

Practice Rights Under the *Professional Governance Act*

Summary: On September 13, 2021, new reserved practice rights under the Professional Governance Act were prescribed for the College of Applied Biology and the BC Institute of Agrologists.

The *Professional Governance Act* (PGA) provides for regulated professions to have practice rights. Currently each of the five regulatory bodies under the PGA have title rights, meaning that only registered professionals may use those titles, which helps to delineate qualified, competent practitioners who are held accountable for their practice. Engineers and Geoscientists BC (EGBC) and the Association of BC Forest Professionals (ABCFP) also have reserved practices, meaning that it is a requirement for someone to be registered with those regulatory bodies in order to practice in a defined scope of practice. The ability to set out reserved practices helps ensure that unqualified, unregistered people are not carrying out work that requires the knowledge and skills of a professional.

Until the PGA came into force, biologists, agrologists and technology professionals did not have the ability to obtain reserved practices, meaning that there have been instances where advice and services have been provided by unregistered and potentially incompetent individuals who would not be held accountable to standards of ethics, competence, and professional conduct set by the regulatory body. The setting out of reserved practices for biologists and agrologists (work continues to determine appropriate reserved practices for technology professionals) represents an important step towards a strengthened professional governance framework and greater public interest protection.

After extensive collaboration and consultation over the past 3 years, the College of Applied Biology (CAB) and the BC Institute of Agrologists (BCIA) will gain reserved practice areas that will require qualified professionals to register with CAB or BCIA in order to practice in those areas. The regulations creating these reserved practices will have a delayed implementation and will require individuals practicing in the field of applied biology and agrology to be registered with the appropriate regulatory body by September 1, 2022. This delay in full implementation is to prepare individuals for the changes to come and allow the regulatory bodies to take the appropriate steps to ensure readiness.

Anyone who wishes to provide input to the Office of the Superintendent of Professional Governance (OSPG) regarding the new reserved practices may do so by contacting the office at OSPGenquiries@gov.bc.ca

General Questions and Answers

New: What engagement occurred in the development of the new reserved practices

The College of Applied Biology (CAB) and the BC Institute of Agrologists (BCIA) have been preparing for new reserved practice for several years, engaging registrants, practitioners and employers along the way. OSPG, CAB, and BCIA also engaged other regulatory bodies under the PGA to foster an understanding of where the practice of applied biology and agrology intersects with and aligns with the practice of other professions. Regulatory bodies are positioned to appropriately regulate their registrants and to work collaboratively on setting practice guidance across professions where required.

New: Why will it take a year to transition to these new reserved practices?

Registrants of these regulatory bodies and people currently practicing in these fields without being registrants require concrete assurances before they take action to ensure they are properly credentialed to practice in the reserved practices.

- Many people practicing in the field of biology and agrology are very competent practitioners but may not have all the academic requirements for full registration. The intention with the transition to the new reserved practices is not to prevent these individuals from practicing but rather to allow them a reasonable period of time to take the steps to become certified in their respective areas. This will take work from the credentials committee and may result in the creation of limited licensees for registrants who will be able to engage in reserved practice areas where they are determined to have gained the required technical knowledge and experience. These individuals are unlikely to take such steps, which may require some supplementary course work, if there is no reserved practice definition in place.
- The credentials committee will have a significant workload in reviewing applications for new registrations and the transition year will help spread out this workload.

If practice rights for engineers, geoscientists and forestry professionals remain the same as under the former statutes, why do the practice definitions in the regulations look so different than the former statutes?

In the course of drafting regulations to bring the *Professional Governance Act* (PGA) into force, it became clear that some consistency is needed in the way that the definitions of regulated and reserved practice are framed for the regulatory bodies under the PGA. This is because definitions for all regulatory bodies under the PGA will be considered in context of each other, rather than within the context of their current individual statutes. Having different levels of detail in the content or the verbs of each definition could have unintended consequences to the practice definitions of other regulatory bodies. On a go-forward basis, it is also necessary to establish a modernized reserved practice regime that contemplates the addition of new reserved practices under the PGA. Prompted by these considerations, we undertook an analysis of all proposals to identify those elements that make up a common framework that can be applied across regulatory bodies. The consistent framework that we have identified involves the following:



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- A regulated practice that arises from the provision of advice and services based on or ancillary to specific disciplines or in relation to specific technical matters.
- Where granted, a reserved practice that is derived from the aspects of the regulated practice that require the experience or technical knowledge of a registered professional in order to hold paramount the safety, health and welfare of the public, including the protection of the environment and the health and safety of the workplace

How will registrants, clients and the public know what aspects of the regulated practice require the experience or technical knowledge of a registered professional and are therefore reserved?

The definition of reserved practice under the *Professional Governance Act* (PGA) takes a much more simplistic approach than previous statutes, such as the *Engineers and Geoscientists Act*, and the *Foresters Act*, which are both now repealed. The definition under the PGA hinges on the required technical knowledge and experience of a professional that is required to perform a certain aspect of the regulated practice when it is in the public interest for a qualified professional to have exclusive rights over that area. The threshold of when technical knowledge and experience is required will be made clear through supportive guidance by the OSPG and regulatory bodies.

