

# **The Future for Skilled Trades in Ontario; Prescription, Classification and Complementary Training**

Phase Two Submission to the Sherrard Panel on Skilled Trades  
June 2021

COCA Submission Supported by  
Construction Labour Relations Association of Ontario (CLRAO)



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## **Introduction**

The Council of Ontario Construction Associations (COCA) is a federation of 29 construction associations that represents 10,000 general contractors and trade contractors that operate in all regions of the province in the industrial, commercial, and institutional (ICI), sewer and watermain and heavy civil segments of the construction industry. Our membership includes construction enterprises of all sizes, and that are both unionized and non-union. Our members train thousands of apprentices. COCA is the largest, most diverse, and most representative voice for the non-residential construction sector in Ontario.

As this document was being finalized, the Executive Director of the Construction Labour Relations Association of Ontario (CLRAO) reached out to COCA to ask if we might share our draft with them. After their review, CLRAO called back to ask if they could sign onto the COCA submission. While COCA plays no role in labour relations (COCA has both unionized and non-union contractors in our membership) which is the primary function of CLRAO, we are pleased to have the support of CLRAO because on matters of apprenticeship training, the construction industry should speak with one voice.

With the passage of the Building Opportunities in the Skilled Trades Act (BOSTA) with remarkable all-party support, the Phase 2 work of the Sherrard Expert Panel on the Skilled Trades is critically important for the development of the new skilled trades and apprenticeship system, and we are pleased to provide our advice.

## **Preamble to Our Responses**

- Not every line of work needs to be a prescribed trade
- Today, there are thousands of people all performing pretty much the same kind of work that requires training but is not a prescribed trade, e.g. legal assistant, secretary/administrative assistant, waitress, web designer, network administrator, project manager, bank teller
- Ontario has more prescribed trades than any other Canadian jurisdiction
- Until it was put on pause several years ago, OCoT had undertaken to de-prescribe many trades in Ontario. In its first phase, OCoT considered 25 trades for de-prescription. 12 were de-prescribed and 13 retained. An additional 25 trades were on the phase 2 list for consideration
- Without prejudice, we not discounting the value of any of the following lines of work, but among the prescribed trades in Ontario are: tire and rim mechanic, horse harness maker, special events coordinator, hardware lumber and building materials retailer, locksmith, saw filer, agriculture-fruit grower and agriculture–swine person
- Sometimes trades were prescribed because an over-eager TDA seized on an opportunity to secure government funding; sometimes trades were prescribed for economic development reasons as was the case with the Contact Centre Customer Service Agent, Contact Centre Sales

Agent and Contact Centre Technical Support Agent trades established to attract call centres to Ontario

- Trades should be established according to the National Occupational Analysis (NOA)
- Provincial and territorial apprenticeship training programs are built upon NOA
- The controversial term “scope of practice” which gets confused with work jurisdiction under the Ontario Labour Relations Act should be replaced with the NOA
- Nothing in the Building Opportunities in the Skilled Trades Act (BOSTA) should give rise to one predatory union pursuing a jurisdictional dispute

## **Trade Prescription Criteria and Process (naming new trades)**

### **Criteria**

#### **1. What criteria should be included in the framework for developing new trades?**

- Ontario already has many more prescribed trades than any other province
- Before it was put on pause, OCoT de-prescribed 12 of 25 trades considered and was about to consider another 25 more
- The initial focus should not be on developing a new trade but rather to see if those activities that might be considered for trade status can easily be incorporated into an existing trade. As an example, if electric car charging station installer was proposed as a new trade, it is already captured in the electrician trade
- As much as possible, when new technologies are introduced that call for new skills, those new skills should be incorporated into an existing trade wherever there is a natural or logical fit
- Prescribed criteria that must be adhered to include:
  - a. Number of individuals currently performing the activities that would be part of the new trade
  - b. Number of individuals currently being trained to perform these activities
  - c. Are there organizations that are currently providing training in these skills
  - d. Do the activities that make up the trade fit naturally into an existing trade
  - e. Does the proposed trade exist in other provinces?
  - f. What are the current and forecast levels of demand for the proposed trade? Will the demand for these skills be around for a long time? Or does it just fill a transitory demand for a narrow set of skills?

