

Submission

Bill 27: Working for Workers 2021

Submitted by: World Education Services

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About WES: World Education Services (WES) is a non-profit social enterprise dedicated to helping international students, immigrants, and refugees achieve their educational and career goals in Canada and the United States. For more than 45 years, WES has set the standard of excellence in the field of international academic credential evaluation. WES works with institutional partners, community-based organizations, and policy makers to help immigrants and refugees who hold international credentials fully utilize their talents and education to achieve their academic and professional goals. Its philanthropic arm, the WES Mariam Assefa Fund, supports catalytic leaders and organizations working to build inclusive economies and to ensure that immigrants and refugees can achieve their aspirations and thrive.

WES believes that Bill 27 contains many measures that will deliver significant benefits to Ontario workers, including immigrants and temporary workers. However, we also believe that the bill requires some significant amendments in order to fulfill the goal of ensuring that immigrant workers are treated more equitably and that Ontario benefits fully from their potential contributions.

This submission proposes a number of recommendations to remedy these gaps, including addressing inequities in the treatment of international and temporary workers, expanding provision to include internationally educated health professionals, collecting the data essential to a complete picture of the place of immigrants in our labour force, and engaging not only regulators but all stakeholders with a direct role to play in removing systemic barriers.

Schedule 1: Employment Protection for Foreign Nationals Act, 2009

WES believes it is a positive step for the Ontario government to amend the Act by including recruiters in the scope of the legislation (Section 17). It is timely to also make the Directors of a corporation using a recruiter jointly and severally liable to repay fees that may have been charged to a worker holding a temporary work permit issued under IRCCs TFWP program. (Section 18.1)

Exorbitant recruitment fees are highly prevalent in this sector. For a migrant worker to secure a minimum-wage job in Canada, they often must pay between \$4,000-\$10,000 in recruitment fees. Fay Faraday human rights lawyer and professor at Osgoode Hall Law School at York University wrote in her report, **Profiting from the Precarious**, published by the Metcalfe Foundation, this amount of money typically represents “between six months to two years’ earnings in the workers’ home currency and in some cases considerably more.”

Recommendations

WES recommends the Standing Committee expand policy measures to regulate labor brokers/recruiters more effectively, based on the experiences and successes found in different jurisdictions. Some of these practices include:

- Holding employers responsible for using only licensed recruiters in good standing; implementing significant fines for employers who fail to use a licensed agency.
- Legislating prohibitions by countries of origin on the recruitment of their nationals by persons or entities other than those licensed by the State.
- Requiring labour broker licenses be issued only to resident nationals as well as being members of recognized associations of immigration consultants or members of the legal profession. This requirement allows for licensees to be held accountable for recruiting violations.
- Requiring licensees to put up significant financial guarantees, such as bonds, for claims that may be brought before them.
- Requiring licensees to have a good record of compliance to national and subnational labor standards.
- Obligating recruiting agencies to bring jobseekers that have employment contracts to attend pre-departure orientations conducted by governments.
- Making continuation of the license contingent on performance and give incentives to the best performing agencies; and
- Enacting legislation that limits fees that can be legally charged to migrants, differentiate fees by class of worker or ensure the employer will pay the fees.

A more detailed outline of these types of policy measures can be found in the paper, **Re-regulating the private power of labour brokers**.

Schedule 2: Employment Standards Act, 2002

WES welcomes the proposed amendments to give employees the right to ‘disconnect’ from work (New part VII.0.1); prohibit non-compete agreements (Part XV.1); establish licensing requirements for temporary help agencies (Sections 74.1.1. and 74.1.2); and (74.12.1) provide reprisals measures to better protect employees who seek to have a recruiter to comply with the Act.

Too many newcomers to Ontario are forced to find employment that is often not commensurate with their skills, abilities or experiences and often are dealing with labour brokers/recruiters, temporary help agencies and/or are pressured to work beyond the paid workday.

The **Law Commission of Ontario** has estimated that nearly a quarter of the jobs in the province can be characterized as being precarious in nature, meaning low wages, part-time, temporary, offer no pension, no union and/or are employed with a small employer. Numerous **studies** and **data analysis** of Labour Force Surveys have long shown that recent immigrants are over represented in this part of the labour market.

