

Practice Rights Under the *Professional Governance Act*

February 10, 2023 Update Summary: On February 10, 2023, the profession of architecture was designated under the Professional Governance Act and the Architectural Institute of British Columbia was continued as the regulatory body responsible for overseeing the profession. The *Architects Act* was consequently repealed.

September 1, 2022 Update Summary: On September 1, 2022, new reserved practice rights under the Professional Governance Act are now in force for the College of Applied Biologists and the BC Institute of Agrologists

The *Professional Governance Act* (PGA) provides for regulated professions to have practice rights. Currently each of the six 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), the Forest Professionals BC (FPBC), the College of Applied Biologists (CAB), the BC Institute of Agrologists (BCIA) and the Architectural Institute of BC (AIBC) 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. Creating these new reserved practice areas for biologists and agrologists was only possible with extensive collaboration and consultation over a period of three years. These new reserved practice areas that will require qualified professionals to register with CAB or BCIA in order to practice in those relevant areas. To achieve the best implementation outcome, the regulations creating reserved practices for biology and agrology had a delayed implementation to prepare individuals for the changes and fully came into force on September 1, 2022.



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On February 10, 2023 the profession of architecture was designated under the PGA and AIBC was established and continued as the regulatory body overseeing the profession. The designation is a result of extensive engagement between government and AIBC since 2020 and engagement with stakeholders since 2021. The designation of the profession is a big step forward for modern professional regulation and will allow the profession of architecture to evolve under legislation that is largely built around regulation making authority. Prior to designation, the profession of architecture had a defined regulated and reserved practice. The transition to the PGA aimed to uphold the current state of practice, and focus was geared towards re-articulating the practice definition to better represent the current state of the profession.

More information on BCIA's reserved practice is available through their [Regulated and Reserved Practice and Title Rights](#) and [Illustrative Materials webpages](#).

More information on CAB's reserved practice, is available through their [Reserved Practice Outreach webpage](#) and [Compliance Plan](#).

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

General Questions and Answers:

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

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.

If practice rights for engineers, geoscientists, forestry professionals and architects 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



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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. There are variations in the definition of various practices which cater to each specific profession, but the consistent framework that we have identified involves the following:

- 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*, the *Foresters Act* and the *Architects Act*, which are all 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) has supported and guided regulatory bodies in preparing descriptive 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 descriptive 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.



Please visit individual regulatory body websites to learn more about their reserved practices and to access descriptive material that has been recently produced.

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 are few true overlaps where the registrants of two professions could interchangeably undertake identical tasks. One example is forest transportation systems being within the reserved practice of both EGBC and FPBC. Another example is the schedule to the Architects Regulation, which identifies structures that are within the reserved practices of both EGBC and AIBC. These areas are well laid out and understood by registrants and the public through jointly coordinated oversight by the respective regulatory bodies.

More commonly, the practice of different professions may involve alignment or intersections, as described in more detail in [OSPG's guidance document on regulated and reserved practice](#). As new reserved practices are established, regulatory bodies are setting out collaborative agreements for effectively regulating and providing clarity to areas of intersection/alignment and where professions operate in the same area but carry out different tasks.

Profession-specific questions and answers

I am a registrant of the Architectural Institute of BC (AIBC) – are there any changes to my practice rights?

No, the reserved practice of architecture will be the same as under the *Architects Act*, with some modernizations.

The definition of the practice of architecture was amended to better articulate the thresholds that previously existed under the *Architects Act*, while also incorporating when Letters of Assurance are required under the BC Building Code and other relevant authorities. Although the drafting of the practice definition looks different, the practice of architecture as defined under the PGA remains substantially the same.

Will the permitting process for buildings change now that the *Architects Act* is repealed and the profession of architecture is under the PGA?

No, the permitting process for buildings will be the same as under the *Architects Act*.

The definition of the practice of architecture was amended to better articulate the thresholds that previously existed under the *Architects Act*, while also incorporating when Letters of Assurance are required under the BC Building Code and other relevant authorities. The rearticulated definition of the practice of architecture is intended to provide increased clarity with regard to building permitting, but will not affect any thresholds or process.

What were the main areas of focus when rearticulating the former definition under the *Architects Act*?

The definition of the practice of architecture was broadly defined under s.59 of the *Architects Act* with s.60 outlining exceptions to the practice - quite different from the model developed for the first professions brought under the PGA. As noted above, the practice definitions in PGA regulations focus on the experience and technical knowledge of a professional that would make them qualified to practice in a reserved practice area.

The definition of the practice of architecture also became misaligned with the BC Building Code (BCBC) over the years as the BCBC was updated and the *Architects Act* remained unchanged. The BCBC outlines when a building requires a Letter of Assurance to accompany a building permit, which must be signed by an architect or engineer, depending on professional competence. The previously unarticulated correlation between the *Architects Act* and the BCBC created uncertainty surrounding when qualified professionals were required.

The purpose of the definition under the *Architects Regulation* is to articulate the practice of architecture in a clearer manner, and (when relevant) makes direct reference to the BCBC while ensuring that other relevant authorities, such as the Vancouver Building Bylaws (based on the BCBC) are also captured.

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:

- 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 Forest Professionals BC (FPBC) – 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, 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.

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.



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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.