

Changing Workplaces Review
Letter in Response to the Interim Report of the Special Advisors
October 14, 2016

Via E-mail: CWR.SpecialAdvisors@ontario.ca

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We appreciate the opportunity to provide feedback on the Changing Workplaces Review (CRW) interim report issued by the Special Advisors. As a leading global workforce solutions provider, ManpowerGroup is strongly committed to creating meaningful employment opportunities that accelerate career success, enhance the competitiveness of our clients and support the communities we work in.

Executive Summary

We know first-hand that the labor market has evolved since we first opened our doors in Canada more than 60 years ago, but so have protections for contingent workers. As a result of the Employment Standards Act, 2000 (ESA), and subsequent amendments — Bill 139 in 2009 and Bill 18 which took effect just last year — Ontario now has some of the strongest regulations anywhere.

ManpowerGroup supports the position that there should be ongoing effective enforcement of existing employment laws to ensure the consistent application of protections for temporary workers that already exist. The Interim Report provides little objective evidence that the issues identified cannot be addressed under current law, or that there are specific issues within the temporary industry that require further legal changes.

The proposals outlined in the interim report go far beyond what is necessary given the protections already provided to temporary and non-temporary employees alike, and would do serious damage to the wider business community. What's more, they fundamentally misunderstand the critical role of temporary employment in supporting Ontario's labor market. Rather than writing new laws, the government should leverage its expertise and resources to strengthen ongoing compliance and improve the enforcement of existing employment laws.

Our Role in the Labor Market

As a leading global workforce solutions provider, last year alone ManpowerGroup helped nearly 25,000 people across Ontario find temporary and permanent jobs across a variety of sectors. Many were previously unemployed, under-employed, re-entering the workforce or joining the workforce for the first time. Working with us, they gained the skills, experience and support to advance their careers. As a result, we are proud to say that each year many of our temporary employees transition to permanent roles. In this way, our industry serves a critical function in the workforce, offering clients the flexible workforce solutions to grow their businesses, while providing individuals with varied work experiences and an upward track into the workforce.

Temporary employment agencies are subject to the full range of regulations codified under the Employment Standards Act (ESA), and like us, many go above and beyond the minimum requirements. Similar to full-time employees, our temporary associates receive vacation, statutory holiday and other pay entitlements, discounts and other perks. We also offer significant training and development as well as insights into jobs and career opportunities through our free career resource center, which includes 4,500 courses covering a wide range of business and professional skills — from leadership and management, and professional and IT certifications, to software training and light industrial and workplace safety.

Additionally, ManpowerGroup partners with various organizations to help connect people to work who are underrepresented or have difficulty entering the job market. Working with the Homeward Bound program, for example, we offer free interviewing and job readiness training to help at-risk women return to the workforce. Through another partnership with the Ontario Manufacturing Learning Consortium we source and prepare young people for skilled trades roles to help bridge the skilled worker gap.

The Cost of Regulation

The regulatory burden Ontario places on employers already far exceeds any other Canadian province. Adding to it, as the report suggests, would inevitably increase costs and put Ontario in an uncompetitive position relative to other provinces and locations outside of Canada. Looking at ManpowerGroup's key sectors, Ontario's regulatory costs exceed the cost of doing business in any other province. With some of the changes proposed, those costs continue to go up resulting in Ontario become more uncompetitive in its ability to attract and retain a strong commercial business community, and therefore jobs, while other provinces and areas outside of Canada will become more attractive as a place to do business.

Among the most damaging proposals outlined in the interim report are:

Expanding Client Responsibility

In 2009, Bill 139 amendments specifically established the temporary help agency as the employer of record for many ESA purposes. Any proposal that would now identify the client, instead, as employer of record is in direct conflict with those amendments. Where is the evidence that such a dramatic shift is necessary? It is ManpowerGroup's position that if there is concern about fair treatment of temporary employees, the focus should be on enforcing the existing framework more stringently so as to curtail those who are in violation, rather than shifting responsibility to another entity.

Mark-ups

ManpowerGroup strongly opposes the recommendations relating to disclosure or limitation of mark-ups that agencies charge to clients. Such information has always been, and should remain, confidential and proprietary. Mandating that agencies disclose mark-ups is an extreme and unwarranted proposal, especially when there is no evidence that this information is even of value to temporary employees, or that it would increase their ability to negotiate higher wages.

Notice and Severance

Bill 139 provides that temporary employees remain actively employed by their temporary help agency when in between active assignments for a specific duration of time. Under the current framework, if their employment relationship with the temporary help agency ends, they are entitled, at that time, to notice and severance. These protections are equivalent to those received by all employees in Ontario.

The temporary help industry is structured around the premise that employment is contingent based on the needs of clients. If a client no longer requires the services, the assignment is subject to ending without notice. Requiring notice and severance at the end of each temporary assignment is going to increase both cost and administrative burden, while decreasing flexibility for clients who rely on temporary help for efficient workforce flexing in times of need, without any seeming justification for such a change. It may also mean that temporary workers receive a greater benefit than all other Ontario employees.

Examining the Interim Report, there does not appear to be objective evidence which suggests that further legislative changes are required, or information that there are evidence-based issues identified with the temporary industry that necessitate the changes being considered.

Recommendations and Conclusions

There is no objective evidence that Bill 139 and Bill 18 amendments have not been effective in achieving the government's objectives. In the case of the Bill 18 amendments, insufficient time has passed for anyone to assess its impact. Rather than exploring new regulations the government should focus its efforts and resources on compliance initiatives and enforcement of the current provisions of the ESA.

ManpowerGroup remains committed to working with the government in any way needed to help them better understand our industry and how we help Ontario connect to meaningful work opportunities across many different business sectors and levels of work across the province. We also remain available to the government to further explore our position.

Thank you for giving Ontario stakeholders the opportunity to provide input on this very important topic.

Sincerely,

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