



Law Society  
of Ontario

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December 12, 2024

Sent by email: [Minister@cic.gc.ca](mailto:Minister@cic.gc.ca)

The Honourable Marc Miller, MP  
Minister of Immigration, Refugees and Citizenship Canada  
365 Laurier Avenue West  
Ottawa, ON K1A 1L1

Dear Minister Miller:

**Re: IRCC's Forward Regulatory Plan: 2024-2026 – A new system of Administrative Penalties and Consequences related to the provision of immigration representation and/or advice**

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I am writing on behalf of the Law Society of Ontario (the “Law Society”) regarding the Immigration, Refugees and Citizenship Canada’s (IRCC) proposed administrative monetary penalties (AMPs) and related consequences for those providing immigration and citizenship advice and/or representation. We understand that these penalties are intended to serve as a regulatory enforcement mechanism to ensure compliance with the *Immigration Refugees Protection Act (IRPA)* and the *Citizenship Act*.

As the independent regulator of over 58,000 lawyers and more than 11,000 licensed paralegals in Ontario, the Law Society has a statutory mandate to uphold the principles of justice and the rule of law while safeguarding the public interest.<sup>1</sup> While we support the government’s efforts that promote accountability and protect the public, we are concerned that the proposed AMPs will unfairly subject our licensees to dual regulation, fail to adequately protect solicitor-client privilege, and exceed the IRCC’s jurisdiction.

**(i) Avoiding dual regulation is in the public interest**

We urge the IRCC to clearly define the scope of the proposed AMPs and related consequences regime and to explicitly exempt lawyers and paralegals when practising law or providing legal services. The *Law Society Act* empowers the Law

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<sup>1</sup> *Law Society Act*, R.S.O. 1990, c.L.8, at s. 4.1 and 4.2.

Society to regulate lawyers and paralegals in the public interest, ensuring high standards of competence and professional conduct. Subjecting lawyers and paralegals to regulation by both the Law Society and IRCC would not serve the public interest. An exemption for lawyers and paralegals would not undermine the government's commitment to safeguarding the public from unqualified advice or representation, since lawyers and paralegals are already rigorously regulated by provincial law societies, which maintain robust systems to investigate and address professional misconduct, ensuring public protection and accountability.

**(ii) Avoiding dual regulation to protect solicitor-client privilege**

Additionally, exempting lawyers and paralegals from the proposed AMPs and related consequences regime also safeguards solicitor-client privilege, a fundamental and constitutionally protected principle in Canada. This privilege ensures that clients can communicate openly and honestly with their legal representative without fear of their communications being disclosed. Imposing the IRCC's proposed AMP regime on legal professionals threatens to undermine this protection. Lawyers and paralegals could be compelled to provide information that is subject to solicitor-client privilege to the IRCC, as opposed to the Law Society, which can receive and compel production of privileged information without negating or waiving that privilege. In addition, the Law Society cannot be compelled to disclose information in our possession that is subject to solicitor-client privilege. The threat that privileged information may be disclosed without these protections not only jeopardizes the confidentiality of client communications but also creates a chilling effect, where legal professionals may feel compelled to compromise their duty to act in their clients' best interests to comply with the IRCC's demands. Only law societies, as the repositories of solicitor-client privilege, possess the exclusive authority to compel or receive privileged information.

**Conclusion**

We request that the IRCC exempt lawyers and paralegals from the proposed application of AMPs and related consequences. While it is crucial for lawyers and paralegals to be held accountable for their professional conduct, AMPs are not the appropriate tool for ensuring compliance. The Law Society is the appropriate authority to regulate legal professionals in Ontario and is best positioned to uphold the high standards of competence and professional conduct necessary to protect the public.

Thank you for your attention to these concerns. We welcome the opportunity to discuss the proposed regulations with you further.

Yours truly,



Peter C. Wardle  
Treasurer

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