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**Official Report  
of Debates  
(Hansard)**

**Thursday 30 April 2015**

**Journal  
des débats  
(Hansard)**

**Jeudi 30 avril 2015**

**Standing Committee on  
Justice Policy**

Ontario Immigration Act, 2015

**Comité permanent  
de la justice**

Loi de 2015 sur l'immigration  
en Ontario

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE POLICY**

**COMITÉ PERMANENT  
DE LA JUSTICE**

Thursday 30 April 2015

Jeudi 30 avril 2015

*The committee met at 0900 in committee room 1.*

**ONTARIO IMMIGRATION ACT, 2015  
LOI DE 2015 SUR L'IMMIGRATION  
EN ONTARIO**

Consideration of the following bill:

Bill 49, An Act with respect to immigration to Ontario and a related amendment to the Regulated Health Professions Act, 1991 / Projet de loi 49, Loi portant sur l'immigration en Ontario et apportant une modification connexe à la Loi de 1991 sur les professions de la santé réglementées.

**The Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. As you know, we're here for clause-by-clause of Bill 49, An Act with respect to immigration to Ontario and a related amendment to the Regulated Health Professions Act, 1991. The Chair welcomes Tonia Grannum, who will be pinch-hitting for Tamara Pomanski as Clerk today.

There is a written submission of summary from legislative research that is before you. The floor is now open for amendments.

**Mr. Lorenzo Berardinetti:** Carried.

**The Chair (Mr. Shafiq Qaadri):** Carried; there you go. Gentlemen, I believe you have the very first presentation coming up, or is—

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** Sorry. It's the NDP. Ms. Armstrong.

**Ms. Teresa J. Armstrong:** Chair, on a point of order: I want to say that the New Democrats on the committee—that we, of course, have long called for immigration legislation. We had wanted significant changes that recognize that large numbers of those who come and work and stay here are doing so in low-wage, often temporary jobs, and are paying thousands to do so and have few protections. We want to see protections in place for them.

This after all, in many respects, is a labour bill. People come here, work hard, and they deserve basic recognitions and protections that other Ontarians enjoy. So I respectfully offer some amendments and hope that this committee will see that New Democrats only want to make this bill better. Thank you, Chair.

**The Chair (Mr. Shafiq Qaadri):** Sure. First of all, that's not a point of order. You're welcome to make

comments, as the amendments are proposed and so on. You're allowed to speak to them. I invite you now to present the first one.

**Ms. Teresa J. Armstrong:** I move that the definition of "recruiter" in subsection 1(1) of the bill be struck out and the following substituted:

"recruiter" means a person, including a consultant, who, for consideration, provides or offers to provide any of the following services in connection with a selection program:

"1. Finds or attempts to find a foreign national for employment.

"2. Finds or attempts to find employment for a foreign national.

"3. Assists another person or body in attempting to do any of the things described in paragraph 1 or 2.

"4. Refers a foreign national to another person or body to do any of the things described in paragraph 1 or 2; ('recruteur')."

**The Chair (Mr. Shafiq Qaadri):** Thank you. Any comments, questions, queries or debate before we proceed to the vote? Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** First of all, Chair, I did have some opening remarks that I was hoping to be able to make, but we can go straight to this for now. But I would like to ask your indulgence after we take this to a vote to perhaps do some opening remarks. Would you be open to that?

**The Chair (Mr. Shafiq Qaadri):** Sure. That's fine.

**Ms. Indira Naidoo-Harris:** Is everybody else okay with that?

**The Chair (Mr. Shafiq Qaadri):** That's fine. Let's proceed with this particular amendment. Any comments on this specific amendment?

**Ms. Indira Naidoo-Harris:** Yes, I do have some comments. I want to make sure that we're talking about the same thing, about motion 1, section 1, subsection (1). To me, this particular motion and this particular subsection (1) of the bill seems redundant, because it really seems that this motion is already captured in subsection 1(2) of the Ontario Immigration Act. It's just my opinion, but I feel like this is already something that's being referred to in the Ontario Immigration Act. I don't know if anybody else agrees with me.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Any further comments from the PCs or NDP before we proceed to the vote on NDP motion 1? Seeing none, we'll

proceed to the vote. Those in favour of NDP motion 1, if any? I presume—

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** Yes. Those against? NDP motion 1 is lost.

Shall section 1 carry? Carried.

Before proceeding to section 2—no amendments, I think, have been received so far. Ms. Naidoo-Harris and any others, if you'd like to offer any comments generally, the floor is open.

**Ms. Indira Naidoo-Harris:** Thank you so much, Chair. I really want to tell you how pleased I am to have this opportunity actually to address the committee. This is really an honour and a privilege, and I hope you'll indulge me just for a few minutes.

I'd like to thank everyone for being here today to continue debate on Bill 49, the Ontario Immigration Act. This is a bill that speaks to the very core of who we are as a society, that understands the rich history of immigration in Ontario and that looks to build on the important role that new immigrants have played in our province's development and prosperity.

As someone whose family immigrated here from South Africa, it also carries special significance for me. Growing up in rural Alberta, I experienced first-hand what it's like to be considered "the outsider." When I got older and began working as an anchor at Omni Television, it really opened my eyes to the hardships faced by newcomers to this province. I was on the ground level, covering emerging stories and getting first-hand accounts from new Ontarians about the difficulties they had in establishing their new lives here. These were people struggling to find safe places to live, struggling to find good jobs, and struggling to put down roots and become part of their new community.

But they never lost optimism, and many of those that I spoke with claimed that they had come here in search of freedom and opportunity, with the goal of one day being able to call Ontario home and to mean it. They saw this province as a place to raise their families, a place with top schools, world-class health care and a thriving economy—a place that welcomed people from every corner of the globe and understood the value of creating a diverse society. This was their vision of Ontario, and this is the kind of vision that this bill aims to preserve.

During second reading, we were pleased to hear general support from both opposition parties, as well as support from many stakeholders during public hearings. I hope we can work together to continue that positive dialogue today, right here.

I would like to acknowledge that this proposed legislation is a big step in the progression of Ontario's first-ever immigration strategy, launched back in 2012.

Bill 49 is a beginning, not an end. The Ontario Immigration Act will formally recognize the long history of immigration to Ontario and the important nation-building role it has played in forming Ontario's social, economic and cultural values.

I have further remarks, Chair, but I don't want to hold the committee up, so I will end my comments there and just say that it is a privilege and an honour to be here with you all today. We have the opportunity now, and in this committee, to take another vital step in the right direction, to keep Ontario strong and prosperous, and to keep our province moving forward.

I look forward to the debate we'll have here today.

**Le Président (M. Shafiq Qaadri):** Merci, madame Naidoo-Harris, pour vos remarques. Y a-t-il d'autres commentaires? Anyone else, before we proceed to NDP motion 2? Mr. Milczyn.

**Mr. Peter Z. Milczyn:** Thank you, Mr. Chair. I am subbing on the committee, but this is an issue that I've been following carefully. Like many in this room and elsewhere, I am the child of immigrants. Perhaps in other times, the path to immigration was a little bit easier. Canada was perhaps much more wide open in the 1950s and 1960s to immigrations from Europe. After that, it opened up to other parts of the world.

During the 1980s and 1990s, as I became an adult and became active in the community in various ways, and especially in my Polish-Canadian community, I was very distressed to see the number of people who were hanging out a shingle, representing themselves as immigration consultants and as people assisting others in securing entry to Canada and, ultimately, citizenship. Through that, there were many people who were greatly helped, but there were many people who were really taken advantage of by charlatans and, frankly, in some cases, criminals.

I applaud that the federal government took great steps to codify and register immigration consultants. But I'm very happy that in this piece of Ontario legislation, we're building on that and making sure that in our Ontario Provincial Nominee Program and in the other programs related to it, there will be enforcement and investigation tools to make sure that prospective immigrants to this province are not taken advantage of by those who would simply try to profit from their desire to become residents of this province.

