

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

1ST SESSION, 42ND LEGISLATURE, ONTARIO  
67 ELIZABETH II, 2018

# Bill 49

## **An Act to amend the Ministry of the Attorney General Act**

**Mrs. N. Des Rosiers**

**Private Member's Bill**

1st Reading      October 29, 2018

2nd Reading

3rd Reading

Royal Assent



## EXPLANATORY NOTE

The Bill amends the *Ministry of the Attorney General Act* to require the Attorney General to examine specified government bills and regulations for the purpose of ascertaining whether any provisions of the instruments are more likely than not to be found by a court to be inconsistent with the purposes and provisions of the *Canadian Charter of Rights and Freedoms*. The Attorney General is required to report any such inconsistency to the Legislature.

The Bill also imposes additional obligations on the Attorney General in connection with bills introduced in the Legislature by a minister of the Crown. The Attorney General is required to cause to be tabled in the Legislature a statement that sets out the potential effects the Bill on the rights and freedoms that are guaranteed by the *Canadian Charter of Rights and Freedoms*.

## An Act to amend the Ministry of the Attorney General Act

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1 The *Ministry of the Attorney General Act* is amended by adding the following sections:

#### Examination of bills and regulations

**5.1** (1) The Attorney General shall examine the following instruments for the purpose of ascertaining whether any provisions of the instruments are more likely than not to be found by a court to be inconsistent with the purposes and provisions of the *Canadian Charter of Rights and Freedoms*:

1. Every regulation filed with the Registrar of Regulations appointed under section 31 of the *Legislation Act, 2006*.
2. Every bill introduced in the Legislature by a minister of the Crown.

#### If notwithstanding clause is invoked

(2) If a declaration has been included in a bill under section 33 of the *Canadian Charter of Rights and Freedoms*, the Attorney General shall ensure that the examination of the bill under this section includes an ascertainment of whether, in the absence of the declaration, any provision of the bill would be more likely than not to be found by a court to be inconsistent with the purposes and provisions of the *Canadian Charter of Rights and Freedoms*.

#### Report to Legislature

(3) If the Attorney General ascertains that any provision of a regulation or bill is more likely than not to be found by a court to be inconsistent with the purposes and provisions of the *Canadian Charter of Rights and Freedoms*, the Attorney General shall cause to be tabled in the Legislature, at the earliest reasonable opportunity, a report explaining the nature of the inconsistency.

#### Application

(4) This section applies in respect of bills introduced and regulations filed on or after the first day of the session of the Legislature in which the *Charter Rights Transparency Act, 2018* receives Royal Assent.

#### Charter statement

**5.2** (1) The Attorney General shall, for every bill introduced in the Legislature by a minister of the Crown, cause to be tabled in the Legislature a statement that sets out potential effects of the Bill on the rights and freedoms that are guaranteed by the *Canadian Charter of Rights and Freedoms*, which statement must include an explanation of how those potential effects may arise.

#### Purpose

(2) The purpose of the statement is to inform members of the Legislature as well as the public of those potential effects.

#### Timing

(3) Subject to subsection (4), the Attorney General shall cause the statement for a bill to be tabled before any debate on second reading of the bill and no such debate shall commence until the statement has been tabled.

#### Same

(4) If debate on second reading of the bill has commenced or has been completed on the day the *Charter Rights Transparency Act, 2018* receives Royal Assent, the Attorney General shall cause the statement for the bill to be tabled at the earliest reasonable opportunity.

#### Application

(5) This section applies in respect of any bill introduced on or after the first day of the session of the Legislature in which the *Charter Rights Transparency Act, 2018* receives Royal Assent.

#### Clarification

(6) For greater certainty, the inclusion in a bill of a declaration under section 33 of the *Canadian Charter of Rights and Freedoms* does not affect the application of this section.

**Commencement**

**2 This Act comes into force on the day it receives Royal Assent.**

**Short title**

**3 The short title of this Act is the *Charter Rights Transparency Act, 2018*.**