

UNDERSTANDING EMPLOYMENT & BUSINESS CONTRACTS

PROGRAM GUIDE



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Founded in 2003 by bestselling tax author and internationally acclaimed educational entrepreneur, *Evelyn Jacks*, Knowledge Bureau publishes and delivers close to 30 online certificate courses leading to continuing education certification and occupational skills diplomas. It is the home of the *MFA™ (Master Financial Advisor)* designation, which signifies specialization in retirement, business, and succession/estate planning in wealth advisory practices, as well as the *DFA-Tax Services Specialist™* and *DFA-Bookkeeping Services Specialist™* designations for professionals in the tax accounting services.

Knowledge Bureau hosts regional workshops and in-class events in major centres across Canada, taught by industry leaders in a blended learning opportunity with its online courses, and an annual international event, the *Distinguished Advisor Conference™*, which explores strategic wealth management for retirement in locales clients retire to. It also partners with corporate clients and academic institutions, custom-designing CE modules, webinars, and keynotes to meet organizational needs. Finally, Knowledge Bureau is a national publisher of *Knowledge Bureau Newsbooks*, which provide opportunities for Canadians and their advisors to make better financial decisions together through highly interactive news information and educational experiences.

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A MESSAGE FROM EVELYN JACKS, PRESIDENT

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Best of Luck with Your Studies!

Sincerely, Evelyn Jacks, President, Knowledge Bureau

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**"I vow to continually get better.
This topic is near and dear to me.
If I know ... I can share."**

- Paul J. Vaneyk
Executive Business Growth
Specialist, Undergraduate

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MFA™- BUSINESS GROWTH SPECIALIST PROGRAM

LEVEL I COURSES - CORE PROFESSIONAL SKILLS

Build your core professional skills by taking the three courses below.

Learn how to nurture micro businesses with strategic planning and the operational foundations to engage both new employees and new clients, while you help owner-managers transform into powerful leaders.

1

Leading Teams

When a business grows beyond the work of a sole-owner-manager, it's important to build a team and a great team culture for getting results. That means leadership methods and styles must change to the benefit of all the stakeholders to growth of the business. This course will help you understand what is required to build your skills and to be prepared for continuous change as your business evolves towards expansion and maturity.

Knowledge Journal Topics:

- Scaling Up
- Your Leadership Career
- Your Vision and Goals
- Building a Sustainable Business Model
- Branding
- Building Team Culture
- Critical Accountabilities
- Making the Right Investments
- Making Technology Work for You
- Your Succession Plan

2

Building Business Plans

Planning for income, profit and long-term sustainable growth requires a strategic approach to business planning. Learn more about how to structure and plan for the financial results you need to grow a market-driven business someone will eventually buy.

Knowledge Journal Topics:

- Business Planning Landscape
- Business Modelling
- What is Your Market Opportunity?
- Who Is Your Customer?
- Products and Services
- How to Get and Keep Customers
- Management and the Company
- Operations: Production and Support
- Financial Forecasting and Assumptions
- Approaching Financial Partners

3

Scaling Business Operations

Business leaders recognize that client relationships are integral to long term success, but this can only be achieved with the support of the right management and operational environment. The focus of this course is on establishing and enhancing a company's operational framework around which client relationships can be built and retained.

Knowledge Journal Topics:

- Differing Perspectives
- Business Leader's Vantage Point
- Organizational Structure
- Policies, Procedures and Systems
- Finance and Administration Functions
- Sales and Marketing Functions
- Human Resources Function
- Building Products and Services
- Developing an Action Plan
- Implementation

"In today's ever changing business world, all businesses (large or small) need to continue to grow and scale up in order to keep pace with their clients' needs and retain top talent. Knowledge Bureau's Executive Business Builder Courses can help you achieve the success you are looking for. They provide a straightforward road-map to help leaders (and aspiring leaders) cover all the bases required to move their business forward"

-- Joanne Sigurdson, Author, Leading Teams

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Complete your designation with specialized skills and deep professional knowledge by taking the three courses below:

Any firm that has an attractive valuation transcends dependence on its founder. Businesses with strong positions in the marketplace - now and in the future - have strong foundations and deliberate strategies for growth in both income and equity. Learn the underlying skills needed.