**0910**

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Milczyn. If no further comments, we'll proceed. Three sections are without amendments, so we'll perhaps consider those as a block. Shall section—

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** Unless there's any comment on these particular sections: 2, 3 or 4. If not, shall sections 2, 3 and 4 carry? Carried.

We'll now go to section 5: NDP motion 2. Ms. Armstrong?

**Ms. Teresa J. Armstrong:** I move that subsection 5(1) of the bill be amended by striking out "The Lieutenant Governor in Council may, by regulation, establish" and substituting "The Lieutenant Governor in Council shall establish".

**The Chair (Mr. Shafiq Qaadri):** The floor is open to you, Ms. Armstrong, for comments, and then to others.

**Ms. Teresa J. Armstrong:** I just think “shall” is a stronger message with regard to the powers of the Lieutenant Governor and how to direct them in this bill. Since we have been many years in waiting for a legislative bill on immigration, I think making that word stronger is an important message to stakeholders and people who will be affected by the bill.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 2?

**Ms. Indira Naidoo-Harris:** I really think that Bill 49 already provides authority to establish recruiter and employer registries through regulation. I feel that the registries are one form of regulation, but, really, there are many other tools that we have that we could be using. I’m not really sure that this is a step we have to take. Those are my thoughts on this.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Any further comments on NDP motion 2? Seeing none, we’ll proceed with the vote.

**Mr. Peter Z. Milczyn:** Mr. Chair, as a matter of procedure, could I request a recorded vote for each clause?

**The Chair (Mr. Shafiq Qaadri):** You can. I think you have to do it individually, but that’s fine. We’ll attempt to orchestrate that.

**Mr. Peter Z. Milczyn:** I will be doing that, so I’m requesting a recorded vote on this clause.

**The Chair (Mr. Shafiq Qaadri):** Fine.

#### Ayes

Armstrong.

#### Nays

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 2 falls. Next is NDP motion 3.

**Ms. Teresa J. Armstrong:** I move that subsection 5(2) of the bill be amended by striking out “If the Lieutenant Governor in Council has established an employer registry”.

**The Chair (Mr. Shafiq Qaadri):** Comments are open.

**Ms. Indira Naidoo-Harris:** Chair, I just want to be clear: We’re talking about subsection 5(2) of the bill?

**The Chair (Mr. Shafiq Qaadri):** Please repeat.

**Ms. Indira Naidoo-Harris:** Subsection 5(2)—motion 5.

**The Chair (Mr. Shafiq Qaadri):** That is our understanding. Ms. Armstrong, that’s clear to you as well, that NDP motion 3 is referring to that?

**Ms. Teresa J. Armstrong:** Yes, the third motion.

**The Chair (Mr. Shafiq Qaadri):** Yes.

**Ms. Indira Naidoo-Harris:** Thank you.

**The Chair (Mr. Shafiq Qaadri):** Any further comments?

**Ms. Indira Naidoo-Harris:** Again, I think this is referring to the same thing we talked about earlier. There are many forms of regulatory tools. We’re already investing in, I think, some strong compliance mechanisms. I really don’t feel that this motion is necessary.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments? We’ll proceed to the recorded vote.

**Mr. Peter Z. Milczyn:** Recorded vote.

#### Ayes

Armstrong.

#### Nays

Berardinetti, Crack, Lalonde, MacLaren, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 3 falls. Shall section 5 carry? Carried.

We’ll now proceed to section 6: NDP—

*Interjection.*

**The Clerk of the Committee (Ms. Tonia Granum):** We’ve done the vote. Next time; you have to do it right away. We’ve already carried section 5.

**The Chair (Mr. Shafiq Qaadri):** Section 6: NDP motion 4.

**Mr. Grant Crack:** Point of order—

**The Clerk of the Committee (Ms. Tonia Granum):** We just carried section 5.

**Le Président (M. Shafiq Qaadri):** Mr. Crack, mon ami, s’il vous plaît, plus de café pour vous.

Section 6: NDP motion 4. Please proceed, Ms. Armstrong.

**Ms. Teresa J. Armstrong:** I move that subsections 6(1) and(2) of the bill be struck out and the following substituted:

“Recruiter registry

“6. (1) The Lieutenant Governor in Council shall establish a registry of recruiters.

“Requirement to act as a recruiter

“(2) No person shall act as a recruiter unless the person is registered in the registry.”

**The Chair (Mr. Shafiq Qaadri):** Comments on NDP motion 4?

**Mr. Peter Z. Milczyn:** The purpose of this bill is to put in place a framework to encourage immigration under a well-established program that encourages the types of immigrants that we’re seeking. But we should not be layering too much red tape onto that, more so than we need. We’re already putting in place a regime that will allow for investigation and enforcement of compliance and that will well define the roles of different people who are actors within the immigration process. I think it’s really unnecessary red tape to require the Lieutenant Governor in Council to establish a recruiter registry as well. I will be voting against this, Mr. Chair.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 4?

**Mr. Todd Smith:** I would just like to say that it's music to my ears to see a member of the Liberal side talking about reducing red tape. I'm with you, Peter, all the way.

**The Chair (Mr. Shafiq Qaadri):** We'll proceed to the vote.

**Mr. Peter Z. Milczyn:** Recorded.

#### Ayes

Armstrong.

#### Nays

Berardinetti, Crack, Lalonde, MacLaren, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 4 falls. Shall section 6 carry? Carried.

We have not received any amendments to date on sections 7, 8, 9 and 10. Are there any comments on those sections? If not, I'll take them as a block.

Shall sections 7, 8, 9 and 10, inclusive, carry? Carried. Section 11, PC motion 5. Mr. Smith.

**Mr. Todd Smith:** I move that section 11 of the bill be amended by adding the following subsection:

"Temporary agricultural workers

"(2.1) If the minister establishes one or more selection programs under subsection (1), at least one of them shall deal specifically with temporary agricultural workers."

**The Chair (Mr. Shafiq Qaadri):** Comments on PC motion 5.

**Mr. Todd Smith:** We did have a couple of delegations from those in the mushroom sector specifically who would like to see something in the bill that would help them in their current employment crisis, as they call it. I did have the opportunity to have a briefing with ministry staff earlier this week, and we discussed some of the options that are available. But I know that those in the mushroom industry would enjoy the opportunity for us to have something in the bill that would address the crisis in their sector.

**The Chair (Mr. Shafiq Qaadri):** PC motion 5: comments?

**Ms. Indira Naidoo-Harris:** While I understand why MPP Smith may feel that this is an importation motion to be looking at, I have to point out that currently the agreement between the federal government and Ontario doesn't really allow Ontario to create a temporary agriculture stream. I don't think we in this province have the constitutional powers. These powers flow from the federal government and I think the federal government is paramount in this area.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on PC motion 5?

**Mr. Peter Z. Milczyn:** I applaud the member for bringing this issue forward because there certainly is a great deal of merit to the need to ensure that our agricultural sector continues to have access to a workforce that helps them harvest and do all the things that they need to

do to bring their products to market. I would just encourage the members from the official opposition to lobby the federal government to do something in this regard and perhaps to amend agreements with the province of Ontario to give the province some authority to do this. As I think the official opposition well knows, the agreement that we have with the federal government does not allow for this particular issue. Although we now have developed a great partnership with the federal government around immigration, it continues to be a federal matter and the province cannot exceed whatever authority the feds have deemed to grant us. Certainly on this side we'd be happy to work towards this but we're not able to do so at this time.

**0920**

**The Chair (Mr. Shafiq Qaadri):** Thank you. PC motion 5, further comments? If not, we'll proceed to the recorded vote.

#### Ayes

Armstrong, MacLaren, Smith.

#### Nays

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** PC motion 5 falls. Shall section 11 carry? Carried.