Recommendations

- Because newcomers often enter the labour force as temporary employees, we recommend that the amendments include an equal pay for equal work provision. Temporary workers must be paid fairly, meaning they should be paid the same as permanent workers if they are doing the same work. These measures hold the potential to benefit many members of the Ontario labor force, including newcomers, refugees, and international students.

Schedule 3: Amending Fair Access to Regulated Professions and Compulsory Trades Act 2006

“Canadian experience” has long been a significant systemic barrier to immigrants and refugees seeking to re-license in Ontario in their professions and trades. Canadian experience requirements often create unforeseen or unintended inequities. Prohibiting regulators from including “Canadian experience” as a bona fide qualification for registration is a very positive step. We are pleased to see the Office of the Fairness Commissioner will have a role in reviewing applications for exemption. Enabling grants and information supports, as well as addressing the duplicative and costly language proficiency requirements are also positive measures that are long overdue for newcomers seeking reentry into their occupations.

The government’s stated intent is that Bill 27 “*allow applicants to register faster in their regulated professions when there are emergencies (such as a pandemic) that create an urgent need for certain professions or trades.*” (<https://news.ontario.ca/en/release/1001014/ontario-helping-newcomers-start-their-care>) Given the significant numbers of internationally educated health professionals seeking licensure in Ontario and the tremendous health human resource needs of the province in light of the pandemic, we urge that the spirit and intent of Schedule 3 be expanded to include health professions regulated under the Regulated Health Professions Act, 1991 as well.

Recommendations

- Expand the scope of this amendment to include regulated health professions in order to create equitable access and rapidly increase the supply of health human resources in Ontario. Internationally educated health professionals are likely to leave Ontario if they do not have a clear and equitable pathway to licensure.
- Section 10.2 (2) states “A regulated profession may apply for an exemption ...for the purposes of public health and safety”. This must be strengthened with clear instruction that regulatory bodies must focus their licensure/registration requirements on the competencies and knowledge to do the job, rather on a period of required “in Canada” experience. A strict focus on knowledge and competency, and on making available the means to acquire and demonstrate that knowledge and competency, should eliminate the need for exemptions.
- We recommend the legislation obligate regulatory bodies to guarantee timely assessments /registrations and occupational licensing within an appropriate timeframe for each profession/trade, with that timeframe to be established in consultation with the appropriate stakeholders by the Office of the Fairness Commissioner.

Part V 17 (b) Supporting Access of Internationally Trained Individuals to Regulated Professions

Legislative changes are welcome, but on their own will not solve longstanding underutilization issues. Perhaps most important to resolving barriers to access is a multi-stakeholder approach to convening the key actors in each major regulated profession or trade, including regulators, employers, educational bodies, internationally trained individuals, and settlement and employment service providers, with a mandate to map barriers and a coordinated approach so that each stakeholder can take appropriate. WES is able to help facilitate such tables to promote candid discussions of the practical barriers' newcomers in regulated professions and trades face. Remedies do exist, but they will require the insights, experience, and combined effort of all stakeholders to find practical solutions.

The collection of disaggregated data and analysis of trends is also critical to support internationally trained individuals' fair access to regulated professions. Currently, it is extremely challenging to get a clear, real-time picture of how many internationally trained professionals are in the province, how many are practicing their intended profession, how many are attempting to re-enter their professions, or the true extent to which downward mobility and deskilling are occurring because of their underutilization. Supporting the development of accurate and timely data is essential.

Support to bridging models is also key in both professions and trades. For example, the International Brotherhood of Electrical Workers developed a unique training course for internationally educated electrical engineers that helped these newcomers successfully find employment as electricians, as part of a career path back to their professions. The IBEW program taught newcomers occupation specific terminology and helped prepare applicants for their qualifying trades exams, as well as securing commensurate employment in their fields.

Recommendations

- The legislation ensure that research and trends analysis include data collection that helps better understand and address race, gender and immigration status discrimination that is occurring in some occupations.
- Research, data collection and analysis spotlight inequities and advance remedies to people being confined to low wage work that is not commensurate with their skills and abilities.
- Public appointments to regulatory bodies prioritize the recruitment and selection of immigrant professionals and tradespeople who can bring their experiences of the registration process to the attention of the regulatory bodies.

- Government convene multi-stakeholder tables, that include, regulators, educational and training institutions, employers, unions, newcomer service organizations as well as impacted newcomer themselves.

