



The Register

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Court

UPDATE

Supreme Court Rule Changes

Amendments to the Supreme Court Rules were approved and ordered on May 6, 2004, by Order in Council No. 444. These changes will become *effective July 1, 2004*.

Many of the amendments are merely cosmetic changes which involve deleting and substituting a word in certain Rules, *for example*, amending Rule 11(2)(b) by striking out "Company Act" and substituting "Business Corporations Act". Other Rules are more significantly affected. Some highlights include:

Rule 39 – Trial

New Subrules

Rule 39 is amended by substituting a new subrule (5) and adding **two** new subrules.

- Subrule (5) - *Registry*;
- Subrule (5.1) - *If trial is held in a different registry*; and
- Subrule (5.2) - *Stamped application for a trial to be filed*.

New Form - Form 36A

To accommodate the new subrule (5.1) a new statutory form must now be used.

- If a trial is to be held in a registry other than the registry where the writ was issued, the party must file a Form 36A - *Application For Trial Date* with the registry where the trial is to be held.

Rule 40 – Evidence and Procedure at Trial

New Subrules

Rule 40 is amended by adding **one** new subrule.

- Subrule (12.1) - *Numbering exhibit pages*. This new subrule refers to exhibits used in trials, not exhibits to affidavits.
- If a copy of a document is introduced as an exhibit, or if the exhibit is divided by tabs, each page of the exhibit must be numbered sequentially.

Rule 60 – Divorce and Family Law

New Subrules

Rule 60 is amended by adding **three** new subrules.

- Subrule (41.1) - *Electronic court docket information available*;
- Subrule (41.2) - *Access to information*; and
- Subrule (41.3) - *Limitation*.

Praecipes

Another significant change is substituting the word "requisition" for the word "praecipe" wherever it appears in various Rules as well as in *Form 2*, *Form 56* and in *Schedule 1 of Appendix C (Item 11)*.

If you would like a full copy of Order in Council No. 444, please contact Kelly Buziak in our Client Services department at 604.659.8610 or toll free at 1.800.553.1936. You may also e-mail your request to info@wcts.com.

Divorce Certificates

How To Order

When requesting a Certificate of Divorce, the Court requires a *requisition* (formerly *praecipe*), a copy of the *divorce order* and the prepared *certificate of divorce* form. The wording on the Certificate of Divorce must match exactly the wording on the order with regards to *names, place and date of marriage*. The date the marriage was dissolved must also be completed. **Note:** For **Vancouver** Court, you must give consent on your requisition (formerly *praecipe*), for West Coast to pick up your Certificate of Divorce.

Calculating Dissolved Date

A marriage is deemed to be dissolved 31 days from the date on which the order was signed. To calculate the correct dissolved date for a 31 day month, choose the **same date** on which the order was signed for the following month. *For example*, for an order signed on March 16, the dissolved date is April 16. For a 30 day month, choose **one day later** than the date on which the order was signed for the following month. *For example*, for an order signed on April 16, the dissolved date is May 17. Another way of calculating the dissolved date is to think of the date the order was signed as day zero and then count forward 31 days.

Central Probate Court Searches

Because of the new electronic search system, CIES (*Civil Integrated Electronic System*), introduced into the Court Registries a few months ago, all central probate searches must now be done in **Victoria**. Our Court staff in Vancouver and New Westminster are no longer able to conduct these searches for you. Please fax all central probate search requests to our Victoria office at 1.250.383.1614 or e-mail your request to info@wcts.com and our Victoria staff will be pleased to assist you.

Marriage Certificates

Vancouver and New Westminster Courts now have different procedures for retrieving a marriage certificate after the divorce is effective and the appeal period has expired. In *Vancouver*, the party who filed the marriage certificate must apply to the Court to have it returned. This is done either by Desk Order or by speaking to a Notice of Motion. In *New Westminster*, it is sufficient to file a requisition (formerly *praecipe*) requesting the return of the certificate and authorizing your agent to pick it up.

Amending Statement of Defence

If you have filed a Statement of Defence and now wish to amend it, but the only amendment is the addition of a Counterclaim, *Vancouver* court requires that a Counterclaim be filed, not an amended Statement of Defence. *New Westminster* court as yet does not have a position on this matter.

Different Courts / Different Procedures

When calling West Coast for information about court procedures and filing requirements, please call our staff in the relevant office to ensure that you receive the most current and correct information. The Court Registries in Vancouver, New Westminster and outlying areas are not always consistent in their procedures and requirements. We recently had a situation where a client called our staff in Vancouver and were given an answer that was correct for Vancouver court but it was a New Westminster court action and the documents were subsequently rejected by New Westminster court staff.