4

Understanding Employment and Contract Law

Every company requires the interaction with legal talent to develop contracts with the various stakeholders it interacts with. The course provides the background information business owners need to understand basic contractual agreements and templates for engagements

Knowledge Journal Topics:

- Introduction to Contracts
- Leases
- Real Estate Purchases and Sales
- Employment Contracts: Hiring
- Employment Contracts: Terminations
- Incorporation
- Business and Succession
- CASL and DNCL
- Intellectual Property
- Privacy Laws

5

Building and Communicating Your Brand

The old ways of marketing no longer work and competition is fierce. This course focuses on the things that can be done immediately, without huge investment, to navigate these new marketing opportunities and make a market within a community with a compelling value proposition.

Knowledge Journal Topics:

- Principles of Entrepreneur Marketing
- Positioning Your Company for the Future
- Five-Step Marketing Plan
- Psychology of Marketing
- Packaging Your Big Idea
- Introduction to Branding
- Plotting Your Marketing Process
- Advanced Marketing Concepts
- Putting it All Together

6

Team Structure: Recruit, Motivate, Retain

Never has working with people been more important. One can have the best ideas coming from the most talented leaders, the most innovative work structures, and the most accurate forecasts and business plans, but without expert execution by the entire team, the company will not get the results it wants. This course will challenge you to consider your specific role in change management - one which will allow you to take your own personal

Knowledge Journal Topics:

- You, The Leader
- The Team Structure
- The Plan
- The People
- Taking Time for Next Assessment and Evaluation
- Preventing and Addressing Performance Gaps
- Value and Investment Transactions
- Managing Top Performers Most Effectively
- Connecting Your Team to the Big Picture

Study online in the safety and convenience of your own home or office.
Your study plan is flexible and self-paced. Assume 30 hours for each course.
Take up to 3 months to complete one.

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About Knowledge Bureau:

Founded by tax expert, award-winning financial educator and best-selling author, Evelyn Jacks in 2003, Knowledge Bureau™ is a widely respected financial education institute and publisher based in Canada. Our world-class education solutions are innovative, informative, and in-depth, with a multi-disciplinary approach to professional development in the tax, accounting, bookkeeping and financial services.

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Over 850,000 Online course module registrations
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Over 10,400 Active students in certificate and designation programs
Over 12,700 CE Summits & Distinguished Advisor Conference attendees

"Our team of educational consultants and instructors make all the difference. We are always by your side as you study in the convenience of home or office. We want you to make the best educational decisions for your time and money and we are here to help."

- Evelyn Jacks, President of Knowledge Bureau

"Everything so far has had value to it. These studies have added to my knowledge and skills and I have put this knowledge to use immediately for our clients or I gained new skills which has given me the opportunity to expand our services."

- William S., ON

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World-Class Financial Education

Understanding Employment & Business Contracts

OVERVIEW
Every company requires the interaction with legal talent to develop contracts with the various stakeholders it interacts with. The course provides the background information business owners need to understand basic contractual agreements and templates for engagements with customers, sub-contractors and employees.
APPROACH
<p>The law evolves constantly. Judges change the common law and Parliament and legislative assemblies adopt and change legislation on a regular basis. Every company requires interaction with legal talent to develop contracts with various stakeholders it interacts with. This course provides the background information a business owner needs to understand basic contractual agreements and templates for engagements with customers, sub-contractors and employees.</p> <p>The course also reviews provincial and federal laws that affect incorporation, and consumer protection issues such as anti-spam, privacy, and telemarketing. The course will also touch on succession management and feature common practicalities to help you better understand relationships with legal advisors and assist in managing ongoing and repetitive contractual obligations with a minimum of costs.</p>
WHY IS THIS CONTENT ESPECIALLY TIMELY AND/OR IMPORTANT
The purpose of this course is to provide you with a basic understanding of the legal framework businesses generally operate under. It will provide the student with the ability to recognize and identify potential legal traps. This course will also provide the student with practical tips to allow them to review and understand basic contract language and provisions.
WHAT YOU WILL LEARN?
You will learn basic contractual theory and how it applies to real estate leases and transactions, employment and sub-contractors. You'll discover the difference between a corporation, partnership, and sole proprietor, and the advantages and disadvantages of each business structure. You'll gain insight into the different approaches to business succession planning and the sale or purchase of a business, as well as key provincial and federal laws that affect business on a daily basis.
SCOPE OF THE CONTENT:
<ol style="list-style-type: none"> 1. Introduction to Contracts (Part 1) 2. Introduction to Contracts (Part 2) 3. Leases 4. Real Estate Purchases and Sales 5. Employment Contracts: Hiring 6. Employment Contracts: Terminations 7. Incorporation 8. Business Succession 9. CASL and DNCL 10. Intellectual Property (IP) 11. Privacy laws

