



# The Register

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## Corporate

## UPDATE

### Business Corporations Regulation - Amended

Order in Council 691/2004, approved and ordered July 7, 2004, amended the *Business Corporations Regulation*. Some of the sections that were amended or added are highlighted below:

#### Section 2(1) & 2(2) - AMENDED - Prescribed Addresses

*This section was amended to state more clearly what is an acceptable delivery address for an office or how a director or officer of a company selects a prescribed address.*

- **Section 2(1)** states that “*delivery address means, for an office, the location of that office identified by an address that describes a unique and identifiable location that is accessible to the public during statutory business hours for the delivery of records, but does not include a post office box*”.
- **Section 2(2)** states that the prescribed address selected by a director or officer of a company must be either “(a) the delivery address and, if different, the mailing address for the office at which the individual can usually be served with records during statutory business hours or (b) the delivery address and, if different, the mailing address of the individual’s residence”.

#### Section 7.1 - NEW - Incorporation Numbers

*This section deals with how to show incorporation numbers on legal documents.*

- **Section 7.1(1)** states that “*incorporation number means, in relation*

*to a company, the unique combination of alphabetic characters and numerals attributed to the company on its recognition under the Act or a former Companies Act, and includes any amendments to that combination of alphabetic characters and numerals effected by the registrar for the better functioning of the registry”.*

- **Sections 7.1(2) & 7.1(3)** deal with the acceptability of abbreviating incorporation numbers by removing either or both of the alphabetic characters and the zeros. *For example*, an incorporation number may be shown as either “BC0123456” or “0123456” or “123456”.

#### Section 41.1 - NEW - Identifying Names of Shares

*This section deals with situations where a company that is transitioning or post-restoration transitioning must give unique share names to previously unnamed shares.*

- **Section 41.1** states that “*if a pre-existing company wishing to file with the registrar a post-restoration transition application... or a transition application... has shares that do not have an identifying name, those shares must... be given a unique identifying name in the notice of articles that is contained within that post-restoration transition application or transition application, as the case may be*”.

The unofficial consolidation of the *Business Corporations Regulation* may be viewed at [www.qp.gov.bc.ca/statreg/reg/B/65\\_2004.htm](http://www.qp.gov.bc.ca/statreg/reg/B/65_2004.htm). To obtain a copy of the Order in Council showing all amendments, 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](mailto:info@wcts.com).

## Certified Copies

Certified copies from the Corporate Registry can be obtained on a regular basis *usually within 24 hours*, depending on work volumes and staffing levels. Registry disbursements of \$25.00 plus 50¢ per page copied apply for each document certified or each package of documents certified. If you require certified copies on a *priority basis*, the Registry charges an additional \$100.00 for each document certified separately or each package of documents certified. West Coast fees are \$15.00 per request plus GST. **Note:** *When ordering certified copies, please call ahead to confirm current turnaround times for the Registry.*

## Microfiche Searches for Proprietor/Partner

In the June issue of *The Register*, we advised that the *microfiche records* maintained at the Corporate Registry to search individual and/or company names for proprietorships or partnerships had been removed for updating. We are pleased to advise that the updating of the microfiche records has now been completed and we are once again able to search firms by the name of the individual/company shown as responsible for the firm.

## Court

## UPDATE

## Appointments for Registrar's Hearings

The *Vancouver* Court Registry now requires an *original plus one copy* of the Appointment for all Registrar's hearings. This has always been the procedure in the *New Westminster* Court Registry. Consequently, if you wish to have a filed copy returned to you, please include at least two copies with the original Appointment. **Note:** In *New Westminster*, attachments to the Appointment are required for the original and all copies. In *Vancouver*, attachments are only necessary for the original Appointment and, if applicable, for the service copy.

## New Westminster Court - Backlog

The *New Westminster* Court Registry is experiencing several problems with turnaround times due to current staff shortages. It is now taking a minimum of six weeks for **Chambers orders** and up to three months for **Trial orders** to become available. In addition, there is also a backlog of data entry in the Court Registry which means that **court searches** are often only current to two weeks prior to the search date, and filed documents are often not put into the court file for more than a week. The Registry is aware of the situation and they are doing their very best to address these issues of delay.