Now to section 12, NDP motion 6. Ms. Armstrong.

**Ms. Teresa J. Armstrong:** I move that subsection 12(3) of the bill be struck out.

**The Chair (Mr. Shafiq Qaadri):** Comments? Ms. Naidoo-Harris?

**Ms. Indira Naidoo-Harris:** Once again, this is something that's really outside of the purview of Ontario. This is an area that the federal government has established federal jurisdiction over. When it comes to things, for example, like the federal Immigration and Refugee Protection Act or the PNP program in Ontario, the federal government has established that individuals must demonstrate an ability to come to Ontario and to be economically established and support themselves.

There really is no room at this point in time, unfortunately, for Ontario to have any room on this. It is a federal matter so I have to recommend voting against this.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 6, further comments?

**Mr. Peter Z. Milczyn:** Mr. Chair?

**The Chair (Mr. Shafiq Qaadri):** Yes, Mr. Milczyn?

**Mr. Peter Z. Milczyn:** I want to concur with my colleague that this is certainly something that we don't have the ability to do. There are certain requirements under federal legislation that have to be followed. But beyond that, really, why would we want to eliminate this kind of a requirement?

We do want to attract immigrants to this province, immigrants who will, as generations of immigrants before

them have, contribute greatly to the prosperity and vibrancy of Ontario. But why would we want to say, “You don’t have to demonstrate that you’re going to have some kind of economic connection and you don’t have to demonstrate that you’ve secured some form of employment or some kind of economic opportunity here”?

Even if it were up to us, I would certainly be opposed to removing this kind of requirement. We want to make sure that people come to this province and have the ability to become contributing partners to our society. We want to provide them with tools to do that, but we also want to make sure that people who come here take advantage of the opportunities that are given to them.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Ms. Naidoo-Harris?

**Ms. Indira Naidoo-Harris:** I would just echo the comments of my fellow member here. It’s really about making sure that our newcomers who come to Ontario actually have the ability to be successful and are able to have that support. I recognize and agree with the comments.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments on NDP motion 6?

**Ms. Teresa J. Armstrong:** I’ll restrain from my further comments. Thank you.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Armstrong. We’ll proceed to the recorded vote, Mr. Milczyn, I presume?

**Mr. Peter Z. Milczyn:** Yes.

#### Ayes

Armstrong.

#### Nays

Berardinetti, Crack, Lalonde, MacLaren, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 6 falls. Shall section 12 carry? Carried.

No amendments so far received for section 13. Any comments on section 13? Seeing none, shall section 13 carry? Carried.

Section 14, government motion 7. Last call for government motion 7. Ms. Naidoo-Harris?

**Ms. Indira Naidoo-Harris:** Yes. I’m going to read it. I move that subsection 1.4(1) of the bill be struck out and the following substituted—

*Interruption.*

**Ms. Indira Naidoo-Harris:** Sorry, I’m just on the wrong page.

**The Chair (Mr. Shafiq Qaadri):** Government motion 7.

**Ms. Indira Naidoo-Harris:** Page 7. Thank you. An Act with respect to immigration to Ontario and a related amendment to the—

**The Chair (Mr. Shafiq Qaadri):** No need for the title, Ms. Naidoo-Harris. Just get to the actual—

**Ms. Indira Naidoo-Harris:** Okay, sorry.

I move that subsection 14(1) of the bill be struck out and the following substituted:

“Authority for acting as a representative

“(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.”

**The Chair (Mr. Shafiq Qaadri):** Comments?

**Ms. Indira Naidoo-Harris:** I recommend voting for this motion because I think it would address the concerns expressed by the Law Society of Upper Canada and the Ontario Bar Association that the definition of “legal professions” under Bill 49 is broad and may go beyond the scope of the Law Society Act. This amendment clarifies that the Ontario Immigration Act is not intended to authorize the provision of legal services by anyone who is not otherwise permitted to do so under the Law Society Act.

I really think that it’s important because the wording right now may go beyond the scope. This is an important motion.

**The Chair (Mr. Shafiq Qaadri):** Further comments on government motion 7? Mr. Smith and Mr. Milczyn.

**Mr. Todd Smith:** I would agree with the member opposite. We did hear clearly from the Ontario Bar Association and the Law Society of Upper Canada that this was something they would like to see. I believe Mr. Milczyn earlier was talking about some unscrupulous people who are out there in the community trying to take advantage of certain situations. The clearer that we can be in creating the legislation, with the help of the law society and the bar association, to make this the best legislation possible—I think we’re headed in the right direction with this, so we’ll be supporting this.

**Mr. Peter Z. Milczyn:** As my friend across mentioned, from my opening remarks, it is important that we have a regime in place that only those who are truly qualified to offer services and advice to those seeking entry into our province should be in a position to offer those services. I think it was an oversight in the drafting of the legislation. We made it too broad and a little bit unclear, so this is a very important amendment that we’re introducing to protect future immigrants to this province.

**The Chair (Mr. Shafiq Qaadri):** Further comments before we proceed to the vote on government motion 7?

**Mr. Peter Z. Milczyn:** Recorded vote.

#### Ayes

Armstrong, Berardinetti, Crack, MacLaren, Lalonde, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** None opposed. Government motion 7 carries.

Shall section 14, as amended, carry? Carried.

Section 15: no amendments received to date. Unless there's commentary, we'll proceed to the recorded vote.

### Ayes

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Opposed? None. Section 15 carries.

Section 16: government motion 8.

**Ms. Indira Naidoo-Harris:** I move that subsection 16(4) of the bill be struck out and the following substituted:

“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.”

**The Chair (Mr. Shafiq Qaadri):** The floor is open for comments.

**Mr. Peter Z. Milczyn:** Again, through the hearing process, the law society had a number of comments and suggestions. I’m happy that the government did listen very carefully to those submissions. This represents another one of the amendments that is being brought forward in respect of the submissions we heard. There will be others as well.

It’s very important to note that, while there is a need to have checks and balances in the system for senior public servants to be able to assess applications that come forward and be able to determine whether they are compliant with the intent of the program as well as the law, they cannot be arbitrary and they will be subject, potentially, to judicial review.

0930

So it’s not a blanket authority that is done in some distant star chamber. There would have to be good reasons for doing it. Those reasons could be challenged, examined in court if need be. I think that this is a good amendment that we should all be supporting.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Milczyn. Ms. Naidoo-Harris?

**Ms. Indira Naidoo-Harris:** I really think that it’s important that this bill not authorize arbitrary decisions. This really ensures that program staff have the authority to deny an application, but where there are grounds to do so. I think this is a very important piece to be inserting.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Naidoo-Harris. Further comments on government motion 8? If not, we’ll proceed to the vote. Recorded vote.

### Ayes

Armstrong, Berardinetti, Crack, Lalonde, MacLaren, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** None opposed. Shall section 16, as amended, carry?

**The Clerk of the Committee (Ms. Tonia Granum):** Did you carry the amendment?

**The Chair (Mr. Shafiq Qaadri):** Yes, the amendment is carried. Shall section 16, as amended, carry? Carried.

No amendments received so far for sections 17 and 18. Any comments on those sections before we proceed to a recorded vote?

Seeing none, recorded vote: Shall sections 17 and 18 carry?

### Ayes

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Sections 17 and 18 carry.

Section 19, NDP motion 9: Ms. Armstrong.

**Ms. Teresa J. Armstrong:** I move that subsection 19(5) of the bill be amended by striking out “and that is not a foreign national”.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Comments? Any comments on NDP motion 9?

**Ms. Teresa J. Armstrong:** This language would allow some of the bigger international recruiters—they won’t be held accountable if this language remains, so we’re asking for that to be struck out.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Any comments on NDP motion 9? Before we proceed to that, we’d like to assure the government House leader that everything is in order but we thank her for her intervention. NDP motion 9: Comments? Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** I think this is an important motion because it makes it clear that we could publish the names of a recruiter or representative who is a foreign national. So in some ways, it provides strong incentives for compliance. It introduces the idea of naming and shaming. I think this is necessary, and I will be supporting this motion.

