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<p>FRANCHISE LEGISLATION IN CANADA Peter Dillon Release No. 4, December 2023</p>

Franchising has become a highly technical, hotly litigious and liability-prone area of practice. Whether you represent franchisees or franchisors, Franchise Legislation in Canada is a must-have resource for any lawyer practicing in this area. Filled with valuable commentary, case annotations, precedents and background, this text is an indispensable desk-top reference. Franchise Legislation in Canada has the most comprehensive series of Concordances of provincial and US laws and regulations, making it the only truly national and international resource on the topic of franchising.

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What's New in the Update:

This release features updates to the case law annotating the following section – AWA-9:2 (No Derogation of Rights) of the *Arthur Wishart Act (Franchise Disclosure)*. This release also features updates to Appendix E:5 – Safe Foods for Canadians Regulation.

Highlights

Arthur Wishart Act — No Derogation of Other Rights — In an application to set aside two international arbitral awards, the court found that there was reasonable apprehension of bias resulting from the failure of the arbitrator to disclose to one of the parties that the arbitrator was acting in another arbitration with the same law firm acting for the other party. The court directed that a new arbitration be conducted with a new arbitrator: *Aroma Franchise Company Inc. et al. v. Aroma Espresso Bar Canada Inc. et al.*, 2023 ONSC 1827 (Ont. S.C.J.)

Arthur Wishart Act — No Derogation of Other Rights — An application by a franchisee seeking an interim injunction to remain in possession of the business premises following termination of the franchise agreement and the franchisor taking an assignment of the lease was refused for failing to establish that the franchisee would suffer irreparable harm. The harm complained of could be compensated for by monetary damages and the damages were further mitigated by the franchisor continuing to operate the business as a going concern: *2403744 Ontario Inc. v. Canadian Ice Cream Company Inc.* (August 22, 2023), CV-23-811 (Ont. S.C.J.).

Arthur Wishart Act — No Derogation of Other Rights — The assignment of a franchise agreement by a franchisor can be effective as an equitable assignment where written notice of the assignment was not provided to the franchisee; however, the assignee franchisor may be required to join the assignor to subsequent legal proceedings unless the failure to do so would not prejudice the other party(ies). The assignor franchisee as able to recover unpaid franchise fees and rent arrears during an overholding period; however, the award was significantly less than the franchisor had claimed for due to improper calculations and the court refused to award costs to the franchisor on that basis: *Coffee Time Corp v 1685247 Ontario Ltd.*, 2023 ONSC 3353 (Ont. S.C.J.), decision on costs 2023 ONSC 3738.

ProView Developments

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- The Table of Contents now has internal links to every chapter and section of the book within ProView
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