



Bill 288 Written Submission to Standing Committee on Finance and Economic Affairs

May 21, 2021

Introduction

The Provincial Building and Construction Trades Council of Ontario consists of 12 construction craft unions representing 150,000 construction trades workers throughout the province. The Council welcomes the opportunity to comment on Bill 288, also known as the *Building Opportunities in the Skilled Trades Act, 2021*. The recommended amendments outlined in this document are supported by our affiliated local unions and construction trades trainers.

Recommended Amendments

The following amendments to the *Building Opportunities in the Skilled Trades Act, 2021* are required:

A. Transition

Bill 288 creates uncertainty as to whether trades currently prescribed in the construction sector will continue to be prescribed when the *Building Opportunities in the Skilled Trades Act, 2021* is proclaimed into force. Furthermore, section 65 (2)(d) of the Bill specifically anticipates that certain trades will no longer be prescribed as a trade or classified as a compulsory trade for the purposes of the *Building Opportunities in the Skilled Trades Act, 2021*. Accordingly, it would be appropriate to deal with this issue in a way analogous to the way that OCOTAA dealt with it when it replaced the *Trades Qualification and Apprenticeship Act* and the *Apprenticeship and Certification Act*.

Needed amendment: a new section to read as follows:

"Every trade that was prescribed as a trade that belongs to the construction sector under the *Ontario College of Trades and Apprenticeship Act, 2009* shall

be deemed to be prescribed by a Minister's regulation as a trade under this Act and every construction sector trade classified as compulsory under the *Ontario College of Trades and Apprenticeship Act, 2009* shall be deemed to be classified by a Minister's regulation as compulsory under this Act until such time as a new regulation is made."

B. Section 6 – Practice, Compulsory Trades

Section 6 prohibits “engaging in the practice” of a compulsory trade unless the individual holds a Certificate of Qualification (CofQ), a Provisional CofQ, or is a registered apprentice. Two fixes are necessary.

First, section 6(c) says that a regulation can exempt anyone from this prohibition, which severely weakens compulsory trade licensing.

Needed amendment: Delete section 6(c).

Second, the phrase "engaging in the practice" can create interpretive problems.

A new subsection 6(2) should be added to read:

6(2) - "engage in the practice of a compulsory trade" includes the performance of any practice in the scope of practice of the compulsory trade.

C. Section 28 – Review of Notices of Contravention

Section 28(10) sets the criteria that the Ontario Labour Relations Board (OLRB) will consider when adjudicating an appeal from a notice of contravention issued by an inspector. These criteria are:

- 28(10)(a): the trade scope of practice,
- 28(10)(b): the compliance and enforcement framework, and
- 28(10)(c): “any other factors” the OLRB “considers relevant.”

Section 28(10)(c) gives unfettered power to the OLRB to consider anything (including anything not properly considered by the inspector). No appeal body should be entitled to consider its own criteria beyond the statutory criteria that guide the first level decision-maker. This extraordinary OLRB power will inevitably erode the compulsory trades and their scope of practice.

Needed amendment: delete section 28(10)(c).

D. Section 17(3) – Provisional Certificates of Qualification (CofQ)

Section 17(3) allows provisional Certificates of Qualification (CofQ) to be extended beyond one year. Such situations have caused significant safety problems in the past because the practice discourages apprentices from completing their CofQ examination and encourages unsafe work environments. In addition, contractors will be forced to pay journeyperson wages to individuals who have completed their Apprenticeship but have not obtained their license after passing the Red Seal exam. This inevitably devalues the Red Seal program within Ontario and across the country.

Needed amendment: delete section 17(3).

E. Section 42(2) – Committees

Section 42(2) says the Board of Skilled Trades Ontario (STO) “may” establish committees. This is a significant downgrade from the previous legislation that included the clear establishment of industry specific boards to review curricula and other industry specific issues.

Needed amendment: Add new section 42(2a) to read: "Trade committees composed of an equal number of persons qualified in a trade and employers of persons in that trade will be established for each trade. The trade committee will review curricula and provide advice on trade specific areas."

General Comments

The Provincial Building and Construction Trades Council of Ontario emphasizes the fact that the proposed amendments to Bill 288 described in this submission are specific to the construction sector. Different needs articulated by the other sectors (industrial, service, and motive power) may produce different legislative and policy requests on government, but the focus of this document is only with regard to the Bill's impact on construction.

Furthermore, it is the view of our Council that by incorporating the above-noted amendments to the *Building Opportunities in the Skilled Trades Act*, 2021 the government could grasp a rare opportunity to better-define the policy orientation of the newly-envisioned Skilled Trades Ontario (STO) agency with a view to further strengthening the construction industry's trades training and apprenticeship system. In a similar vein, making the establishment of construction industry advisory committees specific to each trade mandatory rather than optional would enhance the construction industry's ability to exercise a degree of self-regulation based on each construction trade's evolving needs. In keeping a read on the pulse of industry trends that are

specific to each construction trade, advisory committees could help set the agenda for reviewing those developments and making recommendations to Skilled Trades Ontario on any given issue within their mandate. Therefore, relying on the trade-specific expertise of advisory committees convening on a regular basis would provide Skilled Trades Ontario with valuable insights into the needs of each construction trade so that regulation of the sector is commensurate with the pace of technological innovation as well as with the evolving needs of employers, workers, and consumers.

Moreover, even in an advisory role, construction trade-specific advisory committees could provide a welcome forum for industry stakeholders such as employers, trade unions and others to publicly justify taking this or that policy position on any given issue which would help avoid backroom dealings within and between industry groups, and in their interactions with the civil service. In appointing advisory committees, the government could help prevent regulation (or deregulation) by stealth. In the interest of transparency and accountability, future decisions taken by Skilled Trades Ontario could be justified to stakeholders and to members of the general public on the basis of the fact that input for those decisions came from the trades themselves.

Respectfully Submitted by:

A handwritten signature in blue ink, appearing to read "J. Hogarth".

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