**The Chair (Mr. Shafiq Qaadri):** Mr. Milczyn.

**Mr. Peter Z. Milczyn:** To sort of continue on the theme that I started at the outset, I do congratulate the NDP on this motion. I will be supporting this amendment. Especially those who are overseas, who are beyond the reach of our laws, our courts, and who prey on immigrants or prospective immigrants—sometimes vulnerable people—and who promise them easy entry into the country, jobs and all manner of things, take their money and then leave people in extremely precarious situations when they arrive here, either without the approvals in place that they thought they were going to get, or certainly, at a minimum, having taken a great deal of money from them—this is extremely important, that if somebody is beyond the reach of our courts and our laws, at least we would have the ability to say that that person is not operating according to the rules and is not actually offering the services and benefits that they purport to. At the very least, foreign media perhaps would carry this



and make those persons known and prevent them from targeting other victims.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Milczyn. Any comments on NDP motion 9? Mr. Smith.

**Mr. Todd Smith:** I would just agree that people who intentionally break our laws shouldn't have their names protected by disclosure. I'm so surprised that a former member of the media would want to name and shame anyone, though.

We're with you on this one, too.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Smith.

Those in favour of NDP motion 9?

**Mr. Peter Z. Milczyn:** Recorded vote.

**The Chair (Mr. Shafiq Qaadri):** Recorded vote.

#### Ayes

Armstrong, Berardinetti, Crack, Lalonde, MacLaren, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** Thank you. None opposed. NDP motion 9 carries.

Shall section 19, as amended, carry? Carried. Thank you.

Section 20: no amendments received.

Any comments before proceeding to the recorded vote?

Shall section 20 carry?

#### Ayes

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Section 20 carries.

Section 21, NDP motion 10: Ms. Armstrong.

**Ms. Teresa J. Armstrong:** I move that subsection 21(3) of the bill is amended by adding the following paragraph:

"2.1 Another ministry or agency of the government of Ontario."

**The Chair (Mr. Shafiq Qaadri):** Comments? Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** I have to say that I think this motion is redundant. I think it's already carried in another area of the act. I believe it's covered by paragraph 21(3)3 of the Ontario Immigration Act. That paragraph already authorizes the minister to enter into arrangements or agreements with other institutions as defined, of course, by FIPPA. So I really find this particular motion to be redundant.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 10? Ms. Armstrong.

**Ms. Teresa J. Armstrong:** Just to add to that, I think putting it in there is important. It actually spurs an obligation for the MIIT to coordinate and work with the Minister of Labour. That's our intent of that motion.

**The Chair (Mr. Shafiq Qaadri):** Any further comments?

Recorded vote, NDP motion 10.

#### Ayes

Armstrong, MacLaren, Smith.

#### Nays

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 10 falls.

Shall section 21 carry? Recorded vote on that.

#### Ayes

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**Ms. Teresa J. Armstrong:** Did you say "in favour" or "opposed"?

**The Chair (Mr. Shafiq Qaadri):** Let's try it again.

Section 21: Those in favour? Recorded vote.

#### Ayes

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Any opposed? None. Section 21 carries.

We now proceed to section 22, NDP motion 11.

**Ms. Teresa J. Armstrong:** I move that subsection 22(1) of the bill be struck out and the following substituted:

"Inspectors and investigators

"22(1) The minister may appoint any individual as an inspector or an investigator, and may designate him or her as a provincial offences officer under the Provincial Offences Act."

**The Chair (Mr. Shafiq Qaadri):** Comments? Ms. Naidoo-Harris and then Mr. Milczyn.

**Ms. Indira Naidoo-Harris:** Again, I feel that this is redundant. Though it isn't explicitly mentioned in the Ontario Immigration Act, this amendment really would duplicate authorities that I think the minister already has. I think subsection 1(3) of that act gives any minister of the crown, under the Provincial Offences Act, the authority to designate persons as provincial offences officers. So I'm really not clear on why we need this motion if the minister already has those authorities—an ability to do this and assign someone as a provincial offences officer under the Provincial Offences Act.

**The Chair (Mr. Shafiq Qaadri):** Mr. Milczyn. The floor is open after that.

Mr. Smith, go ahead, please.

**Mr. Todd Smith:** We believe that we already have enough immigration bureaucracy existing now, and

there's no real necessity to add to it. The majority of the immigration offences are actually handled by the federal government. We're a little less concerned about adding another bureaucracy, and more concerned about the powers that maybe those officers have. So we'll be going against this.

**The Chair (Mr. Shafiq Qaadri):** Mr. Milczyn.

**Mr. Peter Z. Milczyn:** Yes, and to echo Mr. Smith's remarks, the bulk of enforcement activities around immigration matters will ultimately be handled by the federal government. Ministers have broad authority already to appoint provincial offences officers for those areas that fall under individual ministries, and this really is redundant, but if misapplied could result in the creation of some new bureaucracy that really wasn't intended by this legislation.

0940

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments on NDP motion 11? Ms. Armstrong?

**Ms. Teresa J. Armstrong:** The motion presented here is basically to create it so that inspectors have the same powers under the Ministry of Labour as health and safety inspectors do under the Ministry of Labour. That's the purpose of the motion here today.

**The Chair (Mr. Shafiq Qaadri):** Thank you. We'll proceed now to the recorded vote on NDP motion 11.

#### Ayes

Armstrong.

#### Nays

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 11 carries. We will now vote on the—

*Interjections.*

**The Chair (Mr. Shafiq Qaadri):** Sorry, NDP motion 11 falls.

We'll now proceed to carry the section. It's a recorded vote. Shall section 22 carry?

#### Ayes

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Section 22 carries.

We'll now proceed to section 23, PC motion 12. Mr. Smith?

**Mr. Jack MacLaren:** Can I speak to that one?

**The Chair (Mr. Shafiq Qaadri):** Sorry, Mr. MacLaren.

**Mr. Todd Smith:** I'll read it in, actually, and then Mr. MacLaren has some comments.

I move that subsection 23(2) of the bill be amended by striking out "except any premises or part of any premises

that is used as a dwelling" and substituting "except any premises or part of any premises that is used as a dwelling or used as the office of a person licensed under the Law Society Act to practise law in Ontario as a barrister and solicitor".

**The Chair (Mr. Shafiq Qaadri):** Mr. MacLaren?

**Mr. Jack MacLaren:** I would say warrantless entry is never something that should be permitted in this country under any circumstance. A warrant can be obtained to enter, if there is good reason, from a justice of the peace. Therefore, I believe this is a fundamental affront to private property rights, and we are opposed to that.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Ms. Naidoo-Harris?

**Ms. Indira Naidoo-Harris:** While I agree with the members opposite that we have to be very careful about warrantless searches, I do feel that the government is proposing a motion that would achieve the same result and, we feel, that pays particular attention to some other concerns that were raised by the Ontario Bar Association and the Law Society of Upper Canada. There is a motion that we have proposed that I think covers your concerns on the opposite side and takes care of the scope in a real way.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments on PC motion 12? Mr. Milczyn?

**Mr. Peter Z. Milczyn:** Throughout the hearing process, there were a number of very good submissions by the law society. The government side did listen carefully to them, as my colleague just mentioned. The government did craft an amendment to the legislation that will address the law society's concerns about warrantless searches of lawyers' offices and how that might impinge on solicitor-client privilege. That amendment was carefully crafted in consultation with the law society, so we're confident that that will achieve the right result and be accepted by the law society.

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 12? Seeing none, we shall proceed to the recorded vote.

#### Ayes

Armstrong, MacLaren, Smith.

