



REGULATORY REGISTRY POSTING

Minister's Regulations and Lieutenant Governor-in-Council Regulations under the
Ontario College of Trades and Apprenticeship Act, 2009

Introduction

The Ontario College of Trades (the College) will be implemented in 2013. In order for the College to be ready for business, the Government of Ontario needs to make regulations under the *Ontario College of Trades and Apprenticeship Act, 2009* (OCTAA). When the existing legislation – the *Trades Qualification and Apprenticeship Act* (TQAA) and the *Apprenticeship and Certification Act, 1998* (ACA) and their regulations - is repealed, Ontario's apprenticeship and trade certification system will be governed completely under the OCTAA.

The majority of the regulation provisions are administrative and technical in nature and include the provisions that will be carried over from the TQAA and ACA. These items are necessary to ensure that the College can be operational in 2013.

This regulatory posting package contains details about the proposed regulations. The Ministry of Training, Colleges and Universities encourages you to provide feedback.

CONSULTATION

Public Consultation: This proposal is posted for a 45 day public review.

Consultation Start Date: October 19, 2012

Consultation End Date: **December 3, 2012, 5:00 p.m.**

How to send comments:

Mail to: Ministry of Training, Colleges and Universities
 Programs Branch
 900 Bay Street, 23rd Mowat Block
 Toronto ON M7A 1L2

Attention: Mary Yu

Email to Mary.Yu@ontario.ca

Fax to 416-326-5653, Attention Mary Yu

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1.0 Minister's regulation- APPRENTICESHIP

1.1 Naming Trades

Under clause 74(3)(a) of OCTAA, the Minister may prescribe or name trades for the purpose of OCTAA.

It is proposed to make the following amendments to Ontario Regulation 175/11 (Prescribed Trades and Related Matters):

1. Change two trade names:
 - a) Aboriginal Child Care Practitioner to Aboriginal Child Development Practitioner
 - b) Child Care Practitioner to Child Development Practitioner
2. Remove one trade: Cement Mason

Stakeholders of the specific trades (employer and employee and associations) support the above changes. The few remaining apprentices in the Cement Mason trade are in the process of being transferred to the trade Cement (Concrete) Finisher.

2.0 Minister's Regulation - EXEMPTIONS

Under clause 74(3)(g) of OCTAA, the Minister may exempt any person from any provision of the Act or its regulations. It is proposed that current exemptions made under the TQAA and ACA be carried forward under OCTAA in a Minister's regulation.

2.1 OYAP and Pre-Apprenticeship Programs

It is proposed to exempt Ontario Youth Apprenticeship Program (OYAP) and Pre-apprenticeship Training Program participants from certain requirements of OCTAA including carrying forward exemptions currently in the TQAA and ACA. OYAP participants and Pre-apprenticeship Training Program participants are currently exempted under TQAA and ACA from specific requirements including compulsory trade requirements.

Ontario Youth Apprenticeship Program

OYAP is a program that enables students to explore and consider trade career paths as attractive and viable career options. OYAP participants are in grades 11 and 12, have successfully completed at least 16 credits, and are enrolled full-time in secondary school working towards their Ontario Secondary School Diploma (OSSD). Some OYAP participants also choose to register as apprentices. The first level of apprenticeship classroom training for OYAP apprentices may be delivered by the District School Boards or by a ministry-approved Training Delivery Agent. This workplace-based experience provides OYAP participants exposure to apprenticeship and the skilled trades and helps promote formal apprenticeship training.

It is proposed that OYAP participants be exempted from the compulsory trade requirement/prohibition in section 2 of OCTAA. This would mean that individuals working in compulsory trades would not be required to hold certificates of qualification or be working pursuant to registered training agreements as apprentices in the trade; and, therefore would not be required to become members of the College. However, OYAP participants who choose to enter into a registered training agreement would be required to become members of the College in the apprentice class. In addition to exemption from section 2 of OCTAA, OYAP registered apprentices would also be exempted from:

- (a) minimum age of 16 years (subsection 65(2) of OCTAA);
- (b) College membership fees (subsection 37(2)(c) of OCTAA while participating in OYAP;
- (c) wage rates (section 68 of OCTAA), where applicable;
- (d) ratios (subsection 92(1) and section 60 of OCTAA), where applicable;
- (e) inclusion in the College's public register (subsection 42(2))*; and
- (f) Part V of OCTAA (complaints, discipline and fitness to practise) **.

