



The Register

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Victoria

UPDATE

Registry Statutes Amendment Act, 2002

The *Registry Statutes Amendment Act, 2002* (Bill 20) (the "Amendment Act") passed third reading on April 9th, 2002, and came into force by regulation of the Lieutenant Governor in Council in July, 2002. The *Registry Statutes Amendment Act* affects the *Company Act*, the *Manufactured Home Act*, the *Partnership Act* and the *Personal Property Security Act*. The Amendment Act basically deals with "the manner and form in which, and the method by which, records and information may be provided or submitted to, or provided or certified by the registrar..." Many of the changes to the various Acts pave the way for electronic filing in those registries. A complete copy of Bill 20 may be viewed on the Legislative Assembly's website at www.legis.gov.bc.ca under the link *Bills – 3rd Reading*.

Personal Property Security Regulation

The *Personal Property Security Regulation* B.C. Reg 279/90 was repealed by Order in Council No. 697 on July 27, 2002 and a new *Personal Property Security Regulation* B.C. Reg 227/2002 was made. The new regulation specifically amends various forms prescribed under the *Personal Property Security Act* by deleting the various barcoded forms previously required for registration, e.g. Financing/Transition/Repairers Lien/Change/Verification Financing Change statements and their respective schedules.

The prescribed forms are now numbered as follows:

- Form 1** - *Notice of a Security Interest in Fixtures or Growing Crops* (formerly PPSA Form 16)
- Form 2** - *Notice Affecting a Notice of a Security Interest in Fixtures or Growing Crops* (formerly PPSA Form 17)
- Form 3** - *Secured/Registering Party Codes Application & Change* (formerly PPSA Form 13)
- Form 4** - *Demand for Discharge Under the Personal Property Security Act* (formerly PPSA Form 14)
- Form 5** - *Notice to Registrar to Discharge Under the Personal Property Security Act* (formerly PPSA Form 15)
- Form 6** - *Repairers Lien Demand for Discharge* (formerly PPSA Form 18)
- Form 7** - *Notice to Registrar to Discharge a Repairers Lien* (formerly PPSA Form 19)
- Form 8** - *Notice to Registrar to Discharge a Tax Lien Under the Manufactured Home Act* (formerly PPSA Form 20)

A copy of Order in Council No. 697 and the new *Personal Property Security Regulation* (which contains the new forms) may be ordered from:

Crown Publications
521 Fort Street
Victoria, BC V8W 1E7
Phone: 250.386.4636
Cost: \$7.75

If you require a copy of any of the new forms, you may also contact Kelly Buziak in our Client Services department at 604.659.8686 or toll free at 1.800.553.1936 or e-mail your request to info@wcts.com.

Corporate/PPR Changes

Numerous changes in the operations and services of the Corporate and Personal Property Registries (“the Registries”) were made in July, 2002. These changes support the Registries’ vision of moving to complete e-government service delivery. Highlights of some of these changes follow:

Corporate

- Effective July 2, 2002, all current annual reports for BC corporations must be filed electronically. **Exception:** *Outstanding annual reports* for past years or a *notice of directors* affecting the current annual report are required to be filed. In this case, these additional filings, along with the 2002 annual report, may be forwarded to the Registry, plus applicable fees, for filing.

Personal Property Registry

- All PPR registrations (*renewals, discharges and amendments*) must be filed online using a BC OnLine account or credit card. Only Court Orders are filed on a paper *Verification Financing Change Statement* and submitted to the Personal Property Registry.
- Only on *discharges and amendments* where the registering party differs from the secured party will a verification statement be mailed out to the secured party by the Registry. On all other registrations, only the confirmation print will be printed.
- *Verification Financing Change Statements* are no longer being produced as all registrations must now be done online.

West Coast staff in Victoria would be pleased to handle all your online Corporate and PPR filings. Our fee for filing your 2002 Corporate annual reports remains at \$8.00 each and includes a filed and registered print of each annual report. Disbursements are \$35.00 plus a \$1.50 online fee (GS Table). **Note:** We do not charge a West Coast fee to disburse for Corporate filings.

For PPR registrations, our fees remain the same (as outlined in our current Fee Schedule), including no fee for disbursements. Our knowledgeable staff will be pleased to assist you in answering questions and to review your documents prior to registration to ensure they meet PPR guidelines. If you have questions about registrations you are doing online from your own offices, please contact the Personal Property Registry at 604.775.1048.

