

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Tip of Month:

OIC/Regulation Search Tip

Tracking down regulations and orders can be tricky, and it's one of the most common inquiries we receive. Most orders are administrative in nature and are often, but not always, assigned a regulation number. These subordinate legislative items may bring into force sections of a bill, or amend existing regulations. Because orders/regulations fall under the authority of a statute, you can use our OIC search to determine all orders and regulations that have been made in relation to a particular statute. Simply go to the OIC section on the left navigation, and using the search tool, enter the title of a statute (use quotation marks). The results will display all orders/regulations that fall under the authority of the act over the last several years.

New Annotations Posted


A number of new annotations have been posted in recent weeks including:

- [Bill Buholzer](#), Young Anderson Barristers and Solicitors – [Local Government Act](#),
- [Paul Wilson](#), Fasken Martineau LLP – [Oil & Gas Activities Act](#), [Environmental Protection and Regulation \(200/2010\)](#), [Petroleum and Natural Gas Act](#)
- [John-Paul Boyd](#), Canadian Research Institute for Law and the Family – [Family Law Act](#)
- [Stan Rule](#), Sabey Rule LLP – [WESA](#)
- [Erik Magraken](#), MacIsaac & Company – [Supreme Court Civil Rules \(168/2009\)](#)

To receive notification when new annotations are posted, you can either follow individuals by selecting the "Follow User" next to their name, or follow annotations for this law via the "Follow Annotations for This Law" feature located on the top menu bar when you are within the law itself. Visit our Help Menu for more details or [contact us](#) for assistance.

Tip: Log in to Quickscribe Online prior to clicking Reporter links.

View [PDF](#) of this Reporter.

FEDERAL LEGISLATION – For notification of federal amendments, we recommend you use our [Section Tracking](#)  tool.

[\[Previous Reporters \]](#)

CATEGORIES

COMPANY & FINANCE	LOCAL GOVERNMENT
ENERGY & MINES	MISCELLANEOUS
FAMILY & CHILDREN	MOTOR VEHICLE & TRAFFIC
FOREST & ENVIRONMENT	PROPERTY & REAL ESTATE
HEALTH	WILLS & ESTATES
LABOUR & EMPLOYMENT	

Company and Finance News:

Chartered Professional Accountants Act Now in Force

On June 24, 2015, [B.C. Reg. 114/2015](#) brought into force the [Chartered Professional Accountants Act](#), SBC 2015, c. 1. This Act unifies the three accountancy bodies, the Chartered Professional Accountants of British Columbia, the Certified Management Accountants Society of British Columbia, and the Certified General Accountants Association of British Columbia, into a single organization aiming to modernize the regulation of the accounting profession in BC.

Be Careful of Predatory Financial Advice

Most financial advisors provide exactly the kind of service you would expect: they provide you options for investing your money and inform you of the risks and rewards involved with choosing an investment vehicle or personal financial restructuring. Those looking for financial advice to plan for their future place trust in the advice they are receiving. Rarely, as was the case in [Connor Financial Services International Inc. v. Laughlin](#), financial advisors fail to keep their clients' best interests in mind and, instead, seek to use their position to benefit themselves at their clients' expense. In *Laughlin*, the plaintiffs, the "Connor Group", were suing the defendants, the Laughlins, for money allegedly owed further to a series of contracts the Laughlins had signed with the Connor Group. By way of background, in 2000 when the Laughlins met with the Connor Group, they were unsophisticated in financial matters and had gotten into some financial difficulty by having overused their credit cards, racking up in excess of \$22,000 in credit card debt. The Laughlins had a home with a mortgage and modest investments in RSPs. The Laughlins had seen an advertisement by the Connor Group concerning an RSP investment in what was described as a "Working Opportunity Fund". The Laughlins were interested and met with the Connor Group's principal, Gerry Connor. Read the [full article](#) by [Jeremy Burgess](#) with Pushor Mitchell LLP.

New Rules Ease "Canadian Wrapper" Requirements for Private Placements in Canada of Non-Canadian Securities

Effective September 8, 2015, certain private placements of non-Canadian securities made to Canadian institutional investors that qualify as "permitted clients" will no longer require a "Canadian wrapper".

Key Conditions to New Rules

The new rules require that certain conditions be satisfied:

- the offering must be conducted primarily in a non-Canadian jurisdiction;
- a concurrent distribution of the securities must be made by the issuer to investors in the U.S.;
- the securities must either be
 - issued by a non-Canadian issuer that is not a reporting issuer in Canada and has its head office outside Canada and a majority of its executive officers and directors ordinarily resident outside Canada; or
 - issued or guaranteed by the government of a non-Canadian jurisdiction;
- the Canadian clients must be "permitted clients" as defined in [NI 31-103](#);
- the offering document delivered to Canadian clients must comply with applicable U.S. disclosure requirements and federal securities laws;
- certain prescribed notices must be provided to Canadian clients either in the offering document, accompanying the offering document, or, in advance of an offering, on a one-time basis.

