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### AGENDA

### Plenary Session - October 28, 2022 10:00 a.m. – 3:00 p.m. (EDT)

Join Zoom Meeting

https://us02web.zoom.us/j/83949304427?pwd=b2hmZEtFZ09jYk8yeGIZZ09vU3h0dz09

Meeting ID: 839 4930 4427 Passcode: 668158

1.	OPENING	Spokesperson	Туре			
1.1	Welcome and Opening Remarks	President Colucci				
2.	PLENARY ITEMS	Spokesperson	Туре			
2.1	FARPACTA Part 1 (Equivalent Academic Qualifications) FARPACTA Part 2 (Experience Requirements)	Councillor Chiddle	Update and Discussion			
2.2	Presentation on the Mandatory CPD Program	Arden Heerah	Information			
2.3	Data Protection – Next Steps	CEO/Registrar Zuccon	Update			
2.4	AGM Submissions	President Colucci	Discussion			
3.	3. <u>NEXT MEETINGS</u>					
Board	d Meetings and Plenaries					
<ul> <li>Board Meetings         <ul> <li>November 25, 2022</li> <li>February 24, 2023</li> <li>March 31, 2023</li> </ul> </li> <li>Plenaries         <ul> <li>January 27, 2023</li> </ul> </li> </ul>						
Gove	rnance Committee Meetings					
	<ul> <li>AFC</li> <li>March 16, 2023</li> <li>GNC</li> <li>November 2022 – exact date to be determined</li> <li>January 16, 2023</li> </ul>					

o HRCC				
•	November 3, 2022			
•	December 9, 2022			
•	February 2, 2023			
o RPLC				
•	November 4, 2022			
•	January 20, 2023			
•	February 8, 2023			
PLENARY CONCLUDES AT 3:00 PM				

### **Reading Materials**

- o 2.1 FARPACTA attached
- 2.2 Mandatory CPD attached
- $\circ$   $\,$  2.4 AGM Submissions attached  $\,$

### **RPLC Update for Council Plenary, October 28, 2022**

At its September 28, 2022, the RPLC agreed to bring the following motion to Council for consideration and approval at its November meeting:

That RPLC recommend that Council recognize that a Bachelor of Engineering degree, subject to legitimacy confirmation, is the minimum academic requirement for those not applying from programs accredited to Council's satisfaction.

The following backgrounder was provided to RPLC for its September 28<sup>th</sup> meeting.

### **FARPACTA Part 1: Academic Assessments and Equivalencies**

Section 14 of the *Professional Engineers Act* (Act) requires PEO to specify in regulations the necessary qualifications for licensure and to assess applicants' credentials against those specified requirements.

Regulation 941 states that an applicant for a P.Eng. licence must have "a bachelor's degree in a Canadian engineering program that is accredited to the Council's satisfaction" (s. 33(1)1i) or "equivalent engineering educational qualifications recognized by the Council" (s.33(1)1ii. The inference is that "equivalent" in this context means equivalent to the CEAB-accredited academic qualifications for licensure.

In 1985, after the new Act was passed to replace a regime in which academics were used to substitute for examinations, Council passed the following motion: "Council, in recognizing equivalent engineering educational qualifications, requires the successful completion of only those examinations, as assigned by the Academic Requirements Committee, which are based on the Canadian Council of Professional Engineers' examination syllabus". The ARC's experience in assigning examinations to confirm that engineering degrees were equivalent has been a source of institutional knowledge previously shared with this committee.

As Councillors are aware, recent FARPACTA amendments effectively require that those applying for licensure after July 1, 2023 have the academic requirements set out in the statutory scheme *before* they submit their application for licensure.

The FARPACTA requires operational changes to be made within the legislative framework. Such changes would be informed by past experience, including the work of ARC and in a manner that is as operationally consistent as possible with current processes.

### Equivalent Engineering Educational Qualifications Recognized by Council

Staff have considered the operational and other limitations on, for instance, moving to some of the alternative pre-application self-assessment and other methodologies that have been proposed. The points made by various informed stakeholders, as well as the experience gleaned from the work of ARC, particularly with respect to confirmatory examinations for those with non-CEAB qualifications have also been taken into account. Operationally, and subject to input from the committee, what staff intend to stipulate as academic requirements for the filing of an application are the following:

- Evidence that the applicant has, as a minimum, a bachelor of engineering degree, relying on the Engineers Canada's International Institutes and Degrees Database (IIDD) (see Appendix B for more detail on IIDD) as the standard means for determining whether in fact a degree can be considered a Bachelor of Engineering
- Successful completion of confirmatory examinations, in a manner and form to be determined, based on the ARC's experience

The following chart illustrates the statutory authority for the above recommendation.