Phone and Fax Services

Effective July 2, 2002, the Corporate and Personal Property Registries no longer offer phone or fax services for:

- *Personal Property Registry* searches
- *Manufactured Home Registry* searches
- *Corporate Registry* searches
- *Corporate Registry* name reservation requests

Vital Statistics

U P D A T E

Consent Letters

Effective immediately, all applications made for *Birth or Marriage Certificates* and *Wills Notice* searches submitted by West Coast (whether the application is originally signed by a lawyer/related party or by West Coast as agent) must be accompanied by a *consent letter authorizing Vital Statistics to release the documents to West Coast*. For Birth and Marriage certificates, the consent letter can be signed by the lawyer or the lawyer’s client. For Wills Notice searches, only the lawyer can sign the consent; consent of an executor/administrator is not acceptable. The consent letter can be a fax copy. According to Vital Statistics, this has always been policy but it has not been enforced. For copies of the consent letters, please

contact Kelly Buziak in our Client Services department at 604.659.8686 or toll-free at 1.800.553.1936 or e-mail your request to info@wcts.com.

Name Changes

As per a recent notice from Vital Statistics, “Effective October 1st, every person 18 years of age and over who wishes to change their name will be required to have their fingerprints taken at their local police office or RCMP detachment. The officer taking the prints will forward them in a sealed envelope, with the application form and all related fees and documents, to Victoria for processing. Following registration of the name change, the envelope containing the fingerprints will be forwarded to the Royal Canadian Mounted Police to conduct a criminal record check. Also effective October 1st, no advertising of a legal name change will be required. If you are changing your own name or the name of your minor child under 18 years of age, after September 30th, you will be required to obtain a new *Application for Change of Name* package.”

As per Vital Statistics, the forms are not yet available. The Police/RCMP will levy a fee (variable) for the fingerprinting and it is undecided as to what the RCMP will do with the fingerprints after the criminal record check has been completed. West Coast will keep you advised when further information becomes available.

Motor Vehicles

U P D A T E

Name Searches

For Name (Alpha) searches on motor vehicles, ICBC now requires a birthdate and/or address of the individual being searched to be supplied. This is to ensure ICBC is compliant with the *Freedom of Information and Protection of Privacy Act*. **Note:** We have confirmed that ICBC will provide information relating to any name similarities (a.k.a.’s) on an individual if the birthdate matches.

Land**UPDATE****Enduring Powers of Attorney to Continue**

In our June issue of *The Register*, we referred to the McClean Report that had been released on March 12, 2002 dealing with powers of attorney and representation agreements. The Report outlined several recommendations aimed to strengthen enduring powers of attorney and simplify representation agreements, with the key recommendation being that *enduring powers of attorney be the main tool for advance planning in financial and property matters*. The Attorney General announced at that time that the B.C. Government had accepted Mr. McCleane's key recommendation. However, no specific mention was made concerning whether enduring powers of attorney would continue after September 1, 2002. It has since been officially stated on the Ministry of Attorney General's website on September 4, 2002 that "*The decision of the previous government to phase out enduring powers of attorney beginning September 2002 has been reversed.*"

New Deputy Registrar for Lower Mainland LTO

On August 12, 2002, *Judy McKay* joined the Lower Mainland Land Title Office as *Deputy Registrar* responsible for *Support Services* (which includes cash intake, public and agent counter service, markup and scanning, document retrieval and certificate production). Ms. McKay brings with her a wealth of land titles experience. She was a Deputy Registrar in Nelson for the 2 ½ years before the closure of that office in 1997 and, prior to that, was a title examiner in the Victoria Land Title Office. Most recently, Judy was employed as an Employment Standards Officer with the Ministry of Skills, Development and Labour.

Deliveries and Meets

All Deliveries and Meets are handled by West Coast staff in the Land Title Office rather than in our West Coast Office because we must co-ordinate with other agents before we can file your documents. There is a difference between a delivery and a meet.