## Related Actions in Chambers or at Trial

The *New Westminster* Court Registry will not accept documents with more than one action number and style of cause as only an original document for an action can be put into the court file. Consequently, if you are undertaking a hearing on related actions in Chambers or at Trial, the appropriate material must be filed separately for each action. This means that you will have to either create a separate notice of motion and affidavits for each action (even though they may be almost identical), or you must choose the one particular action under which you would like all the materials filed. **Note:** *The court order can only be made in the action in which the notices of motion were filed.*

## Requisition vs Praecepte

Just a reminder that, pursuant to Supreme Court Rule changes made effective July 1, 2004, the word *Praecepte* no longer exists. The word *Praecepte* has been replaced by the word *Requisition* wherever it appears in the Rules, as well as on the various versions of Form 2 and Form 56. **Note:** *If your forms do not reflect the correct word, Requisition, the Court Registries will not accept your documents.*

## Process Serving UPDATE

### Process Serving Tips

#### Service on an Extra Provincial Company

When serving an extra provincial company, it is no longer necessary to personally serve the attorney for the extra provincial company. Although this method is preferred, Section 9(2) of the *Business Corporations Act* allows for documents to be left at the delivery address or mailed by registered mail to the mailing address shown for the *attorney* in the corporate register.

Documents may also be delivered to the delivery address or mailed by registered mail to the mailing address shown for the *head office* of the extra provincial company in the corporate register if that head office is in British Columbia.

#### Service Outside British Columbia

When serving a Supreme Court originating process or other document outside British Columbia, it is necessary to include a **Form 6 - Endorsement On Originating Process For Service Outside British Columbia** with the document and also with the copy that will be attached as the exhibit to the Affidavit of Service. (Rule 13(2))

### ★ Free Process Serving Guide ★

*Whether it is your first day on the job or you are an experienced legal secretary, this guide is a great reference tool.*

To obtain a complimentary copy of our exclusive *Practical Guide to Process Serving in British Columbia*, please contact our Client Services department at 604.659.8610 or toll-free at 1.800.553.1936 or e-mail your request to [info@wcts.com](mailto:info@wcts.com).

## Land

## UPDATE

## Incorporation Numbers on Land Documents

Under the new *Business Corporations Act*, incorporation numbers for companies registered in British Columbia are comprised of both alphabetic characters and numerals. The letter prefix "BC" now precedes the sequence of numerals in the incorporation number. As well, the numerals may be preceded by one or more zeros as the incorporation number must comprise seven digits. For land purposes, however, it is acceptable to show the incorporation number without the alphabetic characters and/or the zeros. *For example*, an incorporation number may be shown as either "BC0123456" or "0123456" or "123456".

## Multiple Parcels on Form A Transfers

Sections 158(1) and 178(2) of the *Land Title Act* allow the Registrar to limit the number of parcels on a freehold transfer to **one parcel**. The Form A Transfer contemplates this restriction to one parcel by its use of the singular in the heading of "Parcel Identifier and Legal Description of Land" in Item 2. This is the current practice in the Lower Mainland Land Title Office for all properties located in the land districts of *Vancouver*, *New Westminster* and *Prince George*. **However, there is an exception for properties located in the land district of *Prince Rupert*.**

The practice in the *Prince Rupert* Land Title Office (prior to its amalgamation with the Prince George Land Title Office in 1997 and with the Lower Mainland Land Title Office in 2002) had been to include more than one legal description on a Form A Transfer *where only one tax assessment was issued and where there was only one civic address*. This practice has been allowed to continue for Prince Rupert properties only. However, reference to there

being only *one tax assessment and one civic address* should be stated in Item 1 of the Form A. If this statement does not appear, the Land Title Office may require separate Form A Transfers to be filed.

**Note:** A separate registration number must still be obtained for each parcel and fees of \$64.75 must be submitted for each parcel. You may file either a single Property Transfer Tax Return or a separate Property Transfer Tax Return for each parcel.

