

MPP Briefing Note - Bill 157, *Enhancing Access to Justice Act, 2023*

December 11, 2023

This Briefing Note includes an APPENDIX beginning on Page 5 that contains answers to specific questions.

Introduction

Since 1889, the Ontario Association of Architects (OAA) has been enabled and entrusted by the Government of Ontario, under Provincial statute ([Architects Act](#), R.S.O. 1990, c. A.26), to regulate the profession and practice of architecture in the province, with a mandate to protect and serve the public interest. The OAA has the sole official responsibility to ensure the provisions of the *Architects Act* are upheld and to enforce that legislation.

The OAA is a proactive regulator, seeking to reduce barriers to licensure in a way that continues to prioritize public safety. These measures are extensive and varied, including:

- Being a signatory to the *Canberra Accord on Architectural Education*, recognizing educational equivalencies;
- Being a signatory to mutual recognition agreements (MRAs) between the provinces and territories, an MRA with the United States, a tri-national agreement with the United States and Mexico, and an agreement with Australia and New Zealand (a significantly larger agreement reached with European Union signatories is awaiting final approval from the federal government);
- Having supported the development and implementation of the Broadly Experienced Foreign Architect (BEFA) program, providing an alternative pathway for foreign architects to become licensed;
- Having its governing Council have authority under the *Act* for an applicant to receive an exemption from “all or part of the academic and experience requirements” on account of an applicant’s qualifications, knowledge, and experience;
- Granting project-specific temporary licenses to practitioners and practices; and
- Allowing foreign architects and unlicensed individuals to practise under the supervision of a licensed architect.

The complexity and level of risk to the public distinguishes the architecture profession in Ontario, the OAA’s core responsibility is to ensure candidates for licensure are competent to practise and that they do not pose a risk to public health and safety. **The OAA has long been committed to bringing equivalently or similarly trained individuals with demonstrable competencies into the profession, as evidenced by the various programs and pathways the Association has supported, established, and continues to explore. Since 2003, one such program and pathway was that for the former Licensed Technologist OAA.**

The OAA and the Ontario Association of Certified Engineering Technicians and Technologists (OACETT) established the OAA Technology Program 20 years ago to offer a pathway to licensure for individuals in the architectural discipline. The OAA’s governing Council of the time recognized that a para-profession was evolving in the broader architectural community, comprising a number of individuals whose qualifications and experience may entitle them to provide a service

or services within the practice of architecture. When it launched in 2003, this program was in the vanguard of the architectural profession. No other province or territory of Canada was considering a limited scope of practice to qualified para-professionals.

The OAA Technology Program had been successfully administered on behalf of the OAA through the Ontario Association for Applied Architectural Sciences (OAAAS) for 20 years. Eligible individuals would move through this program and, once meeting the education, examination, and experience (EEE) requirements, would be eligible for licensure by the OAA to be able to practise within a limited scope. It is important to note that the academic eligibility for the program was broad, available to individuals with many different educational backgrounds, both domestic and international:

- An Ontario college architectural technology program, or equivalent or greater;
- Graduation from a college architectural technology program accredited by Technology Accreditation Canada (TAC), or equivalent and/or successor organization;
- Graduation from an international university architectural degree program from an institution recognized by UNESCO;
- Membership at the Technology Level of a recognized professional association representing technologists in any province, or an equivalent jurisdiction outside Canada; and
- Any combination of academic study and education that the OAA may approve as equivalent.

More recently, the program held potential for internationally trained applicants, who maybe not have been eligible to become architects, to pursue a limited licence and practise architecture in Ontario.

Throughout the life of the OAA Technology Program, opportunity has existed for members of the Association of Architectural Technologists of Ontario (AATO) as well as those that may have advanced experience within the architectural profession to participate. Indeed, many participants in the program also held status with the AATO.

Background

In the fall of 2022, the AATO advanced a court application challenging the OAA's authority to issue the Licensed Technologist OAA licences. The foundation of this challenge was that the licences were being issued via Council policy, rather than regulation. The Court was scheduled to hear the case in December 2023, but the OAA's governing Council agreed to pursue good faith negotiations with the AATO in the goal of finding an equitable and fair resolution in the public interest.

Unfortunately, these negotiations were unsuccessful, as the AATO demands were neither legislatively appropriate, nor in the public interest. With no acceptable alternative, the OAA consented unconditionally to the terms of the court application.