Deliveries

A *Delivery* is where documents are given to us by another law firm/notary office, through their agent, for us to file. **All documents in a delivery situation are your documents that we file on your behalf and return to you.** Once documents are delivered to us, we match them to your invoice and file them according to your instructions. If documents are delivered to us before we receive your invoice, we will contact you to advise that we have received a delivery and to ask for your instructions. Alternatively, you may send in documents for us to deliver to another agent so that they can file them on behalf of their client. You will receive signed confirmation on your invoice that the delivery has been made.

- A West Coast fee of \$10.00 will be added to your invoice for *accepting delivery of documents*.
- A West Coast fee of \$10.00 also applies when *we deliver documents to another agent*.

Meets

A *Meet* is where we co-ordinate with another agent to file your documents concurrently with other documents filed by another law firm/notary office. **We will file your documents and indicate on your invoice the nature and registration number of the other documents filed concurrently with them.** In a Meet situation, West Coast conducts a thorough pre-inspection of your documents. We also check that the documents filed by the other firm/agent appear to be in registerable form and that all documents are filed in the correct order.

- A West Coast fee of \$10.00 applies for Meets with West Coast and \$12.00 for Meets with other agents.

Joint Tenancy

Joint tenancy is a form of land ownership by two or more persons in which each owns an undivided interest in the whole. A joint tenancy can only be created when there is strict compliance with common law requirements, often referred to as the *four unities*:

- **Unity of time** - the interests of the joint tenants must commence *at the same time*;
- **Unity of interest** - the interests of the joint tenants must accrue *by one and the same document*. In addition, no one joint tenant can have a greater interest in the property than each of the others;
- **Unity of possession** - joint tenants must hold the *same undivided possession of the whole* and enjoy the same rights until the death of one;
- **Unity of title** - joint tenants hold their property *by one and the same title*.

The most distinctive characteristic of joint tenancy is the *right of survivorship*. Upon the death of one of the joint tenants, the entire interest of the deceased joint tenant goes equally to the surviving joint tenants, and at length to the last survivor.

Joint Tenancy Filing Scenario

Dad is on title with his 2 sons as Joint Tenants. Dad now wants to convey his undivided 1/3 interest to his daughter so that his daughter can become joint tenants with his sons.

Question: Can Dad file a Form A transferring his 1/3 interest to his daughter and have his daughter end up a joint tenant with his 2 sons?

Answer: No. In order to preserve the *4 unities* required for joint tenancy, Dad and his 2 sons must all join in as transferors to convey the whole property to daughter and sons as joint tenants.

Filing Plan Packages

Procedures for filing plan packages in the Victoria and Lower Mainland Land Title Offices have changed. Agents are now required to process the plan packages themselves without referring them to Land Title Survey staff for review. In the past, agents would check the plans and documents for compliance with LTO requirements, put the documents in order and then submit the plan package to the LTO for them to confirm the filing order and assign the new plan number. Now, the new filing procedures require the agent to determine the filing order of the documents and plans, obtain the next available plan number and take the plan package through Cash. In view of these new procedures, we would appreciate your confirming the order of filing for your documents and plan applications, especially for complicated plan packages.

Note: For plan packages to be filed in the *Lower Mainland Land Title Office*, we would appreciate receiving them **no later than 2:00 p.m.** in order that we may have sufficient time to review them carefully before filing.

Turnaround Times for Posts

With the amalgamation of the Prince George Land Title Office and the Lower Mainland Land Title Office effective July 1, 2002, the number of applications received at the LTO has increased. This increase in documents, together with recent LTO staff retirements and staff holidays during the summer, has resulted in longer than usual turnaround times for Posts.

After filing your documents, West Coast begins checking for registration numbers to be posted to the title *every 10-15 minutes*. When we check for pendants, we first confirm that the *nature* and *number* of all documents filed are pending correctly before we print the title as your Post Index. If there are any problems or discrepancies, we will advise the LTO Marking-up department that a Post correction is required. Once the problem has been rectified, we will then print the title showing your document as pending.