#### **2. Should the same criteria be applied to all sectors?**

- We are only speaking for the construction industry
- The construction industry should be responsible for decisions regarding the construction industry
- Construction must be treated with an approach that is tailored to the unique structure of the industry

## Process

**1. What process should the applicant be required to follow and what should be included in an application package? Who should assess the application? Who should have the final decision on whether a new trade will be prescribed?**

- An organization that wishes to have certain activities prescribed as a trade should submit a letter of application to a designated official in the Ministry of Labour Training and Skills Development
- Accompanying the letter of application must be research that supports with data and evidence the criteria outlined above
- The application should be reviewed by a three-member panel that includes one person from the Provincial Building and Construction Trades Council of Ontario, one from the Council of Ontario Construction Associations and one selected by those two to serve as chair
- The panel should make its determination within 90 days of receipt of the application
- The decision of the panel should be posted on a public website for 30 days in order to seek additional feedback
- After the 30 day consultation period has expired, unless compelling evidence to the contrary is received, the decision of the panel will be final

**2. Who should be consulted to seek input on whether a trade should be prescribed? How should this consultation take place?**

- All stakeholders with legitimate interests in the application, whether in favour or opposed, should be entitled to make written submissions
- The panel should have the authority to determine if a stakeholder's interest are legitimate
- The panel should have, at its discretion, the ability to meet with selected stakeholders to seek input

**3. How should overlaps in scopes of practice between a proposed trade and existing trades be considered?**

- Overlapping scopes of practice should be avoided as much as possible
- Wherever an application to prescribe a new trade is considered that contains activities that overlap with an existing trade, every effort should be made to incorporate the activities of the proposed trade into the existing trade

## **Trade De-prescription, Criteria, and Process**

### **Criteria**

#### **1. What criteria should be included in the framework for de-prescribing trades?**

- The criteria for de-prescription should include the following:
  - Number of apprentices currently registered in the trade; if there are less than 15 registered apprentices, together with the other criteria, the trade should be considered for de-prescription
  - Number of journeypersons currently practicing in the trade; if there are fewer than 15 journeypersons practicing in the trade, together with the other criteria, the trade should be considered for de-prescription
  - The Red Seal status of the trade; if the trade is not a Red Seal trade, together with the other criteria, it could be considered for de-prescription
  - Is the trade classified as compulsory or non-compulsory; if the trade is a non-compulsory trade, together with the other criteria, it could be considered for de-prescription
  - Are training delivery agents currently offering training in the trade; if there are no TDAs offering training, together with the other criteria, the trade should be considered for de-prescription
  - Does the trade exist in other jurisdictions; if the trade is not named in any other Canadian jurisdiction which severely restricts labour mobility, then together with the other criteria, the trade should be considered for de-prescription
  - Do the skills of the trade overlap with other trades; if there is significant overlap with other trades then together with the other criteria, the trade should be considered for de-prescription
  - What are the current and forecast levels of activity for the trade
  - Are the training standards and curriculum for the trade current and up-to-date; if the training standards are more than 10 years old, the trade, together with the other criteria, should be considered for de-prescription
- After making a decision to de-prescribe a trade, the Minister must make his reasons for de-prescription public

## **2. Should the criteria be different for compulsory and non-compulsory trades?**

- The criteria should be the same for both compulsory and non-compulsory trades

## **Process**

### **1. Should there be a periodic review of whether trades are relevant? Who should be involved in the review?**

- When there has been a significant reduction in the number of apprentices registered in a trade, a significant reduction in the number of journeypersons practicing in a trade, a significant reduction in demand for the work of a trade or when a number of other provinces have de-prescribed a trade, the Ministry of Labour Training and Skills Development may initiate a review
- The review should be considered by a three-person panel, one from the Council of Ontario Construction Associations, one from the Building and Construction Trades Council of Ontario and a third independent member all appointed by the Minister should be responsible for conducting the review
- Any stakeholder who, in the opinion of the panel has a bona fide interest in the trade, including users of the trade, engineers and designers, should have the opportunity to provide their evidence, whether it be in favour or opposed to de-prescription

