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# PEO FINDS window of opportunity FOR LICENSING ENHANCEMENTS

**The Ontario government's Open for Business legislation provides a clear opportunity for PEO to win long-sought-after enhancements to its licensing, registration and administrative operations.**

When PEO was invited to submit proposals for changes to the *Professional Engineers Act* (PEA) as part of the Ontario government's Bill 68 (*Open for Business Act, 2010*)—a wide-ranging bill focusing on economic competitiveness, labour mobility and administrative enhancement—it used the opportunity to effect PEA amendments to increase the clarity, transparency, accountability and effectiveness of its work to license practitioners and regulate professional engineering practice.

The proposals submitted to the province following approval in principle by PEO council in February 2010 and subsequent peer review, were meant to help PEO fulfill the imperative of all regulatory bodies—to simplify their enabling legislation to better serve the public interest. Part of that simplification involved seeking to harmonize PEO's licensing requirements with those across the country to facilitate registration for engineers from one province or territory to the next. Such a national framework for licensure would satisfy the expectations of both the federal and provincial governments for labour mobility through reduced barriers to trade and commerce.

## WIDE-RANGING PROPOSALS

The 20-plus proposals PEO put before the province under the Open for Business umbrella ranged from a revised definition of professional engineering, to allowing PEO council the authority to establish the regulator's head office location.

Although a number of them focused on PEO's internal operations, others directly targeted licensing and registration. The opportunity to propose amendments to the PEA through the Open Ontario initiative enabled PEO to follow up on the Licensing Process Task Force's approved recommendations requiring act changes. The task force report and more than 50 recommendations were approved by council in November 2007 and January 2008.

The opportunity for act changes also allowed PEO to follow up on the 2002 recommendations of the Technologist Licensure Task Group that holders of PEO's limited licence be able to hold a Certificate of Authorization (C of A) to offer or provide to the public engineering services within their limited defined scopes of professional engineering practice, and that a class of limited licence-licensed engineering technologist (LET)—be established for engineering technologists.

Some of the Bill 68 amendments to the PEA will require PEO council to approve associated changes to Regulation 941 before they may be fully implemented. Kim Allen, P.Eng., PEO's CEO/registrar, expects this process to take about six months (as of September 2010).

## CHANGES IN DETAIL

One of the most significant changes put to the government is a new definition of professional engineering within the PEA. It was believed that a new definition was necessary to match Ontario's description of engineering with the national standard. The revised definition adds the words "economic welfare" and "environment" to the range of engineering's responsibilities to safeguard, and includes managing any act of professional engineering as the practice of professional engineering.

The revised definition also no longer includes the qualification "but does not include practising as a natural scientist" at the end, the elimination of which has raised concerns among organizations representing natural scientists. Accordingly, PEO will be working with the natural science community, as well as Engineers Canada, to ensure the new definition does not adversely affect natural scientists practising natural science (see "Natural scientists take exception to new engineering definition," p. 12 and In Council, p. 62).



PEO believes a national definition of professional engineering is essential for harmonizing licence and registration requirements. In fact, the engineering regulator has been spearheading the effort to develop a national framework for membership and licensing, which would require all Canadian jurisdictions to have the same basic requirements for licensure.

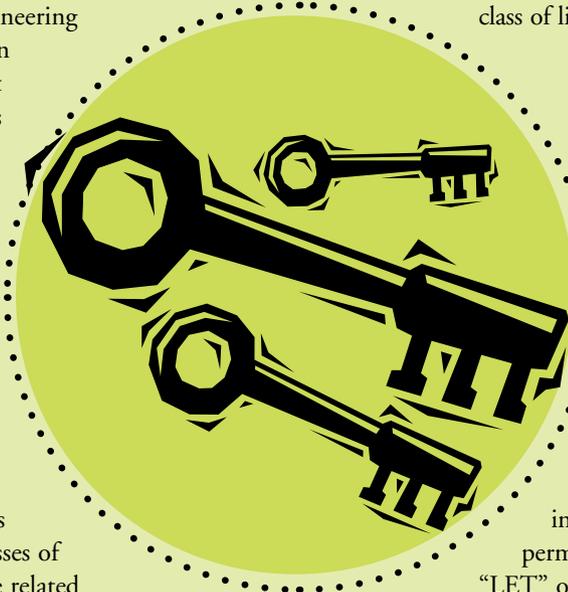
Many of the licensing-related changes were also drawn up to recognize the stages in the formation of a licensed professional engineer, as well as the full range of practitioners. For example, one of the changes explicitly establishes PEO's authority to make regulations

