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Trades Qualification and Apprenticeship Act

R.S.O. 1990, CHAPTER T.17

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Amended by: 1993, c. 27, Sched.; 1998, c. 22, s. 20.

Definitions

1. In this Act,

“apprentice” means a person who is at least sixteen years of age and who has entered into a contract under which the person is to receive, from or through his or her employer, training and instruction in a trade; (“apprenti”)

“certified trade” means a trade designated as a certified trade under section 10; (“métier agréé”)

“Director” means the Director of Apprenticeship appointed under the *Apprenticeship and Certification Act, 1998*; (“directeur”)

“employer” includes the Crown and any other public authority, the Ontario Apprenticeship Institute and any local apprenticeship committee; (“employeur”)

“licence” means a licence under this Act and the regulations to operate a trade school and “licensee” means the holder of a licence; (“permis”, “titulaire d’un permis”)

“Minister” means the Minister of Skills Development; (“ministre”)

“regulations” means the regulations made under this Act. (“règlements”) R.S.O. 1990, c. T.17, s. 1; 1998, c. 22, s. 20 (1).

Application

1.1 (1) This Act applies only to the following trades:

1. Brick and stone mason.
2. Cement mason.
3. Construction boilermaker.
4. Construction millwright.
5. Electrician.
6. General carpenter.
7. Glazier and metal mechanic.
8. Hoisting engineer.
9. Ironworker.
10. Lather.
11. Lineworker.
12. Painter and decorator.
13. Plasterer.
14. Plumber.
15. Refrigeration and air-conditioning mechanic.
16. Sheet metal worker.
17. Sprinkler and fire protection installer.
18. Steamfitter.
19. Such other trades in the construction industry as are prescribed by the regulations.

Hairstyling schools

(2) Despite subsection (1), the regulations made under clause 26 (1) (f) with respect to hairstyling schools continue to apply until December 31, 1999 and this Act continues to apply to hairstyling schools until that date. 1998, c. 22, s. 20 (2).

2. (1) Repealed: 1998, c. 22, s. 20 (3).

Examiners

(2) Subject to the approval of the Minister, the Director may appoint one or more examiners to assist in the conduct of examinations prescribed for any trade, and such examiners, upon the direction of the Lieutenant Governor in Council, may be paid their travelling expenses and a daily allowance for their services out of such money as is appropriated therefor by the Legislature. R.S.O. 1990, c. T.17, s. 2 (2).

Provincial advisory committees, appointment

3. (1) The Minister may appoint a provincial advisory committee in any trade or group of trades to advise the Minister in matters relating to the establishment and operation of apprentice training programs and trades qualifications.

composition

(2) Every provincial advisory committee shall consist of not fewer than five members made up of equal numbers of representatives of employers and of employees and the Director or such other officer of the Ministry of Skills Development as may be designated by the Director.

term of office of appointed members

(3) The representatives of employers and employees on a provincial advisory committee shall be appointed for terms of one, two or three years, and having served a term shall not be reappointed for at least two years.

vacancies

(4) When a vacancy occurs on a provincial advisory committee during a term of office, the Minister may fill the vacancy for the unexpired portion of the term.

travelling expenses, allowances, etc.

(5) The Lieutenant Governor in Council may direct payment, out of such money as is appropriated therefor by the Legislature, of the travelling expenses of the members of provincial advisory committees and a daily allowance for the time spent by such members

in attending meetings, and of any expenses properly incurred by such a committee in carrying out its duties. R.S.O. 1990, c. T.17, s. 3.

Local apprenticeship committees

4. The Director may appoint local apprenticeship committees composed of such persons as the Director considers appropriate for any area of Ontario to advise and assist him or her in matters relating to apprenticeship or trades qualifications in the area. R.S.O. 1990, c. T.17, s. 4.

Agreements

5. With the approval of the Lieutenant Governor in Council, the Minister may enter into one or more agreements with the Minister of Labour of Canada respecting apprentice or other training. R.S.O. 1990, c. T.17, s. 5.