#### Nays

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** PC motion 12 falls. NDP motion 13, Ms. Armstrong.

**Ms. Teresa J. Armstrong:** I move that paragraph 1 of subsection 23(2) of the bill be amended by striking out "if such a registry has been established".

**The Chair (Mr. Shafiq Qaadri):** Thank you. Comments? Any comments? Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** Once again, I feel that this motion would allow for warrantless searches. It's redundant, because the objective is already covered, I

think, in paragraph 2 of the same subsection. Paragraph 2 does give inspectors the authority to conduct warrantless searches of employers that have been granted an approval. I'm not really sure why we're moving forward with this, why we're proposing this motion. I would be voting against it.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments on NDP motion 13? Mr. Milczyn.

**Mr. Peter Z. Milczyn:** We already struck down the amendment around the employer registry, so that makes this particular motion redundant. There are other provisions in the bill that would allow for searches for enforcement and investigation purposes, and so we'll be voting against this particular amendment.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 13? If none, we'll proceed to the recorded vote.

### Ayes

Armstrong.

### Nays

Berardinetti, Crack, Lalonde, MacLaren, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 13 falls.

NDP motion 14: Ms. Armstrong.

**Ms. Teresa J. Armstrong:** I move that paragraph 3 of subsection 23(2) of the bill be amended by striking out "if a recruiter registry has been established".

**The Chair (Mr. Shafiq Qaadri):** Mr. Milczyn.

**Mr. Peter Z. Milczyn:** We will be voting against this particular amendment. Registries are fine, but without proper enforcement tools, it really would not achieve any result. We don't see the value in this. The enforcement mechanisms are being put in place, and the compliance mechanisms are already in here. Once those tools are implemented, if there are any gaps, they can be addressed in the future. But again, we should not be trying to layer on too much at the front end and creating potential abuse of the ability to access premises or create additional bureaucracy to enforce this.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 14?

**Ms. Indira Naidoo-Harris:** I would agree with my colleague that, really, regulatory tools do not replace the need for enforcement. It is important that we have these tools, and we do have tools in place already. We have strong compliance mechanisms already. I don't see the need for this either.

**The Chair (Mr. Shafiq Qaadri):** We'll proceed to the vote.

### Ayes

Armstrong.

### Nays

Berardinetti, Crack, Lalonde, MacLaren, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 14 falls.

Government motion 15: Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** I move that paragraph 4 of subsection 23(2) of the bill be struck.

**The Chair (Mr. Shafiq Qaadri):** "Struck out," as opposed to just physically hit.

Any comments? Mr. Milczyn.

**Mr. Peter Z. Milczyn:** As I mentioned earlier, through the hearing process, we did hear clearly the concerns stated by the Law Society of Upper Canada and the bar association. We've crafted a number of amendments to address their concerns. Certainly, there never would have been any intention in any way to impinge upon solicitor-client privilege.

**The Chair (Mr. Shafiq Qaadri):** Further comments on government motion 15, if any? If not, we'll proceed to the recorded vote.

### Ayes

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Those opposed? Government motion 15 carries.

PC motion 16: Mr. Smith.

**Mr. Todd Smith:** I move that section 23 of the bill be struck out and the following substituted:

"No inspection without warrant

"23. No inspection shall be conducted for the purpose of ensuring compliance with this act and the regulations unless a warrant has been issued under section 24."

**The Chair (Mr. Shafiq Qaadri):** Comments?

**Mr. Jack MacLaren:** Well, again, this is the fundamental principle that warrantless entry should never be permitted in this country, I would say, because we have the ability to get warrants when something wrong is happening, or we suspect is being done. If a justice of the peace issues the warrant, the job gets done. So we should be opposed to warrantless entry, period.

**0950**

**The Chair (Mr. Shafiq Qaadri):** Thank you. Comments on PC motion 16? Mr. Milczyn.

**Mr. Peter Z. Milczyn:** We won't be supporting this amendment. This would take away all authority to conduct compliance inspections. Really, to take it to the extreme that—my friend across the way said that in this country, there should never be any warrantless inspections. Just think of the implications of that in all manner of things, let alone immigration. Whether it's inspecting a fence dispute or construction without a building permit or anything else, if the new standard that was set for all legislation, including immigration legislation, was that you must first go to a justice of the peace and get a

warrant, then all manner of inspection and enforcement, I dare say, would grind to a halt.

If there is abuse, abuse can certainly be dealt with through the courts or even through changes of legislation in the future. I don't suspect that there would be any abuse of these measures. If an inspector were to go to a place of employment to see if a person who was granted immigration to Canada and to Ontario under this program in fact was employed there—I don't see what harm or bias to somebody's constitutional rights would be inflicted upon them by somebody coming into a place of work and seeing whether somebody actually works there, no more so than the quality of handling of meat in a meat processing facility, or a construction site to see whether there is a building permit in place, and so on and so forth.

Many of the things the opposition has said today I think we're in agreement on, but this is an overly libertarian interpretation of how enforcement procedures should be handled, certainly for this act. I would be very troubled if this were the direction that the opposition wanted the government to go in on all manner of inspection and enforcement.

**The Chair (Mr. Shafiq Qadri):** Mr. MacLaren.

**Mr. Jack MacLaren:** Well, in fact, it is an affront to our constitutional rights to do an unreasonable search. If, in a law, we put the opportunity for an inspector to come onto a property without warrant, you provide the opportunity for unreasonable behaviour to happen, and we have to guard very carefully against that because those things do happen. What we have to do here is be very careful and not provide opportunity for the abuse of people's constitutional rights and privacy on their property of their persons and their businesses.

A building permit is a different thing. When a person buys a building permit, by buying the building permit, they're giving permission to the inspector to come to inspect the building. In a slaughterhouse, where there's meat inspected—and I am a farmer, so I'm aware of this—the law states that for that business, because it's in business, one of the conditions of being in business is that there will be inspections for food safety. I am in favour of those things. What we're doing here is an open book that invites abuse, and we cannot do this. So I am totally opposed to warrantless entry and always will be.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. MacLaren. Ms. Naidoo-Harris, you wanted the floor?

**Ms. Indira Naidoo-Harris:** I just think the authority to conduct compliance inspections without a warrant is really important. It really protects the integrity of the Ontario immigration programs. That authority to conduct these searches is key to ensuring that inspectors can really make sure that compliance is occurring, so that access is part of ensuring that we're protecting our programs.

**The Chair (Mr. Shafiq Qadri):** Thank you. Further comments to PC motion 16? Ms. Armstrong.

**Ms. Teresa J. Armstrong:** As a province, we are opening doors for immigrants to come to our province, work here and make a life here. Our intent with some of

the other motions previously was to give inspectors the same powers as the Ministry of Labour, under health and safety.

As well as this particular motion—I'll be opposing the PC motion. It's the same realm of powers that we're giving the Ministry of Labour. When there's a workplace, they should be treated the same under the health and safety act, as well as on the premise of going to inspect. I'll be opposing the motion but I think it should have been, from the previous motion that I presented, a little broader in that they should also have the health and safety inspection powers.

**The Chair (Mr. Shafiq Qadri):** Further comments?

**Ms. Indira Naidoo-Harris:** I want to make sure that the members opposite really do understand. I understand your concerns and I realize why you may be raising some issues and feeling that we need to discuss this. But at the same time, this particular piece was okayed by the Attorney General and also supported by constitutional law, so I feel that it does take care of those protections. There are things in place that will ensure that there isn't abuse of these powers.

**The Chair (Mr. Shafiq Qadri):** Mr. Milczyn?

**Mr. Peter Z. Milczyn:** I appreciate the comments from the members opposite about how people engage in certain types of businesses or activities. As part of engaging in that, they acknowledge that there is an inspection and compliance regime. I would suggest to the official opposition that this is no different than somebody who comes to Ontario as an immigrant. An employer who accepts that person as an immigrant—they then, by doing that, give some form of approval that there will be compliance, there will potentially be inspection and certainly there would be enforcement if there were violations.

