



Regulatory Notice: More Information Related to the AATO Court Application Outcome

On May 10, 2023, the Ontario Association of Architects alerted those who were Licensed Technologists OAA about the outcome of a Court application advanced by the Association of Architectural Technologists of Ontario (AATO).

This followup communication:

- summarizes the information shared last week;
- outlines additional steps now being taken by the OAA;
- clarifies the current status of the OAA Technology Program;
- offers ways to apply for a licence or Certificate of Practice; and
- shares answers to Frequently Asked Questions (FAQs).

Although the OAA continues to be committed to assisting all those impacted by the Order and wants to offer as much information as possible, it cannot provide legal advice. Therefore, if you are in need of legal advice, you should seek this from your lawyer to ensure all legal and regulatory obligations are fulfilled.

It is highly recommended you keep this email as it contains critical information for the immediate future.

Background

The OAA was first made aware of the Court application late last year, as the AATO challenged the OAA's authority to issue licences via policy, rather than statute. Initially, it was stated that the Court was expected to hear the case in December 2023, but OAA 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.

Notwithstanding the considerable effort to respond to this challenge, and given its technical nature—that is, a matter of statutory interpretation—an outcome from the scheduled hearing that would allow the OAA to continue to issue licences via policy was unlikely. Ultimately, the OAA would be unable to successfully respond to the challenge of how the licences are currently issued.

The Ontario Superior Court of Justice issued an Order that took effect on May 10, with immediate impact on all 150 Licensed Technologist OAA licences and 44 Lic.Tech.OAA Certificates of Practice (CoPs):

1. The OAA has no lawful authority to issue CoPs or licences based on the Licensed Technologist OAA policy (or any similar policy).
2. The Lic.Tech.OAA CoPs and licences previously issued are void and of no force and effect.
3. The OAA is prohibited from issuing Lic.Tech.OAA CoPs or licences based on the policy or any similar policy going forward.

Although the OAA consented to the order, we are disappointed with the resulting disruption. The Association firmly believes in the value of the skills and abilities of all individuals who were Licensed Technologists OAA.

It is important to note there is no risk to the public inherent in these licences being voided—your education and competencies remain the same. Rather, what was at issue was the OAA's use of a policy, rather than statutory authority, to grant CoPs and licences.

Immediate Next Steps and OAA Technology Program Status

This Order likely has the most immediate impact on those providing architectural services falling within the protected scope of practice that had been provided via the Policy Statement. **If the services you are currently providing are consistent with those available to a qualified designer, you may continue to provide those services under the authority of the Ministry of Municipal Affairs and Housing (MMAH).** The Ontario Government has [more information](#) for individuals and practices to become qualified and registered with the MMAH.

With the Court application now dispensed of, discussions with the Ministry of the Attorney General (MAG) have resumed to ascertain if MAG believes it is in the public interest to include such a licence class in the OAA's governing legislation in the near future.

The OAA has commenced efforts to seek legislative amendments to recognize a Limited Licence provision in the *Architects Act* with designated classes of licence.

A draft legislative amendment proposal is underway, and the OAA plans to prioritize the work on this initiative. That being said, the OAA is mindful legislative amendments take time, and understands other parties will be involved in this effort.

Those who were enrolled in the OAA Technology Program (formerly administered by OAAAS)—Intern Technologists and Student Technologists—are equally affected by the Court Order. **The administration of this program will need to be paused until the Act and Regulation 27 permit the limited licence to be issued.** The OAA requires this legislative amendment in order to establish its authority to issue the class of licence associated with this program. Until this amendment is secured and enacted by the Province, it would be improper to continue to administer the program.

The OAA will be required to lapse the status of any individual enrolled in the program. This “lapsing” effectively freezes all records—no information is lost and will remain valid on future activation. As noted below, all 2023 fees will be reimbursed.

Annual Fees

The OAA will be issuing 2023 annual renewal fee refunds to all former licence and Lic.Tech.OAA CoP holders, as well as to any individual enrolled in the associated program. The refund will have no effect on individual and practice records. The OAA will maintain all information in anticipation of future legislative change noted above.

The OAA appreciates your patience during this challenging time and is working diligently to remedy the outstanding legislative issues.

Applying for Licence and Certificate of Practice

As always, any individual may apply for a licence or Certificate of Practice with the OAA. In instances where the applicant does not meet the requirements set out in s. 13 of the *Architects Act*, the Registrar is required, pursuant to s. 25(1)(a), to serve a notice of proposal, together with reasons, on the applicant. The notice will explicitly tell the

applicant they are entitled to a hearing by the Registration Committee if they deliver a written request within 30 days.