### **2. Who should be consulted to seek input on whether a trade should be de-prescribed? How should this consultation take place?**

- Anyone with a legitimate interest in the trade, at the discretion of the three-member panel, should have the opportunity to submit a written brief
- The three-member panel should have the ability to seek additional information from stakeholders that it may select

### **3. What should the wind-down process be for trades that are de-prescribed and what should be considered?**

All parties involved in the trade to be de-prescribed including journeypersons, apprentices, employer-sponsors and TDAs must be notified of the decision to de-prescribe the trade and the effective date. The notification should contain some details of why and how the decision was made and that the decision does not in any way prevent them from continuing to work as they did before.

## **Trade Classification and Re-classification**

### **Criteria**

- 1. What elements do you feel are essential to a compulsory trade compared to a non-compulsory trade?**

The following elements should be considered essential to a compulsory trade:

- The work performed by the trade presents significant health and safety considerations or risk of harm to workers and to the public
- The work of the trade is highly complex
- The work of the trade must be performed consistently to a high standard of quality to comply with CSA standards, ESA, TSSA, the Building Code and other standards
- In order to meet these required standards, workers in the trade must receive extensive training both in-class and on-the-job
- The negative consequences that could result from poor quality work performed by untrained/unqualified workers could be extremely serious. Work that is of a structural nature, is electrical, air handling, plumbing, fire protection and other types of work are included in this category
- The work of the trade has significant economic and social importance

- 2. Should there be any changes to the current criteria for trade classification reviews set out in O. Reg 315/18? Are the existing criteria the right criteria? Should they be given different weight? Is there anything missing?**

- The importance of meeting Building Code and other standards is missing
- Little or no importance is given to the breadth and depth of knowledge of a trade
- While risk of harm is an important criteria, other criteria must be considered also
- The unionized side of several non-compulsory trades already operate on what could be considered a self-regulated basis through agreement between labour and management. An example is the elevator technician trade, a trade that is characterized by rapidly changing technologies and regular journeyperson training upgrading, that works under the oversight of the TSSA. Another is the iron worker trade that works in the ICI sector and that requires the majority of its workers to have earned a C of Q/IP Red Seal or be apprentices in one of three streams on the path to earning that credential.

The Ironworker also works in various other sectors of its world with various Journeyperson classifications (equivalent to the Provisional Certificate of Qualification under the OCOT regime) that it manages jointly on an internal basis with Labour and Management to facilitate niche contractor needs in various areas such as the Overhead



door and dock leveler construction and maintenance, Fence erection and Residential Curtainwall and Reinforcing steel sectors.

- Other regulatory bodies such as the TSSA can make a trade de facto compulsory through their oversight
- The current criteria may not adequately take into account the complexity and the integration of modern building systems, emerging environmental issues and the general expansion of knowledge required to perform in most trades today

**3. What role, if any, does risk of harm play in a trade classification/reclassification?**

- Risk of harm may be the most important criteria in determining a trade's classification. If the work of a trade is extremely hazardous and endangers workers and the public, then it should be considered for classification as a compulsory trade
- Risk of harm should be defined in greater detail in the context of apprenticeship training and trade classification than it was in the OCTAA and a threshold determined above which a trade would be considered for compulsory classification
- No consideration is given in the definition in the OCTAA to the risk of harm to the occupants and users of a structure once construction is completed and the structure is in use, risk of harm resulting from a construction failure caused by the work of an unqualified worker or workers and this is an important oversight; consideration should also be given to the life safety of the users of the structure
- There should be a body in place to inspect work that has been completed to ensure it meets the trades minimum standards similar to the ESA for the electrical trade or the TSSA for the elevator mechanic trade

**4. Should the entire scope of practice for a trade be a criterion for classification or re-classification? Please explain why or why not.?**

