

A Guide to
Legislation and Legislative Process
in British Columbia

PART 4

STATUTE REVISIONS

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August 2013

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Contents

- ◆ What is a statute revision?
- ◆ A little history
- ◆ The *Statute Revision Act*
- ◆ What a revision can do
- ◆ What a revision cannot do
- ◆ The revision process
- ◆ The legal effect of a revision
- ◆ The current general revision: R.S.B.C. 1996
- ◆ Limited revisions
- ◆ How to identify a revised statute

PART 4

STATUTE REVISIONS

Most Acts in force in British Columbia are revised statutes that were prepared in the course of a statute revision. This Part describes the authority and process for statute revisions.

What is a statute revision?

A statute revision is the process by which an existing Act is revised to

- ◆ consolidate amendments that have been made over time, and
- ◆ modernize language and style.

A revision is intended to do this without changing the legal effect of the law.

A little history

Canadian jurisdictions have historically undertaken statute revisions every 10 to 20 years. In British Columbia, revisions occurred in 1996, 1979, 1960, 1948, 1936, 1924, 1911, 1897, 1888, 1877 and 1871.

Before 1992, each revision was separately authorized by an Act that would establish the position of Revision Commissioner and authorize this official to prepare a revision that would be presented to the Legislative Assembly.

In 1992, a new process, outlined below, was established for British Columbia. At the time it was unique, but has since been adopted by a number of other Canadian jurisdictions.

The Statute Revision Act

The 1992 *Statute Revision Act* (now part of the 1996 Revised Statutes of British Columbia) established a continuing statute revision authority.

Under the Act, the Chief Legislative Counsel is given authority to prepare revisions. A revision may be

- ◆ a **general revision** of all public Acts and any Private or Local Acts the Chief Legislative Counsel considers should be included, or
- ◆ a **limited revision** of all or part of any one Act.

General revisions are equivalent to past statute revisions. Limited revisions are a new concept that should allow the provincial statutes to be maintained in a better state of consolidation, without engaging the resources and expense of a general revision.

What a revision can do

The *Statute Revision Act* establishes the authority that can be used in revising an Act. Among the most important, it allows the revising legislative counsel to do the following:

- ◆ combine Acts or their provisions;
- ◆ alter the numbering and arrangement of Acts or provisions;
- ◆ rename an Act or portion of an Act;
- ◆ alter language and punctuation to achieve a clear, consistent and gender-neutral style;
- ◆ make minor amendments to clarify the intent of the Legislature, to reconcile inconsistent provisions or to correct grammatical or typographical errors;
- ◆ omit Acts or provisions that are spent or repealed or that have no legal effect.

The most obvious changes accomplished by a revision arise from the renumbering authority—an Act will be revised to eliminate gaps that were created when provisions were repealed and to remove the decimal provisions that resulted when provisions were added. To allow readers to track these numbering changes, a concordance is prepared and published with the revision.

What a revision cannot do

The *Statute Revision Act* does not authorize legislative counsel to make substantive changes to the law. Indeed, legislative counsel approach the limited authority to make minor amendments extremely cautiously. That authority will generally be used only to correct grammatical or typographical errors or to clarify relationships between provisions where these are clear from a careful reading of the legislation.

A revision does not allow changes to deal with provisions that have unresolvable ambiguities or that are no longer administratively workable. These changes require statutory amendment by the Legislature.

The revision process

Legislative counsel prepare a revision in consultation with the ministry responsible for the Act.

When the revision is completed, it is given to the Clerk of the Legislative Assembly for presentation to the appropriate Select Standing Committee of the Legislative Assembly. In June 2000, the Legislative Assembly assigned statute revision as an on-going responsibility of the Select Standing

Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills.

Legislative counsel attend the Committee to present the revision for approval. If the Committee recommends that the revision be brought into force, an official copy will be deposited with the Clerk of the Legislative Assembly. The official copy is signed by the Lieutenant Governor and countersigned by the Clerk. The revision may then be brought into force by regulation.