Post Corrections

To request a Post correction from the LTO, **a copy of the first page of the filed document showing the registration number and the page showing the legal description(s) must be given to the Marking-up department, together with a brief explanation of what the problem is.** The request for a Post correction may either be dropped off in the "Post Correction" basket at the LTO, or faxed directly to "Marking-Up" at 604.660.4064. **Note: If a post correction is submitted to the LTO, this will add another 1/2 hour (minimum) to your Post turnaround time.**

Court

UPDATE

Release of Written Reserved Judgments

Effective June 17, 2002, counsel and litigants now receive *one day advance notice* of the release of written reserved judgments before they are generally released to the public and the media. Counsel and/or self-represented parties will be contacted the day before the judgment is to be released. The judgment will be available for release from the issuing Registry at 10:30 a.m. the following morning and may be picked up by courier, faxed for a fee or sent by e-mail (in those Registries offering e-mail release). Judgments will then be released to the media and posted on the Courts' website 24 hours after the judgments have been made available to the parties. Saturdays, Sundays and statutory holidays will not be counted in this 24 hour period.

Note: *This new practice is subject to the discretion of the judge or master issuing the judgment as there are cases where it may be appropriate for the judgment to be released to the public and the media at the same time as it is released to the parties.*

Fax Filing Project

Filing by fax is expected to be implemented in fourteen locations in British Columbia in the Autumn of 2002. The **Fax Filing Project** is being introduced as an alternative to filing in person at a Court Registry, or filing by mail or courier. Documents that can be filed by fax include many Supreme Court Civil, Provincial Court Small Claims and Family Court documents.

Pilot Locations

Most of the pilot locations are Registries that are the receiving locations for courthouses that were closed or amalgamated. The fourteen pilot locations are as follows:

Chilliwack	Prince George
Cranbrook	Rossland
Dawson Creek	Salmon Arm
Kamloops	Smithers
Kelowna	Terrace
Nelson	Vernon
Penticton	Williams Lake

Piloting in these locations will also provide an opportunity to measure the success of fax filing in a Registry not impacted by a courthouse closure. *Vernon* and *Kelowna* are included because of the number of case files that move throughout the interior region and so that the use of fax filing in an entire region can be assessed.

Credit Card Payments

Credit card payments are also being piloted for fax filings, and possibly for some other transactions in selected Court Registries. All fourteen locations will be accepting credit card payments for documents that can be filed by fax. In addition, Prince George will be the sole location piloting the use of BC OnLine as a payment option.

The Fax Filing and Credit Card Project will run for six months, after which time it will be evaluated. If the pilot is successful, it is anticipated that fax filing and credit card use will be implemented throughout the province, sometime in 2003/2004.

Judicial Case Conferences

Rule 60E, the *Family Law Judicial Case Conference Pilot Project* came into effect on July 1, 2002. Highlights of this new Rule were outlined in our June, 2002 issue of *The Register*.

Rule 60E(1) provides that a **Judicial Case Conference** (“JCC”) must be conducted before a party can deliver to another party a notice of motion or affidavit in support of an interlocutory application in family law proceedings commenced after July 1, 2002.

A JCC is a private, informal hearing conducted by a judge or master and the parties to a family law proceeding (and their lawyers). The proceedings at a JCC are confidential. If the JCC, or any portion of it, is taped, no party or counsel is entitled to a transcript of the tape or to listen to the tape, without order of the Court.

To Request a JCC

To request a JCC, a party to a family law proceeding must file:

- a *Praecipe and Notice of Judicial Case Conference* at the Court Registry (Rule 60E(5)).
- Notice of the JCC must be served on the other party at least seven days before the date set for the JCC (Rule 60E(6)).
- A party who has requested a JCC must serve on the opposing party a copy of the filed *Praecipe and Notice of Judicial Case Conference* as well as a copy of the *Litigants’ Guide and Case Management Plan Worksheet*.

Litigants’ Guide and Worksheet

The purpose of the *Litigants’ Guide and Case Management Plan Worksheet* (the “Litigants’ Guide and Worksheet”) is to assist lawyers and their clients to prepare for a JCC and to alert the parties to the issues that may be discussed and the information

that may be requested by the judge or master. Counsel is expected to review and complete the Litigants’ Guide and Worksheet with his or her client prior to the JCC. In cases where a judge or master directs a JCC, each party should obtain and complete the Litigants’ Guide and Worksheet prior to the JCC. Once completed, it need not be exchanged with the other party or provided to the Court.