Read the [full article](#) by [Cristian Blidariu](#), [Andrew Parker](#) and [Rene Sorell](#) with McCarthy Tétrault LLP.

BC Securities – Policies & Instruments

The following policies and instruments were published on the BCSC website in the month of June:

- [23-101](#) – CSA Notice and Request for Comment Proposed Amendments to the Companion Policy to National Instrument 23-101 *Trading Rules: Application of the Order Protection Rule to Marketplace Imposing Systematic Order Processing Delays*
- [41-101](#) – Mandating a Summary Disclosure Document for Exchange-Traded Mutual Funds and its Delivery
- [21-101 & 23-101](#) – CSA Notice of Approval – Amendments to National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules*.
- [33-105](#) – CSA Notice of Amendments to National Instrument 33-105 *Underwriting Conflicts*
- [45-308](#) – CSA Staff Notice 45-308 *Guidance for Preparing and Filing Reports of Exempt Distribution under*

National Instrument 45-106 Prospectus Exemptions (Revised)

For more information visit the BC Securities [website](#).

Act or Regulation Affected	Effective Date	Amendment Information
Accountants (Certified General) Act	REPEALED June 24/15	by 2015 Bill 4, c. 1, section 84 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Accountants (Chartered) Act	REPEALED June 24/15	by 2015 Bill 4, c. 1, section 84 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Accountants (Management) Act	REPEALED June 24/15	by 2015 Bill 4, c. 1, section 84 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Business Corporations Act	June 24/15	by 2015 Bill 4, c. 1, sections 85 and 86 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Business Practices and Consumer Protection Act	June 24/15	by 2015 Bill 4, c. 1, section 87 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Carbon Tax Act	June 9/15	by 2015 Bill 13, c. 8, sections 8 and 9 only (in force by Reg 102/2015), Finance Statutes Amendment Act, 2015
Chartered Professional Accountants Act	NEW June 24/15	c. 1 [SBC 2014], 2014 Bill 4 whole Act in only in force by Reg 114/2015
Cooperative Association Act	June 24/15	by 2015 Bill 4, c. 1, section 89 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Credit Union Incorporation Act	June 24/15	by 2015 Bill 4, c. 1, section 90 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Financial Institutions Act	June 24/15	by 2015 Bill 4, c. 1, section 91 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Income Tax (BC Family Bonus) Regulation (231/98)	July 1/15	by Reg 83/2015
Insurance Regulation (403/2012)	June 9/15	by Reg 108/2015
International Business Activity Act	June 24/15	by 2015 Bill 4, c. 1, section 95 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Legacy Designations Regulation (114/2015)	NEW June 24/15	see Reg 114/2015

National Instrument 41-101 <i>General Prospectus Requirements (59/2008)</i>	June 30/15	by Reg 121/2015
National Instrument 51-101 <i>Standards of Disclosure for Oil and Gas Activities (342/2003)</i>	July 1/15	by Reg 122/2015
National Instrument 51-102 <i>Continuous Disclosure Obligations (110/2014)</i>	June 30/15	by Reg 121/2015
National Instrument 52-110 <i>Audit Committees (57/2008)</i>	June 30/15	by Reg 121/2015
Notaries Act	June 24/15	by 2015 Bill 4, c. 1, section 97 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Provincial Sales Tax Act	June 9/15	by 2015 Bill 13, c. 8, sections 59, 71, 78 only (in force by Reg 102/2015), Finance Statutes Amendment Act, 2015
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	June 9/15	by Reg 102/2015
Provincial Sales Tax Regulation (96/2013)	June 9/15	by Reg 102/2015
Provincial Sales Tax Transitional Regulation (154/2013)	June 9/15	by Reg 102/2015
Small Business Venture Capital Act	June 24/15	by 2015 Bill 4, c. 1, sections 99 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Society Act	June 24/15	by 2015 Bill 4, c. 1, section 100 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Tobacco Tax Act	June 9/15	by 2015 Bill 13, c. 8, sections 102, 104, 111, 117, 119, 124 only (in force by Reg 102/2015), Finance Statutes Amendment Act, 2015
	July 1/15	by 2015 Bill 13, c. 8, sections 123, 125, 126, 129 to 131 only (in force by Reg 123/2015 , repealing Reg 107/2015), Finance Statutes Amendment Act, 2015
Tobacco Tax Act Regulation (66/2002)	June 9/15	by Reg 102/2015
	July 1/15	by Reg 123/2015 , repealing Reg 107/2015
Training Tax Credits		