The legal effect of a revision

The *Statute Revision Act* establishes the legal effect of a revision:

- ◆ when a revision comes into force, the pre-existing provisions that are incorporated in the revision are repealed to the extent they are incorporated in the revision;
- ◆ a provision included in a revision is deemed to have come into force on the day that the original provision came into force.

In addition, there is an express statement to address the general rule of statutory interpretation that a change in language is intended to be a change in the law. [*For further discussion of the rule, see Part 2 of this Guide: Principles of Legislative Drafting.*] The Act overrides the rule by requiring that a revision be interpreted “as a consolidation of the law contained in the Acts and provisions replaced by the revision”.

The current general revision: R.S.B.C. 1996

The current general statute revision presented the Public Acts of British Columbia as they stood on December 31, 1996. Initial work began more than 6 years earlier.

From the beginning, the Office of Legislative Counsel had a central goal: to present the law in “a clear, consistent and gender-neutral style” as directly authorized by the *Statute Revision Act*.

To this end, key objectives of the statute revision were:

- ◆ to replace the traditional “he includes she” approach with a gender-neutral drafting style;
- ◆ to replace unnecessarily legalistic terms and writing style with more common forms of expression;
- ◆ to redesign the statute format using plain-language principles.

After presentation to the Standing Committee at the end of February 1997, the revision was brought into force on April 21, 1997. The two-month period between Committee review and effective date allowed the Queen’s Printer to print the revised statutes and prepare a searchable electronic publication.

Limited revisions

Although other jurisdictions have followed British Columbia in providing authority for limited revisions, British Columbia has been the first to use this authority.

The initial limited revisions were of Private Acts that had recently been amended. As one example, the *Vancouver Foundation Act* establishes the statutory role of one of our province's most important and respected philanthropic organizations. The Act dated back to 1950 and had been amended a number of times since. The limited revision authority allowed the Office of Legislative Counsel to work with the Vancouver Foundation to consolidate and modernize its legislation, while respecting the historical origins of the Foundation.

Recently, the Office of Legislative Counsel has embarked on an ongoing limited revision process. Candidates for limited revision will be selected based on the following criteria:

- ◆ statutes that are used regularly;
- ◆ statutes that have become cumbersome to read because of numerous decimal provisions or repealed provisions.

When a statute is selected for limited revision, a draft will be prepared by the Office of Legislative Counsel and then forwarded to the ministry responsible for the statute. The ministry and the ministry solicitor will be asked to review the draft to ensure that changes are consistent with revision powers and, most importantly, do not change the effect of the law.

The legislative counsel responsible for revising a particular Act may identify problems (ambiguity or conflict) that cannot be addressed through the revision process. In these cases, legislative counsel may recommend that substantive amendments be made through the normal legislative process before the revision is completed.

In conjunction with a statute revision, the ministry responsible for the Act may wish to review the regulations made under it. The *Regulations Act* provides similar authority for revision of the regulations, and this should be done to ensure that they are consistent with the revised Act when it is brought into force.

How to identify a revised statute

Revised Acts are assigned a chapter number within the *Revised Statutes of British Columbia*. The *Statute Revision Act*, for instance, enacted as S.B.C. 1992, c. 54, was revised as part of the 1996 general revision, becoming the “*Statute Revision Act*, R.S.B.C. 1996, c. 440”.

The *Vancouver Foundation Act*, enacted as S.B.C. 1950, c. 94, was revised in 2000 under the limited revision powers, becoming the *Vancouver Foundation Act*, R.S.B.C. 2000, c. 1.

A previously revised Act can be revised again when changes to it have made it cumbersome to consult. The *Insurance Act*, R.S.B.C. 1996, c. 226, was revised in 2012, becoming the *Insurance Act*, R.S.B.C. 2012, c. 1.