

In a Flash



November 30, 2016

Proposed Amendments to the *Ontario College of Trades and Apprenticeship Act, 2009*

On November 16, 2016, the Government of Ontario proposed amendments to the *Ontario College of Trades and Apprenticeship Act, 2009* (the "OCTAA"). This legislation classifies a number of trades as "voluntary" or "compulsory", and prohibits the practice of compulsory trades without a Certificate of Qualification ("CoQ") or a registered apprenticeship. Each trade has a "scope of practice" ("SoP") which lists the tasks performed by that trade. In 2015, the Government engaged Tony Dean to conduct a review of the OCTAA, and these amendments follow the publication of his review in November of 2015.

The proposed amendments to the OCTAA include:

- **Administrative penalties:** A person may receive an administrative penalty if they engage in the practice of a compulsory trade without a CoQ or registered apprenticeship. The amendments set out a number of factors that must be considered by an inspector before a notice of contravention is issued, such as the risk of harm to the public and other persons, and the SoP's of relevant trades.
- **OLRB Appeal Process:** A person who receives a notice of contravention will be able to apply for a review of the notice by the Ontario Labour Relations Board ("OLRB"). The parties to these reviews will be the College, the person who received the notice of contravention and such other persons as the OLRB may specify. In conducting a review, the OLRB will consider the same factors that are to be considered by inspectors before issuing an administrative penalty, as well as any other factors it considers relevant. The OLRB has the authority to set aside or reduce an administrative penalty.
- **Appointments Council:** The College of Trades Appointments Council is responsible for selecting members of the College's board of governors, divisional boards, trade boards and the roster of adjudicators that handles reviews of journey-person-to-apprentice ratios and trade classification status.

Under the amendments, this body will be continued as the College of Trades Appointments Council and Classification Roster. The modified body will have two branches, the Appointments Council and the Classification Roster. The Appointments Council branch will have the same duties as the current College of Trades Appointments Council. As the appointments of existing members of the Appointments Council expire, new members will be selected to serve in only one of the two branches.

The main duty of the Classification Roster branch will be determining matters relating to the classification or reclassification of trades as voluntary or compulsory. It will be composed of six representatives from the public and four representatives from the existing roster of adjudicators.

A classification panel may determine which practices falling within the scope of practice for a compulsory trade should be performed only by that trade. Currently, the College takes an “all-or-nothing” approach. If a trade is considered compulsory, all practices falling within the scope of that trade must be performed by someone holding a CoQ for that trade (or a registered apprentice).

- **Compliance and Enforcement:** The College will be required to establish a Compliance and Enforcement Policy and a Compliance and Enforcement Committee to advise the Board on addressing compliance and enforcement issues. The policy is to include a description of what constitutes a “risk of harm” for the purposes of enforcement.

These proposed amendments will not come into force until the *Building Ontario Up for Everyone Act (Budget Measures), 2016* receives Royal Assent. The legislature debated this bill on November 22nd, 2016 and it is expected that the provisions concerning the OCTAA will receive Royal Assent in the near future.

If you have any questions about this topic or any other questions relating to workplace law, please do not hesitate to contact a Mathews Dinsdale lawyer.

For more information on new developments in Workplace Law, please refer to our website at: <http://www.mathewsdinsdale.com/news-events/in-a-flash>.

North America: Canada - United States - Mexico

Central & South America: Argentina - Brazil - Chile - Colombia - Panama - Peru - Venezuela

Western Europe: Austria - Belgium - Cyprus - Denmark - Finland - France - Germany - Greece - Ireland - Italy

Luxembourg - Netherlands - Norway - Portugal - Spain - Sweden - Switzerland - United Kingdom

Eastern Europe: Belarus - Czech Republic - Estonia - Hungary - Latvia - Lithuania - Poland - Romania - Russia - Slovakia

Turkey - Ukraine

Middle East & Asia Pacific: China - India - Israel - Japan - Korea, Republic of - New Zealand - Singapore - United Arab Emirates

mathewsdinsdale.com | iuslaboris.com