*As OYAP participants are enrolled in secondary school and are typically under the age of 18, it is proposed to exempt OYAP registered apprentices (an apprentice member of the College) from the College's public register. This would safeguard student privacy.

**Also, it is proposed that OYAP registered apprentices (an apprentice member of the College) be exempt from the complaints/discipline provisions of the Act given they are secondary school students.

Pre-Apprenticeship Training Program

The Pre-apprenticeship Training Program supports the Government of Ontario's focus on increasing the number of individuals ready to enter apprenticeship programs in areas where there are skilled trade shortages. Pre-apprenticeship Training provides a pathway to apprenticeship training for individuals who may not otherwise have the opportunity because of a lack of academic credentials or basic life skills. The program helps individuals enter the apprenticeship system to develop their job skills and trade readiness so they will be prepared to find work as apprentices.

It is proposed that Pre-apprenticeship participants be exempted from the compulsory trade requirement/prohibition in section 2 of OCTAA. This would mean that individuals working in compulsory trades would not be required to hold certificates of qualification or be working pursuant to registered training agreements as apprentices in the trade; and, therefore would not be required to become members of the College. However, pre-apprenticeship participants who choose to enter into a registered training agreement would be required to become members of the College in the apprentice class. In addition to exemption from section 2 of OCTAA, registered apprentices in Pre-apprenticeship training would also be exempted from:

- (a) minimum age (subsection 65(2) of OCTAA);
- (b) College membership fees (subsection 37(2)(c) of OCTAA while participating in Pre-apprenticeship training;
- (c) wage rates (section 68 of OCTAA), where applicable;
- (d) ratios (subsection 92(1) and section 60 of OCTAA);

(e) Part V of OCTAA (complaints, discipline and fitness to practise).

The Pre-apprenticeship Training program typically targets youth, the unemployed, women, Aboriginal peoples, newcomers or other under-represented groups to provide them with apprenticeship training and employment opportunities. Unlike OYAP participants, Pre-apprenticeship Training participants would be included in the public register. And like OYAP registered apprentices, pre-apprenticeship registered apprentices (an apprentice member of the College) would be exempt from the complaints/discipline provisions of the Act given the nature of the pre-apprenticeship program.

Note: Academic Entry

It is the intention of the ministry to ensure that the exemption from the academic entry requirement for OYAP and Pre-apprenticeship Training participants be carried forward under OCTAA. As the academic entry requirement is under the purview of the Ontario College of Trades, the Ministry will work with the College to address the inclusion of this exemption.

Note: Ministry Fees

OCTAA allows the ministry to establish fees in policy – a regulation is not necessary. It is the Ministry's intention to continue to exempt OYAP and Pre-apprenticeship Training participants registered to an agreement from ministry fees.

2.2 Exempt permanent employees of an industrial plant from compulsory certification

It is proposed that the TQAA industrial plant exemption be carried forward under the OCTAA. This would mean that individuals working in compulsory trades who are permanently employed in industrial plants would not be required to hold certificates of qualification or be working pursuant to registered training agreements as apprentices in the trade; and, therefore would be exempt from requiring to become members of the College. These individuals would be exempt from section 2 of the OCTAA.

Currently under Regulation 1055 (General) made under the TQAA, the duty to register as an apprentice and compulsory certification requirements do not apply to persons,

permanently employed in an industrial plant while performing work entirely within the plant and premise or on the land appertaining thereto, except work performed in the maintenance and repair of motor vehicles, trailers or conversion units registered for use on a highway under the Highway Traffic Act.

The concept of the industrial plant exemption was introduced by the General Advisory Committee on Industrial Training (late 1960s). Arguably, the rationale for creating the exemption continues to apply - the exemption allows employers the flexibility of providing specialized trades training programs not offered through the apprenticeship program, which may be broader in scope. It also allows employers to assess and determine competencies and qualifications necessary to meet specialized trades' requirements in the industrial plant setting. Opponents claim the exemption threatens the job security of industrial plant workers because certification in the broader trade would provide them with more skills sets in a difficult job market and prohibit specialization in one or two areas of the trade only required for the specialized industrial plant. Again, the argument for this exemption is that rapidly

evolving industrial technology requires more flexibility than that permitted by the broader definition of trades under the apprenticeship and certification system.

