



# The Register

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## Corporate

## UPDATE

### Business Corporations Act - Update

The new *Business Corporations Act* (BCA), passed in the fall of 2002, is scheduled to replace the *Company Act* in the fall of 2003. This is a very significant piece of BC business legislation and is the first major update of company law since 1973.

One of the major changes introduced is the ability to register corporate documents online. The new corporate computer system, Corporate Online (COLIN), will allow electronic registration of *amalgamations, transitions, incorporations, alterations, annual reports, change of address and change of director* for BC and Extra-Provincial Companies in its first phase. Later phases will expand the system to include registrations for *societies, cooperatives and partnerships*.

Electronic filing will be mandatory for any service that can be filed electronically. No paper documents will be accepted by the Registry. **Exception:** *All BC Company Annual Reports with an anniversary date prior to January 26, 2002, must still be submitted in paper format to the Registry.*

#### BCA Highlights

- Existing companies must make the transition to the new Act *within 2 years* of the BCA being brought into force. The transition document will be a mandatory electronic filing.
- The Corporate database can be the legal record, rather than the paper file.

- Memorandum and Articles, along with other documentation for amalgamations and alterations, will no longer be filed at the Corporate Registry. Instead, one or two page notices containing the prescribed information will be filed online.
- For specific transactions, there will be the option of choosing a date and time in the future for the transaction's effective date.
- Foreign corporations wishing to register extra-provincially in British Columbia, whose name conflicts with a name already on register, will be able to use an assumed name.
- Extra-provincial companies will no longer have to file copies of charter documents or names and addresses of directors or officers.
- Most restorations will be possible with the approval of the Registrar, not the Court.

West Coast is looking forward to providing our clients with online registration service when the BCA is implemented, as well as continuing to handle all documents that must still be submitted to the Registry in paper format. We will keep you advised on any developments and dates as they are set.

If you would like more information about the new *Business Corporations Act* or have any questions, please call Sheila Mitchell in our Victoria office at 250.405.6000 or toll-free at 1.800.667.7767 or e-mail your questions to [info@wcts.com](mailto:info@wcts.com). You may also access the *Business Corporations Act Project* website at [www.fin.gov.bc.ca/registries/colin](http://www.fin.gov.bc.ca/registries/colin).



## Corporation Capital Tax - New Forms

The *Corporation Capital Tax Act* introduced two new forms effective May 22, 2003. The *Waiver of the Assessment Period* form (FIN 468) allows a corporation to waive the normal six year reassessment period within which the Administrator may assess, reassess or make an additional assessment of tax for a taxation year under the *Corporation Capital Tax Act*. The waiver will provide a taxpayer with additional time to support amounts reported on a return related to the specific issue(s) identified on the waiver form.

The *Notice of Revocation of Waiver* (FIN 482) is for use by a corporation that wishes to revoke a Waiver of the Assessment Period previously filed with the Administrator. The waiver of the assessment period continues in effect until six months after the filing of a revocation.

For copies of these forms, please contact our Client Services department at 604.659.8686 or toll-free at 1.800.553.1936 or email your request to [info@wcts.com](mailto:info@wcts.com). Additional information is also available at the Income Tax Branch website: [www.rev.gov.bc.ca/itb/whatsnew.htm](http://www.rev.gov.bc.ca/itb/whatsnew.htm).

### Court

### UPDATE

## Divorce Files

Pursuant to **Rule 4(2)**, all documents for filing must be in English. If filing a marriage document in any language other than English, (this includes French), you must obtain a translation of the document as well as an affidavit sworn by the translator setting out the qualifications of the translator. Both the original marriage document and the original translation must be exhibited in the affidavit in order to provide a link between the translation and the document.

**Note:** The Central Divorce Registry, due to staff cutbacks and computer malfunction, now advise *clearance may take up to 13 weeks*. They also will no longer do a Central Divorce Registry search for anyone other than one of the parties to the Action *without the consent of one of the parties*.

## Court Registry Searches

### Public Access Unavailable

Due to technical problems with the *Public Access Computer System*, public access to Name and File Number computer records will not be available until the system can be fixed. It is unknown at this time how long this will take.

Public computer access in **Vancouver** currently is working. In **Victoria**, we will submit search requests to court registry staff to do them for us. However, it will be necessary to complete a Praeceptum in order to request a search. In **New Westminster**, court registry staff will not be able to do court searches for us and we will have to access the manual index books. The index books will be updated weekly.

