**CONSULTATION PAPER:**

Proposed regulations under the *Building Opportunities in the Skilled Trades Act, 2021:* Part 2

Ministry of Labour, Training and Skills Development October 21, 2021

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# PURPOSE

The Ministry of Labour, Training and Skills Development (MLTSD) is seeking stakeholder and public input on a proposal to develop regulations under the *Building Opportunities in the Skilled Trades Act, 2021* (BOSTA), which is anticipated to be proclaimed on January 1, 2022.

Proposed regulations will support the ongoing implementation and delivery of Ontario’s skilled trades and apprenticeship system, as well as support the establishment of a Crown agency, Skilled Trades Ontario (STO).

These proposed regulations are included in the second tranche of regulations that are being considered for development under BOSTA. The first tranche of regulations was posted on the Ontario Regulatory Registry on October 1, 2021, with feedback due to be received by October 21.

An additional posting will follow for the balance of the regulations.

The Ministry of Labour, Training and Skills Development (MLTSD) is seeking stakeholder responses on this proposal paper. Responses must be received by MLTSD on this second instalment of proposed regulations, no later than 5:00p.m. EST on **Sunday, November 7, 2021**.

Additional details on how to provide feedback are included under the ‘Contact Information’ section of this document.

# BACKGROUND

Prior to the outbreak of the COVID-19 pandemic, Ontario faced tight labour market conditions, with the unemployment rate at multi-year lows. As the province emerges from the pandemic, economic growth continues to trend upwards as employers report recruitment challenges for workers with desired skills and experiences. Recently, there were upwards of approximately 290,000 unfilled jobs, including supply side challenges with respect to target sectors and occupations such as the skilled trades, manufacturing, and mining.

The Ontario government is committed to modernizing the skilled trades and apprenticeship system by breaking the stigma surrounding the trades, simplifying the system, and encouraging employer participation in apprenticeships.

To support the Skilled Trades Strategy, Ontario introduced new legislation in May 2021, to transform the system and make it more efficient and easier to access and navigate. BOSTA received Royal Assent on June 3, 2021 and is anticipated to be proclaimed and come into force on January 1, 2022.

Once proclaimed, BOSTA will replace existing skilled trades and apprenticeship legislation: the *Ontario College of Trades and Apprenticeship Act, 2009* (OCTAA); and the *Modernizing the Skilled Trades and Apprenticeship Act, 2019* (MSTAA).

The Ontario College of Trades (the College) will be continued as a Crown agency called Skilled Trades Ontario (STO). STO will be a nimble, responsive, industry-informed training authority to lead the promotion and marketing of the trades, lead research, develop apprenticeship programs, including training and curriculum standards, advise the Minister on various matters, and end the fragmentation of services. STO will help promote the trades as a rewarding and lucrative career of choice for the next generation, and help tradespeople get their registration, certification, renewals, and other services from one streamlined organization.

MLTSD will continue to have oversight of the legislation and regulations, including for scopes of practice and ratios, and it will assume responsibility for compliance and enforcement through its Occupational Health and Safety Inspectorate.

At this time, MLTSD is consulting on regulations to ensure there are no service delivery disruptions as the College is wound down. This consultation paper includes further discussions related to proposed regulatory provisions that will ensure system continuity, including those related to hearings, scopes of practice, and Registered Training Agreements (RTAs).

# SYSTEM CONTINUITY

## HEARINGS

MLTSD is proposing to establish a regulation that would prescribe an employee of Skilled Trades Ontario with no direct reporting relationship to the Registrar or Minister be appointed as the person responsible for hearings under sections 12, 15 and 19 of BOSTA. The prescribed person would additionally play no role in supporting the Registrar or Minister in making the decisions subject to this hearings scheme. Hearings are proposed to be paper based on a transitional basis.

## SCOPES OF PRACTICE

Section 2(c) of BOSTA provides that one of the Minister’s functions under BOSTA is to prescribe scopes of practice for trades prescribed as trades for the purposes of BOSTA. Unlike under OCTAA, trades under BOSTA are not named by sector.

Under OCTAA, scopes of practice have been prescribed for each of the 144 trades and are set out in regulations for their respective sectors in Ontario Regulations 275/11, 276/11, 277/11 and 278/11.

