

Bill 288 Submission to Standing Committee on Finance and Economic Affairs

May 25, 2021

Introduction

The Ontario Pipe Trades Council (OPTC) consists of 10 Local Unions representing over 26,000 construction workers throughout the province. The four primary trades within the Council are Plumbers, Steam Fitters, Sprinkler Fitters and HVAC/Refrigeration Mechanics all of which are recognized compulsory trades in Ontario. The recommended amendments outlined in this document are in full support of the written and oral submissions submitted by the Provincial Building & Construction Trades Council of Ontario.

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."

A. 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.

B. 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).

C. 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 journeyman 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).

D. 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."

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