



This publication is intended to provide general information only and is not a substitute for legal advice.

Franchises in Alberta

This tipsheet will provide you with information about franchises and the legislation that deals with franchise sales in Alberta.

WHAT IS A FRANCHISE?

A franchise is a type of business arrangement. A franchisee (franchise buyer) buys the right to market certain products and services from a franchisor (franchise seller). The franchisee buys those rights for a specific time in a particular location.

WHAT IS THE LAW IN ALBERTA?

The *Franchises Act* and *Franchises Regulation* outline the franchisor's responsibility to disclose information. They also provide legal options when the rules in the act or regulation are not followed.

DISCLOSURE DOCUMENT

Franchisors must provide every potential franchisee with a copy of the franchisor's disclosure document at least 14 days before any agreement relating to the franchise is signed, or payment of any monies relating to the franchise, whichever is earlier. If this does not happen, the franchisee may cancel all the franchise agreements. Cancellation must occur within 60 days after receiving the disclosure document or within two years after the franchise has been granted, whichever occurs first.

The disclosure document must contain copies of all franchise agreements and financial statement. It must also include information about the franchisor, including, but not limited to

- The name, address, and the name under which the franchisor does or intends to do business
- The principle business address of the franchisor and, if the franchisor has an attorney for service in Alberta, the name and address of that person

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- The business form of the franchisor
- The length of time the franchisor has conducted a business of the type to be operated by the franchisee
- The names of the persons with day-to-day franchise management responsibilities.

The document must also contain all material facts relating to the franchise. The financial statements must be prepared using generally accepted accounting principles. Please refer to the Franchises Act for complete information.

If you are thinking about buying a franchise, have all documents reviewed by a lawyer who is up-to-date on the legal aspects of franchising. Have an accountant review your business plan to ensure you have included everything you need to make an informed decision.

If a dispute arises with a franchisor, speak directly with the company to try to resolve the problem. If you cannot resolve the matter, you may need to go through the courts. You may also have the right to cancel the franchise agreement under civil or contract law.

Check each franchise opportunity and ask questions about every part of the business.

BEFORE YOU BUY A FRANCHISE

Check each franchise opportunity and ask questions about every part of the business.

Many organizations offer information to help you make an informed decision (refer to contact information at the end of this tipsheet).

The product or service

Some questions to consider before making a decision include:

- What is the product or service?
- Will anyone buy this product?
- Is it priced competitively with others in its class?
- Are you guaranteed that the suppliers will continue to provide the product?
- Are there rules about using trademarks?
- Are there any government standards for the product or service? Does the product or service meet those standards?
- Are there any limits on the product's or service's use or licensing?

The company (franchisor)

Before making a decision you should know

- who the directors and managers in the franchisor's company are, their experience in this type of business, and length of time with the company
- the current number of franchises and whether any have closed or changed hands; as well as when it happened and why

- any restrictions that will be imposed on your business operation, including what and where you must buy and sell
- if the company has done a feasibility study for you and what the results suggest
- who decides the franchise's location within your area and whether the location offered suits your needs
- what type of start-up and on-going training and support the franchisor offers
- about their advertising and promotional funds and how they work.
- training.

Confirm who is responsible for all costs related to the franchise. Have your accountant review all the financial statements to alert you to any problems. You should also know what economic and market conditions the franchisor is basing profit margins and projected earnings on.

Get all franchisors' promises in writing and ask for references including the names and addresses of existing franchisees, financial institutions, and suppliers.

Check the reputation of the company by asking government departments, bankers, the Better Business Bureau, and trade associations (e.g. the Canadian Franchise Association, and the International Franchise Association) for information about the franchisor.

Take care when dealing with a franchisor that is ready to sign you up without checking you out. Your success may be of less interest than your sign-up fee.

Franchise Agreement

The franchise agreement is a contract that sets out the terms and conditions of your franchise arrangement. It should include a number of details regarding the franchise, including, but not limited to

- your rights and responsibilities and those of the franchisor
- every verbal or written promise agreed upon
- the conditions under which the agreement will be renewed and the cost to renew

Have your lawyer review the contract. Once it is signed, both parties must honour it.

Franchise fraud

Be aware of signs that could indicate a possible franchise fraud.

High-pressure sales tactics

Shady promoters demand quick decisions. They don't give you time to investigate profit claims or consult with lawyers or accountants.

Promises of sky-high profits

Honest promoters don't guarantee clients a return on their investments, much less unlikely profits of 100 per cent or more. Legitimate operators qualify their success stories by stating the number of franchisees who have earned big money.

Unjustified start-up fees

Examine the inventory, training course, and sales kits promoters insist you buy. Are promoters asking for more than fair market value for these start-up items?

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Evasive answers and failure to reveal information

If the promoters don't answer your questions directly or refuse to provide details don't go any further.

Your chance to succeed depends on the sellers' full cooperation and support.

If you suspect that an offer is a swindle, share your suspicions with the authorities. Contact the police and the Better Business Bureau if you suspect any fraudulent business activity. Your warning can help protect other investors.

FOR MORE INFORMATION

Consumer Contact Centre

Edmonton: (780) 427-4088

Toll-free in Alberta: 1-877-427-4088

www.servicealberta.ca

Queen's Printer Bookstore

You may purchase Acts and regulations from the Queen's Printer Bookstore:

10611 - 98 Avenue, Edmonton, Alberta T5K 2P7

Edmonton: (780) 427-4952

Toll-free in Alberta: 310-0000 then 780-427-4952

These are also free for you to download in the "pdf" or "html" formats at www.qp.alberta.ca

Canadian Franchise Association

- a resource for franchisors and franchisees
- sells publications and a Membership Directory

Toll-free: 1-800-665-4232

www.cfa.ca

International Franchise Association (IFA)

Phone: 202-628-8000

www.franchise.org

The Business Link

Edmonton: 780-422-7722

Toll-free: 1-800-272-9675

www.canadabusiness.ab.ca

Better Business Bureau (BBB)

Central and Northern Alberta

Edmonton: (780) 482-2341

Toll free in Canada: 1-800-232-7298

www.edmonton.bbb.org

Southern Alberta and East Kootenays

Calgary: (403) 531-8780

Toll free in Southern Alberta 1-800-661-4464

<http://calgary.bbb.org>

A current version of this and other consumer tipsheets are available at the Service Alberta website www.servicealberta.ca. Most public libraries have internet access if you don't have access at home.

If you need more copies of this tipsheet, you have permission to photocopy.