2.3 Quebec Workers in Respect of Ontario-Quebec Mobility Agreements

It is proposed that the following existing labour mobility provisions with regards to two Ontario-Quebec labour mobility agreements (2006 and 2009) between the Government of Ontario and the Province of Quebec be carried forward under the OCTAA:

1. To exempt Quebec workers with an authorizing equivalent certificate issued by the Quebec regulatory authority working in any of the compulsory trades identified* from requiring Ontario certification (section 2 of OCTAA); and,
2. To exempt apprentices registered in the Province of Quebec who are working with their Quebec employer of record in any of the same compulsory trades from requiring a registered Ontario training agreement (section 2 of OCTAA).

*The compulsory trades are: Electrician –Construction and Maintenance, Electrician – Domestic and Rural, Hoisting Engineer-Mobile Crane Operator 1, Hoisting Engineer- Mobile Crane Operator 2, Hoisting Engineer-Tower Crane Operator, Plumber, Refrigeration and Air Conditioning Mechanic, Residential Air Conditioning Systems Mechanic, Sheet Metal Worker, Residential (Low Rise) Sheet Metal Installer, and Steamfitter.

2.4 Air Brake and Wheel and Rim (Motive Power Trades)

Ontario Regulation 566/99 under the ACA details the restricted skill set exemptions for specific work within specific trades.

It is proposed that the restricted skill set exemptions related to alternate training programs for air brake (commonly known as slack adjustment) and wheel and rim be carried forward under the OCTAA without any requirement for individuals to hold certificates of qualification or be working as apprentices in the trade and therefore would not need to become members of the College during training or upon completion.

However, to qualify for the alternate training program, the individual must:

- hold a valid Ontario Class A or D driver's license with an air brake endorsement issued under the *Highway Traffic Act* and has successfully completed a course of study approved by the MTCU issued Certificate of Achievement program for Manual Slack Adjustment; or,
- hold a valid driver's license issued by another province or territory of Canada or by a state of the U.S.A. and is authorized in that jurisdiction to inspect and adjust the air braking system's air chamber push rod stroke.

It is proposed that these programs continue to be available and governed by the ministry as short-term training programs. Note that both these alternate training programs are approved by the ministry and training is delivered by the Ontario Trucking Association (OTA). The ministry would continue to accredit

individuals who complete these short-term training programs with Certificate of Achievement wallet cards.

2.5 Water Meter Installer

Under the TQAA, the water meter installation skill set is excluded from the plumber definition of the trade; and, under the ACA, the same skill set is established as restricted (compulsory). This means that anyone engaged in the installation, removal, maintenance and testing of water meters up to and including water meters with a 25 millimeter inlet and outlet, must complete a training program established by the ministry and be accredited by the ministry in order to perform the skill.

It is proposed to carry forward the recognition of a separate water meter installation training program that would be administered by the ministry. An individual who completes this training program would be accredited by the ministry and be allowed to perform the work.

Note: In order to carry forward this provision, it will be necessary to amend Ontario Regulation 275/11 section 29 (Plumber), to remove subsection 29(2)4. This would result in the skills pertaining to water meter installation would become part of the scope of the plumber trade. This Board regulation amendment plus the Minister's regulation to create a water meter installation training and accreditation would mean that plumbers and individuals accredited by the ministry having completed water meter installation training can perform this work.

3.0 Minister's Regulation – TRANSITION

The Minister has the authority to establish regulations under clause 74(3)(i) of the Act for transition purposes relating to the implementation of OCTAA.

3.1 Time Period to Register with the College (Apprentices)

It is proposed that a Minister's regulation be made to allow individuals who have entered into Registered Training Agreements 90 days to register as members of the College. Registered Training Agreements would be cancelled if apprentices do not register with the College in the apprentice class within 90 days. Currently, OCTAA provisions allow for one month after the date of registration for apprentices to register and become a member of the College of Trades (OCTAA section 64 [4][a]). The proposed transition regulation would change this time period from one month to ninety days for only one year from the date of College implementation of membership requirements. This allows new apprentices additional time to familiarize themselves with the newly created College, its membership requirements and to comply with the membership registration.

