

Legislative Update

by Kara Moore*

The following is a list of some of the Acts passed in the 4th session of the 40th Manitoba Legislature in 2015. While every effort has been made to ensure the accuracy of the information provided, lawyers should refer to the specific legislative or regulatory provision. Current versions of Manitoba statutes and regulations are available online at <http://web2.gov.mb.ca/laws/index.php>.

The Consumer Protection Amendment Act (Home Improvement Contracts), S.M. 2015, c. 8 (Bill 14, 4th Session, 40th Legislature)

Royal Assent: June 30, 2015

Summary: By the amendment to *The Consumer Protection Act* amendments require home improvement contractors to have written contracts with consumers. The requirement applies to all home improvement projects that cost more than \$500 (or an amount set by regulation). The contract must include information about the contractor, the project and the cost.

The contractor must provide a copy of the signed contract to the consumer before work begins. Any change to the contract terms must be authorized by the consumer and the contractor as set out in the regulations.

The regulations may require the contractor provide a pamphlet to consumers about their rights and responsibilities under *The Consumer Protection Act*, *The Business Practices Act* and *The Builders' Liens Act*.

A contractor who sells home improvement services through direct sales, such as through unsolicited offers in the mail or by going door to door, must also comply with the obligations for direct sellers under *The Consumer Protection Act*.

In Force: By Proclamation

The Legal Profession Amendment Act, S.M. 2015, c. 29 (Bill 19, 4th Session, 40th Legislature)

Royal Assent: November 5, 2015

Summary: This Act amends *The Legal Profession Act*.

The Composition of the Law Society's governing body, the benchers, is changed. The number of public representatives is increased from 4 to 6. In addition, the requirement for the federal and provincial Ministers of Justice to sit as ex officio benchers is repealed. Practicing lawyers may now be appointed as benchers in accordance with the criteria set out in the rules. The total number of benchers who are practicing lawyers remains the same at 16, with 12 elected benchers and 4 appointed benchers.

The protection of the public in the delivery of legal services is extended to apply to a law firm, not just to an individual lawyer. Benchers may make rules about law firms, including rules for practice arrangements between lawyers and non-lawyers. These rules may also deal with the

complaints and discipline process, the financial accountability rules and the use of a code of conduct.

Information about a lawyer who is the subject of a complaint, investigation or charge under the *Act* may be published before a finding is made.

In Force: Upon Royal Assent

The Wildlife Amendment and Fisheries Amendment Act, S.M. 2015, c. 33 (Bill 24, 4th Session, 40th Legislature)

Royal Assent: November 5, 2015

Summary: Part 1 of this Bill makes a number of amendments to *The Wildlife Act*.

Enforcement measures under the Act are enhanced and fines are increased. The limitation period for starting prosecutions under the Act is extended. A new offence for obstructing conservation officers is created. Wording in several provisions is clarified.

The minister may authorize third parties to issue licenses and permits and perform a number of other functions related to the issuance and renewal of licenses and permits. An amendment will enable the issuance of licenses and permits over the internet.

The minister may enter into agreements with other jurisdictions to share information about persons who have been convicted of wildlife offences. A person whose right to hunt has been suspended in another jurisdiction is prohibited from applying for or obtaining a hunting license in Manitoba during that suspension period. A person who has not paid fines imposed under the Act may be prevented from getting a hunting license.

Part 2 of the Bill amend *The Fisheries Act* to enable the issuance of fishing licenses over the Internet.

In Force: Part 1 Upon Royal Assent; Part 2 Upon Royal Proclamation

The Personal Property Security Amendment Act, S.M. 2015, c. 35 (Bill 28, 4th Session, 40th Legislature)

Royal Assent: November 5, 2015

Summary: This Act amends *The Personal Property Security Act* to deal with vexatious registrations.

The Registrar is given the power to reject or discharge a vexatious registration. A vexatious registration occurs when a financing statement is submitted by a person without a valid interest for the purpose of annoying or harassing the person named as the debtor in the statement. The Registrar's rejection or discharge decision may be appealed to the Registrar-General and to the court.

A person who has made a vexatious registration may be required by the Registrar to make future submissions only in paper form. This format allows for the consideration of the person's submissions before registration. The restriction may be reviewed by the Registrar-General.

The amendments apply to financing statements registered or submitted for registration before or after the amendments take effect.

An amendment allows an interested party (such as the owner of personal property) to require a secured party claiming a security interest under a trust indenture to go to court to establish that the claim is still valid. For this purpose, security interests under trust indentures will be treated the same as other security interests. The amendment eliminates an anomaly that has been sued to harass owners of personal property.

Amendments are also made to remove outdated references to writs of execution affecting land.

In Force: Upon Royal Assent

* Kara is starting her 2nd year of law school and was the MBA summer student for 2016. Thank you to Manitoba Justice – Legislative Counsel for reviewing the article.