



Comments on Proposed Amendments to Ontario Regulation  
422/17 (General), a Minister's Regulation made under the  
*Ontario Immigration Act, 2015*

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Development, Job Creation and Trade

Submitted by: Ontario Bar Association



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## Introduction

The Ontario Bar Association (“**OBA**”) appreciates the opportunity to provide feedback on the Proposed Amendment to Ontario Regulation 422/17 (General), a Minister’s Regulation made under the *Ontario Immigration Act, 2015* ( the “**Proposed Amendment**”).

## The OBA

Established in 1907, the OBA is the largest voluntary legal organization in Ontario, representing lawyers, judges, law professors and students from across the province, on the frontlines of our justice system and in no fewer than 40 different sectors. In addition to providing legal education for its members, the OBA assists government and other decision-makers with several legislative and policy initiatives each year, both in the interest of the profession and in the interest of the public.

This submission was prepared by members of the OBA Citizenship and Immigration Law Section (the “**Section**”), which has approximately 200 lawyers who are leading experts in citizenship and immigration law and who represent virtually every stakeholder in the immigration system. These include those applying for skilled workers, permanent residence, refugee and citizenship status; spouses of Canadian citizens; corporations and other Canadian employers who participate in skilled and temporary worker programs.

Members of the Section often advocate before the Supreme Court of Canada, the Federal Court of Canada, the Immigration and Refugee Board including the Immigration Appeal Division, the Immigration Division and the Refugee Appeal Division as well as all levels of court in the province of Ontario.

## Overview

As indicated in our previous submission to the Ministry on the *Ontario Immigration Act* regulations, our members are committed to the success of the Ontario Immigrant Nominee Program (“**OINP**”).<sup>1</sup>

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<sup>1</sup> Comment on Draft Regulations Under the *Ontario Immigration Act, 2015*, October 2017 at <https://www.oba.org/CMSPages/GetFile.aspx?guid=da445f21-531b-408b-810d-80c5fc76dc1a>



We all seek the same efficient, effective, transparent regime, supported by the expeditious processing of applications, to attract new employers and individuals to Ontario.

We appreciate the opportunity to comment on the Proposed Amendment, as posted on the Regulatory Registry. We would like to provide some overarching recommendations to enhance this regulation and the OINP program generally. These comments are intended to improve the responsiveness of the program, add more clarity and consistency and ensure changes can be implemented in a manner that minimizes uncertainty.

## Overarching Comments

Our overarching comments to improve the regulation and the OINP program are as follows:

### 1. Target Occupations

We recommend that target occupations for the Human Capital Priorities Stream be listed on the OINP website. Posting of, and regularly updating, this list will provide transparency and predictability to the program. The recommended change will also assist Canadian employers in meeting their employee needs as well as assisting potential applicants in knowing what occupations are in demand in Ontario.

### 2. In-Demand Skills Work Experience

We recommend for the In-Demand Skills Stream (“IDSS”) that the work experience requirement for NOC C be reduced to 6-7 months from the current 12 months. While we understand the current proposal is to reduce the work experience requirement from 12 to 9 months we believe a further reduction would be of value. An IDSS work experience requirement of 6-7 months would more closely align the requirement with the Immigration, Refugee and Citizenship Canada (“IRCC”) minimum of 6 months. The current discrepancy in work experience requirements creates the issue that workers are not able to maintain their status. Reduction of the work experience requirement may also greatly assist Ontario employers of otherwise being required to file both the OINP and a Labour Market Impact Assessment.



### **3. Expression of Interest for Entrepreneurs Program**

We recommend that expressions of interest for the Entrepreneurs program be amended to add points for businesses that are already in operation in Ontario. They have already proven their commitment and ability to successfully establish a business in Ontario. This will also expedite processing times towards permanent resident status.

### **4. Performance Agreements**

We recommend that the performance agreement be reduced or removed for businesses that are already operating in Ontario and can show that they are meeting program requirements. This will decrease the timelines and increase uptake. Once again, these individuals have already proven their commitment and ability to establish a successful business in Ontario.

### **5. Business Plans**

We recommend that businesses already in operation in Ontario not be required to complete a business plan. These individuals have already proven their commitment and ability to establish a successful business in Ontario.

For businesses that are required to submit a business plan, consideration should be given to providing clarification as to what is required to be included in the plan, for example, what topics need to be addressed and the length of the plan would provide for helpful guidance.

### **6. Self-Employed Work Experience**

We recommend to remove the limitation that self-employed work experience cannot be used to meet the work experience requirement for the Human Capital Priorities Stream. Maintaining this adds a restriction that does not currently exist in the Ontario program or the Federal Skilled Worker program, thereby making the program less competitive.

### **7. Open Work Permit Letters**

We recommend consideration be given to issuing open work permit letters for individuals who are nominated through a non-employer-based stream. For example, those who are currently in the Masters graduate and PhD graduate stream and have no other way of extending their work



permit while waiting for the very lengthy federal Permanent Residence processing times. Currently these applicants end up having to leave their jobs or leaving Canada due to the lengthy wait times for the Federal part of their application.

## **Conclusion**

The OBA welcomes the changes being put forward and hopes that our suggestions will be incorporated, making the program even more successful and competitive. We thank you for considering our input and look forward to responding to any questions you may have regarding our submission.