The Ontario Superior Court of Justice issued an Order that took effect on May 10, 2023, with immediate impact as follows:

- The licensure program was suspended, disrupting the internship process for all participants;
- All 150 Licensed Technologists OAA had their individual licenses voided;
- Of those individuals, 44 were operating design firms whose Certificates of Practice were voided; and
- Many members of the public were directly affected, given their projects have been dramatically impacted by this outcome.

It is important to note that the AATO court application and subsequent Order had nothing to do with the skills and qualifications of those affected. All individuals who held a Licensed Technologist OAA licence completed a rigorous program grounded in the conventional parameters of education, experience, and examination.

The contribution the Licensed Technologists make within Ontario's architectural practices and in carrying out the architectural work within Ontario's communities is important. Most of those 44 that had been operating a practice were providing design services specifically related to single- and multi-unit residences.

It is imperative these individuals be permitted to resume services as quickly as possible. As the practice scope of this group included multi-unit residences up to four storeys, it is in the public interest to have qualified, regulated, and accountable individuals carrying out this much-needed work in Ontario.

As the regulator for the architecture profession in protection of the public interest, the OAA takes very seriously its role in ensuring a safe built environment for Ontarians, while also being mindful of the critical need for an equitable, diverse, and inclusive profession that is strengthened by the involvement of para-professionals.

Current Situation

Following the May 2023 Court Order, the OAA immediately turned its attention to securing the legislative amendments necessary to re-establish the long-standing licensure program and proper authority to issue a limited licence class. After acknowledging the issue at the heart of the court application, steps to remedy and allay concerns have been the priority of the OAA Council.

Like many professional self-regulatory bodies in Ontario who issue limited licences, the OAA is committed to the recognition of para-professionals within the practice of architecture. If passed, Schedule 1 of Bill 157 would not only enable the limited licence class of Licensed Technologist, but it would also establish the framework for future para-professionals to be licensed and regulated by the OAA.

The OAA is the body mandated to regulate Ontario's architecture profession in the public interest. Government should swiftly establish a limited licence class to ensure that design professionals, in this case former Licensed Technologists OAA, can continue to use their skills to serve the public and be regulated adequately.

Issues and Considerations

It is important to note the OAA and the AATO have distinct roles. As mentioned, the OAA is the statutory regulator that governs the practice of architecture in Ontario in order to serve and protect the public interest in accordance with the *Architect Act*. The AATO is a voluntary professional association for individuals who have studied in the realm of architectural technology and who wish to use the titles "architectural technologist/technician" or "registered building technician/technologist." The *AATO Act* is a private member's act. Unlike public acts, such private acts concern matters of a private interest to specific corporations or individuals.

The OAA does not intend or wish to regulate the general membership of the AATO. Nor does the OAA intend or wish to interfere with the activities of the AATO.

Throughout the development of the OAA Technology Program, the OAA offered to collaborate with the AATO. However, it is with regret that the AATO took the position that its members should be able to practise architecture with little or no restriction and outside the regulatory framework of the *Architects Act*. Under provincial statute, if any individual is to practise architecture within the definition of the *Architects Act*, then that individual must fall under the regulation of the OAA.

Most recently, the above-noted court application, the premise of which had no relationship to AATO, was used as an opportunity to negotiate for a nearly unrestricted scope of practice for AATO members, instead of focusing on the issue at hand.

While the titles architectural technologist and architectural technician are intended to be exclusive to AATO members, there exists an exception to the use of these titles, notably; section 9(3) of AATO's Bill PR40 establishes the following Exception:

(3) It is not an offence under subsection (2) for the following persons to use the designations "architectural technician" or "architecte-technicien" or "architectural technologist" or "architecte-technologue":

1. A holder of a licence, certificate of practice or temporary licence issued under the Architects Act.
2. A person who is a member of a class that is permitted to use the title "architect" or "architecte" under clause 46 (8) (c) of the Architects Act.

In recognition of the AATO, the exclusive titles were made possible by the OAA via an exception carved out in the *Architects Act* in 1984. Specifically, under section 46(8) a:

Exception

(8) It is not an offence under subsection (2),

(a) for a member of the Association of Architectural Technologists of Ontario to use the designation "architectural technologist" or "architecte-technologue" or "architectural technician" or "architecte-technicien";

AATO members were always welcome to participate in the OAA Technology Program—in fact, their qualifications and experience would likely have secured them advanced standing in the program. Some AATO members did indeed avail themselves of this opportunity.