CHAPTER 1

CONTRACT BASICS

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

This initial chapter will cover basic contractual theory. You will learn the elements necessary for the formation or creation of a binding contract, the validity and difficulties of a verbal contract and how a written one is always preferable, and how courts treat ambiguous language. You will learn how parties can protect themselves with conditions precedent and what remedies are available should one party breach his or her obligations under the contract. By understanding these key concepts, you will be better equipped to manage your risk. Limiting or diminishing your liability will ultimately help you build equity in your business.

NEW SKILLS TO BE MASTERED:

- Understand the rule of law and how it protects Canadians
- Know the elements necessary for the formation of a contract and the concept of consideration.
- Why the written contracts are better than verbal ones
- The importance of drafting clear language and how ambiguity affects your legal obligations
- How conditions precedent provide protections.
- What happens when a party does not respect their obligations under the contract.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- What is the rule of law?
- What are the essential elements of a contract?
- What does Freedom to contract mean?
- How is consideration determined?
- What is the difference between an invitation to treat and a unilateral offer?
- Is a verbal contract legal?
- Is the law concerned with adequacy of consideration? Why?
- How do courts deal unclear contractual clauses?
- What are key terms in every contract?
- How do conditions precedent affect the validity of a contract?
- Why should you use caution when drafting conditions?
- When is the best time to discuss the remedies in the event of a breach of contract?
- What remedies are available to an innocent party when the other party breaches the contract?

CHAPTER 2

INTRODUCTION: STANDARD CONTRACT CLAUSES

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

This chapter will cover the type of clauses normally found in most if not all standard contracts. You will review the identity of the parties, the purpose of the preambles, the establishment of obligations, terms of default and remedies following default, indemnities, and boiler plate clauses (i.e. Applicable laws, notice provisions, severability, entire agreement, enurement).

NEW SKILLS TO BE MASTERED:

- How to identify the parties to a contract and problems when parties are corporations
- How to provide context to assist in contract interpretation
- The advantage of defining key terms in a contract
- Understanding the importance of using clear language to avoid ambiguity in key provisions
- Understanding how to protect yourself if the contract is subject to conditions
- How negotiating remedies to breaches of contract can limit the parties' liability
- How to protect the parties from each other when one party causes the other a financial loss
- The availability of arbitration in each province and how that can displace court action.
- Why a party may wish to assign its rights and obligations under a contract to a third party.
- How and why most contracts include other boiler-plate clauses such as severability, applicable laws, enurement, entire agreement, and notice.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- How do you identify the parties to a contract?
- What is the purpose of preambles?
- Why should you define key terms?
- What are common pitfalls when drafting key provisions?
- What should be included in conditions precedent?
- Why do courts differ to the parties when interpreting remedy clauses?
- Why are indemnities important?
- How do arbitration clauses interact with provincial laws?
- Which laws apply to contracts?
- Why would you want to assign your rights to a contract?
- How do you keep a contract valid if a provision is unenforceable?
- What is the purpose of notice provisions?
- What happens if a party to a contract dies?
- How do you guard against changes to the agreement?