Multi-lateral considerations

Finally, we urge the Committee to consider standing legal commitments such as the Lisbon Recognition Convention that Canada ratified. The Convention provides that recognition of credentials requests should be assessed in a fair manner and within a reasonable time. Recognition can only be refused if the qualification is substantially different from that of the host country - and the onus is on its educational institution to prove that it is. The Convention also has a clear no discrimination clause based on several grounds including birthplace or other status, as well as a directive for parties to the agreement to ensure that the procedures and criteria used in the assessment and recognition of qualifications are transparent, coherent, and reliable.

There are also legal labour mobility implications within the 2017 Canada Free Trade Agreement (Chapter 7) and World Trade Organization General Agreement on Trade in Services (WTO/GATS) negotiations related to Mode IV that policy makers must keep in mind.

Schedule 4: Amending Ministry of Agricultural, Food, and Rural Affairs Act

Section 4.1 (2)

The proposal to allow for the collection of personal information which can be used to “support Canadian, provincial, or municipal responses to urgent public health and safety concerns related to agricultural, food or rural affairs” or to further undefined other purposes raises concerns. We recognize the impetus for this amendment arises from a coroner’s inquest into the deaths of migrant farm workers.

Recommendations

- We urge the committee to additionally invest in measures that can meaningfully improve the health, safety, housing and working conditions of migrant farm workers.

Schedule 6: Amending Workplace Safety and Insurance Act, 1997

Research **findings** from the Institute for Work and Health (IWH) has shown that newcomers are more likely than Canadian born workers to be employed in jobs with a high number of workplace health and safety hazards. Recent immigrants are also less likely to access compensation after a workplace injury. Dr. Agnieszka Kosny, now Vice Chair at the Workplace Safety and Insurance Appeals Tribunal and formerly a research scientist with the IWH noted that immigrants, by virtue of their status as newcomers to Canada, tend to find employment in the early years of their arrival that doesn't mirror the jobs they left behind in terms of qualifications. "These workers end up doing jobs they have never done before, often involving manual, heavy and repetitive work and with little knowledge of the hazards, tools, or machinery associated with the work." IWH research statistics paint an equally grim picture. Ninety percent of immigrant workplace injuries require medical attention, compared to 65% for other workers.

A IWH 2011 **study** examining the relationship between workplace injuries and education to job mismatch revealed that recent immigrants who have higher educational qualifications than required for the job are more than three times as likely to report a workplace injury as an immigrant with five years' experience in the country who is not overqualified for their job. The combination of the two factors—recent immigration and over-education—led to a much higher risk of injury for men, says IWH Scientist Dr. Peter Smith.

Another **study** explored how over-qualification amongst new immigrants affects general and mental health. Using data from a Longitudinal Survey of Immigrants to Canada administered by Statistics Canada showed that employed immigrants who worked in their field before coming to Canada were in good health upon arrival, but the impact of enduring the survival job situation resulted in declines in mental health with "persistent feelings of sadness, depression or loneliness." Given that about half of recent immigrants end up working in jobs for which they are overqualified means not only is our economy underutilizing their talent, and it also puts people at risk of both physical workplace injury and deleterious mental well-being.

Recommendations

We recommend the following:

- Workplaces that have high concentrations of immigrant and other vulnerable workers must be rigorously targeted for health and safety inspections and employers must be obligated to implement effective injury prevention programs.

- Greater protections are needed for injured workers who file claims, including multi-lingual access to legal information and access to alternative income support programs once injured.
- Offering professional level interpretation services at the onset of claims and periodically throughout the process will improve workers understanding of their claim and outcomes.
- WSIB services must be advertised and promoted effectively for newcomers to overcome known barriers. This requires data collection of the experiences of newcomers with the system. Currently there is no way to identify claimants as immigrants.

Conclusion

WES believes that Bill 27 contains many measures that will deliver significant benefits to Ontario workers, including immigrants and temporary workers. However, we also believe that without significant amendments to the bill, Ontario stands to miss many opportunities to treat immigrant workers more equitably and to benefit fully from their potential contributions.

This submission has proposed a number of recommendations above to remedy these shortfalls, including addressing inequities in the treatment of international and temporary workers, removing roadblocks to full employment of internationally educated health professionals, and collecting the data essential to a complete picture of the place of immigrants in our labour force, and engaging all of the relevant stakeholders in developing solutions.