Schedule 1 of Bill 157 does not represent a duplication of work or legislation because there is no overlap with the legislated objects of the *AATO Act*. Further, it does not represent any interference or repercussion to the AATO as it is specific to the governance of the practice of architecture in Ontario, which is the sole responsibility of the OAA.

Schedule 1 arose because of AATO concerns regarding the OAA's method of issuing the Licensed Technologist OAA licences. The OAA agreed with these concerns—hence, its unconditional consent to the court application. Having acknowledged and agreed that the method of issuing these licenses needed to be recognized in Regulation 27, the OAA has taken steps to do so as expeditiously as possible to limit the disruption to the individuals affected.

It is of great surprise that the AATO would want to prevent the remedying of an issue that they had raised themselves.

For more information, you can visit the OAA Website at <https://oaa.on.ca/registration-licensing/court-order-regarding-licensed-technologists-oaa>.

Conclusion

The OAA urges the provincial government to advance Schedule 1 of Bill 157, *Enhancing Access to Justice Act, 2023* in order to establish a limited licence class under Regulation 27 of the *Architects Act*. This will enable the relaunch of the longstanding OAA Technology Program, the licensing of Licensed Technologist members, and the creation of a framework for the regulation of other design professionals.

The OAA enjoys a long-standing, collaborative relationship with the government, and looks forward to working alongside the Standing Committee on Justice Policy on this important initiative.

As an Appendix, additional information to provide clarification is included in a question-and-answer-format. However, please do not hesitate to contact [Executive Director Kristi Doyle](#) with regard to further questions or requests.

Appendix A

1. Does Schedule 1 of Bill 157 duplicate the licensing process of the Association of Architectural Technologists of Ontario (AATO)?

No. Schedule 1 does not duplicate an existing licensing process. The AATO accredits qualified individuals with the four titles it regulates via Bill PR40. There has never been, nor is there currently, any scope of practice accompanying these AATO titles. The AATO does not license individuals to practise architecture—this has always been the sole responsibility of the Ontario Association of Architects (OAA).

Schedule 1 proposes a limited licence class in the practice of architecture for individuals that have completed a rigorous licensure program and demonstrate the competencies required to offer and provide services to the public within a limited and defined scope of practice. The licensure program is open to any eligible individual, including AATO members. The OAA has not changed the nature of the pre-existing OAA Technology Program, Licensed Technologist licence, or its limited scope of practice; Schedule 1 is intended to allow the administration of this licensure path as it has already existed for 20 years.

The only risk of regulatory duplication, confusion, and red tape would be if:

- any organization other than the OAA proposes to regulate the practice of architecture as defined in the *Architects Act*, or
- any proposal suggests unlicensed individuals should be able to practise architecture and not be subject to the *Architects Act*.

2. Does Schedule 1 represent a reward for bad behavior?

No. The OAA Technology Program was a long-standing licensure program administered in good faith by a dedicated not-for-profit (the Ontario Association for Applied Architectural Sciences [OAAAS]) for 20 years. The program and OAAAS had strong relationships with Ontario colleges and Ontario stakeholders. The program itself was the result of more than six years of development and validation with full transparency and the support of the provincial government. Once an individual successfully completed the OAA Technology Program—inclusive of education, experience, and examination—they were eligible to apply for a licence as a Licensed Technologist OAA.

The OAA continuously strives to ensure its licensure procedures are fair, transparent, objective, and impartial. Once licensed, these individuals were bound to the obligations and responsibilities under the *Architects Act*, its Regulation, and OAA Bylaws, inclusive of mandatory continuing education, standards of practice and performance, as well as mandatory professional liability insurance for any individuals offering services to the public. They would also be subject to any of the Act Enforcement, Complaints, and Discipline processes of the OAA should there ever been a concern about a member's conduct or competency. The OAA is mandated to regulate all of its members in the service and protection of the public interest.

The Licensed Technologist OAA licences and the associated licensure program were always administered in good faith. The OAA acknowledges it issued these licenses via Council Policy instead of regulation. This was done with transparency and, at the time, was a viable option to establish the program. Schedule 1 is being brought forward to solidify the OAA's authority to issue limited licences and resume a long-standing and important program for individuals in the architectural discipline who wish to practise architecture and offer services to the public in a defined scope.

3. Does Schedule 1 create a “turf war?”

No. The OAA and the AATO have very distinct roles. The OAA is the statutory regulator that governs the practice of architecture in Ontario to serve and protect the public interest in accordance with the *Architects Act*.