Regulation (243/2007)

June 16/15

by [Reg 118/2015](#)

ENERGY & MINES

Energy and Mines News:

First Nation Launches Court Action against Pacific NorthWest LNG Victoria says progress with Gitga'at being made on \$36-billion project as it locks in compensation in the event of industry-specific changes

As the B.C. government on [July 7] continued to put the pieces in place for a much-promoted first LNG project, another First Nation threw up a roadblock, challenging the leading \$36-billion Pacific NorthWest LNG project in court. The Gitga'at First Nation is seeking a judicial review from the B.C. Supreme Court over a B.C. Environmental Assessment Office decision they say does not recognize the Gitga'at as being one of the Tsimshian First Nations entitled to full consultation on the project near Prince Rupert in northwest B.C. Read *The Vancouver Sun* [article](#).

Federal Government Introduces Prince Rupert Port Authority Liquefied Natural Gas Facilities Regulations

On June 20, 2015, the federal Department of Transportation published the proposed [Port of Prince Rupert Liquefied Natural Gas Facilities Regulations](#) (Regulations) with respect to proposed liquefied natural gas (LNG) facilities to be built at Prince Rupert, British Columbia. The Regulations are issued under federal authority by virtue of the [Canada Marine Act](#), which regulates Canadian ports. At present, there are four proposals for LNG facilities to be located at Prince Rupert, two are to be located wholly on federal port lands and two are to be located largely on provincial lands, with small portions on federal port lands. The Regulations implement a regulatory regime for the design, construction, operation, and maintenance of LNG projects proposed on federal lands, and in particular at the Port of Prince Rupert (Port). The Regulations have the following stated objectives:

- to establish a federal regulatory regime for LNG projects at the Port that applies, with some modifications, the existing British Columbia provincial regulatory regime;
- to create legal certainty authorizing the British Columbia Oil and Gas Commission (OGC) to administer regulatory oversight at the Port with respect to construction and operation of LNG facilities on behalf of the federal government while preserving the regulatory role of the Port with respect to navigation, shipping, and management of Port lands;
- to provide certainty and confidence for investors, developers, and the public that there is a clear regulatory regime in place to adequately regulate proposed LNG projects at the Port; and
- to promote consistency in the regulation of LNG projects in British Columbia, whether on federal or provincial lands.

The Regulations are designed to parallel provincial laws and regulations and to rely on the expertise of the OGC in administration and enforcement. Read the [full article](#) by [Paul Cassidy](#), [Monika Sawicka](#) and Connor Bildfell with McCarthy Tétrault LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Greenhouse Gas Reduction (Clean Energy) Regulation (102/2012)	June 3/15	by Reg 98/2015

FAMILY & CHILDREN

Family and Children News:

It's Hammer Time: Provincial Court Exercises Extraordinary Enforcement Powers to Jail Litigant

British Columbia's [Family Law Act](#) improves over the old *Family Relations Act* in many ways, including by giving the Provincial Court the power to enforce its own orders, which is exactly what the Honourable Judge Bond did in the recent case of *J.R.B. v J.H.F.* Under the old legislation, the power of the Provincial Court to enforce its

own orders was very limited. If you lipped off the judge, you'd get into some trouble for sure, but enforcing orders about guardianship, custody and access was very difficult – you actually had to commence a private prosecution under the [Offence Act](#), a complicated process that hardly anyone ever attempted – and the court could not make costs orders. At least the [Family Maintenance Enforcement Program](#) more or less took care of enforcing support orders. The new legislation, however, comes with some pretty sharp teeth, especially [s. 231](#) which allows the court to imprison a person for up to 30 days if it is satisfied that "no other order" under the act "will be sufficient to secure the person's compliance." (The section also allows the court to make peace officer enforcement orders in respect of parenting time and contact, which [is] discussed [elsewhere](#).) The decision in J.R.B. concerned the variation and enforcement of a number of orders made at trial, including a publication ban and a protection order intended to prevent all contact between the father and the mother and her family. Read the [full article](#) by John-Paul Boyd published on *JP Boyd on Family Law*.

Supreme Court Family Rules Amended

Effective July 1, 2015, [B.C. Reg 104/2015](#) amended the Supreme Court Family Rules, B.C. Reg. 169/2009. Included in the changes is a new subrule under Rule 15-1, the revision of Rule 20-5 (1) and the addition a new form, Form F51.1 – Order Made at Judicial Case Conference.

