Submission to FARPACTA Regulations Consultation – Working for Workers Act 2021

January 19, 2022

Introduction

World Education Services (WES) is a non-profit social enterprise dedicated to helping individuals achieve their academic and professional goals by evaluating and advocating for the recognition of international education qualifications.

About WES

World Education Services (WES) is a non-profit social enterprise dedicated to helping international students, immigrants, and refugees achieve their educational and career goals in Canada and the United States. For more than 45 years, WES has set the standard of excellence in the field of international academic credential evaluation. Through WES Global Talent Bridge, the organization joins with institutional partners, community-based organizations, and policymakers to help immigrants and refugees who hold international credentials fully utilize their talents and education to achieve their academic and professional goals. Its philanthropic arm, the WES Mariam Assefa Fund, supports catalytic leaders and organizations working to build inclusive economies and to ensure that immigrants and refugees can achieve their aspirations and thrive.

Consultation questions:

1. **From the perspective of internationally trained applicants, do you think these proposals will help to address the barriers in the licensure process that were identified in the Minister's Roundtable consultations?**

   WES agrees that the proposed FARPACTA regulations will help address barriers. In the sections below we provide additional recommendations to strengthen these amendments and have provided notes and examples to assist policy-makers with drafting the final regulations.

2. **Do you think there could be any unintended impacts of these proposals for internationally trained applicants?**

   Prohibition on Canadian experience: Requiring courses or other alternative means to demonstrate competencies previously acquired through required Canadian work experience may have the unintended consequence of creating a new barrier to entry. This could occur if access to these courses is limited by availability or cost. It would be important to mitigate this risk by a) ensuring availability of courses and b) subsidizing or providing financial support. An additional option would be to maintain the option of attaining these competencies through work experience, allowing applicants to 'earn while they learn' and still integrate into their chosen profession in Canada.
   Regulators should accept a number of alternatives for acquiring and demonstrating Canada-specific competencies and knowledge: Canadian or international work experience **or** courses **and/or** other acceptable evidence.

Timeframes: The proposal related to this issue presents considerable complexity. There may be adverse unintended impacts on applicants and each affected regulator must be required to identify these to the Ontario Fairness Commission (OFC) and include a mitigation plan in relation to their determined timelines. Establishing timelines that streamline the process from an Ies perspective may require more capacity for regulators, which may have cost implications. Such costs should not fall on applicants, or even the regulator, government must provide the necessary support.

For these proposals to be successful and beneficial for all stakeholders, there is a need for a multi-stakeholder approach. Consideration should be given to require regular review processes to identify and resolve issues. Such review committees should be included, the regulator, 3rd party assessors, IEP groups and programs that serve them, as well as educational bodies and employers. Review committees should be accountable to the OFC.

1. Prohibition on Canadian Experience Requirements

Recommendations:

i.   As indicated in s. 10.2 of the amending legislation any exemption must be proven to be related to public health and safety.

ii. The onus is on the regulator to prove that specific qualifications and/or experience of the applicant constitute a deficiency in skills, knowledge or ability that precludes safe practice in the Canadian context.

iii. Assessments must be made on individual applications, not applied to all internationally-educated applicants.

iv. If identified knowledge/skills are essential to public safety and/or ability to pass qualifying examinations, the regulator must work with certification and education bodies so that courses or challenge examinations are accessible and available at reasonable cost to applicants.

v.   Applicants must still have the option of using Canadian work experience to meet competency requirements related to practice in the Canadian context if they prefer.

vi. Applicants required to complete additional education or awaiting challenge examination(s) must be eligible to hold either a certificate of registration with a term, limit, or condition (TLC) related to the competencies identified or allowed to practice under supervision.

Notes & Examples

- An example of public safety criteria that may impede full labour mobility is detailed in Article 707 of the Labour Mobility chapter of the **Canadian Free Trade Agreement.** As a signatory to the CFTA Ontario has approved legitimate objectives (exemptions) for only five professions[1]. In all cases affected professionals can be granted full recognition upon completion of additional education or challenge examinations.

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[1] Dental Hygienists, Drinking Water System Operators – Class 1, Lawyers, Registered Practical Nurse-Licensed Practical Nurses and Social Workers.

- Canada also has obligations as a signatory to the Lisbon Recognition Convention[2] to recognize international credentials unless a substantial difference can be demonstrated.
- In Ontario Trade Equivalency Assessments are available for trades that have certifying exams[3] that should be appropriate to ensure an applicant meets Canadian standards.
- Professional Geoscientists of Ontario offers a Limited License[4] to allow experienced geoscientists, including those internationally-educated, to practice in their specific area for up to two years before being required to meet additional requirements for full licensure.
- Where local knowledge is needed to ensure public safety and prepare internationally–educated (IE) professionals to pass qualifying examinations applicants must be allowed options, including Canadian work experience **or** courses/training. Examples of training courses include:
  - Knowledge of Canadian building codes and materials and methods of construction (cold climate, wood-frame construction) is required to pass the national qualifying **examination** in Architecture. Such courses[5] are delivered by Ryerson University as part of JVS Toronto's **IPLAN** architecture bridging program.
  - The Ontario Society of Professional Engineers (OSPE) offers a preparatory course on the legal, ethical, and regulatory framework of engineering in Canada, required to pass the Professional Practice Examination (PPE). This is designed to enable IE engineers to acquire knowledge required for safety, licensure, and practice in Canada.