Duties of Director

6. Subject to the supervision and control of the Minister, it is the duty of the Director to administer and enforce this Act, and, without limiting the generality of the foregoing, for the purposes of this Act,

- (a) to collaborate with persons and organizations in the determination of training requirements in any trade;
- (b) to undertake or collaborate in studies or investigations of any trade and of the requirements for the supply and training of persons therefor;
- (c) to publicize and promote apprenticeship as a method of training in any trade;
- (d) to plan and carry out programs of apprenticeship in any trade; and
- (e) generally to perform such other duties as are assigned to him or her by the Minister for the carrying out of this Act. R.S.O. 1990, c. T.17, s. 6.

Powers of Director

7. (1) For the purpose of carrying out this Act, the Director, or any person authorized by

the Minister in writing, may,

- (a) inspect, upon production of his or her authorization under this subsection, the premises, equipment and training facilities of an employer;
- (b) inspect and examine all books, payrolls and other records of an employer that in any way relate to the wages, hours of labour or conditions of employment of any person;
- (c) take extracts from or make copies of any entry in such books, payrolls and records;
- (d) require an employer to make full disclosure and production of all records, documents, statements, writings, books, papers, extracts therefrom or copies thereof that the employer may have in the employer's possession or control, or other information, either oral or in writing and either verified by oath or otherwise, that in any way relate to the wages, hours of labour or conditions of employment of persons employed by the employer.

Idem, special circumstances

(2) Despite any of the provisions of this Act or the regulations, the Director may register any person as an apprentice, or grant a certificate of apprenticeship, a certificate of qualification or a certificate of proficiency to any person, who, in the opinion of the Director, is unable by reason of physical incapacity or other circumstances to take or complete the prescribed course of study or training in a trade or apprentice training program. R.S.O. 1990, c. T.17, s. 7.

Cancellation of contract

8. (1) Subject to subsection (2), the Director, or any person authorized by the Minister in writing, may cancel for cause a contract of apprenticeship.

Notice of proposal to cancel, right to hearing

(2) Where the Director, or any person authorized under subsection (1), proposes to cancel for cause a contract of apprenticeship under subsection (1), he or she shall serve notice of the proposal, together with written reasons therefor, on each party to the contract informing the person that the person has a right to a hearing by a judge if the person

applies therefor within fifteen days after service of such notice, and a party to the contract may within such time apply for a hearing to the judge of the Ontario Court (General Division).

Powers of Director where no hearing

(3) Where none of the parties to a contract to which a notice under subsection (2) relates applies to a judge for a hearing within fifteen days after service of such notice, the Director or person authorized under subsection (1) may forthwith cancel the contract.

Powers of judge where hearing

(4) Where a party to a contract to which a notice under subsection (2) relates applies to a judge for a hearing within fifteen days after service of such notice, the judge shall appoint a time for and hold a hearing and, on application at the hearing by the Director or person serving the notice, may by order direct the Director or such person to cancel the contract or to refrain from cancelling the contract, as the case may be, and as the judge considers proper in accordance with this Act and the regulations.

Parties

(5) The Director or person serving the notice under subsection (2), the parties to the contract to which the notice relates and such other persons as the judge may specify are parties to proceedings before the judge under this section. R.S.O. 1990, c. T.17, s. 8.

Duty to register as an apprentice

9. (1) Every person who commences to work at a trade for which an apprentice training program is established but who does not hold a certificate of apprenticeship or qualification in that trade shall,

- (a) forthwith apply in the prescribed form for apprenticeship in that trade; and
- (b) within three months after commencing to work in that trade, file with the Director his or her contract of apprenticeship.

Idem

(2) Every person who fails to comply with subsection (1) shall, upon the expiration of the period of three months mentioned in clause (1) (b), cease to work in that trade until the person files with the Director his or her contract of apprenticeship or until the Director authorizes in writing the continuation or resumption of such work. R.S.O. 1990, c. T.17, s. 9.

Certified trades

10. (1) The Lieutenant Governor in Council may designate any trade as a certified trade for the purposes of this Act, and may provide for separate branches or classifications within the trade.

Persons who may work in a certified trade

(2) No person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection (4), shall work or be employed in a certified trade unless he or she holds a subsisting certificate of qualification in the certified trade.

