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<p><b>FRANCHISE LEGISLATION IN CANADA</b> <b>Peter Dillon</b> <b>Release No. 4, December 2024</b></p>
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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 sections of the *Arthur Wishart Act (Franchise Disclosure), 2000* (the “Act”): Sections 1 (Definitions), 3 (Fair Dealing), 5 (Franchisor’s Obligation to Disclose), and 6 (Rescission), as well as updates to the Words and Phrases Appendix.

### **Highlights**

***Franchise Disclosure Act — Definitions — Franchisor’s Associate*** — In a highly anticipated decision, Ontario’s Court of Appeal affirmed the trial decision on three complex rescission claims. In her trial decision, Justice Vermette made several notable findings regarding disclosure obligations and the availability of the rescission remedy, including which party the burden of proof rests on, the ability to rescind after termination of a franchise agreement by the franchisor, the availability of disclosure exemptions to franchisors, and breadth of persons considered “franchisor’s associates” under the Act: *Premium Host Inc. v. Paramount Franchise Group*, 2023 ONSC 1507 (Ont. S.C.J.), affirmed *Royal Bank of Canada v. Everest Group Inc.*, 2024 ONCA 577.

***Franchise Disclosure Act — Fair Dealing — “Good Faith” and “Fair Dealing”*** — In lengthy reasons, the Court of Appeal substantially upheld the decisions on the summary judgment motion under appeal. The Court of Appeal did, however, allow one of the issues on appeal, the amount the plaintiffs were entitled to in respect of the Professional Allowances claim. This decision further confirms the expansive interpretation of the duty of good faith and fair dealing, both the statutory duty under the Act as well as the common law duty. It serves as another reminder to parties exercising contractual discretion to ensure that such discretion is exercised in accordance with the purposes for which the discretion is exercised: *Spina v. Shoppers Drug Mart Inc.*, 2024 ONCA 642, affirming 2023 ONSC 1086.