- The Office of the Superintendent of Professional Governance (OSPG) will support and guide regulatory bodies in preparing illustrative materials that articulate to public and industry audiences when the technical knowledge and experience of a particular registrant of a regulatory body is required to perform certain aspects of regulated practice
- The OSPG may guide or in some cases use directive power under the PGA to give weight to illustrative material produced by regulatory bodies.
- The illustrative material from regulatory bodies may take the form of:
 - Practice guidance for registrants
 - Technical and policy documents
 - Memorandum of understanding between regulators
 - General examples of when a professional has rights to practice in an area
- Regulatory bodies will also be open to public and registrant communication when there are questions surrounding reserved practice rights
- Backstops have also been included in the regulation of pre-existing reserved practices such as engineering, geoscience and forestry to clearly identify that everything included in reserved practice under the former statutes, immediately before their repeal, is still in the reserved practice under the PGA.

Reserved Practice Considerations

How will the overlap in regulated and reserved practice be addressed?

The regulations defining the regulated and reserved practice of each profession were drafted with other professions in mind. Although some professions deal in similar fields there is very little overlap in the

regulated practice of the bodies governed by the PGA, with an example being forest transportation systems within the reserved practice of EGBC and ABCFP. These areas are well laid out and understood by registrants and the public through the use of joint practice guides and a memorandum of understanding between EGBC and ABCFP.

Often times, complex projects will require the expertise of different professionals that will be required to work alongside each other, each bringing their own unique experience and knowledge to the table. A common example is the mining industry. Companies regularly employ foresters, engineers, geoscientists, biologists, agronomists and technologists to complete a project as it is important to have the right skills for the right task, especially when there is a risk to the environment and public interest.

As the new reserved practices are established, regulatory bodies are setting out collaborative agreements for effectively regulating and providing clarity to areas of intersections and where professions operate in the same area but carry out different tasks.

What engagement plan is in place for the implementation of the new reserved practices?

In the process of developing a new reserved practice for professions, the OSPG has collaborated extensively with all PGA regulatory bodies, employers and registrants to ensure the transition to the new model is understood by all affected parties and that those parties are well equipped to function under the new regime. Regulatory bodies are at the forefront of this engagement and registrants are encouraged to reach out to their governing body for more information.

Profession-specific questions and answers

I am a registrant of Engineers and Geoscientists B.C. (EGBC) – are there any changes to my practice rights?

No, the reserved practices of engineering and geoscience will be the same as they were under the *Engineering and Geoscientists Act*, with some modernizations.

What happened to the exemptions to the reserved practice under section 2 of the *Engineers and Geoscientists Act*?

A number of exemptions to the reserved practices of engineering and geoscience are set out in the *Engineers and Geoscientists Act*, which provided helpful clarity under that statutory framework. OSPG's view is that these explicit exemptions are no longer required due to the shift in the underlying scheme from the *Engineers and Geoscientists Act* to the PGA, but in practical terms, the status quo will continue (to the extent that activities are consistent with the policy objectives of those exemptions).

Specifically, Office of the Superintendent of Professional Governance (OSPG) has very carefully considered the exemptions in 2(2) and 2(9) of the *Engineers and Geoscientists Act*. Our understanding is that the policy objective of these exemptions is to provide clarity that:



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- mines inspectors and prospectors may carry out their work without being registered with EGBC; and,
- that aspects of acquiring tenures or keeping tenures in good standing that don't involve the knowledge or expertise of a professional engineers or geoscientists may be undertaken without being registered with EGBC

Should practical matters arise in respect of the transition from explicit exemptions under the *Engineers and Geoscientists Act* to the PGA, the OSPG is open to revisit the matter of exemptions should that prove necessary to maintain the status quo of intended policy objectives at a practical level.

I am a registrant of the Association of B.C. Forest Professionals (ABCFP) – are there any changes to my practice rights?

No, the reserved practice of forestry will be the same as it was under the *Foresters Act*, with some modernizations.

I am a registrant of the College of Applied Biology (CAB) – how will the new reserved practice impact my practice?

For the most part, the impact to existing registrants will be small – clients and employers will be required to engage an applied biologist to carry out or supervise work within the reserved practice. Registrants will need to ensure they are not engaging in the reserved practice of another regulatory body, including the new reserved practice of agrology.

If a person is not a registrant but is practicing within the reserved practice of applied biology, that person will need to register with CAB or work under the supervision of a registrant of CAB or cease to practice within the reserved practice.

I am a registrant of the B.C. Institute of Agrologists (BCIA) – how will the new reserved practice impact my practice?

For the most part, the impact to existing registrants will be small – clients and employers will be required to engage an agrologist to carry out or supervise work within the reserved practice. Registrants will need to ensure they are not engaging in the reserved practice of another regulatory body, including the new reserved practice of biology.

If a person is not a registrant but is practicing within the reserved practice of agrology, that person will need to register with BCIA or work under the supervision of a registrant of BCIA or cease to practice within the reserved practice.

I am a registrant of Applied Science Technologists and Technicians of B.C. (ASTTBC) – do I have any new practice rights?

Not yet. The status quo remains. A reserved practice for engineering and applied science technology has not been established.



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The *Applied Science Technologists and Technicians Regulation* sets out that whenever registrants of ASTTBC are working in the reserved practice of engineering, they must continue to do so under the supervision of a registrant of Engineers and Geoscientists B.C. (EGBC), as was the case under the former statute. This reflects the status quo.

The Office of the Superintendent of Professional Governance (OSPG) intends to begin a process with ASTTBC and EGBC to discuss the opportunities and challenges associated with, and potential approaches to, reserved practice within the engineering discipline for technologists and technicians.