
Fourth Session, Thirty-ninth Parliament
60 Elizabeth II, 2011
Legislative Assembly of British Columbia

BILL M 2**

PRIVATE CAREER TRAINING INSTITUTIONS AMENDMENT ACT, 2011

Ms. Michelle Mungall

Explanatory Note

This bill amends the *Private Career and Training Institutions Act* to better protect students and provide transparency and accountability in the private-post secondary education sector.

This bill protects students by providing for a statement of student rights and responsibilities, more rigorous complaint system with a longer limitation period for bringing complaints, mandatory written student contract, and tuition refunds in the case of false representation. The bill protects international students by bringing English as a Second or Foreign Language schools under the authority of the Act.

This bill provides greater transparency and accountability by changing the composition of the board, clarifying its relationship with government, requiring the board to establish on-going, out-come based quality assurance, and mandating annual reporting by the board.

This bill gives the registrar more tools to ensure compliance, broader discretion to consider public interest factors when deciding to register, renew the registration of, suspend or impose fines or limitations on an institution, and greater discretion to investigate non-compliance.

BILL M 2** – 201

PRIVATE CAREER TRAINING INSTITUTIONS AMENDMENT ACT, 2011

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1 Section 1 of the Private Career Training Institutions Act, S.B.C. 2003, c. 79, is amended

(a) by repealing and substituting the following definitions:

“board” means the board appointed under section 4;

“career training” means

- (a) training or instruction in the skill and knowledge required for employment in an occupation defined in the regulations, or
- (b) training or instruction in English as a Second or Foreign Language,
 - (i) for which the tuition charged is greater than or equal to the minimum prescribed amount, and
 - (ii) for which the instructional time is greater than or equal to the prescribed minimum duration,

but does not include training or instruction that

- (iii) is provided by
 - (A) a school as defined in the *School Act*,
 - (B) a francophone education authority as defined in the *School Act*,
 - (C) an independent school, as defined in the *Independent School Act*, other than an independent school that offers
 - (I) courses for which high school graduation is a prerequisite, or
 - (II) job training courses that are not part of or ancillary to the requirements for high school graduation

to persons 17 years of age or older,

- (D) an institution established under the *University Act*, the *Royal Roads University Act*, the *Thompson Rivers University Act*, or the *College and Institute Act*,
- (E) an institution that is authorized by a consent under the *Degree Authorization Act* and offers only degree programs to which the consent applies,

- (F) an institution established under an Act and authorized under that Act to offer academic degrees, or
 - (G) a professional organization established by an Act, if the training or instruction is part of professional requirements or is provided for professional development.
- (iv) is provided by a post-secondary instruction established in Canada that is
- (A) funded in whole or in part by the government of Canada or of a province, and
 - (B) a public institution designated by the registrar for the purpose of this paragraph, or
- (v) is excluded by regulation;

(b) by adding the following definition:

“student contract” is a written enrolment contract between a student and a registered institution under this Act for the purposes of career training.

2 *Section 4 is repealed and the following substituted:*

Composition of board

- 4 (1) The minister may establish a board consisting of 10 members appointed by the minister.
- (2) The board appointed under subsection (1) must include the following members:
- (a) 3 members representing registered institution under the Act;
 - (b) 3 members representing the ministry;
 - (c) 4 members of the public, one of whom may be a student or faculty member of a registered institution.
- (3) The minister must designate one member as chair and may also designate a vice chair.
- (4) Each member must be appointed for an initial term of 3 years.
- (5) The minister may reappoint a member of the board for an additional 3-year term.
- (6) Subject to the bylaws, a member who resigns or whose term has ended may continue to serve on the committee of the board to complete work of the committee that began before the resignation or the end of term even if a successor is appointed.

3 *Section 5 is amended by adding the following subsection:*

- (6) The board must submit an annual report on its activities to the minister in a form approved by the minister.

- (7) The board must report cases of significant non-compliance by registered institutions in its annual report.

4 *Sections 6 is amended*

(a) by repealing paragraphs (1) (a), (b), (e), (h), (k) and (l).

(b) by adding the following section:

- (1.1) The board, by bylaw, must do the following:
 - (a) in accordance with section 8(1)(b) and 9(1)(b), establish requirements for registration and accreditation of institutions that include consideration of educational standards;
 - (b) establish on-going, outcome-based quality assurance;
 - (c) hold registered institutions accountable for the extent to which students achieve stated program outcomes for continuous improvement;
 - (d) require English as a Second or Foreign Language schools to administer pre-testing and post-testing of English through standardized tests approved by the board, to all students at the beginning and end of their programs;
 - (e) establish requirements for renewal, suspension, cancellation or reinstatement of the registration or accreditation of institutions, including providing for the suspension or cancellation of the registration or accreditation of a registered institution for late payment or non-payment of fees;
 - (f) establish requirements for imposing fines, progressive discipline and other administrative penalties under the Act;
 - (g) establish requirements for imposing limitations on the activities of a registered institutions or subjecting a registered institution to conditions;
 - (h) establish a statement of students' rights and responsibilities;
 - (i) establish requirements for the student contract.

5 *Section 8 is amended*

(a) by repealing subsections (3) and (4) and substituting the following:

- (3) Despite subsections (1) and (2), the registrar may refuse to register or renew the registration of an institution if the registrar considers this to be in the public interest in light of
 - (a) the financial standing of the institution,
 - (b) the past conduct of the institution, its officers or its employees,
 - (c) evidence that the institution might not be able to provide courses or refund money to its accepted students, or

- (d) evidence that the institution does not have the principle purpose of providing education or the capacity to provide education of a satisfactory standard.
- (4) The registrar may
 - (a) suspend the registration of a registered institution for a period and subject an registered institution to conditions the registrar considers appropriate in the circumstances,
 - (b) impose a fine on a registered institution,
 - (c) impose limitations on the activities of a registered institution,
 - (d) impose progressive discipline, including fines and administrative penalties, or
 - (e) cancel the registration of a registered institution

if the registrar is satisfied that the registered institution no longer complies with subsection (1)(b) or (c) or considers this to be in the public interest in light of the factors outlined in subsection (3).