**Note:** The New Westminster index books will only provide an *action number, limited style of cause and no date of commencement*. To get complete information, we will have to open the file. If you are not a party to the action, a disbursement of \$8.00 will apply.

### Ordering Searches

When ordering court registry searches, it is important to be as specific and as accurate as possible concerning *spelling, spacing and hyphenation*. West Coast will search and provide name variations but we will not automatically add hyphens, spaces or periods. As data entry at the Courthouses is not consistent, adding hyphens, spaces and periods can completely change the search results. If you would like these variables added to your search parameters, please specify this when requesting your search.

## Court Registry Tips

### Court of Appeal - Vancouver

- When submitting a consent order for late filing of documents, the Court of Appeal does not provide an entered copy. You may request a copy from West Coast but should wait *at least two weeks* to ensure the registry has had time to enter it.

### Matching Holds

- To ensure prompt filing of your documents, please note on your invoice if you are sending additional material to match with something we already have on hold.

## Land

## UPDATE

## Inaccurate Name Searches - BC OnLine

*Name Search results obtained between May 20th and June 9th, 2003 may be incomplete and inaccurate.*

This problem was brought to our attention when a client compared results of a Name Search done in Land after May 20th to results from a search done prior to that date. Certain entries that had appeared previously were missing from the follow-up search.

When we contacted BC OnLine, we were advised that they were aware of the situation and they believed the problem occurred when changes were made to the Land Title Search programs to consolidate the Land Districts databases. They indicated that they were not certain how widespread the problem was and did not know if all searches of all names in the database would result in incomplete results.

*BC OnLine now advises that the integrity of their database has been re-established.*



## How to Release Secured Party Notices in Land

The *Personal Property Security Act* replaced the *Sale of Goods on Condition Act* on October 1, 1990. The *Sale of Goods on Condition Act* replaced the *Conditional Sales Act* on July 1, 1973.

### Conditional Sales Act Notice

- To release a *Conditional Sales Act* Notice filed prior to July 1, 1973, use a PPSA Form 2 with a *Land Title Act* Form 17. **Note:** A *Conditional Sales Act* Notice did not efflux.

### Sale of Goods on Condition Act Notice

- To release a *Sale of Goods on Condition Act* Notice filed after July 1, 1973, use a *Land Title Act* Form 17 stating "Release of Sale of Goods on Condition Act Notice # \_\_\_ by effluxion of time". **Note:** A *Sale of Goods on Condition Act* Notice effluxed after 3 years.

### PPSA Notice

- To release a *Personal Property Security Act* Notice, use a PPSA Form 2 with a *Land Title Act* Form 17.
- If the time period has effluxed, use a *Land Title Act* Form 17 stating "Release of PPSA Notice # \_\_\_ by effluxion of time".

## Sending Documents to the Correct LTO

Changes were recently implemented in the Land Title search programs on BC OnLine to consolidate the separate land district databases into a single database. Now it is no longer necessary to specify the appropriate land district in order to produce search results.

Consequently, do not rely solely on the legal description to determine the correct LTO where your registration documents should be filed. It is more important to doublecheck the "*Land Title Office*" location on your title search than the "*Taxation Authority*" section of the legal description.

## Determinable Fee Simple

### Background

A *determinable fee simple* is a freehold estate in land that determines or comes to an end automatically upon the happening of the event specified in the words of limitation, e.g., "for so long as the Church of St. Andrew shall stand". The specified event must be one that may never happen, otherwise the estate would not be a fee simple. Examples of words of limitation that indicate duration are "for so long as", "during", "while" and "until". Once granted, the grantor has the possibility of acquiring a vested estate in the property in the future, e.g., if the Church of Saint Andrew ceases to exist, the property would revert back to the grantor. This is called a *possibility of reverter*.

A *determinable fee simple* title will always have a *possibility of reverter* registered as a charge against it. Often the title will indicate that the registered owner in fee simple only owns an undivided interest in the whole lot, with the fractional interest being a very high number, and the whole lot having many separate titles.