“governing persons as engineering interns under [new] section 20.1, including setting out the academic requirements necessary for acceptance as an engineering intern and the rights and privileges of engineering interns, and prescribing and governing other classes of persons whose interests are related to those of the association.” Previously, subsection 7(1)8 had referred only to PEO's authority to prescribe “classes of persons whose interests are related to those of the association and the privileges of members of the classes in relation to the association.” The new section 20.1 obligates the registrar to accept as an engineering intern any licence applicant who meets the requirements of that section.

An addition to section 40 of the PEA will make it an offence for anyone but an engineering intern to use the titles “engineering intern” or “stagiaire en ingénierie,” or the initials “EIT” or “SI.”

Similarly, changes to subsection 7(9)(v) provide PEO the authority to make regulations to:

- set “other requirements” for the issuance of a licence or any class of licence;
- set out the circumstances under which the registrar shall refer an application for a licence to the Academic Requirements and/or the Experience Requirements committees; and
- establish “an engineering technologist class of limited licence, including prescribing requirements and qualifications for the issuance of an engineering technologist class of limited licence and terms and conditions that shall apply to the engineering technologist class of limited licence.”



An addition to section 40 will make it an offence for anyone who is not the holder of the engineering technologist class of limited licence to use the titles “licensed engineering technologist” or “technologue en ingénierie titulaire de permit,” or the initials “LET” or “TITP.”

Changes to sections 14 and 18 of the PEA eliminate the requirement for applicants to be Canadian citizens or have permanent resident status before a licence can be issued.

By removing the requirement that all licence applicants be Canadian citizens or have permanent resident status before they can become licensed, PEO hopes it has clarified the licensure requirements for international engineering graduates, many of whom had misinterpreted the previous requirement to mean they had to be citizens or permanent residents before they could even apply for licensure.

PEO President Diane Freeman, P.Eng., FEC, recently referred to this elimination of the residency requirement as a groundbreaking initiative for PEO, one that should make a big difference in the lives and careers of countless internationally educated engineers.

Other changes to section 14 clarify that the passing of PEO-imposed exams may form part of the academic requirements for licensure, as well as “other requirements specified in the regulations for the issuance of a licence.”

Long-awaited changes to several sections of the PEA will enable limited licence holders to hold Cs of A, once associated regulations are in place. These include a change to subsection 12(3)(b) that will enable a limited licence holder to assume responsibility for professional engineering work done by an unlicensed person, as well as changes to sections 15 and 17.

### BONE OF CONTENTION

The most significant change to the act eliminates the previous exception to the requirement to be licensed to perform acts of professional engineering “in relation to machinery or equipment (other than equipment of a structural nature) for use in the facilities of the person’s employer in the production of products by the person’s employer.”

Long referred to simply as the “industrial exemption,” this exception existed only in Ontario. Repealing subsection 12(3)(a) of the PEA will serve to “level the playing field” for engineers across the country, says Allen.

Because this change may be contentious, at its September 2010 meeting, PEO council approved creating an industrial exemption task force, to work with industry to help it prepare for the exception’s removal (see In Council, p. 61). Accordingly, the repeal of subsection 12(3)(a) will not be effective until proclaimed by the lieutenant governor, to give the task force and industry time to work out its implementation. Originally, PEO had proposed the repeal

become effective five years after the *Open for Business Act, 2010* received royal assent. The government, however, believes industry can be prepared sooner.

