

# Practical Law of Architecture, Engineering, and Geoscience

Third Canadian Edition

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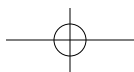
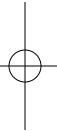
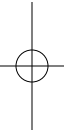
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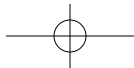
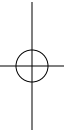
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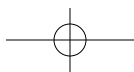
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# LIST OF ABBREVIATIONS

AAA	American Arbitration Association	CCDC 17	CCDC Stipulated Price Contract
ACEC	Association of Consulting Engineering Companies		for Trade Contractors on Construction Management Projects
ACEC 31	ACEC Prime Agreement between Client and Engineer	CCPG	Canadian Council of Professional Geoscientists
AIA	American Institute of Architects	CEAA	Canadian Environmental Assessment Act
AIT	Agreement on Internal Trade	CEPA	Canadian Environmental Protection Act
AOD	Association of Owners and Developers	CGL Insurance	Commercial General Liability Insurance
APEGBC	Association of Professional Engineers and Geoscientists of British Columbia	CGS	The Canadian Geotechnical Society
APEGA	Association of Professional Engineers and Geoscientists of Alberta	CHSR	Canada Health and Safety Regulations
APEGS	Association of Professional Engineers and Geoscientists of Saskatchewan	CIM	Canadian Institute of Mining
ASCE	American Society of Civil Engineers	CITT	Canadian International Trade Tribunal
BCCA	British Columbia Construction Association	CLC	Canada Labour Code
BCCA 200	BCCA Subcontract	CM	Construction Management
CCA	Canadian Construction Association	CPD	Continuing Professional Development
CCDC	Canadian Construction Documents Committee	CPM	Critical Path Method
CCDC 2	CCDC Stipulated Price Contract	CSA	Canadian Standards Association
CCDC 23	CCDC Guide to Calling Bids and Awarding Contracts	CSA	Canadian Securities Administrators
CCDC 220	CCDC Performance Bond	CSC	Construction Specifications Canada
CCDC 221	CCDC Bid Bond	CSCE	Canadian Society for Civil Engineering
CCDC 222	CCDC Labour and Material Payment Bond	CSME	Canadian Society of Mechanical Engineering
CCDC 3	CCDC Cost-Plus Contract	DBIA	Design-Build Institute of America
CCDC 4	CCDC Unit Price Contract	DMCA	<i>Digital Millennium Copyright Act</i> (US)
CCDC 5A	CCDC Construction Management Contract	DRP	Dispute Resolution Process
CCDC 5B	CCDC At-Risk Construction Management Contract	E&O Insurance	Errors and Omissions Insurance
CCDC 14	CCDC Design-Build Stipulated Price Contract	EIT	Engineer-in-Training
		ESA	Environmental Site Assessment
		FIDIC	International Federation of Consulting Engineers

## xviii | List of Abbreviations

GC	General Condition	PIPEDA	<i>Personal Information Protection and Electronic Documents Act</i>
GMP	Guaranteed Maximum Price		
GSC	Geological Survey of Canada	PPP or P3	Public–Private Partnership
GST	Goods and Services Tax	RAIC	Architecture Canada (formerly the Royal Architectural Institute of Canada)
ICE	Institute of Civil Engineers		
IEEE	Institute of Electrical and Electronics Engineers	RAIC	
ISO	International Organization for Standardization	Document 6	Canadian Standard Form of Contract for Architectural Services
ISP	Internet Service Provider		
L&M Bond	Labour and Material Payment Bond	RAIC	
		Document 7	Canadian Standard Form of Contract for Architectural Services (Abbreviated Version)
NAFTA	North American Free Trade Agreement		
NCARB	National Council of Architectural Registration Boards (US)	RFP	Request for Proposals
		RFQ	Request for Qualifications
NCEES	National Council of Examiners for Engineering and Surveying (US)	RRSP	Registered Retirement Savings Plan
NI	National Instrument	Vmail	Voice Mail
OH&S	Occupational Health and Safety	WCB	Workers' Compensation Board
P.Eng.	Professional Engineer	WORM	Write Once Read Many
PFI	Privately Financed Initiative	WTO	World Trade Organization

# PREFACE

## New to This Edition

This third Canadian edition has been updated and enhanced in the following respects:

- Case law has been updated to include recent leading case authority in several fields, including employment law, tendering, pure economic loss, contract enforceability, disclaimers, and other areas.
- Sections on international law have been added and enhanced.
- New scenarios and questions have been added.

