

# BIG CHANGES COMING TO CANADIAN FRANCHISE LEGISLATION

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Three provinces are expecting big changes in the area of franchise legislation, some of which will be more welcomed by franchisors than others:

## Ontario

Ontario is proposing an amendment to Regulation 581/100 under the *Arthur Wishart Act (Franchise Disclosure)* (the "AWA") that would make it easier for Franchisors to provide disclosure documents to prospective franchisees.

Currently, there are only two ways franchisors can deliver disclosure documents to prospective franchisees: either personally or by registered mail. The proposed amendment would allow a disclosure document to be delivered by courier or electronically.

The proposed amendment states that if the disclosure document is delivered electronically, its format must allow the recipient to view, store, retrieve and print it. The disclosure document also cannot contain links to external documents or content. If the disclosure document consists of separate electronic files, it must include an index listing the file names. Finally, electronic delivery will not be complete until the franchisor receives electronic acknowledgment of receipt from the prospective franchisee.

This amendment will make the AWA consistent with franchise legislation in Prince Edward Island, Manitoba, and New Brunswick, which already permit disclosure documents to be delivered electronically.

The proposed amendment also provides for the delivery of a notice of rescission by pre-paid courier.

The Ministry of Government and Consumer Services is seeking comments on the proposed amendment until May 2, 2016. Comments may be sent to the Ministry by emailing [businesslawpolicy@ontario.ca](mailto:businesslawpolicy@ontario.ca).

## Alberta

In Alberta, the government is considering removing an exemption in the *Franchises Act* that affects "mature" franchisors. Currently, franchisors meeting certain criteria of size and net worth and who have a proven track record are not required to disclose financial statements in their disclosure document to prospective franchisees.

If the amendment passes, mature franchisors will lose this exemption, making Alberta's *Franchises Act* inconsistent with other provincial franchise legislation, including Ontario.

### **British Columbia**

As we reported in our November 2015 bulletin, British Columbia's *Franchises Act* received royal assent in November 2015. It is expected to come into force by the end of 2016. The legislation will bring B.C.'s franchise regime in line with other Canadian jurisdictions. It remains unclear when, specifically, B.C. will proclaim its franchise legislation into force.

by W. Brad Hanna and Cara Zacks

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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