Requirement	Statutory Authority	Operational consequence	
Engineering educational qualifications	s.33(1)1ii "equivalent engineering educational qualifications recognized by the Council" (measured against a bachelor's degree in a Canadian engineering program that is accredited to the Council's satisfaction).	Prior to application, require that an applicant hold a 4-year bachelor's degree in an engineering program.	
Completion of a confirmatory exam prior to applying	s. 14(1)(c) of the Act: "The Registrar shall issue a licence to a natural person who has complied with the academic requirements specified in the regulations for the issuance of the licence, including passing such examinations as the Council sets or approves in accordance with the regulations"	Prior to application, require that non-CEAB applicants with bachelor's degrees in engineering programs pass confirmatory examination, whether set or approved (or, as present with ARC, deemed to be approved) by Council, in a selected engineering discipline	

#### **Details of Requirements**

Engineering Educational Qualifications: A 4-year bachelor's degree in engineering from an engineering program as the minimum academic qualification (as measured against a bachelor's degree in a Canadian engineering program that is accredited to the Council's satisfaction, pursuant to 33(1)1i.)

This change effectively removes the "exam route to licensure" for applicants without the minimum academic qualifications.

Applicants without a bachelor's degree in engineering from an engineering program represent approximately 21 percent of all non-CEAB applications. Their very low probability of licensure (23% of those assigned exams) suggests that these applicants are being given false hope they will become licensed, despite not having a confirmed bachelor's degree in engineering. They will continue to have the option of applying for a limited licence.

Prior to 1984, the *Professional Engineers Act* did not specify academic qualifications for a licence, but instead used examinations prescribed by Council (unless exempted if the applicant had "adequate academic or other qualifications" as determined by Council). The "exam route to licensure" for

graduates of non-accredited programs was not envisioned in the legal regime created by the 1984 Act. Confirmatory examinations were originally intended to provide a route for international applicants without an "acceptable" engineering degree or for those with an acceptable degree but whose performance was "marginally successful".

The 1984 Act and regulations and Council motions thereunder were intended in part to be limited to ensuring that those with non-accredited Bachelor of Engineering degrees had comparable qualifications. The 1984 Act and regulations were intended to have Council recognize a limited number of examinations, again for confirmatory purposes only and not as a substitute for academic qualifications.

Following the proclamation of the 1984 Act, Council approved a motion in in 1985 which had the effect of allowing the Academic Requirements Committee (ARC) to define what was meant in s.33(1)ii as "equivalent educational qualifications". ARC was permitted to assess the academic backgrounds of individual applicants from non-CEAB programs, and assign examinations to them using the CCPE Syllabi, or to exempt them from exams, sometimes with the input of the Experience Requirements Committee (ERC) where an applicant had five or more years of work experience. ARC subsequently expanded the list of degrees it would consider including non-bachelor's and even non-engineering ones. This in turn resulted in the creation of the Specific Exam Program and Engineering Report, sometimes referred to informally as the "exam route to licensure".

The evolution of Council decisions on academic requirements for licensure in the period from 1981 to 2018 is provided in Appendix A.

<u>Completion of a confirmatory exam prior to applying:</u> Setting examination(s) as a component of the academic requirements that will apply to all non-CEAB applicants, such that persons will have to pass a comprehensive examination in one of 29 PEO engineering disciplines to confirm equivalency to be eligible to apply for a licence. Council has the authority under s. 14(1)(c) of Act to impose such a requirement.

It is proposed to draw on ARC's own experience in assessing the qualifications of and assigning examinations to non-CEAB applicants. This would create a comparable, but more transparent front-end requirement, prior to accepting an application. Again, this is consistent both with PEO's own legislative scheme and Council's own past practice of allowing ARC to assess qualifications, at least in part, by assigning exams. Legally, PEO will be relying on Council's power, pursuant to s.14(1)(c) of the Act, to "set or approve examinations in accordance with the regulations", as a precursor for application. The types of examinations Council requires will be those derived from past examination-setting by ARC, in the role that Council has given it in terms of recognizing "equivalent academic qualifications" pursuant to s.33(1)1ii of the regulation.

We are considering the validity of requiring all non-CEAB applicants whose engineering degrees are on the IIDD list be required to pass a single PEO-endorsed comprehensive exam of their choice from among PEO's 29 engineering disciplines. The comprehensive exam for each discipline would cover a range of both basic (generic) engineering content (breadth) as well as more discipline-specific content (depth), using exam syllabi from the existing Confirmatory Exam Program for each discipline. It is not immediately feasible to develop a single generic proprietary examination to be given to all applicants. This might be considered in the future. Applicants whose degrees are not on the IIDD list or whose degrees cannot be verified through the IIDD process would not be allowed to write any exam, but if they apply for a Limited Licence, their academic qualifications would be assessed (without exams) by the ARC within a six-month licence decision period.