(b) by adding the following subsections:

- (6) The registrar may investigate issues of student protection at a registered institution with or without a student complaint.
- (7) The registrar must investigate a complaint involving a registered institution initiated by a student.
- (8) A registered institution that does not comply with this section must make payments to the fund in order to reimburse the cost of investigation or enforcement.

6 Section 9 is amended by repealing subsection (2) and substituting the following:

- (2) The registrar may
 - (a) suspend the accreditation of an accredited institution for a period and subject an accredited institution to conditions the registrar considers appropriate in the circumstances,
 - (b) impose a fine on an accredited institution,
 - (c) impose limitations on the activities of an accredited institution,
 - (d) impose progressive discipline, including fines and administrative penalties, or
 - (e) cancel the registration of an accredited institution

if the registrar is satisfied that the registered institution no longer complies with subsection (1)(b) or (c) or considers this to be in the public interest in light of the any factor enumerated in section 8 (3).

- (3) An accredited institution that does not comply with this section must make payments to the fund in order to reimburse the cost of investigation or enforcement.

7 Section 10 is amended by repealing subsection (1) and replacing it with the following:

- 10 (1) A person who is affected by any of the following decisions under this Act may request, within 30 days of receiving written notice of a decision, a reconsideration of the decision by the registrar:
 - (a) a refusal by the registrar to grant registration to the person under section 8;
 - (b) a refusal by the registrar to grant accreditation to the registered institution under section 9;
 - (c) the suspension or cancellation of registration or accreditation;
 - (d) the imposition of a fine on a registered or accredited institution;
 - (e) the imposition of a limitation on the activities of a registered or accredited institution;
 - (f) the imposition of progressive discipline, including fines and administrative penalties.

8 Section 12 is amended

(a) by repealing subsection (1) and substituting the following:

- (1) The registrar may appoint inspectors for the purposes of determining whether
 - (a) it is appropriate to suspend or cancel a registration or accreditation or change the terms and conditions attached to a suspension,
 - (b) it is appropriate to impose a fine on a registered or accredited institution,
 - (c) it is appropriate to impose limitations on the activities of a registered or accredited institution,
 - (d) it is appropriate to impose progressive discipline, including fines and administrative penalties, or
 - (e) a person has failed to comply with this Act, the regulations, the bylaws, or the terms and conditions attached to a suspension or direction to limit activities.

(b) in subsection (2) by repealing paragraphs (e) and (f) and substituting the following:

- (f) use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the premises to produce a record in readable form,

- (g) inspect equipment, facilities, teaching materials and other aspects of the learning environment, or
- (h) question a person.

8 *Section 12.1 is added as follows:*

Student enrolment contract

- 12.1 (1) A registered institution must enter into a student contract prior to the commencement of the student's program of instruction.
- (2) A registered institution must provide each student a copy of a signed student enrolment contract in accordance with the regulations.
 - (3) A student contract must not exceed 18 months.
 - (4) If the student's program of instruction exceeds 18 months, then the institution and the student may enter into a student contract of 12 months duration for the first year, and a separate student contract for each subsequent year of study.
 - (5) A registered institution must include a statement of students' rights and responsibilities developed in accordance with the Act in every student enrolment contract.

9 *Section 14 is amended by adding the following subsection:*

- (3) A registered institution that is found to be non-compliant with its registration or accreditation requirement must make payments to the fund in order to reimburse the cost of the investigation and enforcement.

10 *Section 16 is amended by repealing subsection (1) and substituting the following:*

- (1) A claim against the fund must
 - (a) comply with the regulations, and
 - (b) in the case of a claim on the grounds referred to in section 15(a) and (a.1), be filed with the board within two years after the reason for the claim occurred.

11 *Section 19.1 is added as follows:*

- 19.1 (1) If
- (a) a non-registered institution provides or offers to provide career training,
 - (b) a registered institution that is not an accredited institution represents itself or allows itself to be represented as being approved by the government or accredited by the agency,

- (c) in the opinion of the board a student was misled as a result of a representation made by an institution or its agent regarding the institution or any aspect of its operations,

on the request of the student, the institution must refund the total fees paid by the student within 30 days of the date of the request and must not retain any portion as an administrative or other type of fee.

- (2) A refund required to be made under subsection (1) is recoverable as a simple contract debt.
- (3) A letter purporting to be signed by the registrar stating that, at the date the fees were paid, the institution was not registered under this Act is evidence of that fact is admissible without proof of the signature of the person who signed it.

12 Section 23 is amended

(a) by repealing subsections (1) and (2) and substituting the following:

- (1) A person is guilty of an offence who
 - (a) contravenes section 7, 12(3) or 12.1;
 - (b) fails to comply with any order, direction or other requirement made under this Act or the regulations;
 - (c) supplies false or misleading information in a document submitted under this Act;
- (2) A registered institution that fails to self-report non-compliance commits an offence.
- (2.1) A person is guilty of a separate offence for each day the person is in contravention of section 12.

(b) in subsection (4) by striking out “subsection (2)” wherever it appears and substituting “paragraph (1) (c)”.

(c) by adding the following subsection:

- (5.1) In addition to a fine, the judge may require the convicted person to pay damages or make restitution to any person who suffers loss or damages as a consequence of the commission of the offence, in such amount as the judge considers appropriate.