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Tax Regulation (125/2008)	June 9/15	by Reg 102/2015
Crime Victim Assistance (General) Regulation (161/2002)	June 1/15	by Reg 73/2015
Supreme Court Civil Rules (168/2009)	July 1/15	by Reg 103/2015
Supreme Court Family Rules (169/2009)	July 1/15	by Reg 104/2015

FOREST & ENVIRONMENT

Forest and Environment News:

Environmental Appeal Board Decisions

There were two Environmental Appeal Board decisions released in the month of June:

[Wildlife Act](#)

- [Tristan A. Galbraith v. Deputy Regional Manager, Fish and Wildlife](#) [Final Decision – Appeal Dismissed]

[Water Act](#)

- [Jason Horst v. Assistant Regional Water Manager, Kootenay Boundary Region](#) [Consent Order – Appeal Dismissed]

Visit the Environmental Appeal Board [website](#) for more information.

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Tax Act	June 9/15	by 2015 Bill 13, c. 8, sections 8 and 9 only (in force by Reg 102/2015), Finance Statutes Amendment Act, 2015

Carbon Tax Regulation (125/2008)	June 9/15	by Reg 102/2015
Guiding Territory Certificate Regulation (115/2015)	NEW June 12/15	see Reg 115/2015
Protected Areas of British Columbia Act	June 9/15	by 2014 Bill 8, c. 33, section 1 only (in force by Reg 112/2015), Protected Areas of British Columbia Amendment Act (No. 2), 2014
Wildlife Act	June 12/15	by 2014 Bill 4, c. 7, sections 65(b), 70, 73, 74 (part), 75, 81, 82 (b), (d) only (in force by Reg 115/2015), Forests, Lands and Natural Resource Operations Statutes Amendment Act, 2014
Wildlife Act Commercial Activities Regulation (338/82)	June 12/15	by Reg 115/2015

HEALTH

Health News:

Allowing Complex Surgeries at Private BC Clinics Could Take up to 24 Months

A provincial proposal to shrink surgical waiting times by letting private surgery clinics do more complex operations could take up to two years to implement, says the registrar of the College of Physicians and Surgeons of BC. That's because of changes to legislation that may be required to allow private facilities to keep patients for up to three nights and other changes to ensure they are more like hospitals, with security guards, full meals, a variety of health professionals, labs, imaging suites and even intensive-care units. Read the *The Vancouver Sun* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Access to PharmaNet Regulation (117/2009)	REPEALED June 1/15	by Reg 74/2015
Continuing Care Programs Regulation (146/95)	June 1/15	by Reg 73/2015
Disclosure Directive Regulation (172/2009)	June 1/15	by Reg 74/2015
Drug Plans Regulation (73/2015)	NEW June 1/15	see Reg 73/2015
Health Care Costs Recovery Regulation (397/2008)	June 1/15	by Reg 73/2015
Information Management Regulation (74/2015)	NEW June 1/15	see Reg 74/2015

Provider Regulation
(222/2014)

June 1/15

by [Regs 73/2015](#) and [74/2015](#)

LABOUR & EMPLOYMENT

Labour and Employment News:

Employees and Independent Contractors:

The Changing Nature of Employment

Organizations are increasingly retaining the services of individual contractors rather than hiring employees in order to increase the organization's flexibility and obtain special expertise on an as-needed basis. Historically, organizations have been subject to statutory and common law duties in relation to their employees which have not been applied when organizations retain independent contractors. Case law over the past ten years suggests that the classic distinction between employees and independent contractors is becoming blurred. The distinction between an employee and an independent contractor is not as clear as it once was. Even where an organization enters into an agreement that explicitly contemplates that the individual is an independent contractor, courts have increasingly found that it is the substance of the relationship, and not the parties' intentions, that determines whether an individual is an employee or an independent contractor. Not only does this make it difficult for an organization to know what obligations it owes to an individual, but it exposes an organization to liability in circumstances where it characterizes an individual as an independent contractor and is subsequently found to be wrong by a court or tribunal. Two recent cases bring these concerns to light: *Braiden v La-Z-Boy Canada Ltd* and *Rennie and VIH Helicopters Ltd, Re*. Read the [full article](#) by [Richard J. Nixon](#) & Jennifer Saville with DLA Piper.