- The use of the term "scopes of practice" should be avoided as much as possible as it immediately raises highly contentious issues around work jurisdiction
- Scopes of practice describe the full array of work that is performed by trades from which learning standards/outcomes and curricula for the trades are derived; instead, learning standards/outcomes and curricula should be derived from the National Occupational Analysis (NOA)
- All construction work within the NOA of one or more trades must be performed by workers who have been properly trained to perform that work
- NOAs or scopes of practice for all existing compulsory construction trades must be imported into the new skilled trades and apprenticeship system exactly as they currently exist with their full scopes of practice

- Wherever the work of a trade involves the construction or assembly of a system whose performance is ultimately the responsibility of that trade such as an electrical system, a plumbing system, HVAC, then that work should be considered compulsory
- For these reasons, the entire scope of practice or NOA for a trade should be a criterion for classification or re-classification

**5. If the scope of practice for a compulsory trade is expanded after the trade is already compulsory, how should the new elements be considered?**

If the question is, “Should new elements added to a compulsory trade’s scope of practice be restricted to persons practicing in that trade?” then there are several considerations:

- The most likely reason for new elements to be added to the scope of practice of a trade are new technologies, new products, new equipment and new processes
- If the new elements are already being performed successfully by workers who have been properly trained to perform that work who are in another trade or trades, then the new elements should not be restricted to the compulsory trade
- If the new elements are work linked to an integrated system of work that is part of the compulsory trade’s scope of practice or NOA and should, for reasons of the system’s performance, be the responsibility of a single trade, then those new elements should be in the exclusive domain of the compulsory trade
- If the new elements derive from a new technology or innovation that has a logical linkage to the work of an existing trade, then the new elements should be considered part of the compulsory trades scope of practice
- On a construction project, where there are overlapping scopes of practice, the trade that performs a specific piece of work will be determined in contract between the general contractor and its trade contractors
- Advisory panels should be convened to make determinations on these issues

## **Process**

**1. Under what circumstances/conditions should the government update and evaluate trade classification? What conditions should trigger a trade classification review?**

- Applications to change trade classifications should only be considered after the new skilled trades system is fully operational and prepared with policies and a process to consider such applications
- Such applications should be made by the trade that is requesting the change
- Applicants should be required to remit a financial deposit with their applications as a demonstration of their commitment and to help defray the costs of the application review process

- Applications should include a detailed summary of the case for the change which should be subject to an initial screening process to determine its legitimacy and merit
- An application may be made by a construction employers association, a trade union or recognized trade association but greater credibility will be given to applications that have broad and diverse bases of support including support from organized labour, contractors that are signatory to trade unions and open shop contractors, training delivery agents, skilled trades policy experts
- Applications should be considered by panels comprised of high-minded, unbiased individuals who are knowledgeable about the construction trades, assembled for the purpose of considering such applications
- Political partisanship must not be a consideration in the composition of the panels and the process must be totally free of political influence and interference
- The process must be guided by a vision of a robust and respected construction industry that performs with the best in the world and not be mired in the adversarial labour-management model of OCoT

## **2. Should a scope of practice review be a pre-requisite for a trade classification review?**

- To achieve a Certificate of Qualification for a trade, an apprentice is trained in a curriculum based on tested against the National Occupational Analysis
- The scopes of practice for the construction trades that currently exist are in a non-standard format, some are vague or incomplete and generally out-of-date
- In almost a decade of work, because of the intensely controversial nature of scopes of practice and their connection with work jurisdiction, OCoT was unable to successfully address the challenge of updating scopes of practice
- Reviewing and amending scopes of practice or NOAs for trades is among the most challenging and controversial matters that will confront the new skilled trades and apprenticeship system and it should be delayed until the new system is fully operational. This should not be an immediate priority of the new system
- Ideally, consideration of an application for the classification of a trade would be made based upon an up-to-date scope of practice; however, this may not be necessary in every case and may not be the most expedient approach in some cases

## **3. What role, if any, does the existence of other regulations play in the classification/reclassification process?**

- Building Code, CSA standards, the ESA, TSSA and other standards should be considered when addressing classification/reclassification
- STO must be cautioned not to wade into any of undetermined responsibility that could lead to jurisdictional disputes