If Ontario is to deliver fully on its stated goals of protecting all workers and boosting our competitive edge in attracting global talent, WES strongly believes the Ontario government must address the shortfalls described in this submission.

WES appreciates this opportunity to provide our input on the proposed amendments to Bill 27 and would be pleased to provide any additional input or advice on potential solutions to these critical challenges.

Appendix: Considerations for professions covered under the Regulated Health Professions Act, 1991.

We urge that the spirit and intent of the provisions of Schedule 3 of the Working For Workers Act be extended to the regulated health professions covered under the Regulated Health Professions Act.

The pandemic's toll on Ontario's health care workforce is critical. In March of this year, the Registered Nurses Association of Ontario (RNAO) reported that at least 13% of nurses ages 26-35 are considering leaving the profession after the pandemic. Service Employees International Union (SEIU) Health care representing more than 60,000 health care workers released results from a **survey** revealing that 54% are considering leaving the health care system.

The exodus of existing health care talent will be compounded by a global shortage of health care workers. The World Health Organization projects a shortfall of about 18M health care workers by 2030 – just 8 years away. Ontario and Canada will be hit hard by this shortfall and pending exodus of existing health care workers. Considering how long it takes the educational system to generate new graduates, (nursing up to 4 years/physicians up to 10 years counting education and residency) + the time it takes to accumulate lifesaving work or specialty experience, the system is currently unprepared for what lies around the corner.

Canadian experience requirements:

Internationally educated Health professionals (IEHP) are already here – newcomers account for 25% of our health care and social assistance workforce, yet nearly 50% are either underemployed or unemployed. The Canadian experience requirements for some regulated health professions creates a very significant and often insurmountable systemic barrier.

This is the case for internationally trained physician, who have very limited access to avenues to fulfil the College of Physicians and Surgeons requirement for “completion in Canada of one year of postgraduate training or active medical practice, or completion of a full clinical clerkship at an accredited Canadian medical school. “ For most, the only avenue is to take additional residency training in Canada. However, residency spaces are extremely limited. In 2020 only 418 internationally trained medical graduates secured residency slots while 2,895 Canadian trained medical graduates secured residency slots. Furthermore, of the limited number of residency slots that are earmarked for those internationally trained, the majority go went to Canadians who studied out of the country. (<https://www.carms.ca/news/2020-r-1-match-data-snapshot/>) In addition, internationally trained physicians often must accept return of service agreements obligating they work in remote or rural

settings in exchange for their residency, while those trained in Canada do not face the same requirement.

Timely Assessment

Regulated health professions often have a requirement for internationally educated applicants to have recent clinical practice experience. Given the length of time it takes to complete registration processes, this recency often expires. Therefore, timely assessment and consideration of applications is particularly important in these professions. Specifically, provisions must ensure that assessments and directions to applicants are completed before their previous recency of experience as stipulated by the regulatory body expires. The example for internationally educated nurses can be instructive to other professions and trades. The College of Nurses of Ontario requires evidence of recent/safe practice that is no older than three years, yet some internationally educated nurses report that this period expires while they wait for their assessments, struggle to access limited bridging programs or wait for their permanent residency status.

Research, analysis, data

Bill 27 addresses the need for government initiatives to support research, analyzing trends and identifying issues related to the registration of internationally trained individuals and on fair registration practices. This is particularly essential in the case of internationally educated health professionals (IEHPs), where numerous official data sources each capture small pieces of the landscape of in Canada, but it is difficult to piece together a clear aggregate picture of basic information such as how many IEHPs there are in Canada seeking licensure.

WES has found that existing data is collected by several different government and non-governmental agencies, over differing time periods, using significantly different methodologies. As a result, it is challenging to get a clear, real-time picture of how many IEHPs are in the province or country, how many are practicing their intended profession, how many are attempting to re-enter their professions, or the true extent to which downward mobility and deskilling are occurring because of their underutilization.

What the available research does show is that race, gender, and immigration status play a significant role within the healthcare workforce. For example, currently fully a 1/3rd of nurse's aides, orderlies and patient support workers are immigrants and 86% are women. Furthermore, frontline long term care health care staff are disproportionately immigrant racialized women. In nursing homes, 86% are women. In homecare 89% are women. Racialized women account for nearly 35% of nurse's aides, orderlies, and PSWs. Many of those working in health care are in lower wage positions yet hold degrees in nursing.