

Board of Governors' *Draft Proposed*
Trade Classification/Reclassification Review (TCR)
Referral Regulation under the
Ontario College of Trades and Apprenticeship Act, 2009

DRAFT REGULATION FOR POSTING ON THE REGULATORY REGISTRY

This consultation draft is intended to facilitate dialogue concerning its contents. Comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

Definitions

1. In this Regulation,

“amended referral request package” means a referral request package supplemented by:

- (a) any supporting materials missing from the original referral request package or previous versions of the amended referral request package, and
- (b) a letter outlining how the amended referral request package addresses a divisional board letter issued under subsection 3(5);

“Notice of Intent trade” means a trade whose trade board submitted a Notice of Intent to Request a Trade Classification Review to the divisional board for the sector to which the trade belongs before the *Building Ontario Up for Everyone Act (Budget Measures), 2016* received Royal Assent on December 8, 2016;

“referral request package” means the documentation prepared by a trade board in support of a referral request under this regulation and is comprised of a completed form in the format prescribed by the by-laws and such supporting materials as the form may require.

Referral of trades under subsection 63.5(1) of the Act – paragraph 2 of subsection 63.6(3)

2. Subject to sections 4 to 9, the Board may refer a trade to the Classification Roster for the purpose of determining the matter set out in paragraph 2 of subsection 63.6(3) of the Act, on the request of the trade board for the trade, in accordance with the process prescribed in section 3.

Process

3. (1) A trade board shall make a referral request under section 2 by submitting a referral request package directly to the divisional board for the sector to which the trade belongs.

(2) Within five business days of receiving a referral request package, the divisional board shall notify every other divisional board and all trade boards across all sectors of the trade board's referral request.

(3) Within fifteen business days of receiving a referral request package, the divisional board shall review the package for completeness only, in accordance with the form prescribed by the by-laws.

(4) If the divisional board finds that the referral request package is complete, it shall forward the referral request package to the Board within five business days of completing its review, but it shall not forward the package within forty-five business days of this regulation coming into force.

(5) If the divisional board finds that the referral request package is incomplete, it shall send a letter to the trade board summarizing its findings and identifying any missing materials, within ten business days of completing its review.

(6) Subsections (7) and (8) apply when the divisional board has found, under subsection (5), that the referral request package is incomplete.

(7) If, following receipt of a divisional board letter issued under subsection (5), the trade board decides to resubmit its referral request, the trade board shall provide the divisional board with an amended referral request package.

(8) An amended referral request package submitted by a trade board under subsection (7) shall be reviewed by the divisional board, for completeness only, in accordance with subsections (3) to (6).

(9) Within thirty business days of receiving a referral request package or an amended referral request package and any divisional board letters issued under subsection (5), the Board shall:

(a) notify the College's members and the public of the referral request by the most effective means practicable;

(b) review the referral request package or amended referral request package and any divisional board letters issued under subsection (5), and decide whether or not to refer the trade to the Classification Roster;

(c) give its decision in writing to the trade board, with a copy to the divisional board; and

(d) notify all other divisional boards and all trade boards across all sectors of its decision.

(10) Within five business days of making a decision under subsection (9) to refer a trade to the Classification Roster, the Board shall forward the trade board's referral request package or amended referral request package, and any divisional board letters issued under subsection (5), to the Classification Roster.

(11) Within thirty business days of making a decision under subsection (9) not to refer a trade to the Classification Roster, the Board shall provide its reasons for the decision in writing to the

trade board, with a copy to the divisional board, and shall notify all other divisional boards and all trade boards across all sectors of its decision and reasons.

(12) A trade board may withdraw a referral request under section 2 at any time prior to the Board referring the trade to the Classification Roster under subsection (10), by submitting a form to the Board in the format prescribed by the by-laws, without prejudice to the trade board's ability to make a further request under section 2 when it deems it appropriate.

Referral of trades under subsection 63.5(1) of the Act – paragraph 3 of subsection 63.6(3)

4. Subject to sections 8 to 9, the Board may refer a compulsory trade to the Classification Roster for the purpose of determining the matter set out in paragraph 3 of subsection 63.6(3) of the Act, on the request of the trade board for the trade, in accordance with the process prescribed in section 5.

Process

5. (1) A trade board shall make a referral request under section 4 by submitting a referral request package directly to the divisional board for the sector to which the trade belongs, but the trade board may not make such a referral request unless the scope of practice for the trade has been reviewed, and if applicable amended, within the previous year in accordance with the Board's policy regarding the establishment and review of scopes of practice for trades.

(2) Within five business days of receiving a referral request package, the divisional board shall notify every other divisional board and all trade boards across all sectors of the trade board's referral request.

(3) Within sixty business days of receiving a referral request package, the divisional board:

(a) shall review the package for completeness in accordance with the form prescribed by the by-laws; and

(b) may make a recommendation to the Board on whether or not the Board should refer the trade to the Classification Roster, and in making this recommendation, the divisional board may consult as it deems appropriate.

