

**Immigration**

# Better access to regulated professions for Ontario newcomers

By **Sharaf Sultan**

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Introduced by the Ontario government in October, Bill 27: *Working for Workers Act, 2021* (Bill 27) proposed several employment-related legislative amendments. It received royal assent on Dec. 2 and is now law.

Some of the amendments aim to break down the barriers that newcomers have long faced when trying to enter the Canadian workforce. For immigrants and new Canadians working in certain, non-health regulated professions, the changes simplify their ability to work in their careers of choice.

Schedule 3 of Bill 27 amends the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* (FARPA), which was enacted under the leadership of Liberal Premier Dalton McGuinty. That legislation purported to "help ensure that regulated professions and individuals applying for registration by regulated professions are governed by registration practices that are transparent, objective, impartial and fair."

Regulated professions as identified in Schedule 1 of the FARPA include:

- teachers and early childhood educators;
- professional engineers, geoscientists, and architects;
- engineering technicians;
- veterinarians;
- foresters;
- accountants;

- human resources professionals;
- land surveyors;
- social workers;
- lawyers and paralegals.

Bill 27's amendments to the FARPA open the door to the addition of regulated health professions. Consultations between the Ministry of Health and Long-Term Care and the Ministry of Labour, Training and Skills Development will determine what professions are added in the future.

Monte McNaughton, minister of labour, training, and skills development, tabled Bill 27 and is responsible for overseeing its implementation. In the press release accompanying Bill 27's introduction in October, McNaughton cited Ontario's "generational labour shortage" and the concern that "newcomers in this province struggle to find jobs in their regulated profession for no other reason than bureaucracy and red tape" as key motivators for the changes.

### **Canadian experience requirements**

Prior to the introduction of Bill 27, new Canadians needed prior experience working in their field within Canada before they could obtain licensing or registration with their profession's regulatory body. This was a significant barrier to their ability to participate in regulated professions in Ontario.

The new amendments to the FARPA prohibit this requirement for previous Canadian experience, stating at s. 10.2:

A regulated profession shall not require as a qualification for registration that a person's experience be Canadian experience, unless an exemption from the prohibition is granted by the Minister for the purposes of public health and safety in accordance with the regulations.

The minister has the discretion to grant exemptions to this prohibition. A regulatory body seeking an exemption must provide written proof that prior Canadian work experience is required “for the purposes of public health and safety”.

Regulatory bodies have up to two years to remove any requirements for Canadian work experience from their licensing regimes, subject to the minister’s discretion to provide an extension.

### **Consequences for failure to comply**

Under the FARPA, a compliance order can be issued to a regulatory body if it fails to provide fair access to regulated professions. Ontario’s Fairness Commissioner is responsible for oversight of those regulatory bodies subject to the FARPA. The commissioner can conduct audits and issue compliance orders if a regulator’s actions fail to meet the standards of transparency, objectivity, impartiality and fairness under s. 26 of the FARPA:

26(1) If the Fairness Commissioner concludes that a regulated profession has contravened Part III or VI or the regulations, the Fairness Commissioner may make such orders requiring compliance with Part III or VI or the regulations as he or she considers appropriate and the order may require the regulated profession to do or to refrain from doing such things as are specified in the order.

Bill 27 adds ss. 27.1 to the FARPA, which extends a similar power to the minister. The minister now has the discretion to make compliance orders when a regulatory body is found to have included a “Canadian experience” requirement in its

regulations or bylaws:

If the Minister concludes that a regulation or by-law made by a regulated profession includes a Canadian experience requirement contrary to subsection 10.2 (1), the Minister may make an order requiring the regulated profession to exercise any power or powers that it has to amend or revoke the regulation or by-law.

### **French and English language proficiency**

Under the FARPA's new amendments, the Fairness Commissioner now has the discretion to order remedial action if a regulator's bylaws or regulations include English or French language proficiency testing that otherwise contravenes Bill 27:

26(3) If the Fairness Commissioner concludes that a regulation or by-law made by a regulated profession includes an English or French language proficiency testing requirement that contravenes the regulations made under this Act, the Fairness Commissioner may make an order under subsection (1) requiring the regulated profession to exercise any power or powers that it has to amend or revoke the regulation or by-law made by the regulated profession.

### **Supporting international professionals**

The minister now has enhanced abilities to help workers who were trained abroad access regulated professions in Ontario. Under the amended FARPA, the minister may:

- Provide internationally trained workers with information about applying for membership to a particular regulatory body;

- Conduct research and analyze trends regarding access to regulated professions; and
- Share information with other ministries, agencies and regulators to further the purposes of the FARPA.

The minister is entitled to issue grant funds for these and other purposes intended to further the legislation's mandate.

## **Projected impact on Ontario**

Of the 1.1 million Ontarians working in a regulated profession, a full 10 per cent obtained their training outside of Canada. Notably, approximately 25 per cent of workers applying for professional credentials in Ontario are internationally trained. All signs point to this trend continuing, particularly with the federal government's ambitious immigration targets for the next two years.

With Bill 27's legislated amendments, the Ontario government is making it clear regulators must make changes to ensure internationally trained professionals can quickly start their careers in the province. Addressing labour shortages now will ensure Ontario is better prepared to respond to future emergencies like COVID-19 and is an attractive place for skilled professionals to settle.

*Sharaf Sultan is the principal at Sultan Lawyers and focuses his practice on both workplace and immigration law. He can be reached at [ssultan@sultanlawyers.com](mailto:ssultan@sultanlawyers.com).*

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