Persons who may be employed in a certified trade

(3) No person shall employ any person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection (4), in a certified trade unless the person employed holds a subsisting certificate of qualification in the certified trade.

Qualification of those in the trade at time of designation

(4) When a trade is certified under subsection (1), a person who is working in the trade at the time that it is certified shall be allowed a period of two years from the first day of the month following the month in which the trade is certified to qualify for a certificate of qualification in the trade, if the person,

- (a) is the holder of a certificate of apprenticeship in the trade; or
- (b) satisfies the Director that he or she has been continuously engaged as a journeyman in the trade for a period of time in excess of the apprenticeship period for the trade; or

(c) satisfies the Director that he or she is qualified to work in the trade and meets such other requirements as the Director may prescribe. R.S.O. 1990, c. T.17, s. 10.

Strikes

11. An apprentice who lawfully strikes within the meaning of the *Labour Relations Act* shall be deemed not to have broken his or her contract of apprenticeship. R.S.O. 1990, c. T.17, s. 11.

Essentials of apprenticeship contracts

12. Every contract of apprenticeship shall be,

- (a) for a period of at least two years;
- (b) in the prescribed form;
- (c) signed,
 - (i) by the employer,
 - (ii) by the person to be apprenticed, and
 - (iii) if he or she is under eighteen years of age, by a parent or the guardian of the person to be apprenticed, but, if neither parent nor the guardian is willing to sign or is capable of signing, a judge of the Ontario Court (General Division) may, upon the application of the person to be apprenticed and without the appointment of a litigation guardian, dispense with the signature of either parent or of the guardian upon proof to the satisfaction of the judge that the contract is in the interests of the person to be apprenticed; and
- (d) approved by the Director. R.S.O. 1990, c. T.17, s. 12.

Registration of contracts

13. Every contract of apprenticeship shall, upon its approval by the Director, be registered by the Director forthwith. R.S.O. 1990, c. T.17, s. 13.

Minors

14. Every apprentice who is under eighteen years of age shall perform and is entitled to the benefits of his or her contract of apprenticeship in accordance with its terms in the same manner and to the same extent as if he or she were of the full age of eighteen years. R.S.O. 1990, c. T.17, s. 14.

Termination of apprenticeship contracts

15. (1) A contract of apprenticeship shall not be terminated before the completion of the apprenticeship period provided therein except by,

- (a) the death of either party;
- (b) consent, express or implied, of the parties; or
- (c) cancellation for cause of the contract.

Transfer

(2) Where in the opinion of the Director the terms of a contract of apprenticeship cannot be fulfilled to the advantage of either party, the Director may arrange for the transfer of the contract.

Termination, etc., to be noted

(3) The termination, cancellation or transfer of a contract of apprenticeship shall be noted by the Director on the registered copy of the agreement. R.S.O. 1990, c. T.17, s. 15.

Certificate of apprenticeship

16. Where an apprentice has completed an apprentice training program for a certified trade and has passed such final examinations as are prescribed by the Director to determine his or her competency and has complied with the provisions of this Act and the regulations, the Director shall issue to the apprentice a certificate of apprenticeship for the certified trade. R.S.O. 1990, c. T.17, s. 16.

Certificate of qualification to holder of certificate of apprenticeship

17. (1) Where an applicant for a certificate of qualification for a certified trade is the holder of a certificate of apprenticeship in the trade issued under this Act or a predecessor of this Act, the Director shall, upon payment of the prescribed fee and without examination, issue to the applicant a certificate of qualification for the trade.

To non-holder of certificate of apprenticeship

(2) Where an applicant for a certificate of qualification for a certified trade who is not the holder of a certificate of apprenticeship in the trade has complied with the requirements of this Act and the regulations to entitle him or her to such certificate of qualification, the Director shall, upon payment of the prescribed fee, issue to the applicant a certificate of qualification for the certified trade. R.S.O. 1990, c. T.17, s. 17.

Term of certificate

18. (1) Unless otherwise prescribed by regulation, a certificate of qualification expires two years after the date of its issue.

Renewal

(2) Subject to section 19, a certificate of qualification shall be renewed by the Director upon application and payment of the prescribed fee by the holder. R.S.O. 1990, c. T.17, s. 18.