The AATO is a voluntary professional association for individuals who are given the right to use the titles “architectural technologists/technician” and/or “registered building technologist/technician.” The *AATO Act* is a private member's act. Unlike public acts, private acts concern matters of a private interest to specific corporations or individuals.

The regulation and governance of the practice of architecture in Ontario is the sole responsibility of the OAA and has been since 1889. Any licensing scheme related to the practice of architecture as defined by the *Architects Act* must fall under the regulation of the OAA.

There is no “turf war” because Schedule 1 is specific to a limited licence class to practise architecture within a defined scope.

4. Does Schedule 1 affect or restrict the privileges of architectural technologists under the *AATO Act Bill PR40*?

Schedule 1 has no impact on the ability of the AATO to accredit its members with its titles “architectural technologist,” “architectural technician,” “registered building technologist,” or “registered building technician.”

Further, Schedule 1 has no impact on the services architectural technologists are able to perform as these services are available to all members of the public as established and defined in the *Architects Act* under section 11(3) Exception—this is often referred to as the “public domain.” There is no proposed amendment to this section—members of the public, inclusive of architectural technologists, may continue to undertake any service that falls within the definition of this section, just as they have since the *Architects Act's* last update in 1984. The OAA does not interfere with public domain services. Unlicensed individuals offering services therein are subject to Ministry of Municipal Affairs and Housing (MMAH) requirements for this work.

Schedule 1 also has no impact on the ability of the AATO to carry out its legislated objects as defined under section 2 of the *AATO Act Bill PR40* as they relate to architectural technologists.

MPP Briefing Note 2 – Bill 157, *Enhancing Access to Justice Act*, 2023

January 16, 2024

This is the second of two briefing notes on Bill 157 issued by the Ontario Association of Architects. Its purpose is to explain the difference between the former Licensed Technologist OAA licence and the AATO's Architectural Technologist title. To see the first briefing note, please [click here](#).

Clarifying the Difference in Roles Between the OAA and AATO

Some critics of Bill 157 have suggested Schedule 1, if passed as currently written, will result in a duplication of regulation. However, the OAA and AATO have very distinct roles and responsibilities. As such, the proposed Schedule 1 would not result in any duplication.

The legislated Objects of the OAA are as follows:

The principal object of the Association is to regulate the practice of architecture and to govern its members, holders of certificates of practice and holders of temporary licences in accordance with this Act¹, the regulations and the by-laws in order that the public interest may be served and protected.

For the purpose of carrying out its principal object, the Association has the following additional objects:

- 1. To establish, maintain and develop standards of knowledge and skill among its members.*
- 2. To establish, maintain and develop standards of qualification and standards of practice for the practice of architecture.*
- 3. To establish, maintain and develop standards of professional ethics among its members.*
- 4. To establish and maintain or to assist in the establishment and maintenance of classes, schools, exhibitions or lectures in, and to promote public appreciation of, architecture and the allied arts and sciences.*
- 5. To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.*

Any individual who seeks to practise architecture in Ontario as defined by the *Architects Act* must be licensed and regulated by the OAA. In the case of Limited Licences, individuals would be practising architecture within a restricted

¹ [Architects Act](#), R.S.O. 1990, c. A.26

scope of practice (as distinct from the application of architectural technology expertise) and, much like architects, would have the unique social responsibility to design our built environment.

The legislated Objects of the AATO, on the other hand, are as follows:

- a) *to increase the knowledge, skill and proficiency of architectural technologists, architectural technicians, building technologists and building technicians and to grant accreditation and certification to such persons;*
- b) *to foster the attainment of the highest standard of quality and competence in the field of architectural technology;*
- c) *to establish, maintain and enforce strict rules of ethical conduct for members of the Association in the field of architectural technology;*
- d) *to inform the public of the purposes and aims of the Association;*
- e) *to promote harmonious relationships among members of the Association in order to stimulate the development of the Association and enhance its public reputation.*

The AATO is a voluntary professional association for individuals who seek to use the title “architectural technologist”. The initial AATO-authored Briefing Note analogized the AATO to the colleges falling under the *Regulated Health Professions Act* (RHPA). This is simply incorrect.

RHPA regulators are accountable to the Ministry of Health, are required to post a litany of information on their public register, include members of the public (appointed by the government) to their governing Council, and are **mandated to serve and protect the public interest**. None of these factors apply to the AATO.

