

Removing Barriers to Registration: An Overview of the Amendments to the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006*

December 10, 2021

By

On December 2, 2021, important amendments to the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* ("FARPACTA") received Royal Assent. These amendments were passed as part of Bill 27, *Working for Workers Act, 2021*, which amended several statutes related to labour and employment matters. The amendments to FARPACTA, in particular, were aimed at removing barriers to registration faced by internationally trained professionals.

Application of FARPACTA

FARPACTA applies to the regulated professions named in Schedule 1, which are as follows: The Association of Professional Engineers of Ontario; The Association of Professional Geoscientists of Ontario; The Association of Ontario Land Surveyors; The College of Early Childhood Educators; The College of Veterinarians of Ontario; The Law Society of Ontario; The Ontario Association of Architects; The Ontario Association of Certified Engineering Technicians and Technologists; The Ontario College of Social Workers and Social Service Workers; the Ontario College of Teachers; The Ontario Professional Foresters Association; The Human Resources Professionals Association; and the Chartered Professional Accountants of Ontario.

FARPACTA also applies to Skilled Trades Ontario in respect of compulsory trades as defined in the *Building Opportunities in the Skilled Trades Act, 2021*.

FARPACTA does not apply to health Colleges or other regulators not identified above.

Removal of Canadian experience requirements

One of the significant amendments to FARPACTA is that regulated professions are now prohibited from including Canadian experience as a requirement for registration unless an exemption based on purposes of public health and safety is granted.

A regulated profession can apply for an exemption by submitting appropriate supporting documentation in accordance with the content required and procedures set out in the regulations. The documentation must include reasons that an exemption is necessary for the purposes of public health and safety. The Fairness Commissioner will review applications for exemptions and make a recommendation to the Minister as to whether the exemption should be permitted. It is ultimately the Minister's decision as to whether to grant the exemption. The Minister may grant a temporary exemption during the period that the application for an exemption is under consideration.

In the absence of an exemption or a temporary exemption, a registration requirement for Canadian experience will be deemed to be

void as of December 2, 2023.

The Minister has the power to make a compliance order if a regulated profession makes a regulation or a by-law that includes a Canadian experience requirement contrary to FARPACTA. Under a compliance order of this nature, the regulated profession would be required to exercise any powers it has to amend or revoke its regulation or by-law regarding Canadian experience.

English or French proficiency testing requirements

Regulated professions must ensure they comply with any regulations respecting English or French language proficiency testing requirements. The Fairness Commissioner will evaluate language proficiency requirements to ensure that any French or English testing does not contravene the regulations. If the Fairness Commissioner concludes that a contravention exists, the Fairness Commissioner may make an order requiring the regulated profession to exercise any powers it has to amend or revoke its regulation or by-law regarding the form of testing at issue.

Registration timelines

Regulated professions must comply with any regulations respecting expedited registration processes and timelines that may apply in cases of emergency.

The Minister may also make regulations that establish time limits for compliance with any provision of FARPACTA or the regulations made under it, including establishing a maximum time period within which a regulated profession must make a decision.

Minister's support for access to regulated professions

There is a new section that sets out the ways in which the Minister may support the registration of internationally trained individuals in regulated professions. While the support described in this section largely parrots what was previously in FARPACTA, a new subsection provides that the Minister may make grants to support internationally trained individuals in accessing regulated professions on such terms as set out in the regulations or as the Minister considers appropriate.

Regulation-making and by-law making powers

The amendments clarify that a regulated profession's authority under any other Act to make regulations or by-laws is subject to FARPACTA.

Impact on Regulators

Regulated professions that are governed by FARPACTA are advised to thoroughly review their registration requirements and processes to ensure they are in a position to comply with the amendments to FARPACTA. Regulators should also keep an eye out for the regulations to FARPACTA, which should provide more details regarding the above amendments.

Regulators may ultimately make changes to their by-laws, registration processes, and the practices of their Registration Committees. Regulators may also decide it is appropriate to apply to the Minister for an exemption from the prohibition to require Canadian experience for registration.

For further assistance in understanding the amendments to FARPACTA and the impact on the regulated professions that it governs, please contact [Sarah Yun](mailto:syун@weirfoulds.com) at syун@weirfoulds.com or any member of the [Professional Self-Regulatory Bodies Group](#) at WeirFoulds LLP.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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