

DONNA PURCELL QC
LAW

Legal & Intellectual Property



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About Us

Founded by Donna Purcell, K.C., a top 25 lawyer and changemaker, Donna Purcell QC Law is a client-first and innovative Alberta-wide law firm with offices in Calgary, Gasoline Alley (Red Deer), Edmonton, and, most recently, Sylvan Lake.

Our firm offers timely and cost-effective services and we meet the client where they are, including in-person and through videoconferencing. As a trailblazer in digital transformation, DPQC Law is capable of offering legal services anywhere through the cloud.

Areas of Practice

- Business Personal
- Intellectual Property
- Internet & Social Media
- Privacy & Data Protection
- Tech and Innovation
- Injury & Fatalities
- Real Estate
- Wills and Estate
- Dispute Resolution
- Labour & Employment



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Agenda

- Establishing the Business – Legal Structures, advantages and disadvantages
- Key Terms for Contracts
- Early-Stage Financing and Government Grants
- Employee Issues & Workplace policies
- Overview of Trade Law
- Intellectual Property (IP) Protection

Establishing the Business

There are three basic business structures available in Canada:

- Sole proprietorship;
- Partnership (general and limited); and
- Corporation.



Sole Proprietorship

A sole proprietorship is typically used when the business is owned and operated by the individual responsible for the business and its liabilities.

This structure is extremely simple, with few legal complications.

All benefits and liabilities of the business flow through to the individual.



Partnerships

A partnership exists when two or more individuals or corporations carry on business together with a view to profit.

Alberta recognizes general partnerships and limited partnerships.



General Partnerships

A general partnership is an association or relationship between two or more individuals, corporations, trusts, or partnerships that join together to carry on a trade or business.

Each partner contributes money, labor, property, or skills to the partnership. In return, each partner is entitled to a share of the profits or losses of the business.

The division of profits or losses among partners is typically based on the partnership agreement. If there is no partnership agreement, division is done in equal shares.



Limited Partnerships

A limited partnership is a business structure that involves at least one general partner and one or more limited partners.

- Limited partners have limited liability, which means their responsibility is restricted to the amount of their investment in the company.
- They typically have little or no involvement in day-to-day management.
- Limited partners are often investors who contribute capital but don't actively run the business.



Corporations

A corporation is a legally established business entity that can own assets, incur debt, and enter into contracts. It operates separately from its owner(s), providing limited liability protection to its shareholders.

There are different types of corporations for tax purposes, each with specific characteristics:

- **Canadian-controlled private corporation.**
- **Other private corporation.**
- **Public corporation.**



Key Elements of a Contract

- Offer and Acceptance: Clear terms, mutual agreement and understanding the terms.
- Consideration: Something of value exchanged.
- Capacity: Legal ability of parties to enter a contract.
- Legality: Contract must be for a legal purpose.
- Proper form: Oral or in writing. Real property, performance in more than a year, guaranteed debt are all required to be in writing.



Important Clauses in Contracts

- Payment Terms: Amounts, schedules, and billing dates.
- Scope of Work: Detailed description of deliverables.
- Dispute Resolution: Methods for handling disputes.
- Termination: Conditions under which the contract can be ended.



Common Pitfalls in Contracts

- **Ambiguities:** Ensure clarity in terms and definitions.
- **Incomplete Work:** Addressing missed deadlines and incomplete work.
- **Breach of Contract:** Handling breaches and associated damages.



Early-Stage Financing & Govt. Grants

➤ Financing Sources

- Personal Investment
- Loans from friends and family
- Grants and subsidies
- Bank loans
- Angel investors
- Venture capital
- Funding from cash flow
- Convertibles



Employment Issues for Start-Ups

Startups in Canada need to navigate through a wide range of complex employment issues. Here are some key employment law compliance issues they will be confronted with:

Employees vs. Independent Contractors: It is important to correctly classify workers as employees or independent contractors. Misclassification can lead to legal issues.