Where an applicant requires a hearing by the Registration Committee in accordance with subsection (3) of s.25 of the Act, the Committee shall appoint a time for, give notice of, and shall hold the hearing. A statutory body, the Registration Committee derives its authority from both the Act and Regulation 27. While integral to the OAA, it is independent and acts impartially between the OAA and the applicant.

The hearing is a quasi-judicial proceeding held before a panel of the Registration Committee. It is an opportunity for an applicant to present evidence in support of their application. The applicant bears the onus of satisfying the panel, on reasonable grounds, that they meet the requirements of the Act and the Regulations for the purpose of issuance of a licence or Certificate of Practice.

Following a hearing, the panel may make a number of recommendations, including the possibility of directing the Registrar to issue a licence or CoP subject to specified terms, conditions, or limitations, or requiring the applicant to successfully complete further examinations or training. The panel of the Registration Committee will make its decision based on the evidence before it, in a procedurally fair manner, and premised on the protection and service of the public interest.

Frequently Asked Questions

The OAA is understandably receiving many questions. While we cannot provide legal advice (as outlined above), here are some general responses to the most frequently asked:

Q: The Court Order required the voiding of my licence. Am I still a member with the OAA?

A: No. Only those who hold a licence with the OAA are members as defined under s.5 of the *Architects Act*. While you do not currently hold status with the Association, you can still access the website and avail yourself of the online resources.

Q: What do I tell my current clients?

A: This question is contextual, as it depends on the project scope and any other designations you may have. If you have or can reinstate a BCIN and your project falls within the Exceptions set out in section 11(3) of the *Architects Act*, you should be able to continue the work.

If your project is:

- intended for residential occupancy, and contains one dwelling unit or two attached dwelling units, and, as constructed, enlarged, or altered, is not more than **four storeys** in height;
- intended for residential occupancy, contains three or more attached dwelling units, and, as constructed, enlarged, or altered, is not more than **four storeys** in height and not more than 600 square metres in building area; or
- a restaurant designed to accommodate not more than 100 persons consuming food or drink,

then you can make recommendations with regard to engaging an OAA architect who is a holder of a Certificate of Practice. If the client agrees, you can make the necessary arrangements with this other holder to carry out the services that fall within the protected scope of work for an architect. As mentioned above, you should seek advice from your lawyer to ensure all legal and regulatory obligations are fulfilled.

In all instances, you must advise all existing clients whose projects require architectural services of the discontinuance of the licence and the OAA Certificate of Practice.

Q: What do I do about current pursuits?

A: If preparing proposals or if in contact with prospective clients, you must make certain they are aware you are no longer licensed by the OAA, and state what services may be offered moving forward. You must ensure the content of all promotional material is accordingly updated, including existing signage. This means making sure business cards, letterheads, websites, or forms do not contain the term “Licensed Technologist OAA.”

Q: What about Pro-Demnity?

A: The OAA has been informed your current policy from Pro-Demnity Insurance Co. remains in place. Further discussion should be undertaken with Pro-Demnity prior to annual renewal. Please contact Pro-Demnity Insurance Company for more information.

Q: If the project now needs to engage an architect, what does that transition require?

A: If an architect is engaged to take over or complete all or part of a project the architect and associated Certificate of Practice are subject to all the statutory requirements associated with offering services to the public. Specific attention should be paid to the OAA's [Regulatory Notices](#), for example [RN.01 OAA Professional Seal-Application \(Usage\)](#).

Q: Can a BCIN holder engage the services of an architect?

A: Yes. The BCIN holder would be the architect's client in this scenario. The architect would need to be a holder of a Certificate of Practice, and the services would be subject to all the statutory requirements associated with offering services to the public.

Q: How do I explain this situation to my clients?

A: The AATO court application and subsequent Order has 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 Order flows from those licences being issued via Council Policy rather than Regulation.

Q: What happens to my ConEd hours I have logged toward the Continuing Education Program?

A: Your OAA Transcript will be frozen, with all current hours earned kept on file by the OAA for the remainder of the current cycle, which ends June 30, 2024.

Q: I am enrolled in the OAA Technology Program. What happens with my experience submissions?

A: All submissions already received by the OAA will be processed and the information maintained in the individual records. No further experience submissions will be accepted. All program information to date will be maintained in the OAA database.

Q: I am enrolled in the OAA Technology Program and I have paid for the Fall 2023 OAA Admission Course. What should I do?

A: You are welcome to take the course for your own education; the course is open to the public. Alternatively, you may cancel your registration and receive a full refund.

Q: What if my question isn't answered here?

A: While more information will be coming via both emails and a new section linked to the [OAA Website home page](#), if you have any immediate questions, please do not hesitate to email OAAtechProg@oaa.on.ca. Having concerns in writing will allow the OAA to track commonly occurring concerns and generate more FAQ resources.

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