### **Policy Implications for Council**

It is feasible to operationalize current processes related to the assignment of confirmatory examinations, whether set or deemed to be approved by Council, as well as introduce measurements, such as the IIDD, to confirm that a particular degree can be recognized as a bachelor's degree in engineering for the purposes of permitting an application for licensure. There, however, must be a clear statement from Council that a bachelor's degree in engineering is in fact the equivalent minimum qualification for a graduate of a non-CEAB accredited program.

### Appendix A: Council Decisions on Academic Requirements for Licensure (1981-2018)

- Prior to 1984, the *Professional Engineers Act* did not specify academic qualifications for a licence, but instead used examinations prescribed by Council (unless exempted if the applicant had "adequate academic or other qualifications" as determined by Council).
- In 1981, PEO's Board of Examiners, chaired by Professor Mueller felt significant variability existed in the degrees of international applicants and how PEO was assessing their applicants. PEO council accepted their recommendation to introduce confirmatory examinations for all non-CEAB applicants, and established guidelines for granting exemptions, effective July 1st, 1982.

...all applicants for registration shall be required to pass a set of "confirmatory examinations": (a) if they possess an engineering degree from a university which is not acceptable to the Association; or (b) if these applicants were, in the opinion of the Board of Examiners, only marginally successful in meeting their university requirements, even though they hold an engineering degree otherwise acceptable to the Association. (C-281 Appendix L-5-3)

- In 1982, Council agreed to the recommendations of the new Academic Qualifications Committee to cancel its previous 'Concessionary policies" (essentially exemptions) and create a list a list of acceptable university programs, starting with those accredited by the Canadian Accreditation Board and the US Accreditation Board for Engineering and Technology (ABET), (and allowing up to 3 technical exams for ABET graduates, as well as monitoring accreditation programs in other countries and reviewing the applications of "marginally successful" candidates from otherwise acceptable programs.
- The proclamation of the new Professional Engineers Act in 1984 changed the Board of Examiners to the Academic Requirements Committee. The "exam route to licensure" for graduates of non-accredited programs was not envisioned in the legal regime created by the 1984 Act.
- In May 1985, Council decided to accept only those bachelor-level degrees from Canadian universities accredited by the Canadian Accreditation Board as the minimum qualifications necessary for granting a license.

"Council accepts only those bachelor level degrees from Canadian universities which are accredited by the Canadian Accreditation Board, a function of the Canadian Council of Professional Engineers. Accreditation must be current at the time of completion of degree requirements." (C-303)

• At that time, Council also introduced the examinations route (using the CEQB Syllabi) to licensing for technologist diplomas and certificates or other equivalent education as determined by the Academic Requirements Committee, who over time expanded the minimum academic qualifications to include non-engineering degrees.

Council, in recognizing equivalent engineering educational qualifications, requires the successful completion of only those examinations, as assigned by the Academic Requirements Committee, which are based on the Canadian Council of Professional Engineers' examination syllabus. (C-303) The minutes record that Council also approved "Operational Guidelines – Licences", specifically Operational Guideline #1: The APEO Examination system is open only to those who hold as a minimum, a diploma from a College of Applied Arts and Technology (CAAT), a technologist level certificate from the Ontario Association of Certified Engineering Technicians and Technologists (OACETT), or other equivalent education as determined by the ARC. (C-303-M71-1985, Appendix B)

- In September 1986, Council adopted the recommendations of the Taylor and Dupuis reports from the Canadian Council of Professional Engineers that entry to the examination system be restricted to applicants with at least three years of post-secondary engineering, science, or technology education appropriate to the discipline, and that direct entry to professional-level discipline examinations be restricted to graduates holding degrees from non-accredited engineering programs considered to be at a level which would warrant a 'confirmatory' examination approach to qualification.
- In September 1989, the PEO council approved the recommendations for granting special licenses to engineering technologists. This development was the backdrop surrounding the official introduction of the licensed engineering technologist (Effective September 2002).
- In the early 1990s, the PEO council recognized several countries' significant initiatives to establish accreditations. Considering this development, the PEO council signed several mutual recognition agreements with Ireland, New Zealand, and Washington Accord countries to grant examination exemptions.
- In November 2004, the Registrar undertook a legal review of the operational compliance of Licensing with PEO's regulations. This ultimately led to Council's creating the Licensing Process Task Force (LPTF) who provided a large number of recommendations to Council in November 2007. Council approved most of the LPTF's recommendations, notably Recommendation 18, to refer all non-CEAB applicants to the Academic Requirements Committee.
- In April 2010, Council eliminated the Act's requirement for licence applicants to be Canadian citizens or have permanent residence status. This was carried forward into the Open for Business Act's changes to the PEA in October of 2010.
- In May 2015, the PEO council affirmed the ARC's fundamental principle that individuals, not programs or institutions, are to be assessed to determine P.Eng., requiring that all P.Eng. licensees must pass approve examinations to confirm their academics.
- In November 2014 and 2018, respectively, Council in camera authorized acceptance of certain nonbachelor's degrees of engineering from the University of Ontario Institute of Technology and McMaster University, subject to passing exams. (In November 2002, Council had approved a policy for the Registrar to investigate programs that had been rejected for accreditation by CEAB).