Federal Court Update

Summer hours for Federal Court will commence on Friday, July 2nd through to Monday, August 31, 2004. Hours of operation for those two months will be from 8 a.m. to 4 p.m.

Vital Stats UPDATE

Vital Statistics Amendment Act, 2004

The *Vital Statistics Amendment Act, 2004* (Bill 43) came into force on June 4, 2004. The amendments, which were a result of security recommendations resulting from the September 2001 terrorist attacks, affect how *birth and marriage* certificates can be obtained. Agents and lawyers are no longer able to apply on behalf of clients *without their written authority*, and this authority cannot be transferred to a third party. All applications for birth and marriage certificates are now required to be signed by the subject of the event or qualified applicant, or be accompanied by a separate written authorization for release to the specified party. Parents and spouses may no longer apply for birth certificates of their spouses or adult children without their written consent.

If West Coast is submitting your application for a birth or marriage certificate, we will need consent from the individual involved authorizing West Coast to submit the application and to pick up the certificate. The lawyer is no longer able to give consent on behalf of his client. Even if the individual requesting the certificate signs the application form, we will still need a written consent from the applicant authorizing West Coast to pick up the certificate.

If you would like more information about these changes or have any questions, please call Mel Gantly or Moira Millar in our Victoria office at 405.6000 or toll free at 1.800.667.7767 or e-mail your request to info@wcts.com. You may also access the *Vital Statistics Amendment Act, 2004, (Bill 43)* at www.legis.gov.bc.ca/37th5th/3rd_read/gov43-3.htm.

Corporate UPDATE

Business Corporations Act (BCA) - Update

The BCA came into effect on March 29, 2004. As previously announced, all BC companies must be transitioned to the new Act *within 2 years*. Here are a few tips to remember when preparing your documents for filing under the new BCA:

Form 2 - Notice of Change of Address

- Form 2 is used where a Form 4 was formerly used. Forms 3 and 5 are used when the change of address is being done *without the* knowledge of the company and thus will require an affidavit or court order to be submitted with the forms.

Form 6 - Annual Report

- When sending your annual report to us for filing, please forward a completed Form 6 along with the "reminder" issued by the Registry. Having this information when we file the annual report will help us to verify the data on the system. If only the "reminder" is sent, we will just file the annual report assuming that the information presently on the system is the correct information. **Note:** A "reminder" is all that is issued now in place of the annual report form that was previously generated.

Form 10 - Notice of Change of Directors

- If you only want to change the address of an existing director, there is no disbursement to file the form online.

Form 11 - Notice of Alteration

- The date that the resolution was passed must be inserted in Section **H** of the Form 11.

Form 33 - Registration Statement

- For extraprovincial companies whose home jurisdiction is *outside of Canada*, proof of existence (e.g. certificate of status), either original or certified by the foreign entity's home jurisdiction, must be attached to the Form 33.

Certified Copies of Registration Documents

- If you are doing your own online registrations/filings but are having West Coast listed as the party picking up the documents, please advise us by phone, fax or e-mail so that we know to whom we are to return the documents. If there is no identifying information on the documents (e.g. registered and/or records office address) that matches to our client base, or is listed in the BC Legal Directory, we will not know where to return the documents.

Continuations In/Consents

- Any consent that pertains to an online registration must be received by the Registry prior to the registration being done. Once the consent is entered into the registry system, the name will be "unlocked" and the online registration can proceed. Without the consent being received by the Registry, the online registration will be blocked.

Microfiche Searches for Proprietor/Partner

Recently the Registrar of Companies advised that until further notice, there will be no *microfiche records* maintained at the Corporate Registry to search individual/company names for proprietorships or partnerships. The microfiche records have now been removed for updating and there is no word when, or if, new ones will become available. This does not affect the availability of partnership or proprietorship searches, only the searching of firms by the name of the individual/company shown as responsible for the firm.

Motor Vehicle UPDATE

MV Searches and Certified Requests

Due to Privacy Act regulations in **Alberta**, Alberta motor vehicle searches and certified requests have become much more restricted. A party wishing to search the Department of Motor Vehicles for particular reasons must now apply to the Alberta Government for a Motor Vehicle ID number (MVID). You must state on the application form your reasons for needing an MVID and for what purposes the information would be used. This application process takes about 6 weeks. Once you have the MVID, you are able to request MV searches directly from an authorized agent who has access to this information. West Coast would be pleased to provide you with the MVID application form and the name of an authorized agent in Alberta.