Results of Functional Capacity Evaluation Can Be Overturned

When an accident occurs, things can change for a person in an instant. Depending on the circumstances surrounding the incident there are various ways that someone might seek compensation for their injuries. If the accident occurred at one's workplace, workers' compensation benefits could be available. Unfortunately, these benefits are not always easy to secure. A British Columbia worker is well aware of this. He recently secured a ruling in his favour regarding his ability to do an alternate job following a workplace accident that left him permanently partially disabled. Following a workplace injury that results in a worker being unable to do the job he or she previously held, an assessment will be conducted to determine what jobs they are qualified to do. In this particular case, after he was stuck by a falling log, the man was no longer able to drive trucks. A functional capacity evaluation conducted by an occupational therapist determined that with restrictions, one of the jobs he could do was dispatcher. The restrictions placed on the dispatcher position by that occupational therapist include sitting for only one hour at a time and the utilization of a headset. Read the [full article](#) by [Preston Parsons](#) of Overholt Law.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	June 1/15	by Reg 73/2015
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	June 1/15	by Reg 73/2015

LOCAL GOVERNMENT

Local Government News:

Challenging Zoning Decisions: Proper and Improper Considerations by Municipal Councillors

What makes a municipal Councillor's vote "bad"? Where do we draw the line between proper considerations and malicious misuse of power? The British Columbia Supreme Court examined these issues in a recent ruling in

[Rodgers v. Sechelt \(District\)](#), 2015 BCSC 687.

The Bistro and the Liquor Store

In 2005, Mr. Brock Rodgers applied to the District of Sechelt to re-zone certain lands in West Sechelt to permit the construction of a bistro. Mr. Rodgers intended the bistro to operate with a liquor-primary license – a license typically issued for pubs, bars and other facilities engaged primarily in the sale of liquor. Together with the bistro, Mr. Rodgers wished to open a liquor store on nearby Sechelt Indian Band lands (the "Band Lands"). The bistro was crucial for this purpose: pursuant to the liquor laws in place at the time, the Liquor Control and Licensing Branch ("LCLB") would only issue the liquor store license to Mr. Rodgers if he also held a concurrent liquor-primary license. The District initially supported the rezoning bylaw which would allow the bistro (the "Bylaw"). However, after the public hearing, Council resolved that the bistro would be permitted only with a food-primary license – a license typically issued to restaurants. This, of course, would thwart Mr. Rodgers' plan to open the liquor store on the Band Lands (which required a bistro operating pursuant to a liquor-primary license).

Read the [full article](#) by [Olga Rivkin](#) and [Erika Lambert](#) with Bull Housser LLP.

Medical Marijuana: Farm Use under the Agricultural Land Commission Act

The [Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#) (the "Regulation") was amended on May 7, 2015 to identify federally licensed medical marijuana production under the [Marihuana for Medical Purposes Regulations](#) (Canada) (the "MMPR") as a farm use in the Agricultural Land Reserve (ALR). This amendment will allow local governments to regulate, but not prohibit, licenced medical marijuana production within the ALR. Following the coming into force of the MMPR in 2013, many local governments in BC introduced bylaw amendments to regulate medical marijuana production in their communities and also sought direction from the provincial government on whether medical marijuana could be prohibited in the ALR. In June of 2014, the BC government issued a release clarifying that medical marijuana production in the ALR is allowable. The BC government has now formalized its position by amending the Regulation to recognize federally licensed medical marijuana production as a farm use in the ALR. This amendment recognizes and respects the federal government's policy and legislation regarding medical marijuana production while also providing consistent rules for communities throughout British Columbia. Read the [full article](#) by [Edward Wilson](#) with Lawson Lundell LLP.

Audit Council says BC Justified for Ousting Local Government Attorney General

A five-member oversight panel in British Columbia is justifying its recommendation that the provincial government fire its former auditor general for local government, citing a string of broken promises, reports of unprofessional behaviour and an unwillingness to work collaboratively. Through documents filed in the province's supreme Court, BC's audit council fired back after former auditor general Basia Ruta filed a lawsuit against the group alleging wrongful dismissal. In its response, the council said that it recommended Ruta's removal only after it "had lost all confidence" in her ability to act "effectively and credibly." Read [more](#) at *The Vancouver Sun*.