CHAPTER 3

COMMERCIAL LEASES

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

This chapter will cover the type of clauses normally found in most commercial leases. You will review provisions regarding the description of the leased property, the term, the rent and how it is calculated. You will also examine how responsibilities are allocated between landlord and tenant and how the use of the space may be restricted to your current business type. You will learn how your ability to sublet may be restricted. We will examine the effect of personal guarantees. We will review insurance provisions; how property destruction or damage may affect the lease; and how default defined and remedies available. Finally, we will touch briefly on overholding provisions.

NEW SKILLS TO BE MASTERED:

- Understanding how to properly describe the leased property and the benefits included;
- Understanding the term and how to recognize renewal options;
- Understanding the difference between the different types of rent;
- Understanding how to calculate expenses and how they affect your monthly obligations;
- Recognizing the difference between landlord and tenant responsibilities;
- Understanding restrictions on your use of the property;
- Understanding what other common elements are available and any restrictions on their use;
- Understanding restrictions on subletting and your ongoing obligations;
- Understanding your insurance obligations;
- Understanding how default occurs and your remedies and obligations once in default; and
- Understanding how staying beyond the initial term of your lease may affect your obligations.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- How do you describe the leased property in the lease?
- Can you display your logo or other signage?
- What common elements are included?
- How should the term be defined?
- How do you know if you have an option to renew or if you must negotiate a new lease at the end of your term?
- What is included in your monthly payments in a triple net lease?
- How to determine what your monthly payments will be under a triple net lease?
- How does a lease agreement allocate responsibilities between the parties?
- What type of expenses can be allocated to tenants?
- Why do landlords require personal guarantees?

- What does it mean to personally guarantee a lease?
- Can a tenant sublet? If so, what are the landlords' rights?
- What happens if the property burns down?
- What constitutes default? How is it defined?
- What are the landlords' remedies after default?
- What happens if a tenant stays beyond the term of the lease?

CHAPTER 4

PURCHASING COMMERCIAL REAL ESTATE

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

Commercial Real Estate Purchase: We will cover typical ownership structure, the doctrine of merger (all promises and warranties made by the vendor merge with the conveyance of title), Caveat Emptor or Buyer beware, the importance and types of due diligence searches.

NEW SKILLS TO BE MASTERED:

- Determining the right ownership structure;
- Understanding the Doctrine of Merger
- Understanding the scope of responsibility placed on the purchaser when acquiring a property
- Understanding the concept of Due Diligence
- Identifying the types of searches, investigations and inquiries required

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- Identify the differences between purchasing residential and commercial real estate
- Identify the common ownership structure when acquiring commercial land
- Why would you establish a holding company to own the property?
- Why should you consult accountants or lawyers when buying a property?
- Why is the principle of finality in law important?
- What does Caveat Emptor mean?
- When will a vendor representation survive the closing of the transaction?
- What happens if the purchaser discovers an open work order affecting the property after possession?
- What is the difference between a deed registry system and a Torrens title system?
- Can you identify the advantage that the Torrens System provides?
- What advantages does the Building Location Certificate offer over title insurance?

- What are common municipal searches?
- Why is the previous use of the property important?
- Who can assist in assessing the soundness of the physical structures on the property?

CHAPTER 5

EMPLOYMENT CONTRACTS

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

Employment Contracts: We will review how employment contracts are created; employer Statutory obligations, the elements of an employment contract, and the difference between private contractors and employees in an employment context.

NEW SKILLS TO BE MASTERED:

- Understanding that all employment relationships are contractual in nature, whether reduced in writing or not;
- Recognizing the importance of a written employment contract;
- Identifying basic legal obligations imposed by statute;
- Understanding the liability imposed on employers under their obligation to provide notice of termination;
- Understanding how an employer can limit its liability by contracting out of notice periods;
- Recognizing how an employer's ability to restrict former employees ability to compete and solicit are limited;
- Protect an employer's intellectual property rights in an employment context;
- Recognizing how Revenue Canada distinguishes and determines the difference between employee and contractor and the consequences of mischaracterizing an employee as a contractor.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- Why did the Supreme Court determine that all employment relationships are contractual in nature?
- What obligations do employment standard statutes impose?
- Why can't parties contractually "opt out" of employment standard statutes?
- What is the difference between the common law and provincial statutes?
- Why must an employer give notice of termination?
- When can an employer terminate an employee without giving notice?
- How is the notice period determined?

