

RE: Energy reg - Reg2017.0643 - Amending O. Reg. 196/17 (Invoicing Requirements) - Sealing issue

From: "Hindmarch-Watson, Tim (CAB)" <tim.hindmarch-watson2@ontario.ca>
To: "Moore, Karen (CAB)" <karen.moore4@ontario.ca>
Date: Tue, 12 Dec 2017 15:38:21 -0500
Attachments: LRC-CBN_ENERGY Bills_DRAFT- v3.docx (43.74 kB)

Here it is. I shared the legal risk language with MAG and Energy DMOs for another fact check.

Tim Hindmarch-Watson
416-325-4618

From: Moore, Karen (CAB)
Sent: December-12-17 3:37 PM
To: Hindmarch-Watson, Tim (CAB)
Subject: FW: Energy reg - Reg2017.0643 - Amending O. Reg. 196/17 (Invoicing Requirements) - Sealing issue

Please send me the latest CBN. Thanks!

Karen
416-325-4764
karen.moore4@ontario.ca

From: Spakowski, Mark (MAG)
Sent: December 12, 2017 3:21 PM
To: Frndova, Lucia (CAB) <lucia.frndova@ontario.ca>; Moore, Karen (CAB) <Karen.Moore4@ontario.ca>
Cc: Partington, Tara (MAG) <Tara.Partington@ontario.ca>; Rosenbaum, Pauline (MAG) <Pauline.Rosenbaum@ontario.ca>; Armstrong, Ralph (MAG) <Ralph.Armstrong@ontario.ca>
Subject: RE: Energy reg - Reg2017.0643 - Amending O. Reg. 196/17 (Invoicing Requirements) - Sealing issue

I've asked that work start on such a memo. (Our memos like this are quite short, particularly when they are following from advice given by others.) But we didn't know if that would be the best way to proceed or if Cabinet would get the advice another way. I'm mostly concerned that Cabinet get the advice, not the form in which it is given.

From: Frndova, Lucia (CAB)
Sent: December 12, 2017 3:16 PM
To: Spakowski, Mark (MAG) <Mark.Spakowski@ontario.ca>; Moore, Karen (CAB) <Karen.Moore4@ontario.ca>
Cc: Partington, Tara (MAG) <Tara.Partington@ontario.ca>; Rosenbaum, Pauline (MAG) <Pauline.Rosenbaum@ontario.ca>; Armstrong, Ralph (MAG) <Ralph.Armstrong@ontario.ca>
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Thanks Mark. I'll see when folks are available.

For unsealed regs, usually OLC provides a memo explaining why they are unsealed. Is there such a memo ready/prepared already?

Lucia

From: Spakowski, Mark (MAG)
Sent: Tuesday, December 12, 2017 3:14 PM
To: Frndova, Lucia (CAB); Moore, Karen (CAB)
Cc: Partington, Tara (MAG); Rosenbaum, Pauline (MAG); Armstrong, Ralph (MAG)
Subject: RE: Energy reg - Reg2017.0643 - Amending O. Reg. 196/17 (Invoicing Requirements) - Sealing issue

It will have to be a quick call. I need to be at 720 Bay at 4 to give a briefing to the incoming DAG (not on this issue of course).

My concern is just to make sure the decision-makers are adequately advised. To the extent that the seal is just advice to Cabinet (and that is what we think it is), Cabinet should be thinking of this like it is an unsealed regulation. If we had found out about this before LRC we would have suggested pulling this and replacing it with an unsealed regulation.

Mark

From: Frndova, Lucia (CAB)
Sent: December 12, 2017 3:08 PM
To: Spakowski, Mark (MAG) <Mark.Spakowski@ontario.ca>; Moore, Karen (CAB) <Karen.Moore4@ontario.ca>
Cc: Partington, Tara (MAG) <Tara.Partington@ontario.ca>; Rosenbaum, Pauline (MAG) <Pauline.Rosenbaum@ontario.ca>; Armstrong, Ralph (MAG) <Ralph.Armstrong@ontario.ca>
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Mark,

To make sure I understand, you are suggesting that there be a flag that OLC would suggest removing the seal?

I'd like to better understand to ensure Cabinet has the appropriate advice. Karen – would you mind if we set up a quick call?

Lucia

From: Spakowski, Mark (MAG)
Sent: Tuesday, December 12, 2017 3:06 PM
To: Moore, Karen (CAB)
Cc: Frndova, Lucia (CAB); Partington, Tara (MAG); Rosenbaum, Pauline (MAG); Armstrong, Ralph (MAG)
Subject: RE: Energy reg - Reg2017.0643 - Amending O. Reg. 196/17 (Invoicing Requirements) - Sealing issue

Will the CO materials indicate that OLC wouldn't have sealed the regulation? Or is that something we should put in our own document? Any advice about how to deal with this issue at this point?

From: Moore, Karen (CAB)
Sent: December 12, 2017 2:26 PM
To: Spakowski, Mark (MAG) <Mark.Spakowski@ontario.ca>
Cc: Frndova, Lucia (CAB) <lucia.frndova@ontario.ca>; Partington, Tara (MAG) <Tara.Partington@ontario.ca>; Rosenbaum, Pauline (MAG) <Pauline.Rosenbaum@ontario.ca>; Armstrong, Ralph (MAG) <Ralph.Armstrong@ontario.ca>
Subject: RE: Energy reg - Reg2017.0643 - Amending O. Reg. 196/17 (Invoicing Requirements) - Sealing issue

Hi Mark,

Thank you very much for the clarification. This item is going to Cabinet tomorrow and we have amended the CO materials to note the risk raised by MAG (using language that they developed). I understand the regulation will not be changing at this point, despite the risk noted.

Happy to discuss, as always.

Cheers,

Karen
416-325-4764
karen.moore4@ontario.ca

From: Spakowski, Mark (MAG)
Sent: December 12, 2017 1:27 PM
To: Moore, Karen (CAB) <Karen.Moore4@ontario.ca>
Cc: Frndova, Lucia (CAB) <lucia.frndova@ontario.ca>; Partington, Tara (MAG) <Tara.Partington@ontario.ca>; Rosenbaum, Pauline (MAG) <Pauline.Rosenbaum@ontario.ca>; Armstrong, Ralph (MAG) <Ralph.Armstrong@ontario.ca>
Subject: Energy reg - Reg2017.0643 - Amending O. Reg. 196/17 (Invoicing Requirements) - Sealing issue
Importance: High

Hi Karen

LRC was informed yesterday about a constitutional issue concerning the above regulation. That is also when we first heard about this issue. I wanted to make sure there wasn't any misunderstanding about the significance of our sealing this regulation given the concerns being raised. We understand this is going to Cabinet tomorrow and the AG will speak to it.

We understand that this issue arose only late last week. We were unaware of it when this regulation was sealed on Thursday. As I noted above we first heard of it during yesterday's LRC meeting. We don't yet have a copy of the constitutional advice but I've spoken with Constitutional Law Branch about it. The risk level is such that, had we known about this before, we would not have sealed this regulation.

Happy to discuss, if that would be useful.

Mark