Act or Regulation Affected	Effective Date	Amendment Information
Agricultural Land Reserve Use, Subdivision and Procedure Regulation (171/2002)	June 15/15	by Reg 117/2015
Community Charter	June 24/15	by 2015 Bill 4, c. 1, section 88 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Cooperative Association Act	June 24/15	by 2015 Bill 4, c. 1, section 89 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Credit Union Incorporation Act	June 24/15	by 2015 Bill 4, c. 1, section 90 only (in force by Reg 114/2015), Chartered Professional Accountants Act

Financial Institutions Act	June 24/15	by 2015 Bill 4, c. 1, section 89 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Greater Vancouver Water District Act	June 24/15	by 2015 Bill 4, c. 1, section 94 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Greater Vancouver Sewerage and Drainage District Act	June 24/15	by 2015 Bill 4, c. 1, section 93 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Liquor Control and Licensing Regulation (244/2002)	June 9/15	by Reg 110/2015
Power Engineers, Boiler, Pressure Vessel and Refrigeration Safety Regulation (104/2004)	June 9/15	by Reg 113/2015
School Act	June 24/15	by 2015 Bill 4, c. 1, section 93 only (in force by Reg 114/2015), Chartered Professional Accountants Act
	July 1/15	by 2015 Bill 11, c. 24, sections 2, 5 to 11, 13 to 15, 22 to 27, 29, 30, 33, 38 to 45 only (in force by Royal Assent), Education Statutes Amendment Act, 2015
School Calendar Regulation (314/2012)	July 1/15	by Reg 119/2015
South Coast British Columbia Transportation Authority Act	June 24/15	by 2015 Bill 4, c. 1, section 101 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Vancouver Charter	June 24/15	by 2015 Bill 4, c. 1, section 93 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Vancouver Foundation Act	June 24/15	by 2015 Bill 4, c. 1, section 93 only (in force by Reg 114/2015), Chartered Professional Accountants Act

MISCELLANEOUS

Miscellaneous News:

Be Warned: Online Forum Selection Clauses May Oblige You to Litigate Abroad

The decision in [Doeuz v. Facebook, Inc.](#), provides some comfort to online businesses that rely upon forum selection clauses in their online contracts. For providers and users of international online services and social media, the Facebook decision serves as a useful reminder that online terms and conditions must be taken seriously and the users may be bound by foreign laws and have to litigate in foreign courts.

Background

Ms. Doeuz was a resident of BC and member of facebook.com. When she signed up for her Facebook account, she accepted Facebook's Terms of Use which included a unilateral forum selection clause in favour of the courts of Santa Clara, California. Ms. Doeuz alleged that her name and portrait were featured in "sponsored stories" without her consent and commenced an action against Facebook in the B.C. Supreme Court, relying on a statutory tort created by the [Privacy Act](#), R.S.B.C. 1996, c. 373. She alleged that Facebook violated users' privacy by using their names and

images in paid advertisements without their consent. Facebook responded seeking a stay of the proceedings and relied upon the forum selection clause in the Terms of Use. Facebook took the position that the dispute should be heard in California. The trial judge accepted that the forum selection clause was valid, clear and enforceable but declined Facebook's application to stay the BC proceedings because the BC *Privacy Act* "overrides" the forum selection clause and Ms. Douez had shown strong cause to not enforce the forum selection clause.

Read the [full article](#) by [Scott E. Foster](#) with Gowlings LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Crime Victim Assistance (General) Regulation (161/2002)	June 1/15	by Reg 73/2015
Freedom of Information and Protection of Privacy Act	June 24/15	by 2015 Bill 4, c. 1, section 92 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Legal Profession Act	June 24/15	by 2015 Bill 4, c. 1, section 96 only (in force by Reg 114/2015), Chartered Professional Accountants Act
Missing Persons Act	NEW June 9/15	c. 2 [SBC 2014], Bill 3 , whole Act in force by Reg 111/2015
Missing Persons Regulation (111/2015)	NEW June 9/15	see Reg 111/2015
Notaries Act	June 24/15	by 2015 Bill 4, c. 1, section 97 only (in force by Reg 114/2015), Chartered Professional Accountants Act

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Court Finds ICBC Under No Legal Duty to Inform an Insured of Hit and Run Claim Obligations

Reasons for judgement were released [June 15] by the BC Supreme Court, New Westminster Registry, dismissing a claim for damages following a hit and run collision. In [this] case ([Li v. ICBC](#)) the Plaintiff was injured in a 2010 rear end collision. After speaking with the at-fault motorist the parties agreed to pull over and exchange information. The Defendant fled the scene. The Plaintiff claimed damages directly from ICBC pursuant to [s. 24](#) of the [Insurance \(Vehicle\) Act](#). At trial her claim was dismissed with the Court finding she did not take all reasonable steps after the collision to identify the at-fault motorist. The Plaintiff argued ICBC could not rely on this defense as they had failed to advise her of her investigative obligations after promptly reporting the claim to ICBC. Mr. Justice Armstrong rejected this argument finding ICBC has no duty to tell their own insured customers of their obligations in order to successfully claim damages caused by unidentified motorists. Read the [full article](#) by [Erik Magraken](#) on *BC Injury Law* blog.