## Appendix B: International Institutes and Degrees Database (IIDD) Fact Sheet (October 13, 2022)

### What is the IIDD?

- The International Institutions and Degree Database (IIDD) is a repository of information created by Engineers Canada.
- The IIDD provides information on an educational institution, the degrees and programs that are offered by that institution, as well as information pertaining to a country's education systems, quality assurance systems, and registration and licensure systems.
- The IIDD obtains its information from world university handbooks and webpages hosted by the specific institutions, competent authorities, licensure, registration, and quality assurance organizations of each country.

### What is the purpose of the IIDD?

- The IIDD is a tool which provides information to the Canadian engineering regulators to support that individual regulator's academic assessment processes for licensure.
  - The IIDD verifies the following:
    - Whether an institution exists and can grant degrees
    - Whether the education programs at that institution exist
    - Whether the education programs at that institution meet professional engineering licensing requirements in the home country
  - The IIDD provides information on a country's professional engineering programs, such as whether they are normally 4 or 5 years in length.
  - The IIDD also provides information on mutual recognition agreements which a country's component authority has signed, such as ABET and Washington Accord.
- The IIDD is not intended to be a substitute for directly assessing the quality of an institution, degree, or the education level of an engineering graduate.
- The IIDD cannot confirm whether an education program is equivalent to a Canadian engineering program accredited by the Canadian Engineering Accreditation Board (CEAB).

### What is the history of the IIDD?

- The IIDD was first implemented in 2010. It underwent a significant overhaul in 2021, and this current version (2021) is actively used by PEO staff.
- The Canadian Engineering Qualifications Board (CEQB) did not provide any input or direction to the IIDD. Their involvement ended on September 7, 2017 when the IEAQC was stood down.
- The International Engineering Academic Qualifications Committee (IEAQC) does not provide any
  input or direction to the IIDD. This group, which was made up of all regulator staff and was
  chaired by one QB volunteer, had been in charge to determining the "level" for the programs
  listed in the IIDD. When the IIDD transitioned to being a product that only provides data,
  allowing regulators to make their own assessments and determinations about each program,
  they were no longer needed.
- Currently, the IIDD has an advisory committee with the National Admissions Officials Group (NAOG), the IIDD Advisory Group. This advisory group was formed to help guide the project to develop the new IIDD. This has transitioned into a group that will provide feedback on how the

tool is working, and to help us identify future improvements and prioritize future enhancements to support the Canadian engineering regulators.

### How will PEO operationalize the IIDD?

- The IIDD database would be published externally as the IIDD list, so prospective applicants can review this information and determine their eligibility to apply for licensure with PEO.
  - In essence, the IIDD list would state which education programs classify as a B.Eng or non-B.Eng. degree. This reaffirms PEO's minimum academic requirements as a B.Eng. degree to apply.
  - Graduates of an education program which does not meet professional engineering requirements in their home country would not be eligible to apply.
- All academic requirements must be satisfied prior to an application.
  - CEAB graduates will meet the academic requirements to apply.
  - Non-CEAB graduates with a bachelor's degree in engineering that has been recognized by using the IIDD list as the standard will be eligible to apply.
  - Non-CEAB graduates will also have to pass confirmatory examinations to confirm Canadian B.Eng. equivalence.
- For education programs which are not on the IIDD list, PEO will submit a verification request on behalf of the non-CEAB graduate to IIDD to investigate those programs.
  - Usually, it takes about two weeks for the IIDD to complete a verification request.
  - Non-CEAB graduates would be informed of the result when it becomes available (B.Eng. or non-B.Eng. classifying degree).

If you have any questions about the contents of this document, please contact Halley Schaub by email at <u>hschaub@peo.on.ca</u>.

### FARPACTA Part Two: Backgrounder - Experience Assessment and Canadian Experience Requirement<sup>1</sup>

### Introduction

- This paper provides background on PEO's legislative framework for assessing experience within the prescribed six-month limit for a registration decision. It describes various change options and planned approaches with respect to FARPACTA compliance. This will inform both RPLC's (and ultimately Council's) direction function (expressed as required through policy, especially regulatory, changes) and its control (oversight) function, to ensure that directions are achieved at the operational level.
- The first part deals with the general experience assessment process and the Registrar's operational direction to comply with FARPACTA. The second part addresses, at a preliminary level, the question of what might be done about the 12-month Canadian Experience Requirement, which the FARPACTA amendments will make far more difficult to sustain.