Refusal to renew, suspension or revocation

19. Subject to section 21, the Director may refuse to renew or may suspend or revoke a certificate of qualification where,

- (a) the holder is convicted of an offence under this Act or the regulations; or
- (b) there are reasonable grounds for believing that the holder is without capacity or not competent to perform work in the certified trade to which the certificate relates with reasonable skill. R.S.O. 1990, c. T.17, s. 19.

Suspension, etc., of trade school licence

20. Where under the regulations a licence is required for the operation of a trade school teaching any trade to which this Act applies and a licence for a trade school has been issued thereunder, subject to section 21, the Director may refuse to renew or may suspend or revoke the licence where the school is not being operated,

- (a) in accordance with this Act and the regulations; or
- (b) so as to provide reasonable and adequate training for the students taught therein. R.S.O. 1990, c. T.17, s. 20.

Proposal to suspend, etc., licence

21. (1) Where the Director proposes to refuse to renew or to suspend or revoke a certificate of qualification or a licence under section 19 or 20, the Director shall serve notice of the proposal, together with written reasons therefor, on the holder of the certificate or licensee.

Notice

(2) The notice shall inform the holder of the certificate or licensee that the person is entitled to a hearing by a judge of the Ontario Court (General Division) if the person applies to a judge thereof within fifteen days after the notice is served on the person, and the person may so apply for such a hearing.

Powers of Director where no hearing

(3) Where a holder of a certificate or licensee does not apply to a judge for a hearing in accordance with subsection (2), the Director may carry out the proposal stated in the notice.

Powers of judge where hearing

(4) Where a holder of a certificate or licensee applies to a judge for a hearing in accordance with subsection (2), the judge shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may, by order, direct the Director to carry out the Director's proposal or refrain from carrying out the proposal and to take such action as the judge considers the Director ought to take in accordance with this Act

and the regulations, and for such purposes the judge may substitute his or her opinion for that of the Director.

Continuation of certificate or licence pending renewal

(5) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of a certificate of qualification or licence, a holder of the certificate or the licensee has applied for renewal thereof and paid the prescribed fee, the certificate or licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where the holder is served with notice that the Director proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his or her decision.

Parties

(6) The Director, the holder of a certificate or licensee who has applied for the hearing and such other persons as the judge may specify are parties to proceedings before a judge under this section. R.S.O. 1990, c. T.17, s. 21.

Service of notice

22. (1) Service of a notice under section 8 or 21 may be made personally or by registered mail addressed to the person to be served at the person's last known address, and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the judge to whom the person applies for a hearing that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control receive the notice or order until a later date.

Extension of time for appeal

(2) A judge to whom application is made for a hearing under section 8 or 21 may extend the time for making the application, either before or after expiration of the time fixed therein, where he or she is satisfied that there are apparent grounds for granting relief to

the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he or she considers proper consequent upon the extension.

Notice of hearing

(3) Notice of a hearing under section 8 or 21 shall afford the parties or the holder of a certificate or licence, as the case may be, a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the continuation of the contract of apprenticeship or retention of the certificate of qualification or licence.

Examination of documentary evidence

(4) A party to a contract of apprenticeship or a holder of a certificate of qualification or licensee who is a party to proceedings under section 8 or 21 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Recording of evidence

(5) The oral evidence taken before the judge at a hearing shall be recorded and, if so required, copies of a transcript thereof shall be furnished upon the same terms as in the Ontario Court (General Division).

Findings of fact

(6) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. R.S.O. 1990, c. T.17, s. 22.

Appeal to court

23. (1) Any party to proceedings before a judge under this Act may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court on appeal

(3) The Divisional Court may affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper under this Act and the regulations, and may order the Director to do any act or thing he or she is authorized to do under this Act and as the court considers proper, and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper. R.S.O. 1990, c. T.17, s. 23.