A complete copy of Rule 60E, and copies of the *Praecipe and Notice of Judicial Case Conference* and *Litigants’ Guide and Case Management Plan Worksheet*, may be obtained through the Courts’ website at www.courts.gov.bc.ca on the Supreme Court Page under the link “*Family Law Judicial Case Conference Pilot Project*”.

Family Law Judgments

Effective September 1, 2002, the Court will no longer publish judgments in family law cases on the Supreme Courts’ website. However, if a judge or master considers that his or her judgment is one that should be posted for any reason, including the fact that it is considered to have precedential value, then the judgment will be posted.

For judgments that are to be posted, the judge or master will remove names and other sensitive personal information before the judgment is released. This new policy will ensure that significant family law decisions continue to be available on the Courts’ website and, at the same time, will allow the Court to be sensitive to the privacy interests of those involved in family law litigation.

This new policy will not affect the way in which family law judgments are distributed to legal publishers.

The Court will continue to circulate all family law judgments as they have been doing in the past. These judgments will also continue to be available at the Court Registries from which they were issued. In addition, family law judgments are now available from the B.C. Courthouse Library as of September 1, 2002.

Exchange of Witness Lists

Effective September 1, 2002, all parties must exchange a *list of witnesses, together with time estimates* for both direct and cross-examination, prior to or at the scheduled Pre-Trial Conference (unless otherwise ordered by the presiding judge or master).

Once the witness list is exchanged and signed by the parties and/or counsel, each party must file the list, together with the Trial Certificate, in accordance with the time limits set out in Rule 39(19) of the Rules of Court, i.e. *not more than 30 days and not fewer than 14 days before the scheduled trial date*. If no Pre-Trial Conference is scheduled, the parties must still exchange and file a list of witnesses in the form of Schedule A at the time the Trial Certificate is filed (unless otherwise ordered by the Court).

A copy of the July 10, 2002 Practice Direction dealing with Exchange of Witness Lists, including the *List of Witnesses and Time Estimates* in Schedule A may be obtained through the Courts’ website at www.courts.gov.bc.ca on the Supreme Court page under the link “*Notices and Practice Directions*”.



Asked & Answered

This issue's *Asked & Answered* section relates to **Process Serving**.

A. Question: *I need to serve a BC incorporated company with a Writ of Summons. Is it good service to serve at their actual place of business?*

Answer: No. According to Supreme Court Rule 11(2)(b), you must serve the *Writ of Summons* or a *Petition to the Court* on a BC incorporated company:

- by leaving a copy of it with an officer or director;
- by leaving a copy at the company's registered office (that is on file with the Registrar of Companies); or
- by sending a copy by registered mail to the company's registered office.

B. Question: *Can I use a courier slip to prove delivery?*

Answer: No. According to Supreme Court Rule 11(7), proof of service or delivery should be in the form of an *Affidavit of Service or Delivery* and should state **when, where, how, and by whom** service or delivery was effected.

"You asked . . . We answered."

Keeping you Informed

Below is a list of memorandums and notices that we have sent out since our last newsletter. If you require 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, under the *News and Updates* button or e-mail your request to info@wcts.com.

CORPORATE/PPR/MHR

- **June 18, 2002** - Major Changes in July

COURT

- **September 5, 2002** - New Affidavit in Support (Form 132) & Child Support Affidavit (Form 133)
- **August 26, 2002** - Solicitors' Claims on Certificate of Fees Pursuant to the Legal Profession Act
- **July 31, 2002** - Vancouver Family Trial Scheduling
- **July 31, 2002** - Vancouver Civil Trial Scheduling
- **July 31, 2002** - Vancouver Lengthy Chambers Scheduling
- **July 25, 2002** - 2002 Victoria Court of Appeal Sittings
- **July 24, 2002** - Unavailable dates for a Master for the months of September to December

- **July 11, 2002** - 2002 Judges' Chambers
- **June 27, 2002** - Surrey Court Notice
- **June 25, 2002** - Changes to the Masters Rota
- **June 24, 2002** - New Westminster Trial Scheduling
- **June 7, 2002** - New Westminster Chambers Schedule
- **June 7, 2002** - Supreme Court Judges Chambers

E-Mail Service

info@wcts.com

Work requests may also be sent to us via e-mail to 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. You will receive confirmation by e-mail from us so that you will know that your request has been received.

If you do not receive confirmation from us within a reasonable time, 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 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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