

AGM 2022**Updates to the Professional Engineers Act to Reflect Governance Changes****Whereas:**

The recent governance changes and the establishment of new Governance Committees has the effect that Professional Engineers of Ontario is no longer in compliance with the *Professional Engineers Act*.

Whereas:

In September 2018, PEO's Council approved a motion to have an external regulatory performance review conducted to identify any gaps between PEO's current practices and the process, procedures and policies exhibited by the best regulators. The review assessed PEO's performance against its statutory mandate and legislative requirements, internal policies and the standards of good regulation across its core regulatory functions.

PEO developed an Action Plan to Implement the Recommendations from the External Regulatory Performance Review, 2019, which included addressing recommendations to review its committees, subcommittees and working groups to ensure they are both necessary and fit for a regulatory purpose, and to work with the Attorney General's office to seek changes to its statute to modernize its organization and regulatory powers.

Whereas:

Section 10 of the *Professional Engineers Act* states:

Establishment of committees

10 (1) The Council shall establish and appoint the following committees:

- (a) Executive Committee;
- (b) Academic Requirements Committee;
- (c) Experience Requirements Committee;
- (d) Registration Committee;
- (e) Complaints Committee;
- (f) Discipline Committee;
- (g) Fees Mediation Committee,

Whereas:

The following committees were established in PEO's 2021 AGM and will ensure the continuation of PEO's Action Plan:

- Audit and Finance Committee;
- Governance and Nominating Committee;
- Human Resources and Compensation Committee; and
- Regulatory Policy and Legislation Committee

Be it Resolved that:

Council direct the CEO/Registrar to request changes to the *Professional Engineers Act* to reflect the regulatory transformation and governance structures changes, and to allow for ongoing modernization of the licencing process and reflect the principles of right-touch regulation.

These changes should include the establishment of the following committees under Section 10 of the *Professional Engineers Act*:

- Audit and Finance Committee;
- Governance and Nominating Committee;
- Human Resources and Compensation Committee; and
- Regulatory Policy and Legislation Committee

Mover:



Christina Visser, P.Eng.

Seconder:



Mark Frayne, P.Eng.

1. Title of Submission

Updates to the Professional Engineers Act to Reflect Governance Changes

2. Please briefly describe the issue, problem, risk or gap that this submission addresses.

Given the recent governance changes and the establishment of new Governance Committees, Professional Engineers of Ontario is no longer in compliance with the *Professional Engineers Act*. Thus, Council should request changes to the *Professional Engineers Act* to reflect the regulatory transformation and governance structures changes, and to allow for ongoing modernization of the licencing process and reflect the principles of right-touch regulation.

In September 2018, PEO's Council approved a motion to have an external regulatory performance review conducted to identify any gaps between PEO's current practices and the process, procedures and policies exhibited by the best regulators. The review assessed PEO's performance against its statutory mandate and legislative requirements, internal policies and the standards of good regulation across its core regulatory functions.

At its June 21, 2019 meeting, Council unanimously passed the following motions:

"That Council direct the Registrar to develop a high-level action plan related to the 15 recommendations contained in the April 2019 report A review of the regulatory performance of Professional Engineers Ontario from Harry Cayton, Kate Webb and Deanna Williams for consideration at the September 2019 Council meeting."

These recommendations include:

Recommendation 1: PEO should review all its committees, subcommittees and working groups to ensure they are both necessary and fit for a regulatory purpose (3.28-3.36).

Recommendation 14: PEO should work with the Attorney General's office to seek changes to its statute to modernize its organization and regulatory powers (for example, 4.58, 4.62, 4.63, 4.85).

Recommendation 15: Council should assess and implement these recommendations. It should require an action plan and time-frame for implementation from its executive staff. When it approves the action plan, Council should commit the necessary resources to deliver it.

In addition to this, PEO's Action Plan to Implement the Recommendations from the External Regulatory Performance Review, 2019 identifies the need for a change in vision.