(4) If the divisional board finds that the referral request package is complete, it shall forward the referral request package and any divisional board recommendation made under clause (3)(b) to the Board within five business days of completing its review, but it shall not forward the package and any recommendation within forty-five business days of this regulation coming into force.

(5) If the divisional board finds that the referral request package is incomplete, it shall send a letter to the trade board summarizing its findings and identifying any missing materials, within ten business days of completing its review.

(6) Subsections (7) and (8) apply when the divisional board has found, under subsection (5), that the referral request package is incomplete.

(7) If, following receipt of a divisional board letter issued under subsection (5), the trade board decides to resubmit its referral request, the trade board shall provide the divisional board with an amended referral request package.

(8) An amended referral request package submitted by a trade board under subsection (7) shall be reviewed by the divisional board, for completeness, in accordance with subsections (3) to (6).

(9) Within thirty business days of receiving a referral request package or an amended referral request package, any divisional board letters issued under subsection (5), and any divisional board recommendation made under clause (3)(b), the Board shall:

(a) notify the College's members and the public of the referral request by the most effective means practicable;

(b) review the referral request package or amended referral request package, any divisional board letters issued under subsection (5), and any divisional board recommendation made under clause (3)(b), and decide whether or not to refer the trade to the Classification Roster;

(c) give its decision in writing to the trade board, with a copy to the divisional board; and

(d) notify all other divisional boards and all trade boards across all sectors of its decision.

(10) Within five business days of making a decision under subsection (9) to refer a trade to the Classification Roster, the Board shall forward the trade board's referral request package or amended referral request package, any divisional board letters issued under subsection (5), and any divisional board recommendation made under clause (3)(b), to the Classification Roster.

(11) Within thirty business days of making a decision under subsection (9) not to refer a trade to the Classification Roster, the Board shall provide its reasons for the decision in writing to the trade board, with a copy to the divisional board, and shall notify all other divisional boards and all trade boards across all sectors of its decision and reasons.

(12) A trade board may withdraw a referral request under section 4 at any time prior to the Board referring the trade to the Classification Roster under subsection (10), by submitting a form to the Board in the format prescribed by the by-laws, without prejudice to the trade board's ability to make a further request under section 4 when it deems it appropriate.

Referral of Notice of Intent trades under subsection 63.5(1) of the Act

6. The Board shall refer a Notice of Intent trade to the Classification Roster for the purpose of determining the matter set out in paragraph 2 of subsection 63.6(3) of the Act:

(a) on the request of the trade board for the trade; or

(b) on the request of the divisional board for the sector to which the trade belongs, where vacancies in the trade board for the trade prevent the trade board from constituting quorum; and

in accordance with the process prescribed in section 7.

Process

7. (1) A trade board shall make a referral request under clause (a) of section 6 by submitting a referral request package directly to the Board.
- (2) A divisional board shall make a referral request under clause (b) of section 6 by submitting, directly to the Board, a referral request package prepared by the divisional board in consultation with the members of the trade board.
- (3) The order in which a trade board representing a Notice of Intent trade submitted a Notice of Intent to Request a Trade Classification Review to the divisional board for the sector to which the trade belongs shall be preserved by the Board, and the Board shall forward the referral request package for the trade to the Classification Roster in that order, if a referral request package is submitted under subsection (1) or subsection (2) directly to the Board within thirty business days of this regulation coming into force.
- (4) Within five business days of receiving a referral request package, the Board shall notify every divisional board of the referral request.
- (5) For Notice of Intent trades whose referral request package was submitted within the timeline in subsection (3), the Board shall, within fifteen business days from the 30th day after this regulation came into force:
 - (a) notify the College's members and the public of the referral request by the most effective means practicable; and
 - (b) forward all the referral request packages received within the timeline in subsection (3) to the Classification Roster at the same time, in a manner that preserves the order in which the relevant trade boards submitted their Notice of Intent to Request a Trade Classification Review to the divisional board for the sector to which the trade belongs.
- (6) For Notice of Intent trades whose referral request package was not submitted within the timeline in subsection (3), the Board shall, within thirty business days of receiving the package:
 - (a) notify the College's members and the public of the referral request by the most effective means practicable; and
 - (b) forward the referral request package to the Classification Roster in the order in which the Board received it.

Referral of trades under subsection 63.5(2) of the Act

8. If a compulsory trade meets the requirements set out in subsection 63.5(2) of the Act, the Board shall refer the trade to the Classification Roster for the purpose of determining the matter set out in paragraph 3 of subsection 63.6(3), in accordance with the process prescribed in section 9.

Process

9. Within thirty business days of issuing an opinion under clause 63.5(2)(b) of the Act in accordance with the Board's policy regarding the establishment and review of scopes of practice for trades, the Board shall:

(a) notify the College's members and the public of the referral request by the most effective means practicable; and

(b) refer the compulsory trade to the Classification Roster by forwarding the Board opinion issued under clause 63.5(2)(b) of the Act in the form prescribed by the by-laws together with any materials that may be required by the Board's policy regarding the establishment and review of scopes of practice for trades.

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