## Releases and Title Searches

In order for us to do a thorough pre-inspection of your release prior to filing, we require a copy of the title or state of title certificate (STC) to be enclosed with your document. This allows us to check your release against the title to ensure that the release has been completed correctly as to *name of lender*, *legal description* and *history of charge*.

Our procedure has always been to print a copy of the title if it has not been enclosed with your release unless you indicated on your invoice "No Pre/No Print". However, as BC Online search fees have continued to increase over the years, we now feel that this procedure adds an extra expense that you may no longer wish to incur for your clients. Therefore, **effective immediately, if you do not enclose a copy of your title/STC with your release, we will no longer print a copy of the title unless specifically requested to do so.**

## Digital Signature Fees

Effective August 15, 2004, the Law Society of British Columbia now charges a fee of **\$2.50 plus GST** for each Juricert digital signature affixed to documents filed electronically through EFS (*Electronic Filing System*). This digital signature fee applies to a Form A Transfer, Form B Mortgage and Form C Charge and Release. **Note:** This fee will be charged to the BC OnLine account of the submitting party.

## Execution of Land Documents

"Who qualifies as an officer?" is one of the most common questions that we, as Land Title Agents, are asked. Problems most often arise when documents are sent out of province to be executed. Listed below are some of the most frequently asked questions we receive, along with their corresponding answers.

**Q. Who qualifies as an officer?**

**A.** An officer is a person authorized by the *Evidence Act* to take affidavits. Sections 56 to 69 of the *Evidence Act* deal specifically with who qualifies as an officer for the taking of affidavits.

**Q. Are commissioners for taking affidavits in provinces other than British Columbia acceptable officers?**

**A.** Only commissioners for taking affidavits *who are authorized by the laws of British Columbia to take affidavits* are acceptable officers. (s.60(g)) However, the Land Title Office will accept a person in his/her capacity as a "Commissioner authorized to administer oaths in the courts of justice of \_\_\_\_\_ (specify country or state)" as an acceptable officer. (s.60(a))

**Q. Are all barristers and solicitors acceptable officers?**

- A.**
- Barristers and solicitors in **British Columbia** are accepted as officers. (s.60(d))
  - Barristers and solicitors in **Canada** are accepted as officers because they are recognized as "officers of a court of justice". (s.63(a))
  - Barristers and solicitors **outside Canada** are not accepted as officers unless they are also able to state that they are a Notary Public (s.63(f)) or a "Commissioner authorized to administer oaths in the courts of justice of \_\_\_\_\_ (specify country or state)". (s.63(a))

## Asked & Answered ~ A Court Question

**Question:** *How do I choose between “unopposed”, “without notice” or “by consent” on a Notice of Hearing?*

**Answer:** If the opposing party did not deliver a Response in Form 124 within the time frame allowed by Rule 51A, the application is “**unopposed**”, as they are no longer considered to be a respondent.

If the opposing party agrees to the relief sought in the Notice of Motion, the application is “**by consent**”.

“**Without Notice**” replaces what was formerly known as “**ex parte**”. This is used when the application does not require notice to other parties. The Notice of Motion should also reflect this by adding the words, “Without Notice” either above the heading of the document or in the “To \_\_\_\_\_” spot.

*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](http://www.wcts.com) under the *News and Updates* button or e-mail your request to [info@wcts.com](mailto:info@wcts.com).

#### COURT

- **June 11, 2004** - Fees Required in Estate Applications
- **June 14, 2004** - Process of Probate Documents Changing
- **June 22, 2004** - Filing Procedure Changes for Estate Applications and Probate Fee Act
- **September 1, 2004** - Processing and Entry of Provincial Family Orders
- **September 2, 2004** - Master Sittings in Victoria for October, November & December 2004
- **September 8, 2004** - 4 Day Trials & Judges Chambers (Conference & Xmas Sittings)

#### LAND

- **June 24, 2004** - Land Title Fee Changes
- **July 20, 2004** - Land Applications Affecting More Than One Land Title Office

### E-Mail Service

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



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