### 1. Experience Assessment (General)

### PEO's Legislative Framework for Experience Requirements for Licensure

- The power to set academic and experience requirements for licensure by regulation is conferred by sections 7 and 14 of the Act. The pertinent regulation is found in section 33 of Regulation 941. In broad terms, applicants must demonstrate that their credentials meet our experience requirements.
- Since 1984, the regulation has specified that an applicant for a licence must have had 12 months of Canadian experience supervised by a person licensed to practice professional engineering in Canada. This is part of an overall requirement for:

"48 months of experience in the practice of professional engineering that, in the Council's opinion, provides sufficient experience to enable him or her to meet the generally accepted standards of practical skill required to engage in the practice of professional engineering". [Regulation 941, s.33(1)2.]

### Current Determination Process (Experience Requirements)

- Currently, PEO evaluates engineering experience of all applicants using the five "Criteria for Acceptable Engineering Experience" contained in the published "Guide to the Required Experience for Licensure as a Professional Engineer in Ontario", most recently approved by Council in 2013.
- PEO requires applicants who have met academic requirements and passed the NPPE to submit their Engineering Experience Record (EER) to describe how their work experience obtained in each position meets each of the five criteria. PEO supplements that with information from at least three of the applicant's submitted references.

<sup>&</sup>lt;sup>1</sup> This backgrounder was provided to the RPLC for its October 14, 2022 meeting. No specific decisions were required of the RPLC at this meeting. The committee is scheduled to meet again in mid-November to make its final FARPACTA recommendations to Council in November.

- When PEO Experience Assessment Officers cannot determine if the applicant's experience meets requirements, they refer applicants to the ERC for an interview by two licence holders in the applicant's same discipline or subdiscipline. Staff or ERC may also ask the applicant to submit additional information.
- From Jan 2018 to July 2022, on Experience Assessment decisions on applications that were assessment-ready, 94% met experience requirements as determined by staff, 2 percent were referred to the Manager, Licensure and 4 percent were referred to ERC. Of assessment-ready applications referred to ERC, 53% were subsequently found to meet requirements while 47% did not meet requirements or more documentation was requested from the applicant in order to make a determination.
- The weighted average time (as of July 2022) for staff review is 32 months; ERC review, 96 months; and waiting for additional requested information, 120 months; all are far in excess of the FARPACTA-mandated 6 months for a registration decision.

### FARPACTA Implications for Experience Assessment

- PEO currently accepts applications from individuals who do not yet have 48 months of work experience, and allows them to accumulate that during the application process until they are ready to submit their Engineering Experience Record. Approximately 33.1% of current open application applicants who have met academic requirements and passed the National/Professional Practice Exam (PPE/NPPE) have yet to submit their Engineering Experience Record to PEO for assessment.
- Whereas the vast majority (77%) of CEAB graduates apply within less than four years of graduating, and 56% within the first year, 81% of non-CEAB graduates already have at least 48 months of experience (with or without 12 months of Canadian experience).
- The July 1<sup>st</sup> 2023 FARPACTA changes will require applicants to submit all information to PEO for a completed application. This suggests that all applicants will require all or most of the 48 months' experience to be able to apply (allowing for up to 12 months of pre-graduation experience). This will have an immediate impact on CEAB graduates who typically apply to PEO right after graduating.

# Operational Change – Competency-Based Experience Assessment (for 48 months' experience)

- In the OFC's Registration Practices Assessment Report on PEO in 2016, the OFC suggested that PEO explore the feasibility of adopting a competency-based system for the evaluation of engineering work experience as a part of its regular process, providing additional clarity for both PEO and applicants on when individuals have met PEO's experience requirement.
- All Canadian engineering regulators aside from PEO and Engineers Nova Scotia are either currently
  assessing experience based on competencies or are trialing such a system. British Columbia,
  Saskatchewan, and Newfoundland use the same system. Alberta has developed its own system,
  which also used by Yukon and Northwest Territories/Nunavut. At this time, only Alberta is subject
  to a FARPACTA-like decision timeframe (120 days) and has revised their CBA process accordingly.

- Under the Act, the Registrar is responsible for licensing decisions, within the scope of PEO's legislative authority. To comply with FARPACTA's six-month registration decision deadline and principles of transparency, fairness, impartiality and objectivity, operational changes are planned for July 1<sup>st</sup> 2023 to enable PEO to adopt a Competency-Based Assessment Method and to move it to the pre-application stage. Thus, an applicant who has *already acquired* 48 months of work experience will submit a self-assessment of their experiential competencies and a list of persons familiar with their work to validate that self-assessment when they apply.
- Fundamentally, the Competency-Based Assessment and the PEO's Five Quality-Based Experience criteria are fairly similar in terms of the breadth and depth of engineering knowledge expected from applicants in order to meet licensure requirements. However, the online CBA processes are much more developed than PEO's system, and more user-friendly, and its structured rating system will be psychometrically validated to reduce the subjectivity of the assessment.
- All current CBA systems in Canada include some "Canadian Environmental Competencies" that do not require "on the ground" Canadian experience. The policy question is whether PEO would consider Canadian Environmental competencies as a subset of its new CBA system. A decision is needed to support the July 1<sup>st</sup> operational buildout.