PTT UPDATE

Ordering PTT Forms

West Coast maintains only a minimal supply of each of the *General* (Green), *Special* (Yellow) and *First Time Home Buyer* (Blue) Property Transfer Tax Return forms in our New Westminster and Victoria offices. If you contact us for some PTT forms, we will be happy to send you enough forms to complete your file.

To order a larger quantity of PTT forms, please call the *Forms Order Line* of the Property Transfer Tax Branch at their *new phone number* at 250.387.2183. As the order line is an automated service, just state your company name, postal address, the kind of PTT forms you require and the quantity, and the forms will be mailed to you within a few days. You may also fax your request to 250.356.2550. **Note:** *There is no fee for this service.*

Land UPDATE

Company Change of Name

Due to recent changes implemented by the Corporate Registry to their new database, Land Title Office examiners no longer have the same access to company records. They can still confirm that a company is registered with the Corporate Registry but if there has been a name change for the company, they can no longer make the historical connection between the current name and the previous name.

Simple Change of Name

Previously, if there had been a **simple change of name**, the Land Title Office would have accepted the “current name of the company formerly known as the previous name of the company” on documents without requiring supporting evidence. Now, the Land Title Office will require a copy of the change of name certificate in support of the document where the new name of the company has been used.

Amalgamation

In the case of a change of name by way of **amalgamation**, Land Title Office practice has not changed. An application to change the name of the company, together with a *Special Property Transfer Tax Return* (Code 37) must first be filed before any subsequent transactions can take place.

Incorporation Numbers

To determine whether you are dealing with a simple change of name or an amalgamation, look at the *incorporation number* for the company. If the incorporation number is the *same*, but the name is different, then it is a **simple change of name**. If the incorporation number is *different*, but the name is the same (or different), then it is an **amalgamation**.

Victoria LTO to Remain Open

In early May, the Minister of Sustainable Resource Management, George Abbott, announced that the provincial government would no longer proceed with the closure of the Victoria Land Title Office as previously planned. Initially, the closure had been scheduled for April, 2004 and then postponed until July, 2004. **The Victoria Land Title Office will now remain open to the public** and will continue to maintain its own records and conduct its own business for the *City of Victoria*, *Vancouver Island* and the *Gulf Islands*.

The **Lower Mainland** Land Title Office will continue to maintain all records for *Vancouver*, *New Westminster*, *Prince Rupert* and *Prince George*. The **Kamloops** Land Title Office will continue to maintain all records for *Kamloops* and *Nelson*.

Land Title Offices to Become a Non-Profit Authority

Although there will continue to be **three** land title offices for the province, they will no longer come under the direct control of the provincial government. The responsibility for their operation and maintenance will be turned over to a non-profit independent authority. No date as yet has been determined when the transfer of authority will take place.

Although no decision has yet been finalized as to how many members will comprise the board of the independent authority, it is expected that members will be appointed by the Law Society, the provincial government, the First Nations Summit, the Association of Notaries Public, the Association of Land Surveyors, the BC Real Estate Association and the BC Union of Municipalities. It has been confirmed that the *British Columbia Association of Professional Registry Agents* (BCAPRA) will also have one of their members added to the board.

New Marking Up Transaction Code

The Land Title Branch recently announced that they will be using a new transaction code for marking up and registering a **modification of a charge**. Previously, modifications of a charge were marked up and registered using the same transaction type as that of the originating charge. *For example*, a modification of mortgage was marked up as a mortgage when it was pending and then subsequently endorsed on title as a mortgage upon final registration. Now the practice for all Land Title Offices will be to use the specific transaction type of *modification* where applicable.

The only exemption to this new practice will be where the modification results in the creation of a separate derivative charge, e.g. an *extension* of mortgage over additional lands. In these instances, the charge will be endorsed on title as a *mortgage* (rather than a modification) as it creates an interest in land separate from the originating charge.

Withdrawing Documents

All Land Title Offices will now accept a **fax transmission** of a letter of complete withdrawal of a pending application. At one time, only an original letter in paper format was acceptable. Although the letter may be faxed directly to the Land Title Office, it was suggested that the applicant contact their land title agent to facilitate the withdrawal request in a more timely manner.