The AATO Briefing Note also contends the group “accredits educational programs.” However, Section 2(a) of the *AATO Act*² states it can “grant accreditation and certification to such persons[,]” not educational programs.

For clarity, the AATO certifies qualified individuals in order that they may use the titles as established in Bill Pr40—this is quite distinct from the OAA’s responsibility to govern and regulate the practice of architecture in the province.

The OAA supports and agrees with the important expertise architectural technologists bring to the industry. Like other professionals in the sector (e.g. engineering technologists, engineers, land surveyors, geoscientists, interior designers, quantity surveyors, and other specialists), they play an important role in a healthy, safe built environment for Ontarians.

Establishing a Limited Licence Class Serves and Protects the Public Interest

It is the regulatory responsibility of the OAA to govern those individuals qualified and licensed to practise within a restricted scope of the practice of architecture in Ontario. Establishing paraprofessional Limited Licence classes is not uncommon for regulators in Ontario, with examples found in the engineering, medical, and legal professions.

Limited Licence holders would be accountable to the public and required to maintain the standards of practice and conduct as established in the *Architects Act* and the Regulation thereunder. This includes maintaining mandatory professional development requirements and also being accountable to conduct competence standards. Further, should any concerns arise on these items, members may be subject to the OAA’s legislated Complaints and Discipline processes. All of these requirements and procedures have been established through the *Architects Act* to serve and protect the public.

Since the late 1990s, there have been many opportunities for negotiation between AATO and the OAA—specifically as it relates to the establishment of the OAA Technology Program discussed below. At each instance, however, the AATO took the position its members should be able to practise architecture with little to no restrictions and outside the regulatory

² [Bill PR40](#), Association of Architectural Technologists of Ontario Act, 1996

control of the OAA. This was, and remains, an untenable proposition. As mandated in the *Architects Act*, any individual that practises architecture as defined in the *Architects Act* must fall under the regulation of the OAA.

The OAA Technology Program and Proposed Scope of Practice

To help clarify the distinction of the proposed Limited Licence class, it is important to understand the requirements of the proposed OAA Technology Program and the proposed restricted scope of practice.

The proposed OAA Technology Program is the pathway through which a qualified individual would achieve licensure with the Ontario Association of Architects as a Licensed Technologist. These individuals would be members of the OAA with rights and responsibilities, including the legal right to design within a restricted scope of practice as to be set out in the Regulation under the [Architects Act](#).

If Bill 157 passes, the OAA would develop a regulation that would confirm the eligibility and competence of these members through a rigorous process that includes:

- meeting the educational requirement³;
- completing the Program experience requirements (i.e. 5,580 supervised hours);
- completing the [OAA Admission Course](#);
- passing the licensing examination; and
- being a person of [good character](#).

Upon issuance, the Licensed Technologist would receive a Limited Licence. This individual would follow the standards, rules, and guidelines set by the OAA. A Licensed Technologist may provide architectural services to the public under the supervision of a holder of a Certificate of Practice. The individual may also provide architectural services to the public after obtaining a Certificate of Practice and the requisite professional liability insurance as prescribed by legislation.

It is proposed a Licensed Technologist be able to offer architectural services to the public within the following scope:

- A residential occupancy up to four storeys;
- One or two attached residential dwelling units (there is no restriction for these units to be at grade);
- Three or more attached residential dwelling units with a maximum building area of 600 m² (there is no restriction for these units to be at grade);
- Restaurants up to a maximum occupant load of 100 persons within a gross area of 600 m²; and
- Any project excepted by the *Architects Act*, s.11 (3).

What Can the Government Do?

The OAA remains committed to its longstanding OAA Technology Program and the important services those with a Limited Licence provide to the public. As such, the OAA urges the government to swiftly establish a Limited Licence for former Licensed Technologists OAA. Architecture, architects, and this para-professional group are key players accountable to the people of Ontario for a safe and healthy built environment.

³ Graduated from a college architectural technology program accredited by Technology Accreditation Canada (TAC), or equivalent and/or successor organization; or a university architectural degree program from an institution recognized by UNESCO; or Hold membership at the Technology Level of a recognized professional association representing technologists in any province, or an equivalent jurisdiction outside Canada; or any combination of academic study and education the OAA may approve as equivalent.

Schedule 1 also provides the framework for future paraprofessionals to be regulated by the OAA, providing the opportunity for centralized professional regulation in the industry.