Importance of Employment Agreements: Employment agreements are a key component of risk management for all startups. They provide a clear and mutual understanding of the expectations and obligations during the relationship.

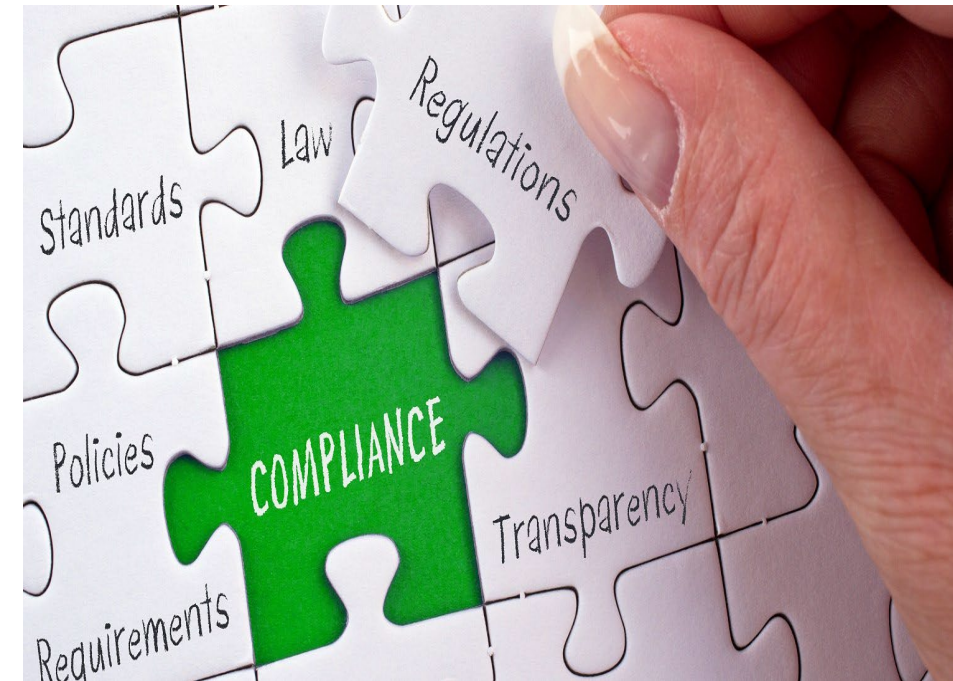


Employment Issues for Start-Ups

Key Employment Compliance Issues: Startups need to comply with employment standards legislation, from hiring to termination.

Termination of Employment: Startups must understand their obligations and rights when it comes to terminating employees in order to effectively manage potential liabilities.

Workplace Health and Safety: Startups must ensure they are providing a safe and healthy work environment.



Workplace policies for Start-Ups

Workplace policies are essential for any organization, especially startups. They provide guidance, ensure consistency, and promote a positive work environment.

Here are some key policies that startups should consider implementing:

1. Code of Conduct Policy:

- Sets standards of behavior for employees in their interactions with colleagues, supervisors, and the organization.

2. Equal Employment Opportunity Policy:

- Ensures fair treatment and prohibits discrimination based on factors such as race, gender, religion, or disability.

3. Workplace Health and Safety Policy:

- Focuses on employee safety, accident prevention, and compliance with health and safety regulations.

4. Leave and Time Off Policy:

- Defines various types of leave (sick leave, vacation, parental leave, etc.).

5. Data Protection and Privacy Policy:

- Addresses data privacy, confidentiality, and protection of sensitive information.



Workplace policies for Start-Ups

6. Social Media Policies:

- Guides employees on appropriate use of social media platforms.

7. Remote Work Policy:

- Establishes guidelines for remote work arrangements.

8. Email Use Policy:

- Sets guidelines for professional email communication.

9. Harassment and Discrimination Policy:

- Prohibits harassment, bullying, and discrimination.

10. Recruitment and Selection Policy:

- Outlines fair and transparent hiring practices.

11. Intellectual Property Policy:

- Clarifies ownership of intellectual property created by employees.