Offences

24. (1) Every person,

- (a) who contravenes any provision of this Act or the regulations;
- (b) who fails to carry out the terms of a contract of apprenticeship under this Act;
- (c) who enters into a contract or arrangement relating to the employment of an apprentice that is not in accordance with this Act;
- (d) who withholds any information with regard to the working or training conditions of apprentices or makes any misrepresentation with regard thereto;
- (e) who obstructs, hinders, prevents or otherwise interferes with the carrying out of this Act or the regulations or the terms of a contract of apprenticeship under this Act; or
- (f) who uses for the purpose of obtaining employment or business a certificate of apprenticeship, a certificate of qualification or a certificate of proficiency issued to another person,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Collection of arrears of apprentice's wages

(2) In addition to any fine that may be imposed on an employer for failure to pay an

apprentice the wages due an apprentice, the court may order the employer to pay to the Director in trust for the apprentice an amount equal to the arrears of wages to which the apprentice is entitled, and, when the order becomes final, a copy of it, certified as a true copy by the court that made it, may be filed by the Director with a local registrar of the Ontario Court (General Division) or, where the amount of arrears does not exceed the monetary limit of the Small Claims Court, with the clerk of that court, and, when so filed and upon payment of the fees of the local registrar or clerk, such order becomes an order of the court in which it is filed and may be enforced as a judgment of the court against the employer for the amount mentioned in the order and the fees so paid. R.S.O. 1990, c. T.17, s. 24.

Certificate of Director as evidence

25. A statement as to the issuing or non-issuing of a certificate, approval or licence, or the renewal, revocation or suspension of a certificate or licence, or as to the registration or non-registration of a contract of apprenticeship purporting to be certified by the Director is, without proof of the appointment or signature of the Director, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1990, c. T.17, s. 25.

Regulations

26. (1) The Lieutenant Governor in Council may make regulations,

- (a) defining any trade;
- (b) establishing an apprentice training program for any trade or group of trades;
- (c) exempting any trade or class of persons in a trade from any provision of this Act or the regulations;
- (d) providing a system of proficiency certificates for any trade not designated as a certified trade under section 10;
- (e) providing for approval by the Director of apprentice training programs established by employers;
- (f) providing licences for trade schools teaching any trade to which this Act applies and respecting their issue and prescribing courses of study and methods

- of training in such trade schools and respecting their operation;
- (g) respecting the periods of apprenticeship, qualifications and training of apprentices in any trade;
 - (h) approving or prescribing courses of training or study for apprentices, and fixing the credits to be allowed for such courses;
 - (i) prescribing, in respect of any trade, rates of wages for applicants for apprenticeship or apprentices or any class of applicants or apprentices;
 - (j) prescribing the maximum number of persons who may be apprenticed to an employer in a trade;
 - (k) respecting the ratio of apprentices to journeymen who may be employed by an employer in a trade;
 - (l) providing for Interprovincial Standards Examinations and standing thereunder and for the recognition of certificates or standings granted under Interprovincial Standards Examinations in other provinces and the granting of certificates of qualification pursuant thereto;
 - (m) providing for the granting of provisional certificates of qualification and the grounds therefor and the conditions thereof;
 - (n) respecting the renewal of certificates of qualification that have expired without being renewed and the conditions of renewal;
 - (o) providing for the issue of certificates of qualification or licences to persons whose certificates or licences have been cancelled and the conditions upon which they may be issued;
 - (p) respecting the making, registration or transfer of contracts of apprenticeship;
 - (q) requiring and providing for the posting up in employers' premises of extracts from this Act or the regulations;
 - (r) defining any expression used in this Act for the purposes of this Act;
 - (s) providing for and prescribing fees;
 - (t) prescribing forms and providing for their use;
 - (u) prescribing additional trades in the construction industry to which this Act applies. R.S.O. 1990, c. T.17, s. 26; 1998, c. 22, s. 20 (4, 5).

Same

[\(2\)](#) Despite section 1.1 and any regulations made under clause (1) (u), the Lieutenant Governor in Council may make regulations providing that this Act does not apply to a trade.

Same

[\(3\)](#) The Lieutenant Governor in Council shall not make a regulation under subsection (2) in respect of a trade unless the regulation is recommended by the committee established in the trade under section 3 or by a committee established under that section for a group of trades that includes the trade. 1998, c. 22, s. 20 (6).

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