### 2. Canadian Experience Requirement

- In 2015, PEO's Council approved the "Rationale for the 'Canadian Experience' Requirement for Licensure" Position Statement. In this document, PEO argued that the Canadian experience requirement went beyond ensuring that applicants had a knowledge of local climate, codes, standards, and cultures but that it was "a matter of verifying the applicant's practice skills and suitability for unsupervised practice". PEO also argued that the experience requirement is the assessment of an applicant's professional attributes (such as language proficiency), as indicated by the referee who confirms the experience.
- In 2016, the Ontario Fairness Commissioner published a report on PEO's registration practices, including a response to PEO's 2015 statement. They found that the statement did not demonstrate an openness to alternative methods of proving requirements or provide a rationale for the one-year duration. At the time, they urged PEO to develop alternatives.
- In late 2021, the Government of Ontario amended FARPACTA to prohibit regulated professions from having a registration qualification for a person's Canadian experience unless an exemption for the purposes of health and safety is granted by the Minister in accordance with the regulations. If there is no exemption granted, our Canadian Experience Requirement, as set out in the current regulation under the PEA, will become null and void on December 2, 2023.
- The OFC has given all regulators who still have a Canadian experience requirement three options to explore and ultimately reach decision on:
  - o Seek an exemption for the purposes of health and safety
  - Pair it with an alternative for international applicants acceptable to the Fairness Commissioner
  - Remove it entirely

### Policy Options for FARPACTA Compliance – Canadian Experience

- Because FARPACTA places the continued existence of Canadian Experience as a requirement for licensure in doubt, any consideration of the future of this requirement begins with defining and validating what exactly "Canadian experience" is, whether it is the public interest, if so, how it can be assessed.
- Stakeholder input is vital to any eventual decision that Council might make. To that end, staff sent a survey to all ERC and LIC members to ascertain their opinion on which elements of Canadian experience are uniquely Canadian, defensible in the public interest, and what alternative mechanisms they would support. Nearly 44% of the total members from each committee (ERC and LIC) responded to the survey. Supervision from a P.Eng. licensed in Canada was, on average, ranked as the most important element of the Canadian Experience Requirement that is uniquely Canadian and demonstrably protects public health and safety. 41 of the 51 individuals (~80%) deemed it within the top 4. Most respondents felt that a knowledge test could be an alternative mechanism for assessing internationally trained applicants, along with the other choices. Most respondents in this section specifically mentioned that the knowledge test should be discipline-specific.
- A survey of Internationally trained licence holders issued a P.Eng. licence in the past five years is also currently underway on how they completed the Canadian experience requirement and results are due by the end of October. A similar survey of recent supervisors/referees for their perspective on the same questions is forthcoming. These research initiatives are intended to inform future discussion and ultimately any recommendations that RPLC might make for Council's consideration.
- Currently, three broad potential options exist. These options are set down here only for the purpose of discussion. Again, no decision is required at this time.

Option 1: Seek an exemption from the Ontario Fairness Commissioner to continue the Canadian Experience requirement on public health and safety grounds

- New regulations under FARPACTA now set out the criteria the Commissioner may use in granting this exemption. (See Appendix A). The Fairness Commissioner's May 2022 guide for regulators gives several questions regulators should be able to answer in their exemption request, such as:
  - Why does the regulator need this particular set of requirements for entry into the profession or trade?
  - What empirical evidence has the regulator gathered to support this proposition?
  - Are these requirements necessary and relevant for the work to be performed?
  - Should a regulator decide to seek an exemption from the prohibition against a Canadian experience requirement, can it reasonably demonstrate that the exemption is necessary for the purposes of public health and safety?

#### Considerations

- The requirement has been eliminated by almost half of Canadian engineering regulators, undercutting the argument in support of it for national labour mobility
- OFC has repeatedly called for PEO to eliminate the Canadian Experience Requirement, therefore the likelihood of PEO receiving this exemption is quite low
- Empirical evidence would have to be presented to justify the public health and safety exemption
- PEO efforts to seek an exemption could divert resources from finding a suitable alternative

### Option 2: Retain the Canadian Experience requirement but add an alternative method for internationally trained applicants to meet it

