



FEBRUARY 8, 2021

PRESIDENT'S SPECIAL REPORT to REGISTRANTS

Enactment of the *Professional Governance Act* (SBC 2018) ("*PGA*")

After almost 3 ½ years of often challenging work by the staff and Council of the BCIA we are pleased to confirm that the majority of the provisions of the PGA were enacted by the provincial government on Friday February 5th, 2021. The effect of this is that the *Agrologists Act* under which our profession has operated since its inception in 1947 (with a major upgrade in 2003) has been repealed. The former Act has been replaced by a schedule to the *PGA* and most significantly a new set of Bylaws which incorporates any necessary changes and additions required by the *PGA*.

The new legislation standardizes how regulatory bodies govern their registered professionals. This includes expectations on codes of ethics, continuing education, reconciliation with Indigenous peoples and transparency in their organizational governance. It increases public access to information on the governance of the regulated professions and ensures professionals continue to be held to the highest ethical and technical standards.

A large proportion of the new provisions relate to the administrative operations and reporting requirements of a professional regulatory body such as the BCIA. This includes a significant realignment of the BCIA Council to 7 Registrant Councillors from 3 Regional Electoral Districts plus 4 Lay Councillors as opposed to 8 Branch Councillors as was authorized by the *Agrologists Act*.

Over the past few years Council has expended significant resources to keep our Registrants updated as to these types of changes. Consequently this report will concentrate on the substantial provisions that will directly affect your practice of agrology rather than administrative operations. Although I have tried to be as brief as possible there is a large amount of information to be conveyed. BCIA staff and Council are always available to assist with any questions or comments you may have with respect to our new governing legislation.

Definition of Agrology

This is the most significant change since the inception of the BCIA and will have a major positive impact on the practice and development of our profession. The definition of agrology is now prescribed as the “Regulated Practice” of the profession and is intended to generally outline the activities which agrologists are allowed to practice within British Columbia. The format of this new definition is very similar to the previous definition of agrology but there are significant differences that may appear at first to be subtle. I have bolded the significant changes in the new definition below:

AGROLOGISTS REGULATION

Definitions

1 (1) in this regulation:

“Act” means the *Professional Governance Act*;

“**practice of agrology**”, subject to subsection (2), **means the provision of any of the following advice or services:**

(a) Advice or services that

i. Are based on agricultural **or** natural sciences **or** agricultural **or** resource economics, and

ii. Relate to

(A) Cultivation, production, improvement, processing, marketing or **management** of aquatic or terrestrial plants or animals,

(B) Classification, management, use, conservation, protection or enhancements of aquatic, terrestrial or **atmospheric** ecosystems that are affected by, sustain or have the potential to sustain the cultivation or production of aquatic or terrestrial plants or animals, **or**

(C) **Restoration, reclamation or remediation of aquatic, terrestrial or atmospheric ecosystems;**

(b) Advice or services that are ancillary to those described in paragraph (a).

(2) The practice of agrology does not include the provision of advice or services within the reserved practice of a registrant of another regulatory body.

Regulated practice

2 For the purposes of the definition of “regulated practice” in section 2 [definitions in respect of the British Columbia Institute of Agrologists] of Schedule 1 of the Act, the practice of agrology is prescribed.

Reserved title

3 For the purpose of section 51 (1) (a) [reserved titles] of the Act, the following titles are reserved for exclusive use by registrants:

a) “professional agrologist”;

- b) “articling agrologist”;
- c) “**technical agrologist**”
- d) “**articling technical agrologist**”.

As you can see the new definition specifically acknowledges what, since the 2003 legislation, has become a significant portion of the profession being work within the environmental sciences in restoration, reclamation and remediation of ecosystems. The definition also removes the ambiguity of the previous definition which to some may have required a direct connection to agriculture. The new definition clearly places this environmental work within the purview of agrology.

I must stress that this definition does not, in and of itself, provide practice rights to our profession. Rather it is the foundation upon which we can build a definition of what is called under the *PGA* “Reserved Practice”. The development of this concept over the next few years will clarify the activities which are exclusively reserved for Agrologists and those activities that enjoy joint jurisdiction with other professions.

This work will require an in depth review of our current 38 areas of practice to develop a set of clear definitions of the different areas. It is probable that this will result in fewer but broader areas of practice similar, but certainly not identical, to what is utilized in the province of Alberta. It will be these new definitions of our areas of practice upon which practice rights will be based.

Once practice rights have been clarified we will strongly pursue any person or firm who is providing agrology services if they are not a Registrant of the BCIA or a Registrant of another regulatory body which enjoys joint jurisdiction with our professionals. We believe that enforcement of practice rights will increase the oversight on these activities thus increasing public trust in the professions. In addition however enforcement should ensure that employment opportunities in protected activities will be reserved for Registrants of the BCIA. Non registrants will no longer be able to provide services under different titles such as “agronomists”.

Duties to Report

This is a very significant enlargement of the previous duty which was to report incompetent practice or conduct unbecoming of other agrologists as was required under the *Agrologists Act*. This is a very complex matter and I would refer to you the previous discussion of this topic that was sent to all Registrants a few weeks ago. The new duties have been incorporated into our Ethics course and I would note that there is now a special price of \$40 (as opposed to the regular \$120 cost) for a self directed, moderated refresher ethics course that all PAgS are encouraged to take.

Code of Ethics

The Code has been extensively revised to be consistent with the format and content of the Codes of the other professions currently under the *PGA*. We must stress however that the basic

concepts remain the same. We would strongly suggest that you review the new Code of Ethics as it is in force as of today.