I don't think it's overly intrusive, as Ms. Armstrong said, for an inspector to enter any place of employment to inspect any number of things that may be mandated under the Ministry of Labour, occupational health and safety or, in fact, whether somebody is working legally in this province. I think there is a tacit acceptance of somebody coming in under this program understanding that there might be some review of whether they're actually complying with the terms of their admission.

**The Chair (Mr. Shafiq Qadri):** Mr. MacLaren?

**Mr. Jack MacLaren:** What I would say is that all we're asking for is the same rules that our police have today, where they cannot go on to private property without the permission of the owner or a warrant from a justice of the peace. If they have good reason to want to go on that property and the justice of the peace agrees, they will get there.

To create through law and give authority to an inspector who does not have the qualifications or the training of a policeman to do something that a policeman can't do is absolutely wrong. I will close with that.

**The Chair (Mr. Shafiq Qadri):** Further comments on PC motion 16? Seeing none, we'll proceed to the vote. Recorded.

**Ayes**

MacLaren, Smith.

**Nays**

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qadri):** PC motion 16 falls. Thank you, Mr. MacLaren, for your prompting.

Shall section 23, as amended, carry? A recorded vote for section 23, as amended.

**Ayes**

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**Nays**

MacLaren.

**The Chair (Mr. Shafiq Qadri):** Section 23, as amended, carries.

We now move to section 24, government motion 17. Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** I move that section 24 of the bill be amended by adding the following subsections:

“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.”

1000

**The Chair (Mr. Shafiq Qadri):** Thank you. Government motion 17: Any comments?

**Ms. Indira Naidoo-Harris:** I think this is important, because it was never the intention in the Ontario Immigration Act to give investigators access to documents that were really protected by solicitor-client privilege. This speaks to some of the comments that were brought up by the PC members. This amendment would address the concerns, expressed by the Law Society of Upper Canada and the Ontario Bar Association, that the authority to conduct investigations under the OIA may have been too broad.

**The Chair (Mr. Shafiq Qadri):** Thank you. Mr. Milczyn?

**Mr. Peter Z. Milczyn:** Again, Mr. Chair, through the hearing process, we heard submissions from the Law

Society of Upper Canada and the Ontario Bar Association. The government took those very seriously and has crafted a number of amendments to the bill to address the concerns that were raised.

Further to the conversation that we had on the previous section, there will certainly be a number of cases in which a warrant is required for an inspector or enforcement official to gain entry to get records. When that is required, it will be done under the current rules and the high bars that are set to secure a warrant from a justice of the peace.

In this particular case, I imagine there would be a very high bar that would be required to convince a justice of the peace to allow enforcement activity that might secure some record that otherwise might be considered to be subject to solicitor-client privilege.

I think we’re trying to address the concerns of the Law Society of Upper Canada in a responsible manner and ensure that, in fact, there would be due process in order for certain types of inspection activities to be able to take place.

**The Chair (Mr. Shafiq Qadri):** Further comments on government motion 17?

**Mr. Todd Smith:** We congratulate the government for listening to the Law Society of Upper Canada and the Ontario Bar Association during the committee hearings as well.

This amendment still doesn’t quite do enough to protect law offices, though, so we’ll be adding another bit in one of the amendments that we’re putting forward right after this one.

**The Chair (Mr. Shafiq Qadri):** Further comments on government motion 17? If not, we’ll proceed to the recorded vote.

**Ayes**

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qadri):** Government motion 17 carries.

PC motion 18.

**Mr. Todd Smith:** I move that section 24 of the bill be amended by adding the following subsection:

“Entry of law office

“(3.1) An investigator shall not exercise the power under a warrant to enter a place, or part of a place, that is used as the office of a person licensed under the Law Society Act to practise law in Ontario as a barrister and solicitor, unless the power is exercised in accordance with,

“(a) the document entitled ‘Guidelines for Law Office Searches’ available on the public website of the Law Society of Upper Canada; and

“(b) the criteria set out by the Supreme Court of Canada in *Lavallee, Rackel & Heintz v. Canada (Attorney General)*, 2002.”

That is the end of the amendment.

**The Chair (Mr. Shafiq Qaadri):** Comments on PC motion 18?

**Mr. Todd Smith:** As we heard in committee from the Law Society of Upper Canada and the Ontario Bar Association, legal experts have informed us about the potential problems and ramifications of the current bill, pertaining to solicitor-client privilege. We should let expert opinion define the specifics of this bill, not ideology. If we want high-quality legal professionals to remain active in immigration law, we need to put the proper protections in place for them.

Solicitor-client privilege's importance has been maintained by the Supreme Court of Canada on numerous occasions, and there's no reason that this legislation should not follow the precedents that have been set.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Ms. Naidoo-Harris?

**Ms. Indira Naidoo-Harris:** While I understand the concerns that the member opposite has with the solicitor-client privilege and preserving that, we also are proposing amendments that are similar to this motion and the policy intent behind this motion. We feel that the one we will be proposing more appropriately addresses the concerns raised by the Ontario Bar Association and the Law Society of Upper Canada.

The government's motion, if adopted, would just clarify the solicitor-client privilege and would prevail during an investigation under the Ontario Immigration Act. I think it will carry the spirit of what the member opposite is suggesting, but takes it a little further.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments on PC motion 18? Mr. Milczyn.

**Mr. Peter Z. Milczyn:** To echo my colleague's comments, the previous amendment that was voted upon and adopted and the subsequent amendment that is yet to be discussed in combination, I believe, will address the concerns of the Law Society of Upper Canada and the bar association, and I think are within the same spirit and intent of the PC motions. I hope that in the spirit of co-operation we could get your support on the government amendments.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments on PC motion 18 before we proceed to the vote? Seeing none, recorded vote.

#### Ayes

Armstrong, MacLaren, Smith.

#### Nays

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** PC motion 18 falls. We'll now move to consideration of section 24, as amended.

#### Ayes

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** None opposed. Section 24, as amended, carries.

Section 25, government motion 19.

**Ms. Indira Naidoo-Harris:** I move that section 25 of the bill be amended by adding the following subsection:

"Exception: solicitor-client privilege

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

**The Chair (Mr. Shafiq Qaadri):** Thank you. Comments?

**Ms. Indira Naidoo-Harris:** I really feel that this would address the concerns that we've been hearing about today and also raised by the Ontario Bar Association and the Law Society of Upper Canada. These provisions could result in an intrusion of the solicitor-client privilege, so I think this amendment would actually clarify that nothing in this section is intended to take away from that very important privilege and does it in a way that is really taking everything into account.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Mr. Milczyn?

**Mr. Peter Z. Milczyn:** Yes, just to echo my colleague's comments, having closely listened to the submissions of the law society and the bar association, the government has proposed a series of motions that will address those concerns, this being a very clear statement that there is nothing within the act that in any way would intend to undermine the principle of solicitor-client privilege. Any dispute about any documents around solicitor-client privilege would strictly be a matter for the courts to determine. It certainly would not be something that, through any enforcement activities of ours, we would try to impinge upon.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Milczyn. Are there any further comments on government motion 19? If not, we'll proceed to the vote.

#### Ayes

Armstrong, Berardinetti, Crack, Lalonde, MacLaren, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** None opposed. Government motion 19 carries.

Recorded vote: Shall section 25, as amended, carry?

#### Ayes

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Section 25, as amended, carries.

Section 25.1, PC motion 20. Mr. Smith.

**Mr. Todd Smith:** I move that the bill be amended by adding the following section:

"Privilege preserved

"(25.1) Nothing in this act requires the disclosure of information that is subject to solicitor-client privilege, litigation privilege or settlement privilege."