BC Considers Tougher Crackdown against Distracted Drivers

The BC government is considering impounding the vehicles of drivers caught texting or talking on cellphones while behind the wheel, says Justice Minister Suzanne Anton. The government is also mulling stiffer fines and licence suspensions for distracted drivers, similar to the immediate roadside prohibitions given to impaired drivers, she said. Anton made the comments as she updated reporters on the results of a public discussion of the issue at [gov.bc.ca/distracteddriving](#). The website has received nearly 12,000 visits in two weeks, rivalling public interest in the ministry's consultation on provincial liquor laws, she said. There have been more than 36,000 responses to nine questions. Read *The Vancouver Sun* [article](#).

CVSE Bulletins & Notices

A number of important bulletins and notices have been posted by CVSE in June. These include:

- [CVSE1014](#) – LCV Operating Conditions & Routes
- [CVSE1052](#) – An updated [List of Contacts for Use with Form CVSE1052](#) is now available. The [CVSE1052](#) form is used for District Notifications and Authorizations for Very Large Loads (over 6.0 m wide or over 4.88 m high), as part of the Extraordinary Load Approval process.
- [Circular 03-14](#) – Inspection Station/Weigh Scale Bypass Policy for Ministry of Forests, Lands and Natural Resource Operations (FLNRO), Wildfire Management Branch – Initial Attack Fire Suppression Vehicles
- [CT Notice 05-14](#) – Clarification regarding Compliance Circular 07/11 Steer Axle Weight Limits (July 1, 2011)
- [Important Notice Re: Highway 5 at Othello Road](#), 6 km north of junction with Highway 3
- [CVSE1011](#) – Highways with Restrictive Load Limits
- [CVSE1001](#) – Routes Pre-Approved for 5.0 m OAW
- [CVSE1000S](#) – Supplement for Structures

For more information on these and other items, visit the CVSE [website](#).

Act or Regulation Affected	Effective Date	Amendment Information
Off-Road Vehicle Act	June 1/15	by 2014 Bill 13, c. 5, sections 1 (part), 17, 21 to 25, 26 (1) (f), (2) (e), (3), (5) (e) and (10), 28, 29, 30 (2) (b), (d), (j) to (m) and (o) to (s), 31 to 34 only (in force by Reg 96/2015), Off-Road Vehicle Act
Motor Fuel Tax Act	June 9/15	by 2015 Bill 13, c. 8, sections 41, 42 only (in force by Reg 102/2015), Finance Statutes Amendment Act, 2015
	July 1/15	by 2015 Bill 10, c. 9, sections 27, 29, 30, 32 to 38, 40 to 42 only (in force by Royal Assent), Budget Measures Implementation Act, 2015
		by 2015 Bill 10, c. 9, sections 31, 39, 43 only (in force by Reg 79/2015), Budget Measures Implementation Act, 2015
Motor Fuel Tax Regulation (414/85)	June 9/15	by Reg 102/2015
	July 1/15	by Reg 79/2015
Motor Vehicle Act Regulations (26/58)	June 12/15	by Reg 116/2015
Motor Vehicle (All Terrain) Act	REPEALED June 1/15	by 2014 Bill 13, c. 5, section 41 (part) only (in force by Reg 96/2015), Off-Road Vehicle Act
Repairers Lien Act	July 1/15	by 2010 Bill 6, c. 4, sections 51 and 52 only (in force by Reg 106/2015), Finance Statutes Amendment Act, 2010
Snowmobile Regulation (65/72)	REPEALED June 1/15	by Reg 96/2015
Violation Ticket Administration and Fines Regulation (89/97)	June 12/15	by Regs 115/2015 and 116/2015

PROPERTY & REAL ESTATE

Property and Real Estate News:

Protecting Security Deposits From Insolvency Risk:

The Implications of *Alignvest PDL v Surefire Industries*

The recent decision of the Alberta Court of Queen's Bench in *Alignvest Private Debt Ltd v Surefire Industries Ltd*, 2015 ABQB 148 ("Alignvest") raises important issues for landlords to consider respecting the provisions in a lease that deal with security deposits. In particular, *Alignvest* provides guidance on how landlords can protect their rights to a security deposit in the event of a tenant's insolvency, and illustrates the risk of failing to do so. The case arose from a sale and lease back transaction between York Realty Ltd., as purchaser-landlord ("York"), and Surefire Industries Ltd., as seller-tenant ("Surefire") which closed on February 15, 2013. The lease entered into between York and Surefire included a \$3,187,500 security deposit, which was held by York as an adjustment to the purchase price for the property. Read the [full article](#) by Reilly Pollard with Lawson Lundell LLP.

