

ONTARIO COLLEGE OF TRADES “ENFORCEMENT OFFICERS”: WHAT TO EXPECT? WHAT TO DO?

April 2015

Ontario College of Trades “Enforcement Officers” continue to patrol construction sites across the province enforcing the *Ontario College of Trades and Apprenticeship Act* (the “OCTAA”). This briefing note aims to provide some clarity to the purpose of visits from these individuals and best practices for employers when they are the subject of a jobsite visit.

The Role of an Enforcement Officer

The OCTAA makes reference to the appointment of “Inspectors” and “Investigators” and sets out powers and objectives for each of these two roles.

- An **Inspector’s** role is limited to confirming compliance with Part II of the OCTAA (*i.e.*, Does every tradesperson working in a compulsory trade possess a valid Certificate of Qualification?; Are ratios being respected?, *etc.*).
- An **Investigator** is appointed by the College Registrar when there is reason to believe a Member has engaged in professional misconduct, is incompetent or incapacitated, or there is cause to refuse, suspend, revoke or impose terms on a Member’s Certificate of Qualification or Statement of Membership.

Guiding Principles and Best Practices

The current wording of the OCTAA is ambiguous regarding the exact scope of powers of an Inspector or Investigator. Until court decisions or amendments to the legislation provide greater clarity regarding this issue, the following principles and best practices should guide employers when a College “Enforcement Officer” arrives at a jobsite:

1. ***Be prepared and take control of a visit***

- Know which trades and activities on the jobsite are compulsory and which are voluntary;
- Have copies of Certificates of Qualification, Registered Training Agreements for apprentices, College registrations and other related documents available in a jobsite binder; and
- Educate employees about site visits and expected conduct when they are approached by an Enforcement Officer.

2. ***Understand the purpose of the visit***

Ask the Enforcement Officer to provide identification, evidence of his or her appointment (in the case of an Investigator), and to explain the reason for the visit (*i.e.*, Is this an *inspection* or an *investigation* and of what?).

3. **Take steps to assist the Enforcement Officer in conducting his duties**

- Be respectful and courteous;
- Provide relevant requested documents and offer to make copies if required;
- Remain with the Enforcement Officer during the site visit to offer assistance and clarify any potential misunderstandings;
- Remind Members that they must produce a valid Certificate of Qualification or Statement of Membership when requested to do so (even if a jobsite copy has already been offered);
- Offer to follow up on any questions that remain following the jobsite visit; and
- Do not obstruct or otherwise mislead an Inspector or Investigator.

4. **Recognize that you do not need to comply with every request**

- Question why certain requested documents or information are relevant to the purpose of the inspection or investigation;
- Do not feel obligated to provide answers to questions or documents that go beyond the scope of the Enforcement Officer's authority under the *OCTAA* (for example, information about hours of work or payroll practices); and
- Ensure that an Investigator is only investigating the conduct of an identified Member.

5. **Remember the consequences of breaching the legislation**

A violation of the *OCTAA* can result in the issuance of a provincial offense ticket of \$195 for an individual or \$295 for an employer (plus various surcharges and fees). A prosecutor may also seek conviction of an offense under the *OCTAA* which can carry a fine of up to \$5,000 for a first offence, and \$10,000 for subsequent offences (plus various surcharges and fees).

For more information and assistance, contact any member of the team at Sherrard Kuzz LLP.

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This document was developed by Sherrard Kuzz LLP at the request of the Council of Ontario Construction Association's Board of Directors to provide clarity on the authority of Ontario College of Trades Enforcement Officers to COCA member associations and their member companies. We recognize that this information is extremely valuable to the Ontario construction industry as a whole and are pleased to share it beyond our membership. We respectfully request that the work of our organization and of our partner Sherrard Kuzz LLP be respected and that this document be shared "as is".

If you are a COCA member association and would like to add your logo to this document for distribution to your membership, please contact the COCA office at 416-968-7200 extension 222.