- How are employer obligations affected by a downturn in the economy?
- How can an employer limit its obligations to provide notice of termination?
- Define the principle of *Contra Proferentum*
- How do courts determine if termination with cause is justified?
- Why is it risky to terminate an employee for cause?
- What is the difference between a non-compete and a non-solicit clause?
- When will courts strike out non-compete and non-solicit provisions?
- Define Intellectual property
- Who owns the rights to a “creation of the mind”
- Why would an employer prefer to hire contractors then employees?
- What are the consequences for mischaracterizing an employee as a contractor?
- What factors does Revenue Canada or the courts consider when determining whether a person is an employee or contractor?

CHAPTER 6

EMPLOYMENT TERMINATION

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

Employment Terminations: We will review how employer behaviour can result in constructive dismissal; the importance of progressive discipline policies and the dangers of dismissing employees for cause.

NEW SKILLS TO BE MASTERED:

- Employers cannot unilaterally change an employee’s contract or working conditions. If they do and the employee resigns as a result, employers risk being found by a court to have constructively dismissed the employee. If the notice period was not abridged in a written employment contract, the employer will be liable for a lump sum in lieu of notice of termination.
- Courts have found the following behaviours resulted in constructive dismissal: demotions, reductions in pay, reductions in responsibilities, changes in working hours, changes in reporting functions, and harassment.
- Employers cannot rely on hints, veiled statements of possible resignations, or resignations made in the heat of the moment. Resignations must be clear and unambiguous, otherwise courts will find the employee was terminated.
- In order to make legal changes to employment contracts or conditions, employers must offer fresh consideration. They must give something of value to the employee in

exchange for the right the employee gives up. If no new consideration is provided, the “new” contract will be void for lack of consideration.

- When determining whether an employer was justified in terminating an employee for cause, courts will consider whether termination was proportional to the bad behaviour. Courts may conclude that termination was too harsh in the circumstances. If they do, employers will be found to have dismissed the employee without notice or cause.
- An employer will have difficulty justifying termination if an employee’s work performance is affected by difficult personal circumstances. Employers must accommodate employees under those circumstances. Other forms of discipline would likely be more appropriate.
- In very rare circumstances will an employer be justified in terminating an employee for cause without previous recorded bad behaviour. Progressive discipline policies are almost always required to show an employer provided the employee with opportunities for improvement.
- If an employer condones certain behaviour, then it will not be able to rely on the behaviour to discipline an employee.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- Recognising how certain employer behaviour may result in a court finding that an employee was dismissed rather than resign.
- How demoting someone can create liability
- How reducing someone’s wages can create liability
- How changing someone’s responsibilities can create liability
- How changing someone’s shift schedule or working hours can result in liability
- How changing an employee’s reporting functions creates liability
- How workplace harassment can result in liability
- Understanding what an employer must provide to make valid changes to employment contracts
- Recognizing the heavy burden placed on an employer to justify termination for cause
- Understanding the principle of proportionality
- Recognizing conditions that would reduce an employee’s “culpability”
- Understanding the importance of implementing an progressive discipline policy
- How an employer can be deemed to have condoned bad behaviour and how that plays into the principle of proportionality.

CHAPTER 7

BUSINESS STRUCTURES

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

Business Structures: We will review the difference between registering a business name and creating a corporation. While these two concepts may appear related, they are not. We will also review the benefits and disadvantages when establishing a sole proprietorship, partnership and corporation. Finally we will review the different roles within the corporation. We will examine the role of shareowner, director, and officer as well as the obligations imposed and benefits enjoyed by each one.