One significant addition to the Code is the requirement to:

12. Present clearly to employers and clients the possible consequences if professional decisions or judgments are overruled or disregarded;

It is suggested that this principle can be met by including in every report you prepare a specific section in which you briefly outline the possible consequences. This is for your protection as it eliminates the argument that the employer or client did not know what could happen.

Indigenous Relations

The *PGA* specifically requires that the BCIA implement continuing education programs that support reconciliation with Indigenous peoples in British Columbia. Council has addressed this requirement by implementing a mandatory policy whereby all AAGs and ATAGs who commence their respective articling period after January 1st, 2021 will take a foundational course on Indigenous relations as part of their respective articling period. In addition **ALL** Registrants **must** complete a foundational course **no later than** December 31st 2022. There is an approved list of foundational courses available on the BCIA website. Many of our Registrants have already completed a foundational course since January 1st, 2019 as part of their regular employment. If so, Registrants can contact the BCIA office to determine whether their respective course meets this requirement or refer to the guidelines behind their Registrant log in on our website.

Council is encouraging our 8 Branches to incorporate branch specific Indigenous history and relations into their respective professional development activities. In addition, Council is considering commissioning an agrology specific Indigenous relations course that would become available once all Registrants have attained the required foundational course. This is an aspect that is continually evolving and will be an integral part of the training and development of future agrologists.

Declarations of Competence and Conflict of Interest

A major issue in negotiations over the past 3 years has been the requirement in the legislation that every Registrant must file a written declaration with their respective Regulator confirming their competence and lack of a conflict of interest for *each project* they work on. We, together with the other Regulators have taken the position that the existing practice, at least for BCIA, of an annual declaration of competence as part of the dues payment process should be sufficient.

The exception would be that any Registrant that wants to change their declared areas of practice, and has the additional education or experience on which to base the change, must file a new declaration of competence with their Regulator during the course of the year. This would

reduce the declarations from potentially thousands to a level which could be managed by the respective Regulators.

We understand that the Ministry of the Environment and Climate Change Strategy has been operating a pilot project using these declarations. We have no direct information as to the status or success of that project. We would note however that the Government has expressly decided that it will **NOT** enact the legislative provisions that require these declarations at this time. We fully expect that they will be required at some time in the future and we look forward to working with the government to attain a workable solution to this challenge.

Complaints and Discipline

The BCIA has been very lucky in that we have one of, if not the lowest, percentage of complaints per capita of any professional regulator which speaks volumes as to the expertise and integrity of our Registrants. It has been at least a decade since we were required to conduct a discipline and all of the complaints were resolved by other methods. That said, the new provisions significantly tighten enforcement mechanisms and greatly increase the remedial penalties that Registrants may be subject to.

The new legislation does put emphasis on alternative dispute resolution mechanisms including authorizing Consent Orders and what is termed “Reprimand and Remedial Action by Consent” agreements. The legislation also removes the requirement for a written complaint to be filed before BCIA can start an investigation. It is possible that this will increase the number of investigations thus increasing the need for increased capacity within the staff of the BCIA. Council will track this very closely and address any needs required to ensure a competent, fair and accurate discipline process.

Standards of Conduct and Competence

It is now a mandatory duty of each Registrant to comply with current industry standards, policies, practices and legislative requirement relevant to their respective self declared areas of practice. Any deviations from these standards must be documented and retained by the respective Registrant.

It could be argued that this duty is not new, given the stipulations in our Code of Ethics to not practice outside our areas of expertise. The new provisions however codify this duty in legislation which will bring with it increased enforcement. This duty puts even more emphasis on meeting the mandatory PD requirements.

Mandatory Professional Development (“PD”)

As you know BCIA has maintained a mandatory PD system for several years. Unfortunately the enforcement of the mandatory aspect was not always consistent. Under the *PGA* enforcement will be strengthened pursuant an enforcement matrix that has been developed by our Audit and Practice Review Committee. This committee has been given enhanced enforcement powers including, but not limited to, the ability to order a practice review of any Registrant and revoke a Registrants’ designation for non compliance with the mandatory PD requirements.

One of the few benefits of the current COVID-19 restrictions is that the BCIA has significantly increased the quality and quantity of PD activities available on line. We have also negotiated significantly reduced rates for on line activities available through GeoEnviro Pro. In addition, we have established a Provincial PD Coordinator position within the BCIA office to assist in the presentation of quality PD activities. Council believes that with these changes all Registrants will have a reasonable opportunity to easily fulfill the annual PD requirements.

Advisory Program

The PGA requires BCIA to operate an advisory program which may be accessed by any person and which will provide general information and advice to assist in the understanding of professional and ethical matters relevant to the profession of agrology. The specifics of this program are still being developed as there are potential liability issues for the BCIA that need to be determined. All Registrants will be advised when this program is ready to be accessed.

Public Disclosure of Information/Register

In order to increase the transparency of professional regulators the PGA significantly increases the quantity and type of information which must be publically disclosed. The disclosure requirement is met by placement of information on the BCIA website. With the exception of the mandated Register most of this information will be related to the settlement or resolution of complaints.

The BCIA is also now required to maintain a public Register on its website of information respecting its current and former Registrants. The Register will contain notations of any disciplinary matters and any breaks in registration due to such matters as non payment of the annual fees. Most of the information on the Register however will be the names, specific professional designation and contact information for each of our Registrants. **All Registrants must** provide and update **at least one** of their business email, business phone number, or business mailing address.

As you can see the *PGA* is a complex next step in the development of self regulated professions within our province. It is probable that this process will become the best practice for other jurisdictions. The BCIA staff and Council are always available to assist should you need any assistance. I must commend the work of Council, staff and our committees over the past 3 ½ years that has brought us that much closer to the professional practice rights which our profession has earned. I look forward to the next step being the clarification and implementation of those practice rights.

Yours Truly



Jane Kerner President BCIA