Your letter of complete withdrawal should include the PID number and the registration number of the pending application. In order to ensure that the withdrawn document is returned to you via your agent, rather than being mailed to you, your letter should also indicate that you would like the document returned “*via my agents, West Coast Title Search Ltd*”. **Note: It is not necessary to follow up with an original letter of withdrawal. The faxed letter will be sufficient for LTO purposes.**

E-Mail Alert

- *If you are e-mailing replacement pages for an ongoing land registration file, our office staff will send confirmation that your e-mail has been received. **If you do not receive confirmation from us within 15 minutes**, please contact Marian Bragg or Patt Kerr in our New Westminster office at 604.659.8600 or toll free at 1.800.553.1936.*
- *Please do not send instructions to release a Hold via e-mail. To ensure your request is dealt with immediately, please phone the appropriate West Coast Office that is handling your land registration file.*

West Coast

UPDATE

Internet Interruptions

Did your internet system go down on June 11, 2004?

At approximately 1:10 p.m. on Friday, June 11th, 2004 the Telus ATM switch in their Vancouver Central office failed, bringing down all ADSL services running through the ATM switch. Telus and many other internet service providers and their clients were affected, including West Coast. As these internet interruptions often happen at critical times, West Coast recently implemented a back-up plan to deal with this situation.

You can rely on West Coast!

If our internet service is interrupted for any length of time, we simply switch all of our Lower Mainland systems to our back-up internet source. *This means we can be up and running in less than 20 minutes, as we were on June 11th.* We will soon be expanding our back-up plan to also include our Victoria office. With these contingency plans in place, we hope this will cut down on lengthy service interruptions and make sure your work is not delayed.



West Coast Staff ANNIVERSARIES



West Coast is very pleased to announce that two more staff members have recently celebrated significant **anniversary milestones**. On behalf of Wayne Crookes, Owner/President and all the staff, we would like to congratulate both Nestor and Helen for their many years of dedicated service and say *"Thank You For a Job Well Done!"*



Nestor Picardal - Vancouver Messenger/Process Server
10 Years - February 7, 2004



Helen Ternan - New Westminster Front Office
15 Years - June 5, 2004

Asked & Answered ~ A Process Serving Question

Question: *Is it necessary to have a photograph to serve a Writ of Summons/Statement of Claim in a Family Law Proceeding?*

Answer: When serving a Writ of Summons with Statement of Claim in a Family Law proceeding, simple admission from the respondent that he/she is the proper person to be served is not sufficient. The process server will either need to have a photograph of the respondent or ask the party being served for photo identification. The Affidavit of Service must include *either* the photograph of the respondent *or* state that the process server obtained the respondent's photo identification (e.g., Driver's license, BC ID card, Passport, etc.) and include the number.

If you have questions you would like answered in our next Newsletter, please contact the appropriate West Coast department manager.

"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 604.659.8610 or toll free at 1.800.553.1936. You may also view these on our website at www.wcts.com under the *News and Updates* button or e-mail your request to info@wcts.com.

CORPORATE

- **April 19, 2004** - Are Corporate Online Filings Taking Up Your Valuable Time?

COURT

- **March 31, 2004** - Increase in Fees for Civil Jury Trials
- **April 6, 2004** - Applications for Restoration (BCA)
- **April 28, 2004** - Court of Appeal Registry Dates
- **May 7, 2004** - Master Sittings for July, August and September of 2004

LAND

- **June 17, 2004** - LTO Government Fees to Increase, Effective June 28, 2004

E-Mail Service

info@wcts.com

In addition to sending work requests via our run system or by fax, work requests may be sent via e-mail to info@wcts.com. These requests will be received in our New Westminster office and forwarded to the department where your work will be processed. We will e-mail confirmation, *generally within five minutes*, so that you will know your request has been received.

If you do not receive confirmation from us **within 15 minutes**, please contact Marian Bragg or Patt Kerr at 604.659.8600 or toll-free at 1.800.553.1936.



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.

West Coast Title Search Ltd.

Website: www.wcts.com
E-Mail: info@wcts.com

99 Sixth Street
New Westminster, BC V3L 5H8
604.659.8600 Fax 604.525.2593
Toll Free: 1.800.553.1936

840 Howe Street - Suite 100
Vancouver, BC V6Z 2L2
604.659.8700 Fax 604.682.5793
Toll Free: 1.800.806.2788

754 Broughton Street - Suite 100
Victoria, BC V8W 1E1
250.405.6000 Fax 250.383.1614
Toll Free: 1.800.667.7767



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