**The Chair (Mr. Shafiq Qaadri):** Thank you. Are there any comments or shall we proceed to the vote?

**Mr. Todd Smith:** Just that the Ontario Bar Association supported this wording and we wanted to get this—

**The Chair (Mr. Shafiq Qaadri):** Mr. Milczyn.

**Mr. Peter Z. Milczyn:** Thank you, Mr. Chair. I think the previous amendment addressed this issue and we made it very clear that nothing in this legislation will impinge on solicitor-client privilege. I think that amendment was sufficient. This one is redundant and we will not be supporting it.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments? Seeing none, we'll proceed to the vote.

#### Ayes

Armstrong, MacLaren, Smith.

#### Nays

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** PC motion 20 itself falls.

We'll now proceed to section 26, government motion 21.

1010

**Ms. Indira Naidoo-Harris:** I move that subsections 26(8) and (9) of the bill be struck out and the following substituted:

“No effect on offences

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

**The Chair (Mr. Shafiq Qaadri):** Thank you. Mr. Milczyn?

**Mr. Peter Z. Milczyn:** Again, having listened carefully to submissions from the law society and the bar association, this will create strict liability, which means that any legal professional that exercised appropriate due diligence would not be subject to prosecution for an offence if they appear to have done their job properly.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Milczyn. Comments on government motion 21? If none, we'll proceed to the recorded vote.

#### Ayes

Armstrong, Berardinetti, Crack, Lalonde, MacLaren, Milczyn, Naidoo-Harris, Smith.

**The Chair (Mr. Shafiq Qaadri):** Government motion 21 carries.

PC motion 22: Mr. Smith.

**Mr. Todd Smith:** I move that subsection 26(8) of bill be struck out.

**The Chair (Mr. Shafiq Qaadri):** Comments? Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** I just feel the government motion on this is more complete. I think that we're proposing an amendment that aligns with the policy intent.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Any further comments on PC motion 22? We'll proceed then to the recorded vote.

#### Ayes

Armstrong, MacLaren, Smith.

#### Nays

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** PC motion 22 itself falls.

Shall section 26, as amended, carry? Recorded vote.

#### Ayes

Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Section 26, as amended, carries.

No motions—amendments—have been received so far for sections 27 and 28. Comments on them? If not, we'll proceed to the recorded vote. Shall sections 27 and 28 carry?

#### Ayes

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Carried. Sections 27 and 28 carry.

Section 29: NDP motion 23.

**Ms. Teresa J. Armstrong:** I move that subsection 29(1) be struck out and the following substituted:

“Offences

“29(1) A person or body is guilty of an offence if the person or body fails to comply with subsection 5(2), 6(2), 7(2) or 14(1), section 15, subsection 17(2) or a requirement or prohibition in the regulations.”

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments on the NDP motion? Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** I think this is a really important motion because it addresses the issue of employers who may violate the Ontario Immigration Act. It protects the integrity of Ontario's selection programs and it ensures that if a registry is created, unregistered employers who participate may be found guilty of an offence. I think this is a very important motion and I plan to support it.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Further comments on NDP motion 23? Seeing none, I'll proceed to the recorded vote.

**Ayes**

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 23 carries.

We'll proceed to the vote on the section. Shall section 29, as amended, carry? Recorded vote.

**Ayes**

Armstrong, Berardinetti, Crack, Lalonde, Milczyn, Naidoo-Harris.

**The Chair (Mr. Shafiq Qaadri):** Section 29, as amended, carries.

We have four sections which have not received any amendments. We'll consider them—

**Mr. Peter Z. Milczyn:** Mr. Chair?

**The Chair (Mr. Shafiq Qaadri):** Yes.

**Mr. Peter Z. Milczyn:** A point of order: It being now 10:15, I would move that we recess until this afternoon.

**The Chair (Mr. Shafiq Qaadri):** I had a minute left, but fair enough. We can do four sections. There are no motions on them, but as you like. Mr. Milczyn, if you're feeling rushed we shall recess until this afternoon. We are recessed until 2 p.m.

*The committee recessed from 1015 to 1401.*

**The Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. We resume clause-by-clause hearing on Bill 49, An Act with respect to immigration to Ontario and a related amendment to the Regulated Health Professions Act, 1991.

Resuming from where we left off in the a.m., we have before us sections 30 to 33 inclusive. We have no amendments received to date. Are there any comments to be received on these sections? Going once—any comments to be received on these sections?

**Mrs. Cristina Martins:** Can you just clarify, Chair? I'm sorry; we're talking about which ones?

**The Chair (Mr. Shafiq Qaadri):** Sections 30, 31, 32 and 33. There are no amendments, so I'm going to consider a block vote on them.

**Mrs. Cristina Martins:** What about motion 24?

**Interjection:** That's different; that's section 33.

**The Chair (Mr. Shafiq Qaadri):** That's afterwards. Section 33.1 is usually after 33.

*Interjections.*

**The Chair (Mr. Shafiq Qaadri):** We are now on sections 30, 31, 32 and 33. Are there any comments to be made on these sections? Mr. Milczyn.

**Mr. Peter Z. Milczyn:** Mr. Chair, I do see an NDP motion on 33.1.

**The Chair (Mr. Shafiq Qaadri):** I congratulate you on that. We are currently on sections 30, 31, 32 and 33.

**Mr. Peter Z. Milczyn:** I apologize, Mr. Chair. So if there's an amendment to 33.1, section 33 is separate?

**The Chair (Mr. Shafiq Qaadri):** It's separate, yes. It's adding a section, yes.

**The Clerk of the Committee (Ms. Tonia Grannum):** It goes after 33.

*Interjections.*

**The Chair (Mr. Shafiq Qaadri):** Yes, Mr. Potts.

**Mr. Arthur Potts:** It's my understanding—I wasn't here this morning—that we had left at 29. Are you mentioning section 30 here, or was that dealt with?

**The Chair (Mr. Shafiq Qaadri):** Section 29 has been dispensed with.

**Mr. Arthur Potts:** So we're starting with 30 now?

**The Chair (Mr. Shafiq Qaadri):** That's what you do when you've dispensed with 29.

**Mr. Arthur Potts:** All right, thank you.

**Mrs. Cristina Martins:** So 30, 31 and 32.

**Interjection:** And 33.

**The Chair (Mr. Shafiq Qaadri):** I will provide this in writing if required, but I will try it verbally one more time: thirty, trente; thirty-one, trente et un; thirty-two, trente-deux; and thirty-three, trente-trois. Dans les deux langues officielles. Got it? Four sections, inclusive.

**Une voix:** C'est merveilleux.

**The Chair (Mr. Shafiq Qaadri):** Merci. Okay, are there any comments to be received on those sections inclusive? Mrs. Martins? En espagnol? No?

**Mrs. Cristina Martins:** No.

**The Chair (Mr. Shafiq Qaadri):** All right. Fair enough. We'll proceed to the recorded vote. Those in favour of, on block, sections 30, 31, 32 and 33?

**Ayes**

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**The Chair (Mr. Shafiq Qaadri):** Those opposed? None. Those sections do carry, then.

We will now move to a new section to be added, section 33.1. NDP motion 24: Ms. Armstrong.

**Ms. Teresa J. Armstrong:** I move that the bill be amended by adding the following section:

“Joint and several liability

“33.1 An employer and a recruiter may be jointly and severally liable for an offence under this act and for any compensation or restitution ordered under section 33.”

**The Chair (Mr. Shafiq Qaadri):** Comments? The floor is open. Ms. Armstrong? Anyone?

**Mrs. Cristina Martins:** If I may Mr. Chair, while the policy intent behind this motion is laudable, it is actually impossible to implement in practice. The motion would actually add a provision to change the nature of the liability for employers or recruiters such that employers or recruiters could be held jointly and severally liable for an offence, as well as any restitution or compensation ordered by a judge.

