

Established in 1889, the Ontario Association of Architects (OAA) is the self-regulating body for the province's architecture profession. It governs the practice of architecture and administers the Architects Act in order to serve and protect the public interest.

Standing Committee on Social Policy
c/o Tanzima Khan, Clerk
99 Wellesley Street West
Room 1405, Whitney Block
Queen's Park
Toronto, ON M7A 1A2

[sent via email]

November 18, 2021

Re: OAA Submission on Bill 27

Dear Chair and Members of the Standing Committee,

The Ontario Association of Architects (OAA) thanks you for the opportunity to comment on Bill 27, *Working for Workers Act*, 2021. This legislation touches on important aspects related to workers' rights and the regulatory licensing process.

With regard to the former, the legislation does not adequately protect against unfair labour practices within the architecture profession. The OAA strongly encourages legislative reform to rescind exemptions in the *Employment Standards Act* related to architecture.

On behalf of the OAA, I am submitting this response. My colleagues and I would be happy to engage with you further as you prepare for clause-by-clause reading and eventual passage in the legislature.

SCHEDULE 2: EMPLOYMENT STANDARDS ACT, 2000

Policy on disconnecting from work

The OAA supports the right to disconnect, and encourages this legislative provision to be extended to the architecture profession. The OAA is concerned these protections, if passed, will not extend to architects and Licensed Technologists OAA as they are currently exempted from comparable provisions within the *Employment Standards Act* (by virtue of [O. Reg. 285/01: WHEN WORK DEEMED TO BE PERFORMED, EXEMPTIONS AND SPECIAL RULES](#)).

A right-to-disconnect policy offers little benefit to those in the architecture profession because the provincial government currently exempts these individuals from any rights or entitlements related to:

- minimum wage;
- hours of work;
- daily rest periods;
- time off between shifts;
- weekly/biweekly rest periods;
- eating periods;
- overtime;
- public holidays; and

- vacation with pay.

If the government is committed to the right to disconnect, then it must also rescind the architectural exemptions related to the *Employment Standards Act*—preferably through an amendment at clause-by-clause. This can quickly and easily be integrated into the Bill by integrating a provision to remove (or trigger the removal) of clause 2.(1)(a)(i) from O. Reg 285/01.

The OAA has repeatedly requested this regulatory amendment as far back as March 2017. The OAA received a commitment from the Ministry of Labour in 2017 that said exemptions would be removed, but this commitment has not yet been honoured. We would welcome the government's support for this important change.

Non-compete agreements

Recently, the OAA has become aware of a growing use of non-compete agreements in architectural employment contracts.

On October 26, I sent out [an email](#) to all those who have status with the OAA, reminding our members that the use of non-compete agreements—particularly against intern architects—is inappropriate, and may prevent an intern architect from being able to gather the necessary experience and hours required for licensure. In this communique, I also cautioned employers that it is the regulator alone—and not individual firms—that can determine eligibility for licensure and practice.

The OAA conditionally supports legislative changes to remove non-compete agreements from contracts.

SCHEDULE 3: FAIR ACCESS TO REGULATED PROFESSIONS AND COMPULSORY TRADES ACT, 2006

Canadian experience requirements

While the OAA is supportive of efforts to reduce unnecessary barriers to licensure, it does not agree with recent characterizations of Canadian experience requirements as “bureaucracy and red tape.” Canadian experience requirements—at least in relation to the practice of architecture—align with legislative requirements set out in the *Architects Act* to serve and protect the public interest.

The OAA has been an active participant in ongoing conversations with the Office of the Fairness Commissioner, and remains committed to reducing barriers to licensure. Such efforts include the *Canberra Accord on Architectural Education* recognizing educational equivalencies, various mutual recognition agreements (MRAs) related to reciprocal licensure, and actively supporting the Broadly Experienced Foreign Architect (BEFA) program—an alternative pathway for foreign architects to become licensed.

The *Architects Act* also contains provisions for an exemption request to OAA Council. The purpose of Section 13(1)(d) and (e) of the *Act* and Section 33 of the Regulation is to provide a procedure for an applicant who can demonstrate their

qualifications, knowledge, or experience merit exemption. Council will consider requests wherein the applicant is very close to meeting the requirements, but is unable to do so because of personal hardship or special circumstances, or where their qualifications, knowledge, and experience are of such an exceptional nature.

As per Section 13(3)b of the *Architects Act*, the Registrar may refer an application for the issuance of licence to the OAA's Experience Requirements Committee. This Committee is tasked with determining whether the applicant has met the experience requirements prescribed by the Regulations for the issuance of licence, or if the applicant should be granted an exemption from "all or part of the academic and experience requirements set out in this Regulation" on account of their qualifications, knowledge, and experience. Again, these recommendations are subject to Council's final determination.

The OAA also grants project-specific temporary licenses to practitioners and practices, and allows foreign architects to practice under the supervision of a licensed architect. Put together, these measures allow significant labour mobility for foreign-trained architects to work or become licensed in Ontario.

Regarding the aforementioned MRAs, it is important to note that when striving to implement additional reciprocal agreements, the OAA identified significant deficiencies in the educational and/or licensing regimes of many other jurisdictions.

Architects in Ontario are highly trained and specialized individuals, requiring:

- an undergraduate and graduate degree in architecture;
- completion of 3,720 hours of architectural experience addressing each of the following competencies
 - o programming;
 - o site and environmental analysis;
 - o schematic design;
 - o engineering systems integration;
 - o building cost analysis;
 - o code research;
 - o envelope detailing;
 - o design development;
 - o construction documents;
 - o specifications and material research;
 - o document checking and coordination;
 - o energy literacy/sustainability;
 - o procurement and contract award;
 - o construction phase – office;
 - o construction phase – site;
 - o management of the project; and
 - o business/practice management;
- collaboration with a supervising architect and mentor; and
- passing and/or completion of additional examinations including the Examination for Architects in Canada (ExAC).

It takes architects roughly the same length of time to become licensed in Canada as it does a medical doctor.

Foreign-trained architects, where subjected to less-stringent academic or licensing standards, should be required to gain equivalency with domestically trained architects. Indeed, the goal must be to level the playing field and to ensure licensing requirements expressly serve and protect the public interest. Where foreign-trained architects have equivalent qualification, the OAA has multiple methods that allow alternative means to assess competency and gain licensure.

The OAA is committed to improving and enhancing the pathways to licensure to eliminate unnecessary barriers to the profession of architecture.

Expedited registration

The OAA supports provisions for expedited registration in the case of emergency, although it is important to note licensing and other regulatory processes related to architecture were not materially disrupted by the pandemic.

Thanks to previous experience with remote work during our headquarters renovation, the OAA was able to quickly mobilize its staff to work from home virtually. This ensured regulatory processes continued to function, serving and protecting the public interest with little impact on daily operations.

Supporting access of internationally trained individuals to regulated professions

The OAA strongly supports efforts to encourage broader participation of internationally trained individuals in our profession when they possess equivalent qualification (or are willing to take the necessary steps to obtain it). The Association recognizes that diverse backgrounds, training, and approaches bring tremendous value to the profession and our province.

The Ontario Association of Architects is a progressive regulator committed to serving and protecting the public interest through regulating the practice of architecture. On behalf of the OAA and the profession, I encourage a legislative amendment to remove architectural exemptions from the *Employment Standards Act*, and welcome further consideration or discussion around the other matters reflected in our submission.

Sincerely,



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President



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