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SULLIVAN ON THE CONSTRUCTION OF STATUTES

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was free to terminate at will upon 15 days' notice. The Act said nothing about termination for cause. However, under British Columbia's *Human Rights Code* persons could not be denied a "service ... customarily available to the public ... unless reasonable cause exists for such denial ...." A majority of the Court reconciled these provisions by reading the words "for reasonable cause" into the statutory condition, which had the effect of narrowing its scope. Henceforth, an insurer was free to terminate only for a cause that would be recognized as reasonable within the meaning of the *Human Rights Code*. The conflict was thus resolved in a way that acknowledged the paramountcy of the human rights legislation.

§11.55 Since 1982, the principle that fundamental law is paramount has been applied on numerous occasions to give priority to federal and provincial human rights legislation.[78] It has also been applied to other public and fundamental legislation, most notably language guarantees.[79]

§11.56 ***Statutes are paramount over subordinate legislation***. The presumption of coherence applies to regulations[80] and by-laws as well as statutes. It is presumed that subordinate legislative provisions are meant to work together, not only with their own enabling legislation but with other Acts and other subordinate legislation. However, if conflict is unavoidable, in the absence of evidence of a contrary legislative intent, the statutory provision prevails. This was explained by La Forest J. in *Friends of Oldman River Society v. Canada (Minister of Transport)*:

> Just as subordinate legislation cannot conflict with its parent legislation,...[81] so too it cannot conflict with other Acts of Parliament,...[82] unless a statute so authorizes....[83] Ordinarily, then, an Act of Parliament must prevail over inconsistent or conflicting subordinate legislation.[84]

78 See, for example, *Tranchemontagne v. Ontario (Director, Disability Support Program)*, [2006] S.C.J. No. 14, [2006] 1 S.C.R. 14, at para. 33*ff.* (S.C.C.); *Berg v. University of British Columbia*, [1993] S.C.J. No. 55, [1993] 2 S.C.R. 353, at 370-71 (S.C.C.); *Winnipeg School Division No. 1 v. Craton*, [1985] S.C.J. No. 50, [1985] 2 S.C.R. 150, at 153-56 (S.C.C.); *Halifax (Regional Municipality) v. Nova Scotia (Human Rights Commission)*, [2008] N.S.J. No. 92, 2008 NSCA 21, 290 D.L.R. (4th) 577, at para. 60*ff.* (N.S.C.A.), leave to appeal refused [2008] S.C.C.A. No. 245 (S.C.C.); *Druken v. Canada (Employment and Immigration Commission)*, [1988] F.C.J. No. 709, [1989] 2 F.C. 24, at 31 (F.C.A.).

79 See *R. v. Mercure*, [1988] S.C.J. No. 11, [1988] 1 S.C.R. 234, at 268 (S.C.C.), *per* La Forest J.: "... language is profoundly anchored in the human condition. Not surprisingly, language rights are a well-known species of human rights and should be approached accordingly." See Chapter 19, at §19.15*ff.*

80 "Regulations" in this chapter refers to all forms of subordinate legislation enacted by the executive branch of government.

81 *Belanger v. The King*, [1916] S.C.J. No. 63, 54 S.C.R. 265 (S.C.C.).

82 *R. & W. Paul Ltd. v. Wheat Commission*, [1936] 2 All E.R. 1243, [1937] A.C. 139 (H.L.).

83 *Re Gray*, [1918] S.C.J. No. 35, 57 S.C.R. 150 (S.C.C.).

84 [1992] S.C.J. No. 1, [1992] 1 S.C.R. 3, at 38 (S.C.C.); see also at 48-49.