* O. Reg. 275/11 prescribes scopes of practice for trades in the construction sector.
* O. Reg 276/11 prescribes scopes of practice for trades in the industrial sector.
* O. Reg 277/11 prescribes scopes of practice for trades in the motive power sector.
* O. Reg 278/11 prescribes scopes of practice for trades in the service sector.

In the October 1 posting to the Ontario Regulatory Registry, MLTSD proposed regulatory provisions under BOSTA that continue the prescription of all 144 trades prescribed under OCTAA. In alignment with this, MLTSD proposes that scopes of practice continue unchanged under BOSTA for all 144 trades proposed to be prescribed.

Under BOSTA, an apprenticeship program for a trade will continue to correspond to the scope of practice for that trade, as under OCTAA. They would also be a factor considered by inspectors when issuing Notices of Contravention (NOCs) (other than when issuing an NOC in respect of a failure to comply with a compliance order), and as a factor for the Ontario Labour Relations Board (OLRB) to consider when reviewing NOCs (other than a review of a NOC in respect of a failure to comply with a compliance order).

## REGISTERED TRAINING AGREEMENTS

### Recognizing OCTAA Registered Training Agreements as Equivalent

Apprentices enter into an RTA with a sponsor to receive training in a trade, as part of an apprenticeship program in Ontario. Currently, RTAs are registered under OCTAA.

The proposed regulation would recognize all RTAs currently registered under OCTAA as equivalent RTAs under BOSTA.

MLTSD intends to recognize RTAs registered under OCTAA to support business continuity and avoid service delivery disruption.

### Minimum Age Exemptions

BOSTA sets out conditions for RTAs under which the Minister must register a training agreement. This includes the condition that the individual receiving the training must be at least 16 years old. This age requirement was the same under OCTAA.

Ontario Regulation 421/12 under OCTAA exempts certain individuals from the above minimum age requirement. The exemption applies to any individual who is both enrolled in a secondary school program leading to an Ontario Secondary School Diploma, and is also receiving training and work experience in a trade while participating in the Ontario Youth Apprenticeship Program or a similar Minister-approved program operated under the supervision of an Ontario school board or a band, council of a band or education authority authorized by the Crown in right of Canada to provide education to persons who are Indians within the meaning of the *Indian Act*..

The proposed regulation under BOSTA would continue to exempt these individuals from the minimum age requirements for RTAs. This continued exemption would support efforts to enhance early exposure to the skilled trades, and ensuring students have opportunities for in-school apprenticeship training.

### PRESCRIBING ACADEMIC STANDARDS

BOSTA also requires an individual to meet a prescribed minimum academic standard before the Minister can register a training agreement – until such a time when Skilled Trades Ontario assumes the function from the Ministry. Under an OCTAA regulation, an RTA cannot be registered unless the individual has successfully completed the prescribed Grade.

For most trades, this is prescribed as Grade 12 in Ontario, or equivalent. Therefore, the proposed regulation under BOSTA would prescribe the same Grade 12 or equivalent academic standard for all RTAs.

Ontario Regulation 421/12 under OCTAA, however, provides a list of 37 trades that are subject to an alternate academic standard rather than the general Grade 12 or equivalent academic standard. The regulation sets out the alternate standard that individuals in these trades must meet.

The proposed regulation under BOSTA would prescribe these 37 trades, alongside their academic standards, unchanged from OCTAA, with the exception of Brick and Stone Mason and Drywall Finisher and Plasterer. For the latter two trades, it is proposed that the minimum academic standard be raised to Grade 10, to align with all other exempted trades.

Additionally, the proposed regulation under BOSTA would exempt individuals in the Hazardous Materials Worker trade from the Grade 12 or equivalent academic standard and would instead prescribe the standard as Grade 10. This proposed exemption would address stakeholder concerns that the academic standard for this trade does not align with other comparable non-compulsory construction trades.

