

WILL FORESTRY BENEFIT FROM PROFESSIONAL RELIANCE REVIEW?

TLA Perspective

Photo: Stock

Currently, there are many changes pending for the forest sector at various stages of implementation within government. One of which that could have wide-sweeping impact and will increase costs is the *Professional Governance Act (Bill 49)*. Passed on November 27, 2018, the regulations that will put the substantial changes into place are still being drafted. Based on the *Professional Reliance Review—The Final Report of the Review of Professional Reliance in Natural Resource Decision-Making* (prepared by Mark Haddock), the new Act, and the Regulations Intentions Paper Consequent to the proposed *Professional Governance Act* we begin to get a sense of the direction headed and implications for the forest sector.

While there are many positive changes in the new Act, which most professionals in the province support, they are overshadowed by the following examples of how it is difficult to see how forestry will benefit from these changes.

It is difficult to quantify in terms of additional administration and related costs, but the new Act could increase workload for professional associations, their professional members, and the employers of professionals for what we suspect is little benefit and would likely take away time from current investments into forest stewardship initiatives. With the industry's current substantial body of work dedicated to independent, third party sustainable forest management certification, the TLA is asking why the BC forest industry is being forced to take what seems like a step backwards in professional management of our forests?

At a time when the contractor community is looking for more sustainable rates and ways of doing business, including certainty of workflow, these changes may be detrimental to the forest sector.

The TLA is supportive of improvements to forest stewardship and professional accountability but many of the proposed changes seem to go beyond the intended goal and simply add administrative costs to an industry already experiencing rising cost pressures. The regulations will impact TLA members as timber harvesting contractors, the forest licensees that employ them, and forestry consultants who are members of the associations covered under the Act—Association of BC Forest Professionals (ABCFP), Applied Science Technologists and Technicians of BC (ASTTBC), BC Institute of Agrologists (BCIA), College of Applied Biology (CAB), and Engineers and Geoscientists of BC (EGBC).

In October 2018, George Heyman, Minister of Environment and Climate Change Strategy stated, “the changes... will help restore public confidence in the professional reliance model and give certainty to resource companies that rely on qualified professionals...”

What exactly are these changes and what are the implications? What does it mean in terms of costs and administration? Will they result in better forest stewardship? Where is the proof that the broad public did not trust forest professionals, which is presumably the driver behind this new legislation?

In fact, according to independent public polling contracted by the Association of BC Forest Professionals, resource professionals such as foresters, forest technologists, biologists, and engineers are the most trusted by the public when it comes to information regarding BC's forest resources, above any other group including academia, environmentalists, industry executives, and government managers. And among resource professionals the public trust level is the highest for registered forest professionals.

One source for changing the professional model came from the 2017 *Confidence and Supply Agreement (CASA)* between the Green and New Democrat Party caucuses with the stated intent to, “...address failures in the professional reliance model in BC so that British Columbians' faith in resource development can be restored.”

Let's look at examples of the changes coming as outlined in the Act and the proposed Regulations and see how a typical forest professional will be affected under the new professional reliance model:

In the new Act, there is framework for the superintendent of professional governance (a new office being created under the Attorney General Ministry) to administer rosters of professionals. It will specify the qualifications or other criteria required to be included with restricted activities that may only be carried out by roster members, causing professionals not on the roster to be unable to work on a specific project. There will be costs involved in trying to maintain the correct information on the roster and implications if they get it wrong. With 60,000 potentially affected professionals in the province, we expect maintaining a current roster and the resources required to monitoring the rules and administering it will be onerous.

One of the major proposed changes that will affect TLA members is the regulation of firms, which may be a company, partnership, corporation or other association of persons including consulting firms and industry companies, such as a major forest tenure holder or timber harvesting contractors. The government is considering introducing regulations that will require these firms to join the applicable association based on having regulated professionals in their employment. The relevant professional association will then be required

to also regulate the firm as well as the individual professionals.

A forest company or consulting firm with foresters, engineers and biologists could potentially have to join the Association of BC Forest Professionals, College of Applied Biology, and Engineers and Geoscientists of BC. Prior to the new Act, this was not the case; it was only the professional individual that was required to become a member of the applicable association. Obviously, there will be increased costs for these "new members" in terms of both membership fees, but more importantly, in ensuring the compliance to the new regulations. And of course, these extra costs would then need to be covered through fees charged to their clients such as forest tenure holders and yes, the government.

Under the new Act, there is no risk assessment of the size or type of work undertaken so the work of an engineering firm outside of the forest sector (which is also covered) related to, for example, designing and building a bridge, is not differentiated from that of lower risk activity such as silviculture prescription. Does this make sense when it comes to public health and safety, and the environment?

While professional practice rules already exist in their respective profession's code of ethics to report professional malpractice and misconduct to the respective association, this requirement has been extended to require the reporting of other professionals, which are not just fellow foresters but also all professionals from different fields under the Act. For instance, now a professional forester over-looking a biologist can go beyond their own field of knowledge and report them and vice versa. Professionals will be expected to report incidents of poor or improper practice, regardless of the profession. The Act and its regulations will make this requirement stronger by laying out the situations when reporting is required; for example, where there is a perceived risk of significant harm to the environment or safety of the public.

The government is also considering regulations that would require professionals to make a declaration of competency free from conflict of interest for all professional services they provide. While neither the Mark Haddock report nor the Regulations Intentions Paper explains fully why these declarations are beneficial, they will result in an onerous paperwork process. Professionals are already bound

by these obligations within the *Foresters Act*, Code of Ethics and standards of their profession, so multiple paper declarations add nothing further to the obligations that already exist. There is also a lack of clarity on how these declarations would be tracked or who would be responsible for maintaining them. Regardless, the declarations represent potential increased costs, and a loss of productivity to paperwork. Further, it is difficult to see what value it serves from an enforcement perspective as government, professional associations or the new superintendent, we believe, can rely on them to prove or disprove competency or absence of conflicts.

The common approach for checking competency is at the hiring stage, followed by ongoing professional development once hired. The declarations on an ongoing basis do not add any value or assurance. Professional associations already ensure educational standards are met when individuals enter the profession, plus require a two-year articling period with several exams. Each year they require professionals to declare they are only doing work they are competent to do, and in the ABCFP's case, it conducts random practice audits every year. The competence declarations

could add extra review for the ABCFP assuming there will be a review and confirmation process once filed with the ABCFP. One of the associations has stated publicly they estimate if this requirement is brought into force they will receive over one million declarations per year.

With many of the pending government initiatives, we believe that there will be unintended consequences with no real upside to address the original intent of the 2017 CASA agreement.

Undoubtedly, if regulations are developed to support this new Act, there will be a great need for more workers to process paper instead of practising on-the-ground forestry. Yet, our industry continues to suffer from a lack of availability of skilled persons, including forest professionals.

On March 4, feedback to the Ministry of Environment on their Intentions Paper is due that will indicate the direction government will decide to go. We hope common sense prevails and the true intent of the changes are kept in mind and a simple, yet overwhelming bureaucratic process is not the answer.▲

Specializing in Mechanical Falling and Processing on the BC Coast



Contact: Russ Parsons • 604-414-8842
11120 Dolmage Rd, Powell River, BC V8A 0N5

Ph: 604-487-4509 • E: tiltcontracting@shaw.ca

We've completed another year with a zero medical incident report! Safety is our priority.