

CHANGES TO ONTARIO'S FRANCHISE LEGISLATION ARE UNDERWAY

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Ontario's *Arthur Wishart Act (Franchise Legislation)*, 2000 (the "Arthur Wishart Act") will most likely see some important changes in the coming months as a result of Bill 154, the *Cutting Unnecessary Red Tape Act, 2017*. Bill 154 was introduced on September 14, 2017 for the purpose of making it easier for businesses to grow and to streamline the regulatory environment within which they operate. Towards that end, Bill 154 proposes a repeal of some statutes, the enactment of new legislation, and amends several statutes, including the Arthur Wishart Act.

The proposed amendments to the Arthur Wishart Act largely reflect recommendations that the Ontario Business Law Advisory Council proposed earlier in 2016. Some of the key changes to the Arthur Wishart Act set out in Bill 154 include:

- Amending the definition of "franchise" to include relationships where the franchisor has the right to exercise control, rather than the actual exercise of control, over the franchisee's method of operation;
- Allowing franchisors to accept fully refundable deposits that do not exceed a prescribed amount (the prescribed amount is expected to be 20% of the initial franchise fee, as in British Columbia) without triggering the disclosure document obligation;
- Allowing franchisors to enter into non-disclosure and location agreements with prospective franchisees without triggering the disclosure document obligation (Ontario is currently the only regulated province that does not permit non-disclosure agreements to be signed before delivering a disclosure document);
- Expanding the scope of the disclosure exemption to include the grant of a franchise to a person (or a company controlled by that person) who is currently an officer or director of the franchisor (or who was an officer or director of the franchisor up to four months prior to the relevant time); and
- Clarifying the "large investment" and "*de minimis* investment" disclosure exemptions to clarify timing and the method of calculating the relevant investment amount.

Bill 154 is already in its Second Reading and is expected to proceed through the legislative process quickly.

Text for Bill 154 can be read at http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=5000.

We will continue to update you on Bill 154's progress.

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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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