



Excerpts from Bill 49, as amended by the Standing Committee on Justice Policy to address the OBA concerns

Bill 49 was reported back from committee with the following amendments:

Authority for acting as a representative

~~—14. (1) No individual shall knowingly, directly or indirectly, act as a representative or offer to do so unless the individual is,~~

- ~~—(a) a member in good standing of a law society of a province or territory of Canada who is licensed to practise law as a barrister and solicitor;~~
- ~~—(b) a student at law acting under the supervision of an individual described in clause (a) who is acting as a representative or who is offering to do so;~~
- ~~—(c) a member in good standing of the Chambre des notaires du Québec who is licensed to practise as a notary;~~
- ~~—(d) an individual, other than an individual described in clause (a), (b) or (c), who is a member in good standing of a law society of a province or territory of Canada or the Chambre des notaires du Québec and who is licensed to provide legal services, including a paralegal member of The Law Society of Upper Canada;~~
- ~~—(e) a member of a body designated by a regulation made under subsection 91 (5) of the *Immigration and Refugee Protection Act* (Canada); or~~
- ~~—(f) any other individual prescribed by the Minister.~~

Authority for acting as a representative

14. (1) No individual shall knowingly, directly or indirectly, act as a representative or offer to do so unless the individual is,

- (a) a person who is authorized under the *Law Society Act* to do so;**
- (b) a member of a body designated by a regulation made under subsection 91 (5) of the *Immigration and Refugee Protection Act* (Canada); or**
- (c) any other individual prescribed by the Minister.**

Director's discretion, not granting application

~~—(4) Even if the director determines that an applicant meets the prescribed criteria, the director is not required to grant the application.~~

Director's discretion, not granting application

(4) Even if the director determines that an applicant meets the prescribed criteria, the director may decide to refuse to grant the application if the director has reasonable grounds for so doing.

Publication of name

(5) Despite the *Freedom of Information and Protection of Privacy Act*, the Minister may publish the name of a person or body that is subject to an order made under subsection (1) ~~and that is not a foreign national~~ and may publish the period of time during which the ban is in effect.

Power to enter premises

(2) As part of an inspection, an inspector may, without a warrant or court order but subject to subsection 22 (4), enter and inspect, at any reasonable time, the premises of any of the following persons or bodies for the purpose described in subsection (1), except any premises or part of any premises that is used as a dwelling:

1. An employer who is registered in the employer registry, if such a registry has been established.
2. An employer who has been granted an approval.
3. A recruiter, if a recruiter registry has been established.
- ~~4. A representative [which was defined in the bill to include lawyers]~~

Where solicitor-client privilege

(1.1) A warrant issued under subsection (1) may authorize an investigator to examine and seize anything described in the warrant that is subject to any privilege that may exist between a solicitor and the solicitor's client only if the authorization is necessary to obtain otherwise unavailable evidence of a contravention of this Act.

Same

(1.2) A warrant that authorizes an investigator to act as described in subsection (1.1) shall contain the conditions that the justice of the peace issuing the warrant considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances.

Seizure of things not specified

25. (1) An investigator who is lawfully present in a place pursuant to a warrant or otherwise in the execution of the investigator's duties may, without a warrant, seize anything in plain view that the investigator believes on reasonable grounds will afford evidence relating to a contravention of this Act or the regulations.

Exception: solicitor-client privilege

(2) Nothing in this section abrogates any privilege that may exist between a solicitor and the solicitor's client.

Absolute liability

~~(8) An order made under subsection (1) imposing an administrative penalty against a person or body applies even if,~~

- ~~(a) the person or body took all reasonable steps to prevent the contravention on which the order is based; or~~
- ~~(b) at the time of the contravention, the person or body had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.~~

No effect on offences

~~—(9) For greater certainty, nothing in subsection (8) affects the prosecution of an offence.~~

No effect on offences

(8) For greater certainty, nothing in this section affects the prosecution of an offence.

AND FROM THE EXPLANATORY NOTE.

~~The director has discretion to refuse to grant an application even if the applicant meets the criteria prescribed by regulations.~~if the director determines that an applicant meets the criteria prescribed by regulations, the director may decide to refuse to grant the application if the director has reasonable grounds for doing so.