

Publisher's Note

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Previous release was 2017-1

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Scott & Reynolds

Surety Bonds

Scott and Reynolds on Surety Bonds is the first Canadian book on the law of suretyship, an area of the law integrally related to the successful administration of construction contracts and central to the completion of most defaulted construction projects. This service represents a compendium of cases, as well as a well-organized study of the principles to be derived from the case law.

This release features updates to case law and commentary in Chapter 3 (The Statutory Regulation of Surety Underwriting and Other Relevant Legislation), 10 (Performance Bonds), 11 (Labour and Material Payment Bonds); and 12 (Lien Bonds).

HIGHLIGHTS

- **The Labour and Material Payment Bonds — General — The “Trustee” Wording** — In *Valard Construction*, a majority of the Supreme Court of Canada held that the “trust instrument”, i.e. the Labour and Material Payment Bond, did not expressly impose a duty on the trustee to protect the interests of the beneficiaries, the

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general law as to the duties, rights and obligations of trustees continues to govern where the trust instrument is silent, and that, pursuant to the general law a fiduciary relationship exists between the trustee and the beneficiaries, which gives rise to certain duties: *Valard Construction Ltd. v. Bird Construction Co.*, 2018 SCC 8.

- **Lien Bonds — Sample Wording — Financial Guarantee Bond under Ontario's *Construction Act*** — As of July 1, 2018, the Ontario *Construction Act*, R.S.O. 1990, c. C.30, provides that the mandatory form of lien bond is as prescribed. Form 21, O.Reg. 303/18.