### How To Transfer

To transfer an owner's undivided interest in a determinable fee simple title, use a Form A transfer:

- In **Item 2**, enter the PID number and the legal description and indicate the fractional interest being transferred
- Also in **Item 2**, state the *possibility of reverter* number below the legal description. This is required in order to clarify which title is being dealt with.
- In **Item 5**, indicate *determinable fee simple*, rather than just fee simple.

**Note:** Reference to the undivided interest goes only in Item 2 with the legal description; it must not be shown in Item 5 with the Transferor or in Item 6 with the Transferee.

## Tax Information Update

- Effective June 1, 2003, the disbursement for a **Vancouver** tax certificate increased to \$45.00 from \$35.00.
- Turnaround times vary from 1 day to 3 days. If you provide a **roll number**, your turnaround time may be faster.

## LTO To Remain In New Westminster

On Monday, June 2, 2003, the Honourable Stan Hagen, Minister of Sustainable Resources, announced his decision that *centralized Land Title services would remain in the Lower Mainland Land Title Office in New Westminster*.

A proposal had been made to the Minister by a local committee of Kamloops business representatives to centralize the Land Title Office in Kamloops. On May 22nd, local lobbyists from New Westminster and the Lower Mainland (including representation from the Law Society, the GVRD, Department of Justice, Canadian Bar Association-Real Property Section, Lower Mainland Municipalities and Cities, Surveyors, Realtors and Title Search Companies) made a strong presentation to Mr. Hagen for keeping the consolidated Land Title Office in New Westminster.

After considering both proposals, Mr. Hagen announced that the Ministry would continue with its original plan to keep the main Land Title Office in New Westminster while also keeping smaller offices in **Kamloops** and **Victoria**. It is anticipated that the front counters of the Kamloops and Victoria offices will be closed to the Public but that the back offices will continue to be staffed by government personnel. There has been no announcement made as yet concerning where the original records (e.g. plans and absolute title registers) of these two Land Title Offices will be kept.



## Asked & Answered ~ A Process Serving Question

**Question:** *I've sent the Notice of Claim and a blank Reply form to the Defendant by registered mail. How do I prove service?*

**Answer:** A *certificate of charge*, together with a print-out of the delivery information made available on the Internet by Canada Post ([www.canadapost.ca/segment-e.asp](http://www.canadapost.ca/segment-e.asp)) and a copy of the document(s) served will be sufficient to prove service. Alternatively, a *certificate of service* with a copy of the signature obtained by Canada Post at the time of delivery (produced by fax or otherwise) and a copy of the document(s) served will suffice. [Rule 18 (14)(b)]

*Our managers are pleased to answer your questions and to assist you with any problems you may have. As a service to all our clients, we will publish the answers to our most frequently asked questions.*

*"You asked . . . We answered."*

### Keeping you Informed

Below is a list of memorandums and notices that we have sent out since our last newsletter. For additional copies, please call our Client Services department at 604.659.8686 or toll free at 1.800.553.1936. You may also view these on our website [www.wcts.com](http://www.wcts.com) under the *News and Updates* button or e-mail your request to [info@wcts.com](mailto:info@wcts.com).

#### COURT

- **March 23, 2003** - Masters and Judges Chambers for Victoria Supreme Court
- **April 8, 2003** - Court of Appeal Changes
- **May 6, 2003** - Interest Calculations on Default Judgment
- **May 14, 2003** - New Westminster Trial Scheduling
- **May 16, 2003** - Nanaimo Masters Chambers - June 1, 2003 to November 1, 2003
- **May 21, 2003** - Registrar's Certificate of Pleadings
- **May 26, 2003** - Revised Unavailable Date for the Master in the Month of June 2003

#### LAND

- **June 16, 2003** - Inaccurate Name Searches - BC OnLine

### E-Mail Service

[info@wcts.com](mailto:info@wcts.com)

Work requests may also be sent to us via e-mail to [info@wcts.com](mailto:info@wcts.com). These requests will be received in our New Westminster office and forwarded to the appropriate West Coast office where your work request will be processed. **Our office staff will forward confirmation by e-mail, generally within five minutes, so that you will know that your request has been received.**

If you do not receive confirmation from us within 15 minutes, please contact Marian Bragg or Helen Ternan in our New Westminster office at 604.659.8600 or toll-free at 1.800.553.1936.



 **The Register**

*The Register* is the newsletter of **West Coast Title Search Ltd.** It is available free of charge and we encourage you to use the information to assist you with your work.

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