



**RESPONSE TO THE INTERIM REPORT  
OF THE CHANGING WORKPLACES  
REVIEW**



**Prepared by the Canadian Intern Association  
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### Introduction

The Canadian Intern Association thanks the Special Advisors to the Changing Workplaces Review for thoughtful and well-reasoned Interim Report. Broadly speaking, we are strongly supportive of those Options for Reform to the *Labour Relations Act, 1995* (the “LRA”) and the *Employment Standards Act, 2000* (the “ESA”) which promote meaningful access to collective bargaining and provide a strengthened floor of workplace protections for all workers in Ontario.

Notwithstanding our support for broad and expansive reforms to both the ESA and the LRA, we focus our submissions in response to the Interim Report of the Changing Workplaces Review solely on those issues concerning the various “intern” exclusions and exemptions from the ESA.

### 1. The Trainee Exclusion

In our initial submissions to the Changing Workplaces Review, we urged the Special Advisors to the Changing Workplaces Review to recommend the elimination of the six-part “trainee” exclusion contained in section 1(2) of the ESA.

In the Interim Report, the Special Advisors to the Changing Workplaces Review proposed the following three options for reform:

1. Maintain the status quo.
2. Eliminate the trainee exclusion.
3. Provide that intern/trainee exemption is permitted only if a plan is filed by the employer and approved by the Director as complying with the Act and with reporting obligations as determined by the Director.

The Canadian Intern Association maintains that the only viable solution to the rampant wage theft and misclassification of employees as unpaid interns is to eliminate the trainee exclusion.

Training young workers in their job and career-specific duties must be understood as part of the cost of doing business, plain and simple. Young workers in Ontario are more highly educated and carry higher levels of student debt than ever, and should not have the costs of on-the-job training downloaded onto them through unpaid internships.

The results of the Ministry of Labour’s two Internship Enforcement Blitzes discussed in the Interim Report are demonstrative of why maintaining the status quo is simply untenable. Although at first blush the prevalence of illegal unpaid internships appears to

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have declined during the Ministry's more recent 2015 internship blitz, it is crucial to note that whereas the first blitz ran from April 1 to June 15, 2014 (i.e. during the summer semester while students are working) the second Blitz took place from September 2015 to December 2015 (i.e. during the school year), when a higher volume of fully-exempted internship placements approved by Colleges of Applied Arts and Technology and Universities take place. As we expressed to Ministry staff in the lead-up to this Blitz, the high number of fully-exempted internships occurring during this time of year skews the overall results. Notwithstanding the foregoing, the second Internship Inspection Blitz found an equal number of employers had internships in contravention of the *ESA* as had paid internships in compliance with the *ESA*. These results demonstrate unacceptably high levels of wage theft being committed against young workers in Ontario.

In light of the widespread non-compliance with the *ESA*'s current requirements, we have little confidence in the third option for reform. We are strongly opposed to any option for reform that maintains or entrenches the role of unpaid internships in Ontario's labour market.

Accordingly, we urge the Special Advisors to the Changing Workplaces Review to recommend the elimination of the trainee exclusion.

## 2. The Exemptions for Students in Training for Professions

In our initial submissions, we urged the Special Advisors to the Changing Workplaces Review to eliminate the exemptions for students in training for the professions enumerated in sections 2(1)(a)-(d) of O Reg. 281/01.

In the Interim Report, the Special Advisors to the Changing Workplaces Review indicated that they "are likely to recommend that Ontario establish a new process of review to assess the merits of many of the exemptions to determine whether the exemptions are warranted or whether they should be modified or eliminated." Included in the list of exemptions to be considered under this process, the Special Advisors listed "Students In-Training in Professions".

Although we support the elimination of this exemption, appreciate the Special Advisors' concerns regarding the need for careful consideration of the special exemptions under the *ESA*, and the unsuitability of the current process to provide adequate consideration to many of these exemptions. Accordingly, we support the Special Advisors' recommendation for the establishment of a separate review process to consider various special exemptions including, *inter alia*, the exemption for students in training for certain enumerated professions.

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### 3. The Student Exclusions

In our initial submissions to the Changing Workplace Review, we urged the Special Advisors to the Changing Workplaces Review to narrow the exclusions contained in sections 3(5)(1) and 3(5)(2) of the *ESA* by applying the six-part test currently contained in section 1(2) of the *ESA* to these placements.

In the Interim Report, the Special Advisors to the Changing Workplaces Review noted the existence of the above exclusions, but simply stated “[w]e are not commenting on these exclusions.”

We are deeply concerned with the failure to address these exclusions, which leave hundreds of thousands of students in placements with no floor of workplaces protections and uneven levels of oversight from their academic institutions. The refusal to address the merits of these exclusions is even more concerning given that, in contrast to the exemption for students in training for professions discussed above, there appears to be no indication that the Special Advisors intend to recommend these exclusions be reviewed under a separate process.

As set out in our initial submissions, we urge the Special Advisors to recommend that the Ontario government amend section 3(5) of the *ESA* to apply the six-part test contained in section 1(2) of the *ESA* to work-integrated learning placements organized through secondary school boards, universities and colleges of applied arts and technology to ensure that students are receiving *bona fide* training, learning, and skills developments opportunities, rather than being a source of free labour for employers.

### Conclusion

In closing, we graciously thank the Special Advisors to the Changing Workplace Review and the Ministry of Labour staff for reviewing these submissions. The Canadian Intern Association recognizes that the Ministry of Labour has made advancements in its understanding of the socioeconomic issues that students, interns, and young workers face, but are still cognizant that the system is currently failing some of Ontario’s most vulnerable workers.

As set out in our initial submissions, is our position that the current framework does not properly address the fundamental issue of exploitive employment relationships that interns are subject to; however, we are hopeful that the Special Advisors to the Changing Workplaces Review will make recommendations in their Final Report to strengthen the *ESA* to provide greater workplace protections for interns.

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### About Us

The Canadian Intern Association is a not-for-profit organization that advocates against the exploitation of intern workplace rights and aims to improve internship experiences. Founded in June 2012 and incorporated federally in July 2013, the Canadian Intern Association has consistently called upon the Government of Ontario to enact legislative reforms to provide greater protections for interns.

Our mission is to work with businesses, labour organizations, charities, government, universities and individuals to improve labour conditions for interns. We are the resource for interns to learn their rights and share their experiences, and for employers to run better internship programs. We believe that all interns deserve to be treated fairly. That means minimum wage for interns who are doing the work of employees, and better conditions for interns receiving academic credit.

Our work loosely falls within the four categories:

- (i) Education
- (ii) Law reform
- (iii) Media outreach
- (iv) Research

As Canada's primary advocacy organization for the rights of interns, we hear from interns whose workplace rights have been violated on a daily basis. We routinely hear stories from interns who are misclassified and mistreated at work and want to know what to do about it. Unfortunately, given their limited legal protections and the weakness of Ontario's enforcement and compliance mechanisms, these workers have inadequate options. We welcome the opportunity to submit, to you, our recommendations concerning this issue.