



Franchise Law in Ontario

Ontario is one of three provinces that have legislation to regulate franchises. The act that governs franchises in Ontario is the *Arthur Wishart Act (Franchise Disclosure), 2000* (the "Act"). Any franchise business located partly or wholly in Ontario must comply with the Act. Compliance is mandatory even if both the franchisor and franchisee reside outside of Ontario.

In Ontario, every franchisor is required to provide a prospective franchisee with a disclosure document. A disclosure document outlines and includes amongst other things, all material facts, financial statements and copies of all agreements relating to the franchise. Section 7 of the Act provides some limited exemptions from the requirement to deliver a disclosure document. A disclosure document can be delivered personally, by registered mail or by any other method prescribed by regulation made under the Act ("Regulation"). Electronic disclosure is not permitted in Ontario.

A disclosure document must be current and updated at the time of delivery to each prospective franchisee. This requirement places the onus on a franchisor to continuously update its disclosure document. Foreign franchisors must ensure that any existing foreign disclosure document contains all of the requirements prescribed by Regulation. The Act is not clear whether a franchisor can use a foreign disclosure document and include an addendum containing relevant local information or whether the foreign disclosure document must be revamped to comply with the Regulation.

The franchisor is also obligated to deliver to a prospective franchisee a written statement of any material change as soon as practical and, at minimum, before the signing of the franchise agreement and the payment of any consideration relating to the franchise.

A franchisee may rescind the franchise agreement up to sixty days after receiving the disclosure document if the franchisor failed to provide the disclosure document or a statement of material change within the time required by the Act. A franchisee has up to two years after entering into the franchise agreement to rescind the agreement if the franchisor never provided a disclosure document. The franchisor has sixty days from the date of rescission to refund any money received from or on behalf of the franchisee, other than money spent on operating the franchise (e.g. money for inventory, supplies or equipment).

If a franchisee suffers a loss because of a misrepresentation contained in the disclosure document or in a statement of material change or because the franchisor failed to comply with the disclosure document requirements of the Act, the franchisee has a right of action against the franchisor, its agent, broker, associate, and every person that signed the disclosure document.

It is important to note that certain business relationships, such as some distribution arrangements, fall under franchise law in Ontario. Before you start a business that is located in Ontario and that is or could be considered a franchise, you should speak with a lawyer to ensure that you are not overlooking key legislation and regulation that govern this business.