Duty To Defend After Policy Expiration: The Court Interprets the Reasonable Expectations Of A Homeowners Policy

In [Canadian Northern Shield Insurance Company v. Intact Insurance Company](#), 2015 BCSC 767, the British Columbia Supreme Court considered whether an insurer has a duty to defend an insured with respect to claims arising from damage that occurred outside the policy period. In 2005, unusually heavy rainfall caused a landslide in North Vancouver. The landslide originated from a property situated at the top of an escarpment and caused substantial damage to the property situated below the escarpment. One of the inhabitants of the lower property died. Lawsuits were brought against the former and present owners of the property at the top of the escarpment. Canadian Northern Shield (CNS) was the insurer of the current owners of the upper property. Intact Insurance had issued a policy to the former owners of the upper property, but the policy had expired three months before the landslide. The North Vancouver District retained an engineer to survey the upper property in 1980. The engineer recommended removal of debris from the property, control of vegetative growth and periodic inspection of drainage and slopes for signs of distress, improved property drainage, and removal of abandoned septic tanks. The owners at the time, who eventually sold the property in 2004, did not follow these recommendations. The parties agreed at trial that this failure contributed materially to the landslide of January 2005. Read the [full article](#) by [Mallory Hogan](#) with Alexander Holburn Beaudin + Lang LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Land Tax Deferment Regulation (57/98)	June 9/15	by Reg 109/2015
Personal Property Security Regulation (227/2002)	July 1/15	by Reg 106/2015
Prohibition Regulation No. 1 (33/75)	REPEALED June 1/15	by Reg 96/2015
Prohibition Regulation No. 2 (552/76)	REPEALED June 1/15	by Reg 96/2015
Prohibition Regulation No. 3 (12/77)	REPEALED June 1/15	by Reg 96/2015
Prohibition Regulation No. 4 (13/77)	REPEALED June 1/15	by Reg 96/2015
Prohibition Regulation No. 5	REPEALED	by Reg 96/2015

(119/78)	June 1/15	
Prohibition Regulation No. 6 (33/84)	REPEALED June 1/15	by Reg 96/2015
Prohibition Regulation No. 7 (517/76)	REPEALED June 1/15	by Reg 96/2015
Prohibition Regulation No. 9 (353/2002)	REPEALED June 1/15	by Reg 96/2015
Real Estate Services Act	June 9/15	by 2015 Bill 13, c. 8, sections 92, 94 only (in force by Reg 105/2015), Finance Statutes Amendment Act, 2015
Real Estate Services Regulation (506/2004)	June 9/15	by Reg 105/2015

WILLS & ESTATES

Wills and Estates News:

Changes to Probate Rules and Forms

Effective July 1, 2015

Changes to the Probate Rules and Forms were brought into effect on July 1, 2015. [The online consolidated [Supreme Court Civil Rules](#) have been updated on Quickscribe Service Ltd. to include these changes.] There is a significant change to the procedure for making applications relating to estate grants in Rule 25-14. Under the rules as they stood before the amendments, many types of applications would be commenced by either a notice of application, if an estate file is already opened, or by requisition if nothing has been filed in relation to the estate. The types of proceedings to which this applies includes some potentially very contentious disputes such as passing over an executor. A requisition is a request to the court, and there are no rules saying who must be served, what they file to oppose it, or how long they have to file. Starting a contested proceeding by requisition doesn't make sense. Read the [full article](#) by [Stan Rule](#).

The Will as a Planning Tool

From [CLEBC](#) website – Practice Points This [paper](#) from *Estate Planning for Blended Families* (May 2015), [Genevieve Taylor](#) offers guidance on how to minimize disputes when planning wills for blended families.

Does the Court Have Power to Cure a Defective Will?

The [Wills, Estates and Succession Act](#) ("WESA") implements a variety of changes. One of the most significant changes is to empower the Court to order that a record, document, writing, or marking on a Will or document is fully effective as a Will even though the formal requirements for the format and execution of the Will have not been met. There have been a few reported cases of the Court's curative power under [section 58](#) of WESA. The most recent judgment on this issue was just released on June 30, 2015. In [Re Yaremkevich Estate](#), the Deceased died leaving documents that did not comply with the statutory execution requirements. Prior to her death, the Deceased executed a pre-printed will template form titled "Last Will and Testament" (the "Template"). The Deceased filled out the Template by appointing executors, setting out burial arrangements, directing certain expenses and taxes to be paid from her estate, and providing a number of gifts to relatives, friends and charities. Read the [full article](#) by [Lauren Liang](#) with Clark Wilson LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Supreme Court Civil Rules (168/2009)	July 1/15	by Reg 103/2015

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