On page 5 of PEO's Action Plan it says:

"PEO aspires to become a professional, modern regulator that delivers on its statutory mandate and is supported by a governance culture that consistently makes decisions that serve and protect the public interest."

As a professional, modern regulator, PEO will have:

- a) *Adopted right-touch regulation principles and applied them to all of its work;*
- b) *Professionalized its regulatory practices based on right-touch regulation principles;*
- c) *Focused its resources on delivery of its statutory mandate; and*
- d) *Built a modern IT infrastructure for business practices and the management of confidential information and data security to support its work and increase efficiency.*

Delivering on its statutory mandate means that PEO functions as a public interest regulator and not as a professional association.

Governance culture is defined as the mindset, structures, processes, practices and behaviours needed to support PEO's statutory mandate and its ability to serve and protect the public interest, while respecting the separate accountabilities of Council and the Registrar."

These actions are important to ensure that PEO moves forward as a modern regulator.

However, Section 10 of the *Professional Engineers Act* states:

Establishment of committees

10 (1) The Council shall establish and appoint the following committees:

- (a) Executive Committee;
- (b) Academic Requirements Committee;
- (c) Experience Requirements Committee;
- (d) Registration Committee;
- (e) Complaints Committee;
- (f) Discipline Committee;
- (g) Fees Mediation Committee,

The *Professional Engineers Act* needs to be changed to update the necessary formation of the following committees, which were established in PEO's 2021 AGM and which will ensure the continuation of PEO's Action Plan:

- Audit and Finance Committee;
- Governance and Nominating Committee;
- Human Resources and Compensation Committee; and
- Regulatory Policy and Legislation Committee

3. Please summarize the action that you are requesting from Council and how it will address the issue, problem, risk or gap stated above.

That Council direct the CEO/Registrar to request changes to the *Professional Engineers Act* to reflect the regulatory transformation and governance structures changes, and to allow for ongoing modernization of the licencing process and reflect the principles of right-touch regulation.

These changes should include the establishment of the following committees under Section 10 of the *Professional Engineers Act*:

- Audit and Finance Committee;
- Governance and Nominating Committee;
- Human Resources and Compensation Committee; and
- Regulatory Policy and Legislation Committee

4. Please cite and briefly summarize any research that supports the proposed action.

The concept of Right-touch regulation emerges from the application of the principles of good regulation. Right-touch regulation means using only the regulatory force necessary to achieve the desired effect. It sees regulation as only one of many tools for ensuring safety and quality and therefore that it must be used judiciously. Professional regulation exists not to promote or protect the interests of professional groups but to enhance public safety and protect the interests of the public¹. The principles state that regulation should aim to be:

- Proportionate: regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised
- Consistent: rules and standards must be joined up and implemented fairly
- Targeted: regulation should be focused on the problem, and minimise side effects
- Transparent: regulators should be open, and keep regulations simple and user friendly
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny

Adopting a Right-touch approach means staying focused on the outcome that an organisation is looking to achieve, rather than being concerned about process, or prioritising interests other than public safety. The outcome should be both tangible and measurable, and it must be directed towards the reduction of harm.

5. As applicable please describe how the proposed action will contribute to serving and protecting the public interest as it pertains to the regulation of professional engineering and the engineering profession.

Focusing on right-touch regulation will:

1. Bring PEO in line with the best practices of other professional regulators, including other engineering regulators, which have a mandate to protect the public.
2. Foster public confidence in the profession.

¹ <https://www.peo.on.ca/sites/default/files/2019-10/PEOReviewReport.pdf>

3. Conform with recent recommendations from several key government-related stakeholders, including the Elliot Lake Commission of Inquiry and the inquiry into the fatal 2012 Radiohead concert stage collapse.
4. Meet regulatory expectations that have been communicated by Attorney General of Ontario, who is the Minister with responsibility for PEO and the *Professional Engineers Act*.

Member #1: Christina Visser, P.Eng.

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Member #2: Mark Frayne, P.Eng.

A handwritten signature in black ink, appearing to read 'Mark Frayne', written in a cursive style.

Date: April 20, 2022