## About This Text

This text is intended to provide the following:

- a) a broad overview of areas of the law relevant to the practice of architecture, engineering, and geoscience
- b) practical, rather than theoretical, information
- c) sufficient background to allow the reader to identify legal issues
- d) simple, easy-to-follow language

This text is *not* intended to do the following:

- a) make lawyers out of and thereby ruin perfectly good architects, engineers, and geoscientists
- b) be a master's level thesis on any of the subjects, since most if not all of the topics have multiple full-length texts written about them
- c) eliminate the need to seek appropriate legal advice

The title of this text is *Practical Law of Architecture, Engineering, and Geoscience*. Since the publication of the first edition, this practical guide to the law for design professionals has been adopted as the primary text for the professional practice exams and the entrance exam for professional engineers and geoscientists in various provinces. However, the intended audience of this text is not limited to architects, engineers, and geoscientists. Contractors, technicians and technologists, lawyers, suppliers, project managers, construction managers, software professionals, and others also may benefit from reading it.

One of the risks of creating a text that provides a broad overview is that the explanations in most areas are necessarily brief and do not contain the level of detail that would be found in comprehensive legal texts. Therefore, readers must recognize that this text is not intended as a substitute for legal advice. Legal problems are fact specific, meaning that a slight change in the facts can often lead to a different conclusion. Furthermore, the law differs from one jurisdiction to another and changes over time. Non-lawyers should obtain specific advice for specific legal problems and should not attempt to act as their own counsel.

It has been said that ignorance of the law is no excuse.<sup>1</sup> The time has passed when architects, engineers, and geoscientists could rely on technical competence in their fields and ignore the law. For these professionals, the likelihood of being involved in a lawsuit, whether as plaintiff or defendant, is

<sup>1</sup> It has also been said that this statement does not apply to trial court judges, who have court of appeal judges to correct their errors for them.

much greater now than in the past. Since the cost of prosecuting, defending, and settling claims can be high, recognizing and preventing potential legal problems early is important. Moreover, all professionals need to know the basics of contract law so that they can negotiate appropriate agreements.

Many chapters in this text apply equally to all professions. For example, the basic principles of contract law and negligence, and property law and business organizations are as applicable to architecture as they are to engineering and geoscience. However, other portions of the text will be more useful to some professions than to others. For example, geoscientists may want to pay particular attention to section 11.5 on geoscience agreements and to Chapter 25, which covers the disclosure requirements for professionals involved in mining and oil and gas exploration.

## Supplements

*Practical Law of Architecture, Engineering, and Geoscience*, Third Canadian Edition, is accompanied by a complete supplements package:

- *Instructor's Manual*: The Instructor's Manual includes a sample course outline featuring notes on key concepts, teaching suggestions, and brief case summaries.
- *Test Item File*: A comprehensive testbank of various types of questions has been prepared in Word to accompany this Canadian edition.
- *PowerPoint® Slides*: Electronic slides are available in Microsoft PowerPoint. The slides illuminate and build on key concepts in the text.

The Instructor's Manual, Test Item File, and PowerPoint® Slides can be downloaded from Pearson Canada's online catalogue at <http://catalogue.pearsoned.ca>.

- *Companion Website*: *Practical Law of Architecture, Engineering, and Geoscience*, Third Canadian Edition, is supported by an excellent Companion Website that includes APEGA- and PEO-style examination questions, self-study questions, key terms and concepts, sample contracts, and links to relevant websites.
- *CourseSmart*: CourseSmart goes beyond traditional expectations—providing instant, online access to the textbooks and course materials you need at a lower cost for students. And even as students save money, you can save time and hassle with a digital eTextbook that allows you to search for the most relevant content at the very moment you need it. See how when you visit [www.coursesmart.com/instructors](http://www.coursesmart.com/instructors).

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