NEW SKILLS TO BE MASTERED:

- Students will learn how registering a business name simply gives the registrant the right to use the name and how this differs from incorporating a brand new legal entity.
- Students will understand how a sole proprietorship can be a cost effective and simple solution to starting a business and understand its limitations.
- Students will learn how a partnership comes into being and understand the liabilities attached.
- Students will learn how incorporating a company creates a new legal entity with its own rights and privileges, its advantages and disadvantages.
- Students will examine the role of shareowner, director, and officer, and how they differ.
- Students will review in more depth the role of director, and the liabilities affecting them.
- Finally, students will learn how a corporation with several shareowners can manage the relationship through a legally binding agreement.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- What are the most common business structures?
- How does a registering a business name affect the registrant's legal rights?
- What is the purpose of registering a business name?
- What is the difference between registering a business name and incorporating a company using the same name?
- What level of government controls business name registration?
- How is a sole proprietor taxed on business income?
- What is the main advantage of operating as a sole proprietor?
- What are the two main disadvantages of operating as a sole proprietor?
- Who can create a partnership?
- What is the main disadvantage of operating in a partnership?

- How are partnerships defined?
- How does a partnership begin?
- How are partners taxed?
- How is incorporating a company different from registering a business name?
- What are the privileges do shareowners enjoy?
- What role does the shareowner play?
- Who is responsible for managing the corporation?
- How do directors and officers differ?
- How can a director become personally liable?
- What is a fiduciary duty?
- Can you recognize a conflict of interest?
- How must a corporation treat minority shareowners?
- What recourse may a minority shareowner pursue if treated unfairly?
- What standard must directors meet when making decisions on behalf of the company?
- Why would shareowners create a unanimous shareholder agreement?

CHAPTER 8

B U S I N E S S S U C C E S S I O N

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

Business Succession: Business succession can take years to plan. We will review the reasons why owners should plan ahead. We will then review how businesses change hands, the advantages and disadvantages of selling the assets as opposed to selling the shares. Finally we will look at how a business owner can bring in a second generation to take over.

NEW SKILLS TO BE MASTERED:

- Planning for succession includes creating contracts for employees, suppliers, and customer or clients
- Developing and documenting formalized processes
- Understanding how a business owner can take advantage of the Lifetime Capital Gains Exemption (LCGE) when selling all the shares of his or her business.
- Understanding the advantages and disadvantages of selling all of the assets of the business
- Understanding the advantage and disadvantages of selling all the shares of the corporation operating your business;
- Planning to bring in a new generation into the business

- The use of family trusts in succession planning and how that will be curtailed by new tax proposals

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- Why does it take years to plan for succession?
- What type of activities will add value to your business?
- What does LCGE mean?
- What is the LCGE limit?
- How will passive investments in a corporation affect the ability to claim the LCGE?
- Why is a vendor's liability limited when he or she sells the shares of a corporation?
- Why would a purchaser prefer to purchase assets as opposed to shares?
- How can a shareowner "Freeze" the value of his or her shares?
- What type of shares would be issued to the new generation?
- Once the value of an owner's shares are frozen, how does that owner capitalize on that value?
- How does a family trust fit in a corporate structure?
- What are the advantages of establishing a family trust?
- How will the use of family trusts be affected by the new tax rules?

CHAPTER 9

CASL AND DNCL

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

CASL and DNCL: We will review 2 federal laws that impose significant financial penalties when breached. The Canadian Anti-Spam Law governs how business can send emails for promotional purposes. We will review how the law governs these emails and the dangers of breaching the law. The Do Not Call List (DNCL) restricts the ability to telemarket. We will review how this occurs and the penalties for failing to respect the law.

NEW SKILLS TO BE MASTERED:

- Understanding how Spam affects productivity globally and the impact on the global economy.
- Familiarization of Canada's anti-spam law, when it was introduced and how it affects businesses.
- Recognizing and understanding how The law defines Commercial Electronic Messages (CEM)
- Recognizing the importance of obtaining a recipient's consent.