3.2 Administrative Matters

It is proposed that a Minister's regulation be made to deal with administrative matters ensuring certificates of qualification and certificates of apprenticeship issued under TQAA and ACA are certificates under OCTAA with respect to changes to trade names under OCTAA.

This is an administrative item to ensure that trade names that are currently used under the ACA and TQAA are recognized under OCTAA.

For example, the trade of CNC Programmer named under the ACA has been renamed to Computer Numerical Control (CNC) Programmer under the OCTAA. Certificates issued by MTCU prior to Ontario College of Trades (OCOT) implementation of membership requirements will use the trade name under the ACA. The regulation will allow the certificate issued under the ACA to be deemed to be a certificate issued under the OCTAA during the transition.

3.3 Transfer Accrued Revenue

Under the ACA and TQAA, certificate of qualification holders in compulsory trades are required to pay a three-year certificate renewal of \$60 (\$20 per year). At the point that College membership becomes a requirement for journeypersons in compulsory trades under the OCTAA, there will be certificate of qualification holders who hold certificates renewed under the ACA or the TQAA until 2013, 2014 or 2015, and for which the ministry holds deferred revenues in these out years.

It is proposed that a Minister's regulation be made to allow the transfer of accrued renewal revenue, earned from renewal payments, from the government to the College, and that the College apply these monies to the individual's membership fees.

4.0 Lieutenant Governor-in-Council Regulations

4.1 Removal of Board Members

Clause 74(1)(c) authorizes the Lieutenant Governor in Council (LGIC) to make a regulation that would set out provisions to remove members of the College's governing structure (Board of Governors, Divisional Boards, and Trade Boards and members of the roster of adjudicators).

It is proposed to make a regulation that would provide for the removal of members of the College of Trades' governing structure under specific conditions.

The following are proposed circumstances for removal. In developing these criteria, the Ministry considered the criteria that currently exist in other regulatory colleges.

The member:

- fails, without cause, to attend three consecutive meetings of the board or committee of the board, or one hearing of the review panel, of which he or she is a member;
- fails, without cause, to attend at least half the meetings in a calendar year;
- fails or ceases to meet any other pertinent criteria set out in the regulations or by-laws;
- violates the code of ethics and standards of practice for members or classes of members of the College as prescribed by College by-laws ;
- fails to meet regulatory requirements and conditions under which their appointments were made (i.e., employee representative is no longer representative of the employee perspective);

- is found by the Discipline Committee of OCOT or other authorized regulatory body to be guilty of professional misconduct or incompetence; and,
- is found by the Fitness to Practise Committee of OCOT or other authorized regulatory body to be incapacitated.

In particular, the ministry is seeking feedback on the following:

1. Are the proposed criteria satisfactory in the removal of members of the College's governing structure and roster of adjudicators?
2. Do you propose removing any of the criteria or have suggestions for additional ones? Please provide rationale.
3. What should be the process for removal of a board member? Who or what body should have the authority to remove a board member? Should there be a warning provision? Please provide rationale.

4.2 Delegation of Authority

Clause 74(1)(f) provides for the delegation of any power or duty of the College, the Board or the Registrar.

It is proposed that specific OCOT authority be delegated to Ministry staff for the following:

to conduct trade qualifications and experience equivalency assessments for College membership applicants whose trades offer a certification examination, who would be eligible to receive reciprocal certification under labour mobility legislation provisions, or who would be certified through a grandparenting provision (if applicable).

The Ministry would conduct this assessment as part of the individual's application for membership in the journey person class of the College. This includes out-of-province holders of an equivalent authorizing certificate or individuals applying under provisions through Ontario-Quebec Labour Mobility Agreements and the *Ontario Labour Mobility Act, 2009*, and applicants with credentials from the Department of National Defence as per the current equivalency arrangement.

The Ministry would perform these assessments to support the Ontario College of Trades during a transitional period in 2013 or until the College has established its own assessment process for individuals who have not completed an Ontario apprenticeship program.

Note: There may be a need to establish other delegations but details are not confirmed at this time.

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