- The OLRB should be given unequivocal direction regarding the criteria to be used to resolve Notices of Contravention that should not include labour relations criteria. The OLRB must not be permitted to use labour relations considerations in making determinations about NoCs

## **Initiatives that Complement Training of Tradespeople**

### **Preamble to Questions**

- Before any decisions are made with regard to complimentary training programming, a framework for complimentary training must be developed. The framework, among other things, would identify who would provide the training and who would pay for the training
- It must be understood at the outset that a significant proportion of journeypersons are not interested in pursuing additional training and certainly not on their own time or at their own expense

#### **1. What would the relationship be between continuing education and existing apprenticeship programs? How do these complement each other and how do they differ?**

- During their apprenticeship training, apprentices should be made aware of continuing education opportunities and post graduate credentials that are available to journeypersons in their trade and they should be encouraged to pursue them if and when the time is right for them
- A C of Q could be considered as the educational foundation of a career that can include life long learning and advancement
- Continuing education could address areas of specialization in a trade, new tools, new hardware, new processes and other innovations
- Continuing education could also provide journeypersons, both new and experienced, with teaching/pedagogical skills so they are equipped to train and mentor apprentices and new journeypersons more effectively
- Continuing education could address changes that have been made to the curriculum for the trade
- Any curriculum content of any complementary training for a trade should have a close connection to or be specific to the trade and not be general in nature. Courses in management and soft skills such as teamwork, people management, effective communications, conflict management, leadership, project management; cost management are already available elsewhere

#### **2. What would be the objective and key success factors for complimentary training?**

- For complimentary training that focuses on training journeypersons to be effective teachers, success would be evidenced in better teaching and learning, higher productivity and higher completion rates, enhanced employability and earnings and improved labour mobility
- Trades could develop capacities in areas of specialization and abilities to use new technologies and adopt new processes to achieve higher levels of productivity

**3. Describe how formal recognition of complimentary training could be beneficial. What are the drawbacks?**

- Additional prestige for the learner and opportunities for advancement
- If the training provided the worker with advanced skills, then the worker would have access to more work, more hours and higher earnings
- However complimentary training may not be equally accessible, may not be available in all regions of the province
- If a credential is developed around an existing set of skills, then there will be a need for grandfathering for workers that have gained those skills through their years of experience
- A more broadly skilled and productive construction workforce

**4. What other kinds of training would assist and complement existing apprenticeship programs?**

- Training that is complimentary to apprenticeship training should focus principally on the skills needed to perform well in the trade. Complimentary training could focus on new technologies, new tools, new processes, Building Code updates

**5. Should there be any professional development criteria for journeypersons? If so, should there be a difference between these requirements for journeypersons in compulsory versus non-compulsory trades? Please describe.**

- Professional development for the trades should be determined on a trade-by-trade basis. Compulsory trades would be more likely disposed to adopt a professional development regimen that non-compulsory trades
- Professional development could be made available on a voluntary basis to all companies providing construction services in a trade but it should not be made mandatory
- Journeypersons should be required to stay current with the Building Code and with Red Seal for their trade
- Some trades already require regular re-qualification. As an example, iron workers are required to re-certify every three years with the CWB

**6. What should the role of the industry be in developing, assessing measuring complementary training? What partners should be involved?**

- Those in the industry including those practicing in a trade and industry training centres are the only ones equipped to provide advice on possible new complimentary learning programs for a trade. Any participation by the community college system must be in

response to the industry. The industry and the trade must be the drivers of complimentary training

- Learning outcomes could be developed by those in the trade and curricula and evaluation developed by those experienced in those activities in consultation with the industry
- Complementary training should be accessible to all who possess the pre-requisite credentials and should not favour unionized workers over non-unionized
- It's not unreasonable to require journeypersons in a compulsory trade to take a required number of hours of qualifying professional development every year on such topics as changes in the building code, new technologies, new processes, new tools and equipment, new materials etc.

These are our submissions, and we trust they are received and considered in the most helpful and constructive way they are intended.

Sincerely,

A handwritten signature in blue ink, reading "Ian Cunningham", with a long horizontal flourish extending to the right.

Ian Cunningham  
President