- Understanding how the law distinguishes between express consent and implied consent and how those are treated differently.
- Recognizing how CASL applies to social media public information and private messaging platforms.
- Understanding how the laws impose significant penalties for violations.
- Understanding which government agency is responsible for investigating complaints.
- Recognizing how the DNCL restricts a business' ability to call consumers on their private lines.
- Recognizing a business' ongoing liability when engaging the services of a telemarketing company.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- Which government agency investigates and enforces CASL and the DNCL?
- Why did government introduce an anti-spam law?
- Other than Canada, which countries introduced anti-spam legislation?
- What type of communication falls within the ambit of CASL?
- How does the law deal with consent?
- In practical terms, how will you keep track of who gives consent?
- Why must you keep track of consent?
- What must be included in CEM's, once you obtain consent?
- What are the penalties for breaching the provisions of CASL?
- Will the CRTC investigate individuals?
- How does the law deal with social media?
- What must you do to telemarket in Canada?
- What is your liability if you engage the services of a telemarketing firm?

CHAPTER 10

INTELLECTUAL PROPERTY

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

Intellectual Property: Intellectual property refers to inventions of the mind. These inventions or ideas are protected at law by copyright, Trademarks, Patents, and Industrial designs statutes. We will review these four areas of protection and the penalties involved when these laws are not respected.

NEW SKILLS TO BE MASTERED:

- You will learn how the World Intellectual Property Organization (WIPO) advocates for a better legal framework to protect intellectual property rights. We will also review the acts adopted in Canada to achieve the same end.
- You will understand how Copyright arises and how registration provides copyright owners with protection.
- We will review who can claim copyright and the types of works protected by copyright.
- We will review the definition of a trademark.
- You will understand how trademark rights arise and how the Trade-Marks Act provides a means of protection and the process by which a trademark is created.
- We will review the definition of a patent and how these are protected.
- We will review the definition of an industrial design and how these are protected.
- You will understand how, under the Copyright Act, the Patent Act, and the Industrial Design Act, a party can claim infringement and the remedies available.
- You will understand how the Trade-Marks Act treats Infringement differently and how the state conducts investigations and prosecutes.

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- What is WIPO?
- How is intellectual property defined?
- What works are protected by the Canadian Copyright Act?
- What is the difference between economic rights and moral rights?
- What is the Bern Convention?
- How does one protect copyright?
- In an employee/employer relationship, who owns the rights to the work created?
- How does the Canadian Trade-Marks Act define trademarks?
- What are the benefits of registering a trademark?
- How is the trademark registration more complex than copyright registration?

- How does WIPO define patents?
- What types of inventions are patentable?
- How does WIPO define industrial designs?
- How does a party take action against someone who infringes copyright?
- What remedies are available to an aggrieved party following copyright infringement?
- How does a party take action against someone who copies its trademark?
- How does the processes differ between copyright and trademark infringement?
- What are the penalties for infringing trademark?
- What are the remedies for industrial design and patent infringement?

CHAPTER 11

PRIVACY

KEY CONCEPTS AND ISSUES - WHAT YOU WILL LEARN:

Privacy laws: With the increase in data collection, the federal and provincial governments enacted legislation imposing legal obligations on all organizations, including private business. We will review the Canadian privacy landscape and examine business owner obligations.

NEW SKILLS TO BE MASTERED:

- Understanding the policy decisions behind the move to legislate privacy
- Understanding how federal and provincial acts interact
- Recognizing the extent of private information
- Understanding PIPEDA
- Recognizing the 10 broad privacy principles
 - Accountability
 - Identifying purpose
 - Consent
 - Limiting Collection
 - Limiting use, disclosure, and retention
 - Accuracy
 - Safeguards
 - Individual Access
 - Challenging Compliance

READING GUIDE - KEY QUESTIONS TO BE ANSWERED:

- Why did government enact privacy legislation?
- Which level of government enacts privacy legislation?
- What is PIPEDA?
- Where does PIPEDA apply?
- How is personal information defined?
- What is the purpose of PIPEDA?
- Who investigates privacy complaints?
- How does the accountability principle affect small business?
- What must you do to comply with Principle no.2 – Identifying purpose?
- How may consent be obtained?
- What are your obligations under Principle no. 4 – limiting collection?
- What positive obligations does Principle no 5 impose – Limiting use, disclosure, and retention?
- Why must information be accurate?
- What factors are considered to determine if safeguards are sufficient?
- What information must be provided when requested?
- How far reaching is an individual's right to access his or her information?
- How must organizations deal with complaints?



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