### BC MAKES CHANGES

PEO is not the only regulator looking to update its enabling legislation and its licensing and registration processes. The Association of Professional Engineers and Geologists of British Columbia (APEGBC), for example, is modernizing its act to better describe its core functions and responsibilities. Like PEO, APEGBC is making a case for updated enabling legislation to better fulfill its regulatory, licensing and governance functions. The BC regulator explains its moves by pointing out that its legislation was initially drawn up in a less complicated era for the engineering profession.

While PEO has revised and updated its legislation more frequently than its BC counterpart, it also looks to have its core functions keep pace with changing conditions.

As PEO noted in its proposals to amend the PEA as part of Bill 68, there are several immediate benefits to the profession in updating its enabling

legislation. At the top of the list is harmonization of engineering legislation and regulation across the board in Canada, toward the goal of full national mobility for all classes of licence holder. The changes will also permit easier enforcement of the act, thereby enabling regulators to shift their focus from enforcement and discipline to prevention and education.

PEO started working with Ontario government officials in January 2010 to begin the Open for Business process. Third reading of the bill was carried on October 21. It received royal assent on October 25.

Ontario’s Ministry of Economic Development describes Open for Business as an ambitious three-year initiative to create faster, smarter and streamlined government-to-business services that make Ontario more attractive for business development while protecting the public interest. It also seeks to transform the Ontario government-to-business relationship.



## REGULATIONS FOR C OF A, LICENSING CHANGES, STILL IN THE WORKS

PEO is still working through the details of amendments to Regulation 941 to make changes to its Certificate of Authorization (C of A) process and to implement approved recommendations of the Licensing Process Task Force (LPTF).

The LPTF's 50-plus recommendations for improvements to PEO's licensing process were approved by council in November 2007 and January 2008.

Since then, PEO has implemented approved changes that do not require amendment to the *Professional Engineers Act* and/or the regulation. For example, existing documents describing the requirements, policies and processes for licensure have been reviewed in the context of the approved recommendation that they be "applicant-centric, transparent, objective, impartial and fair, and align with the fundamental requirements for licensure, including knowledge, skill and character" and "specify how and when an applicant can or must meet each requirement and the tools that will be used to assess the applicant against the requirements, and describe the independent peer review process used to assess applicant qualifications," and have been approved by council, so that the documents can be specified in the regulation.

The Ontario government's passage of the *Open for Business Act, 2010* on October 21, 2010, will enable PEO to implement more of the LPTF recommendations.

And the more than 20 required regulation amendments, having undergone many drafts, each reviewed by the LPTF and the Academic Requirements and Experience Requirements committees, are soon to be put to PEO council for approval. Generally, these changes will enhance the transparency of the licensing process by bringing greater clarity as to the academic and experience requirements for licensure, as well as flexibility in how applicants may demonstrate to PEO they have met the requirements.

### C OF A CHANGES ALSO NEAR

In the package of regulation amendments dealing with the LPTF recommendations are others to give effect to changes to the C of A approved by council over four years ago.

Aimed at making the C of A more effective as a vehicle for offering engineering services to the public, these regulation amendments were combined with those directed at the licensing process, as the revised regulation will use common language in both areas related to disciplines of engineering.

Many of the C of A revisions will involve changes to its fee structure, to integrate the C of A fee with the licence fee for sole practitioners for example, and to its administration, including an online application to expedite the application approval process. Included on the online application will be sections where C of A holders will list all of their licence holders offering services to the public and where they will designate at least one licence holder to assume responsibility for and supervise the professional engineering services to be provided under the certificate, for each discipline in which the C of A holder offers services. PEO will validate through the online application that the services offered by the C of A holder are the sum of the services of its licence holders offering services (see In Council, *Engineering Dimensions*, November/December 2006, p. 32; January/February 2007, p. 34; and May/June 2008, p. 60). Σ

