



Manitoba Federation of Labour

BRIEF TO THE MANITOBA LEGISLATURE

Bill 21

THE LABOUR MOBILITY ACT

June 2, 2009

The Manitoba Federation of Labour is concerned that the labour mobility provisions contained in the Agreement on Internal Trade, an agreement that Manitoba is signatory to and which gives rise to Bill 21, the Labour Mobility Act, will undermine the Red Seal standard and its long term viability.

Implemented in 1958, the Red Seal Program is specifically designed to promote and provide greater mobility across Canada for skilled workers. Under the program, apprentices who meet its high qualification standards are able to obtain a Red Seal endorsement on their Certificates of Qualification and Apprenticeship.

According to the program's Administrators, the Canadian Council of Directors of Apprenticeship, it encourages standardization of provincial and territorial apprenticeship training and certification programs. The Red Seal allows qualified tradespersons to practice the trade in any province or territory in Canada where the trade is designated without having to write further examinations. To date, there are 50 trades included in the Red Seal Program.

The HRSDC Guide for the implementation of Labour Mobility, in this case through Bill 21, is quite clear:

"...recognition should not require a worker qualified in one jurisdiction to undergo additional testing or assessment in another jurisdiction. The fact that a worker is qualified in one province or territory should be sufficient for a worker to be qualified in any jurisdiction. It is not necessary for occupational standards to be reconciled, so long as there is mutual recognition of each others' qualified workers without requiring additional assessments or tests.

Taken with Bill 21's section 3(1) which reads, "Regulatory bodies must comply with the Agreement...A regulatory body must ensure that any measure it adopts or maintains respecting the certification of individuals to work in an occupation complies with the obligations of Chapter 7 (Labour Mobility) of the Agreement on Internal Trade.

"In order to comply with subsection (1), a regulatory body may waive or adapt any requirements for certification that have been established for the occupation, notwithstanding any other Act or regulation."

And when a regulation that is consistent with the AIT is adopted that is in conflict with existing Manitoba law or regulation, the remedy contained in Section 7 is equally clear, “If a provision of this Act or a regulation made under this Act conflicts with a provision of another Act that establishes a regulatory body or a regulation made under such an Act, the provision of this Act or the regulation under this Act prevails to the extent of the conflict.”

Given the rigorous standard that apprentices must meet to obtain the Red Seal endorsement, why would they bother since the non-Red Seal version of their certificate must be accepted by other jurisdictions?

This concept also has implications for the quality of apprenticeship training in general.

Not all jurisdictions regulate the same trades in the same way. Under the AIT harmonization process, it simply means that the provinces that a better quality training regime will have to compare their standards with that delivered in other provinces and figure out a way to arrive at a quality assessment.

The HRSDC Guide for the implementation of Labour Mobility puts it this way:

Some occupations are only regulated in one province or territory. The occupation may exist in other provinces, but it may not be regulated. In such cases, an agreement to recognize qualifications is not possible, since there is no other regulatory body with whom to enter into agreement. In these cases, the accommodation mechanisms described previously in Step 4 (Section IV) become an important consideration. Such mechanisms would be required for practitioners of the occupation who are qualified or experienced, but come from provinces where the occupation is not regulated.

Occupations can evolve differently across jurisdictions, so there maybe duties that are performed in one jurisdiction that are not performed in another. It should be noted that there is no obligation to modify the scope of practice for an occupation. Where there are scope of practice differences that cannot be reconciled, jurisdictions with the wider scope of practice will need to consider mechanisms to accommodate workers who are qualified in jurisdictions where the scope of practice is narrower.

This process is designed to lead to the recognition of qualification certificates issued in all provinces and territories outside of Quebec, even when they don't have the same high standards.

Let me be clear about this: the Manitoba Federation of Labour and the labour movement across Canada supports trade agreements and labour mobility practices that raise standards, not lower them. We want them to be part of a race to the top, not the bottom.

These concerns are not unique to Manitoba.

A report called *State of Play: Canada's Internal Free Trade Agenda* by public interest researcher and lawyer Steve Shrybman challenges the need for these agreements.

In it, he points out that there aren't significant barriers to trade and labour mobility in Canada. He says in the fifteen years of the AIT's existence, there have been only 15 disputes, all of them dealing with agricultural products and supply management issues. "Of the 15 disputes, there are five dealing with snow crabs."

Pat Dillon, business manager for the Provincial Building and Construction Trades Council of Ontario, says Red Seal may not be perfect but it is an accepted and recognized standard right across the country. Dillon fears the province on Ontario might be trying to move away from it in trying to accommodate labour mobility through legislation similar to Bill 21.

"There is no doubt in my mind, with that what they have put in place, it allows for the lowering of standards, no matter how it is cut," says Dillon. "The real sad part of that is that it hurts health and safety and long-term injuries and deaths will increase in construction."

In our view, the best way to improve labour mobility within Canada and the free movement of a highly skilled workforce is to invest in a public apprenticeship program that trains workers to red seal standards.

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