragraph, plans or specifications prepared outside Québec may be used for the carrying out of works provided they are related to a component integrated into other works and were specified and included in a document prepared by an engineer.*

*Nothing in the first paragraph prevents the use of plans or specifications signed and sealed in accordance with the provisions of a regulation made pursuant to subparagraph h of the first paragraph of section 94 of the Professional Code (chapter C-26)..*

*24.1 Anyone who contravenes section 22 or 24 is guilty of an offence and is liable to the penalties prescribed by section 188 of the Professional Code (chapter C-26).*

*Penal proceedings for such an offence are prescribed three years after the date on which the prosecutor becomes aware of its commission.*

*However, no proceedings may be brought if seven years have elapsed since the commission of the offence.*



# Regulation respecting authorization

The OIQ will have one year to adopt a regulation that authorizes professional technologists to engage in activities reserved for engineers.

The regulation must include the applicable conditions.

Members will be consulted on the draft regulation.

## Modernized Act (unofficial translation)

*10. The board of directors shall make a regulation pursuant to subparagraph h of the first paragraph of section 94 of the Professional Code (chapter C-26) to determine, from among the professional activities reserved to engineers, those that may be engaged in by professional technologists whose competency is in an engineering technology.*

**ing.** **Ordre  
des ingénieurs  
du Québec**

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