- In May 2022, the Office of the Fairness Commissioner drafted a list of seven broad categories of mechanisms that regulators could use to replace Canadian experience requirements or provide a path in addition to it that renders the requirement acceptable to the Fairness Commissioner:
  - Competency-based assessments (CBA);
  - Other approaches to assess knowledge and skills;
  - Self-paced learning;
  - Mutual recognition agreements;
  - Bridging programs to fill experiential gaps;
  - Provisional or conditional licensing; and Post-registration quality assurance and/or continuing professional development programs.
- A proposed alternative would have to be from the among the above list.
- Eight of the 34 engineering competencies in the Engineers Canada competency framework are deemed 'Canadian environmental competencies", and applicants are required to score higher in these categories than in others. Québec uses a similar system (8 of 26 competencies), although it was developed separately than the one shared by the other three.
- In EGBC's version, applicants who do not have direct Canadian experience must pass a free, 55-64 hour online "Working in Canada" course produced by EGBC in addition to the Canadian Environmental Competencies listed above.
- Alberta's system uses 22 competencies and applicants are required to indicate whether experience for any of those competencies was gained in a Canadian environment "demonstrating application of relevant codes, standards, and business processes applicable to Canadian practice and societal impact". For Canadian experience, it is expected that a validator will be a Professional Engineer (P.Eng.) who was registered during the work period they are validating.

#### Considerations

Should the Canadian Experience requirement be retained within PEO's new CBA, an alternative
would have to be available for internationally trained applicants. PEO would have to determine
which competencies are uniquely Canadian, and if so determined, how they could be included or
addressed through a knowledge-based examination or seminar/module completed prior to
application.

#### **Option 3: Remove the Canadian Experience Requirement**

• Since 2013, numerous reports have criticized the use of Canadian Experience requirements among Ontario profession regulators, ranging from the Ontario Human Rights Commission (2013), and specific to PEO, the Ontario Fairness Commissioner (2016 and 2018), PEO's External Regulatory Performance Review (2019), and PEO's Anti-Racism and Anti-Discrimination Exploratory Working Group (2021). The Ontario Society of Professional Engineers also submitted a proposal to the

Attorney General in October 2021 to amend the PEA and Regulation 941 to rescind the Canadian Experience requirement.

### Considerations

- The majority of Ontario profession regulators and Canadian engineering regulators have removed Canadian experience requirements
- OFC has repeatedly called for PEO to eliminate the Canadian Experience Requirement
- The new PEO CBA system could obviate the need for any experience to be obtained in Canada

### Post-Script

At the October 14, 2022 RPLC meeting, the committee posed questions and discussed the information provided to the committee. The primary themes raised during the discussion are outlined below.

**Engineering Interns Program ("EIT")**: There was a discussion regarding the statistics which show the length of time after graduation that CEAB and non-CEAB graduates apply for licensure and potential impacts when the new FARPACTA-compliant licensure model is in effect. It was noted that the impact likely will relate to the time it takes for an applicant to achieve a complete application; and those who are part of the EIT will be the cohort most affected. This issue is an unintended consequence of complying with FARPACTA and thus further discussion with the Committee and Council is needed regarding communicating and managing expectations with stakeholders.

**Other Regulators:** It was noted that current research being undertaken by staff includes an examination of how other Canadian regulators are approaching the removal of Canadian Experience from their licensing framework. It was also referenced that there are seven Ontario regulators that currently have the Canadian Experience Requirement. It was suggested that more insight in this area would be of benefit to the Committee and is forthcoming at the next RPLC meeting.

**Health & Safety Exemption to Continue the Canadian Experience Requirement**: There was discussion regarding the importance of researching and identifying the factors and empirical evidence related to health and safety in the practice of professional engineering that would require that applicants demonstrate these while working in Canada, to determine if the factors would support a request for an exemption from the OFC on the health and safety basis. On behalf of ERC, Chair Andrew Cornel noted the ERC is willing to turn its attention to the matter of the three policy options outlined in the briefing and presentation material in the coming weeks to develop suggestions and advice for the RPLC as it prepares to make recommendations to Council in November.

**Experience Verification:** There was a discussion regarding the clarity and consistency of what "supervision" means; and the ways and means for PEO to verify and obtain sign-off on aspects of training including Canadian environmental competencies and ethics, and that a foreign trained/practicing engineer did in fact practice in their home country. More information was requested in this regard. It was noted that PEO currently relies on a Canadian P. Eng., referee or similar.

Alternative Experience Assessment Models: It was noted that the CBA is not the only model to objectively assess experience and it would be beneficial for the Committee to review and evaluate those to determine suitability and fit in the context of PEO's licensure system, including the levels of flexibility

and adaptability to ensure success of the licensure model as PEO moves beyond the July 1, 2023 FARPACTA deadline. More information was requested in this area.

**CBA Licensure Model Report:** It was noted that ~2015/2016, an external advisor was engaged, and a report was produced regarding a CBA licensure model intended for the PEO context (Competency-based ERC interviews). It was suggested that there are indications that it may have been in the process of being accepted for implementation at PEO as, ~2017/2018, interview training on using the CBA model was conducted with the ERC. It was noted that information from the report has been made available to staff FARPACTA team. It also would be beneficial for the Committee to review this report.