12. Grievance Handling Policy:

- Provides a process for resolving employee grievances.



Introduction to Trade Law in Canada

Overview:

- **International Trade Agreements:** USMCA/CUSMA, CETA, CPTPP
- **Export & Import Controls:** Regulates sensitive goods
- **Customs & Border Administration:** Enforced by CBSA
- **Trade Remedies:** Anti-dumping, countervailing duties

Importance for Businesses:

- **Market Access:** Expands customer base
- **Competitive Advantage:** Reduces costs
- **Legal Certainty:** Predictable framework
- **Economic Growth:** Drives innovation and job creation



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Importance of Understanding Trade for Business Growth and Compliance



1. Market Access:

Trade agreements open new markets, expanding customer base and increasing sales.

2. Competitive Advantage:

Reduced tariffs and trade barriers lower costs for importing raw materials and components.

3. Legal Certainty:

Clear legal framework helps businesses plan operations, manage risks, and resolve disputes effectively.

4. Economic Growth:

International trade drives economic growth, job creation, and innovation, contributing to overall prosperity.

Legal Support and Resources for Businesses



1. Importance of Seeking Legal Advice and Support:

- ✓ **Expert Guidance:** Ensures compliance with complex trade regulations.
- ✓ **Risk Management:** Helps avoid legal pitfalls and penalties.
- ✓ **Strategic Planning:** Provides insights for business growth and international expansion.

2. Overview of Available Resources:

- ✓ **Legal Firms Specializing in Trade Law:** Offer expert advice and representation.
- ✓ **Government Resources:** Canada Border Services Agency (CBSA), Global Affairs Canada (GAC).

3. Tips for Choosing the Right Legal Support:

- Expertise:** Look for firms with experience in trade law.
- Track Record:** Check for proven success in relevant cases.
- Communication:** Ensure they provide clear and timely updates.
- Fee Structure:** Understand their billing practices upfront.

4. Contact Information for Key Organizations:

- ✓ **Canada Border Services Agency (CBSA):** cbsa-asfc.gc.ca
- ✓ **Global Affairs Canada (GAC):** international.gc.ca

Intellectual Property (IP) Rights

The definition of intellectual property rights is any and all rights associated with **intangible assets owned by a person or company** and **protected against use without consent**. Intangible assets refer to non-physical property, including right of ownership in intellectual property.

There are four main types of intellectual property rights:

- **Trademark** - a trademark is a recognizable sign, phrase, or symbol that denotes a product or service and legally differentiates it from all others of its kind.
- **Patent** – a patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem.



Intellectual Property (IP) Rights

- **Copyright** - the exclusive legal right, given to an originator or an assignee to print, publish, perform, film, or record literary, artistic, or musical material, and to authorize others to do the same.
- **Trade Secret** - includes any business information that has commercial value derived from its secrecy. Trade secrets can include developing new technology, designing original products, or creating the perfect recipe such as the Coca Cola formula—a well-guarded secret for over 100 years.



Essential documents for protecting IP rights

Innovators and inventors use these documents every day to protect their ideas and interests.

- **Non-Disclosure Agreement** – a contract used to maintain privacy in agreements where sensitive information is exchanged between two parties.
- **Confidentiality Agreement** – a contract used to protect parties entering into business relationships or transactions that require the exchange of sensitive, private information otherwise inaccessible to third parties.
- **Cease & Desist Letter** - puts an individual, business or company on notice that they are engaging in some sort of activity that you believe harms you, and the letter lets them know that if they do not stop, you will be pursuing legal action against them.



How to Protect Intellectual Property Rights

- Register copyrights, trademarks, trade secrets and patents.
- Register business, product, or domain names.
- Create confidentiality, non-disclosure, or licensing contracts for employees and partners.
- Implement security measures.
- Avoid joint ownership where possible.
- Recognize that intellectual property rights are a business asset.



**THANK
YOU!**

**For inquiries or
to initiate the
process, contact
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