**The Chair (Mr. Shafiq Qaadri):** Just out of curiosity—I don't know if it's legislative research—what do the words “severally liable” mean, even?



**Mr. Michael Wood:** “Severally” would mean individually as opposed to jointly, which means all together.

**The Chair (Mr. Shafiq Qaadri):** Fair enough.

Any other further comments on NDP motion 24? Seeing none, we’ll proceed to the vote. Those in favour of NDP motion 24.

#### Ayes

Armstrong, MacLaren, Smith.

#### Nays

Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 24 is defeated. Section 33.1 is nullified.

We move now to section 34, government motion 25. Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** I move that section 34 of the bill be amended by adding the following subsection:

“No hearing required

“(8.1) Subject to the regulations made by the minister, the individual conducting an internal review is not required to hold a hearing or to afford the requester an opportunity for a hearing before exercising any powers under subsection (9).”

**The Chair (Mr. Shafiq Qaadri):** Comments? Comments of any kind?

**Mr. Jack MacLaren:** I get the impression that this is the elimination of an appeal process, and fundamentally I don’t think we should be making judgements or issuing penalties and not have an appeal process. Therefore, I’m opposed. I think this is very wrong.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Any further comments, rebuttal, questions?

**Mrs. Cristina Martins:** Can I just comment on the motion that was introduced by Ms. Naidoo-Harris? I’d just comment that this motion would actually bring consistency between the provision and other sections of the act that explicitly state that there is no obligation to hold a hearing and that it will not affect the existing procedural fairness requirements under the Ontario Immigration Act, the Judicial Review Procedure Act and common law.

**The Chair (Mr. Shafiq Qaadri):** Any comments before the vote on government motion 25? Seeing none, we will now proceed to the vote. Those in favour?

#### Ayes

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

#### Nays

MacLaren, Smith.

**The Chair (Mr. Shafiq Qaadri):** Government motion 25 carries.

Shall section 34, as amended, carry? Recorded vote.

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** Mr. Milczyn, I’d appreciate if you would allow Ms. Malhi to make up her own mind which way she’s going to vote. Thank you.

#### Ayes

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**The Chair (Mr. Shafiq Qaadri):** Section 34, as amended, carries.

We’ve received no motions or amendments to date on section 35. Are there any comments to be had on section 35? Seeing none, we’ll proceed then to the recorded vote.

#### Ayes

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**The Chair (Mr. Shafiq Qaadri):** Section 35 has carried.

We’ll now move to section 36, government motion 26. Ms. Naidoo-Harris.

1410

**Ms. Indira Naidoo-Harris:** Chair, if you don’t mind, I’m going to pass it on to MPP Martins, and she will lead.

**The Chair (Mr. Shafiq Qaadri):** Ms. Martins.

**Mrs. Cristina Martins:** I move that section 36 of the bill be amended by adding the following clause:

“(e) respecting any matters that may be delegated by the Lieutenant Governor in Council under clause 37(1)(g.1).”

**The Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Martins, and on the day of the passage of your bill, I also say “muchas gracias.”

Are there any further comments on government motion 26?

**Mr. Todd Smith:** We were discussing this earlier. I’m just wondering why the government has put this amendment in. Is there a reason why? Can you enlighten us as to why this amendment is necessary?

**Ms. Indira Naidoo-Harris:** I’m happy to comment, MPP Smith. There are times, when it comes to programs’ selection and eligibility criteria and so on, when things may be subject to change in terms of labour market needs and that sort of thing. This will allow the minister a little bit of leeway in order to chime in and basically set things, if necessary. It was felt that the minister would need a little bit of authority here to act more quickly, depending on market needs and so on.

**Mr. Todd Smith:** Okay.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on government motion 26?

Seeing none, we’ll proceed to the vote.

**Ayes**

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**Nays**

MacLaren, Smith.

**The Chair (Mr. Shafiq Qaadri):** Government motion 26 carries.

Government motion 27: Ms. Martins.

**Mrs. Cristina Martins:** I move that section 36 of the bill be amended by adding the following subsection:

“Conflicts

“(2) If there is a conflict between a regulation made under clause (1)(e) and a regulation made by the Lieutenant Governor in Council under subclause 37(1)(e)(ii), the latter prevails.”

**The Chair (Mr. Shafiq Qaadri):** Further comments on government motion 27? Any comments? Mr. MacLaren.

**Mr. Jack MacLaren:** Could somebody explain more specifically what that means?

**The Chair (Mr. Shafiq Qaadri):** Ms. Naidoo-Harris.

**Ms. Indira Naidoo-Harris:** Essentially, combined with the previous amendment, this would allow certain selection programs eligibility criteria that may be subject to changes federally or possibly having to do with labour market needs and so on—again, this will allow the minister to have some flexibility in order to act quickly and efficiently when necessary.

For example, fluctuating needs in Ontario’s labour market: As opposed to having to go through the process that could be laborious with the LG, this allows the minister to make adjustments and react quickly. It’s all in the interests of the newcomers to our province and also being able to ensure that the things we have in place are really working as efficiently as possible.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Any further comments?

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** Yes, go ahead, please.

**Mr. Michael Wood:** I just wanted to add one item. Everything that the government member said is correct. However, you should look at the three last motions—26, 27 and 28—all together. Presently in the bill, as un-amended by the motions, there is power for the Lieutenant Governor in Council, i.e. cabinet, to make regulations with respect to eligibility criteria. What these motions do is allow the LG in C to transfer the reg-making power to the minister, and the minister typically can pass a regulation more quickly than cabinet can. The three regulations go together. First, motion 28 says the LG in C can delegate the matter to the minister, motion 26 says the minister then has the power, and motion 27 says that in the event of a conflict between the two, the LG in C—the cabinet power—prevails.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Any further comments on government motion 27?

**Ms. Indira Naidoo-Harris:** Thank you for clarifying.

**The Chair (Mr. Shafiq Qaadri):** We’ll proceed then to the vote.

**Ayes**

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**Nays**

MacLaren, Smith.

**The Chair (Mr. Shafiq Qaadri):** Government motion 27 carries.

We’ll proceed now to consider the section. Recorded vote: Shall section 36, as amended, carry?

**Ayes**

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**The Chair (Mr. Shafiq Qaadri):** Those opposed? Section 36, as amended, carries.

Section 37, government motion 28: Ms. Martins.

**Mrs. Cristina Martins:** I move that subsection 37(1) of the bill be amended by adding the following clause:

“(g.1) delegating to the minister any matter that may be the subject of a regulation under subclause (e)(ii).”

**The Chair (Mr. Shafiq Qaadri):** Comments, if any?

If there are no comments, we’ll proceed to the recorded vote.

**Ayes**

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**Nays**

MacLaren, Smith.

**The Chair (Mr. Shafiq Qaadri):** Government motion 28 carries.

We’ll now consider the section, as amended—again, a recorded vote.

**Ayes**

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**The Chair (Mr. Shafiq Qaadri):** Those opposed? Section 37, as amended, carries.

We do not have any amendments or motions received to date on sections 38, 39 and 40. Are there any com-

ments on any of those three sections now? Comments on 38, 39 and 40?

Seeing none, we will proceed to a recorded vote en bloc of these.

**Ayes**

Armstrong, Malhi, Martins, Milczyn, Naidoo-Harris, Potts.

**The Chair (Mr. Shafiq Qadri):** Opposed? Sections 38, 39 and 40 carry.

We're now really back to the housekeeping issues. We can perhaps just dispense with the recording on this one if you're okay.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall Bill 49, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

It has been a pleasure serving you as Chair of justice policy. The committee is now adjourned.

*The committee adjourned at 1417.*

# CONTENTS

Thursday 30 April 2015

Ontario Immigration Act, 2015, Bill 49, Mr. Chan / Loi de 2015 sur l'immigration en  
Ontario, projet de loi 49, M. Chan ..... JP-35

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