Tue Oct 18, 2022 – Version 1 Pre-reading material about the mandatory PEAK program

Beginning in January 2023, continuing professional development (or CPD) will become a required component for professional engineers and limited licence holders to maintain their licence each year.

The new requirements are based on the voluntary Practice Evaluation and Knowledge (or PEAK) program that was piloted for more than five years. The mandatory PEAK program is delivered through PEO's online portal and supports our public interest mandate by helping to ensure that licence holders practise competently and ethically.

The PEAK program is laid out in three steps to be completed annually.

- A Practice Evaluation to evaluate your practice and determine your target CPD hours.
- A Professional Practice Module to learn about professional practices and regulatory processes.
- A CPD Report to declare to PEO the CPD activities you completed.

An individual who self-declares as "practising" professional engineering must complete all three elements of the PEAK program.



Whereas an individual who either self-declares as "not practising" professional engineering, or is not practising for other reasons, must complete two elements of the PEAK program.



In some instances, a licence holder who is not currently practising and not subject to any practice restrictions, could complete the program as a "practising" licence holder by completing all three elements of the program.

Annual compliance audits and sanctions to licence holders for overdue elements of the program will be introduced in 2024.

For more information, visit <u>www.peopeak.ca</u>.



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DATA PROTECTION – NEXT STEPS

A verbal report will be provided.



Plenary - October 28, 2022 Agenda Item 2.4

# 2022 AGM: Member Submissions

Plenary Session: October 28, 2022





- As a matter of law, Council is the "governing body and board of directors of the Association and shall manage and administer its affairs".
- Council also has the statutory obligation under ss.3(8) and (8.1) of the Act to appoint a Registrar (currently the CEO/Registrar) who is responsible for the administration of the Association and has certain other powers conferred by the legislation.
- The Act does not give either direct or delegated authority to licence holders to manage or administer the affairs of PEO.
- Motions made at the AGM bind neither Council nor the CEO/Registrar.



- Governance and Nominating Committee (GNC) is scheduled to discuss the format of PEO Annual General Meetings, including member submissions in November to consider if:
  - the current mechanism (i.e., AGM member submissions) accomplishes its objective of bringing issues to PEO's attention?
  - there any other better mechanisms for soliciting member feedback and input that are clear, fair, and consistent with proper governance?



# 2022 AGM

- Twelve members presented written submissions and made verbal presentations on issues related to governance, regulatory policy and other activities of the Association.
- All submissions were accepted for consideration by Council as presented, and members in attendance were invited to review and submit their comments and questions.
- All submissions along with any comments and responses, along with a commentary prepared by staff, were provided to Council for its review and consideration at its <u>September meeting</u> (see pp. 86-220)



# **PEO Elections-Related Submissions**

- Central Election and Search Committee (CESC) Restructure (submission 1)
- Consequences for Violation of Election Rules by Councillors (submission 2)
- Council Member Succession Planning (submission 6)
- Caretaker Convention (submission 10)

### Comment:

At its meeting on March 7, 2022, the GNC directed staff to conduct a holistic, phased best practice review aimed at reforming and modernizing PEO's elections system, taking into consideration: the issues and associated recommendations in 2021 and 2022 Elections Issues Reports and the broader context of existing policies and procedures that comprise PEO's current elections system. At its October 2022 meeting, the GNC made a decision to focus the election work on reforming PEO's election process to ensure it is fair and transparent and to deal with governance matters (e.g., developing eligibility criteria for standing for elections) separately.



# **Governance-Related Submissions**

- Openness and transparency (submission 4)
- Regulatory Policy and Legislation Committee (RPLC) and composition (submission 8)
- Commit to fundamental principles of good "self-regulation" governance (member submission 9)
- Update the Professional Engineers Act to reflect governance changes

### Comment:

- The bylaw amendments were made at the September 2022 Council meeting to reflect governance decisions made by Council as part of the 2020/2022 Roadmap
- Lack of consistent approach to consultations has already been identified as a gap and work has been underway to design an effective and efficient consultation approach to ensure that regular and purposeful engagement is undertaken with external and internal stakeholders, including PEO volunteers, and the public throughout the policymaking process.
- Many points raised in these submissions do not appear to align with a series of directions set by Council in 2020, including the decision to be a governing-type board, delegating substantive operations to staff supported by committees as appropriate.



# **Other Submissions**

- Climate change (submission 3)
- Anti-Racism and Equity (submission 5)
- Practice Guidelines (submission 7)
- Reduced Fee Due to Surplus (submission 11)

### Comment:

- Issues raised in submissions 3 and 7 (climate change and reducing fees due to surplus) were addressed at the September Council meeting.
- Other issues (the development and review of Practice Guidelines with clear KPI's and a robust stakeholder consultation and the implementation of the Anti-Racism & Equity Code for PEO, which pertains to both the inner workings of the PEO and the individual licensee) are adequately dealt with by PEO.