The trades that would be exempted from the prescribed academic standard are listed below.

|  |  |
| --- | --- |
| **Trade** | **Alternate Academic Standard (Grade)** |
| Architectural Glass and Metal Technician | 10 |
| Assistant Cook | 10 |
| Auto Body Repairer | 10 |
| Brick and Stone Mason | **NEW**: 10 |
| Cement (Concrete) Finisher | 10 |
| Construction Boilermaker | 10 |
| Construction Craft Worker | 10 |
| Construction Millwright | 10 |
| Drywall, Acoustic and Lathing Applicator | 10 |
| Drywall Finisher and Plasterer | **NEW:** 10 |
| Electrician - Construction and Maintenance | 10 |
| Electrician - Domestic and Rural | 10 |
| Floor Covering Installer | 10 |
| General Carpenter | 10 |
| Hazardous Materials Worker | **NEW:** 10 |
| Heat and Frost Insulator | 10 |
| Hoisting Engineer - Mobile Crane Operator 1 | 10 |
| Hoisting Engineer - Mobile Crane Operator 2 | 10 |
| Hoisting Engineer - Tower Crane Operator | 10 |
| Ironworker - Generalist | 10 |
| Ironworker - Structural and Ornamental | 10 |
| Painter and Decorator - Commercial and Residential | 10 |
| Painter and Decorator - Industrial | 10 |
| Plumber | 10 |
| Powerline Technician | 10 |
| Precast Concrete Erector | 10 |
| Precast Concrete Finisher | 10 |
| Refrigeration and Air Conditioning Systems Mechanic | 10 |
| Reinforcing Rodworker | 10 |
| Residential Air Conditioning Systems Mechanic | 10 |
| Residential (Low Rise) Sheet Metal Installer | 10 |
| Restoration Mason | 10 |
| Roofer | 10 |
| Sheet Metal Worker | 10 |
| Sprinkler and Fire Protection Installer | 10 |
| Steamfitter | 10 |
| Terrazzo, Tile and Marble Setter | 10 |
| Tractor-Trailer Commercial Driver | 10 |

# REGULATORY IMPACT ASSESSMENT

MLTSD is proposing to maintain key system features of OCTAA for the purposes of business continuity and ensuring no service delivery disruptions to journeypersons, apprentices and others in the skilled trades and apprenticeship system.

Key features of OCTAA that will be continued unchanged under BOSTA include scopes of practice, the recognition of RTAs, minimum age requirements and the prescribed academic standard of Grade 12 or equivalent.

Therefore, there are no new or incremental direct compliance costs associated with these proposed new regulatory requirements.

# CONCLUSION

The proposed regulations included in this document are intended to support the proclamation of BOSTA and the introduction of STO, while focusing on minimizing any service delivery disruptions to those currently in the system.

MLTSD looks forward to receiving feedback on the proposed regulatory framework as it continues to move forward to support the implementation of a simplified, modernized skilled trades and apprenticeship system.

**PRIVACY NOTICE TO CONSULTATION PARTICIPANTS**

Submissions and comments provided to the Ministry of Labour, Training and Skills Development (MLTSD) are part of a public consultation process to solicit views on proposed new regulations under the *Building Opportunities in the Skilled Trades Act, 2021.* This process may involve the Ministry publishing or posting to the internet your submissions, comments, or summaries of them. In addition, the Ministry may also disclose your submissions, comments, or summaries of them, to other parties during and after the consultation period.

Therefore, you should not include the names of other parties (such as the names of employers or other employees) or any other information by which other parties could be identified in your submission.

Further, if you, as an individual, do not want your identity to be made public, you should not include your name or any other information by which you could be identified in the main body of the submission.

If you do provide any information which could disclose your identity in the body of the submission, this information may be released with published material or made available to the public. However, your name and contact information provided outside of the body of the submission (such as that which may be found in a cover letter, on the outside of an envelope, or in the header or signature of an email) will not be disclosed by the Ministry unless required by law.

An individual who provides a submission or comments on behalf of an organization will be considered a representative of that organization and his or her identity in their professional capacity as the organization’s representative may be disclosed.

MLTSD is authorized to collect and use personal information for the purpose of this public consultation in compliance with subsection 38(2) and clause 41(1)(b) of the ***Freedom of Information and Protection of Privacy Act*** (FIPPA). The Ministry is authorized to disclose personal information in compliance with clause 42(1)(c) of the FIPPA.

If you have any questions regarding the collection or use of personal information as a result of this consultation, you may contact the Ministry’s Freedom of Information Office, 400 University Avenue, 10th Floor, Toronto, Ontario, M7A 1T7, or by calling 416-326-7786.

**CONTACT INFORMATION**

All interested parties are encouraged to provide feedback on these proposed regulations. Please provide your comments no later than 5:00p.m. EST on Sunday November 7, 2021.

You may send your response by e-mail to: consultationsappr@ontario.ca

Please note that you will not receive a direct reply to your comments. Your comments will be considered as the Ministry moves forward with proposed regulations under BOSTA.