2. Language proficiency Tests

Recommendations:

i. Regulated professions that accept language tests to meet the language proficiency requirement must accept the language tests accepted by Immigration, Refugees and Citizenship Canada (IRCC) for immigration purposes. Currently, these are: English-CELPIP, IELTS; French- TEF or TCF).

ii. To ensure congruency and consistency, Regulators must be required to update policies regarding required language tests whenever IRCC makes changes.

iii. Exam results should not expire.

iv. Testing bodies must make language test results secure and able to be electronically shared between candidates, IRCC and regulators, at no additional cost.

Notes & Examples
- Individual regulatory bodies have the authority to set language proficiency policies, acceptable tests and required scores for their professions. Policies include accepting a variety of standardized language tests, profession-specific ones, or alternative evidence

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[2] https://www.cicic.ca/1399/the_essence_of_the_lisbon_recognition_convention.canada
[3] https://www.skilledtradesontario.ca/experienced-workers/trade-equivalency-assessment.
[4] https://www.pgo.ca/registration/membership-types/practising/limited-membership
[5] CKAR 205 - Building Codes and Regulations and CKAR 310 - Materials and Methods.

such as education, working experience in one of the official languages. Most include an expiry date for test results. The justification for an expiry of language test results in the context of meeting licensure requirements is unclear.

- Currently language test policies do not always include accepting the same tests (CELPIP, IELTS, TEF or TCF Canada) required for immigration, and may include expiry dates on test results. This may cause IE applicants to incur additional cost and delay by having to complete different tests or repeat a test if the result is considered expired.

- For example, while IELTS is very widely accepted by regulators, CELPIP is not (e.g. Early Childhood Education, Veterinary Medicine). The College of Social Workers and Social Service Workers does not currently accept either of the French tests required for immigration[6].

3. Registration processes during emergencies

Recommendations:

i. Define in regulation that expedited registration processes may be put into effect upon declaration of emergency by any level of government (municipal, provincial, federal, First Nations).

ii. Regulators must be required to develop policies outlining process steps and defining eligibility criteria for internationally educated applicants. While protecting public safety, criteria must not create unreasonable barriers to emergency registration.

iii. Regulations must define who holds the authority to designate which specific professions are required to put emergency registration processes into effect in specific emergency situations.

Notes & Examples

- At declaration of emergency professions that have provisional- or in-training classes of registration (e.g. Engineering, Architecture, Geoscience, Provisional Certificate of Trades qualification) could expedite registration or create, and allow for renewal of, a limited-time emergency certificate of registration.

- There are few/no Ontario examples of non-health professions enacting emergency registration processes for IE applicants. In response to the COVID-19 pandemic the Ontario College of Pharmacists established an Emergency Assignment Registration available to both Canadian and international pharmacy graduates.

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[6] The College's policy is out of date as it requires TESTCan which was only offered in Canada and was discontinued in 2020.
https://www.ocswssw.org/applicants/#:~:text=To%20register%20as%20a%20social,or%20French%20with%20reasonable%20fluency.

4. Registration decision-making timelines

Recommendations:

i. Regulators must be required to negotiate and establish with the OFC service standard timelines. This timeframe may vary by regulator depending on the specificities of their process and requirement

ii. In cases where a regulator has a "recency of practice" or equivalent requirement, timelines must be set to ensure that an applicant who had met the recency requirement at the time of application does not end up becoming ineligible because of the time required to process the application.

iii. Regulators must identify and eliminate duplicative processes (e.g. requiring the same documents more than once, or requiring applicant to provide documentation to regulator and third party assessment bodies separately) and create secure document sharing with assessment bodies.

iv. Delegated assessment and certification bodies must commit to service standards in MOUs with regulators that respect timelines determined with the OFC.

v. Regulators must report compliance in annual Fairness Reports. This information will also be made public on the OFC and regulators' websites.

vi. Applications nearing the service standard deadline must be identified and expedited.

vii. A regulator or assessment body that exceeds the service standard timeline, without justification, must be required to refund the applicant's service fee and/or face a penalty

Notes & Examples

- The 2009 Pan-Canadian Framework for the Assessment and Recognition of Foreign Credentials established a one-year timeline for processing applications for a number of professions[7], including those to be affected by the FARPACTA amendments: Architects, Engineers, Accountants, engineering Technicians and Teachers.
- There is little transparency to show which professions have achieved the Framework timelines; a 2020 evaluation report[8] indicated significant improvement required.
- MLTSD should review why the Framework did not achieve the imposed one-year time frame to better understand the operational challenges and inform policy discussions.
- Professions that use third-party assessments are currently challenged to streamline and expedite registration processes. A delay in any step (e.g. assessment backlog, exam cancelled/delayed) lengthens the process and regulators currently have few tools to enforce timelines.

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[7] By 2010: Architects, Engineers, Financial Auditors and Accountants, Medical Laboratory Technologists, Occupational Therapists, Pharmacists, Physiotherapists,   Registered Nurses. By 2012: Dentists, Engineering Technicians, Licensed Practical Nurses, Medical Radiation Technologists, Physicians and Teachers (K-12).
[8] https://www.canada.ca/en/employment-social-development/corporate/reports/evaluations/foreign-credential-recognition-program.html

- Some Regulators may require additional resources to ensure that they have the capacity to achieve established timeframes. Mechanisms should be created to ensure that all Regulators have the resources they require to meet their obligations

Thank you for the opportunity to provide these inputs to the proposed regulations under the Fair Access to Regulated Professions and Compulsory Trades Act, 2006.

Should you have any questions or require further clarification, kindly contact any of the WES staff noted below.

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