

Quickscribe Reporter

Email:
 info@quickscribe.bc.ca

Website:
 www.quickscribe.bc.ca

Vol: XIV – Issue: XI – November 2015

QUICKSCRIBE NEWS:

BC Legislature's Fall Session Overshadowed by Growing Scandals 2015 was a rare year in which MLAs sat during spring, summer and fall

MLAs adjourned for Christmas break [November 17th] after a fall session in which minor housekeeping legislation was overshadowed by growing scandals in the children's ministry and over freedom of information records. The Liberal government passed 12 bills, including protection for franchisees, new riding boundaries for the 2017 provincial election and changes to workers' compensation spurred by coroner's inquests into fatalities at sawmills in Prince George and Burns Lake. Read the [The Vancouver Sun](#) article.

Latest Annotations


New annotations have been added to the Quickscribe site. These annotations include contributions from:

- [Eileen Vanderburgh](#), AHBL Management Limited Partnership – [Freedom of Information And Protection of Privacy Act](#)
- [Margaret Mason](#), Bull Housser & Tupper LLP – [Regulation 216/2015](#) (in reference to the [Societies Act](#))

Watch this 20-minute [YouTube video](#) to learn more about the new annotation features.

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 & FINANCE

Company and Finance News:

Franchises Act – Early Consolidation Published on Quickscribe

For your convenience, Quickscribe has published an early consolidation of the new [Franchises Act](#). Bill 38 achieved Royal Assent on November 17th and is expected to come into law by regulation at some point in 2016.

The new Act will:

- confirm the duty of fair dealing of parties to a franchise agreement and provide for remedies in the event of the breach of that duty,
- confirm a franchisee's right of association and provide for remedies in the event of the infringement of that right,
- require the disclosure, by a franchisor to a prospective franchisee, of financial information and other relevant information about a franchise or a franchise system before the prospective franchisee enters into a franchise agreement,
- provide conditions for rescinding a franchise agreement,
- provide circumstances in which there may be liability for damages, and
- prevent the waiver of the application of the law of British Columbia or, in the event of a claim or dispute under a franchise agreement, of the restriction of jurisdiction or venue to a forum outside British Columbia for proceedings in relation to the claim or dispute.

Societies Act to Come into Force November 28th, 2016

[B.C. Regulation 216/2015](#) has proclaimed the new Act into law effective November 28, 2016. The *Societies Act* will replace the current [Society Act](#). The new Act governs how societies (not-for-profit corporations) are created and run in BC and includes significant updates to allow for more flexibility in how societies operate, while still protecting the public interest. For your convenience, Quickscribe has published an [early consolidation](#) of the Act as it will read when it comes into law.

Supreme Court to Issue Key Class-action Rulings

The Supreme Court of Canada will release a trio of rulings on [December 4th] – including one in a potentially mammoth case against Canadian Imperial Bank of Commerce – that were expected to have wide ramifications for shareholder class-action lawsuits. The top court heard arguments last February on three separate cases launched in Ontario on behalf of shareholders against Imax Corp., Celestica Inc. and CIBC. In the CIBC case, investors allege the bank misled them about its exposure to the U.S. subprime mortgage market, which melted down and triggered the global financial crisis in 2008. CIBC denies the allegations. The rulings could set new ground rules on how difficult it should be for plaintiffs who launch this kind of action to propel their cases past the early stages of litigation. The *Ontario Securities Act* and other similar laws in other provinces require plaintiffs to win "leave" from judge before trial, a screening procedure meant to weed out baseless U.S.-style "strike suits" seeking a quick settlement. Read *The Globe and Mail* [article](#).

Starting December 8, 2015, Consider Rights Offerings for Finance

On December 8, 2015, amendments to rights offering rules finally make rights offerings a viable financing option for Canadian reporting issuers. Gone are the prospectus-like disclosure documents and long reviews by the Securities Commissions. Rights offerings will be simpler and quicker, including:

- a new rights offering circular in a question and answer format that is intended to be easier for issuers to prepare and more straightforward for investors to understand – it must be filed but not sent to security holders; the Rights Offering Circular Form is Form 45-106F15;
- a new notice that reporting issuers must file on SEDAR and send to security holders informing them about how to access the rights offering circular electronically – the Rights Offering Notice Form is Form 45-106F14; and
- a dilution limit of 100% of share capital, up substantially from the current 25%.

The new rules remove the current requirement for a regulatory review of the rights offering circular while replacing it with statutory secondary market civil liability. This change means that investors under the rights offering will have a right of action against the issuer if there is a misrepresentation in the rights offering circular or other part of the issuer's continuous disclosure record. Read the [full article](#) by [Bernard Pinsky](#) with Clark Wilson LLP.

Financial Institutions Commission Issues Letter to BC Trust Companies

Re: Consultation on Adoption of OSFI Guidelines

The purpose of this letter is to inform the BC incorporated trust companies, and non-federally regulated extra-provincial trust companies authorized in BC, of the Financial Institutions Commission's (FICOM) intention to adopt certain guidelines issued by the Office of the Superintendent of Financial Institutions (OSFI). Read the letter [here](#).

BCSC Decides Red Eagle Poison Pill Case as

Take-over Bid Amendments Loom

The British Columbia Securities Commission (BCSC) released its reasons in [Re Red Eagle](#), 2015 BCSECCOM 401, in which it cease-traded a rights plan in the face of a hostile bid. As perhaps one of the last rights plan cases to be decided before the proposed amendments to [Multilateral Instrument 62-104 – Take-Over Bids and Issuer Bids](#) (MI 62-104) come into force, its conclusions regarding rights plans are not surprising and may be of limited relevance in the future. However, the reasons do set out some timeless principles in relation to the other issues the BCSC faced in this case.

1. The Decision

There were three issues before the BCSC.

A. Cease-Trading the Rights Plan

CB Gold had adopted a rights plan in August 2014 that was subsequently approved by a 98% positive vote of the CB Gold shareholders in January 2015. Red Eagle made a hostile bid for the shares of CB Gold and, by the time of the hearing of its application to cease-trade the rights plan, the bid had been outstanding for 72 days. In the interim, CB Gold had found a white knight, Batero Gold, that made a competing bid. CB Gold entered into a support agreement with Batero that prohibited it from soliciting additional competing bids.

Read the [article](#) by [John Anderson](#) of Stikeman Elliott.

BC Securities – Policies & Instruments

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

- [51-345](#) – Disclosure of Abandonment and Reclamation Costs in National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities and Related Forms*
- [41-101](#) – Adoption of Amendments Related to the Recognition of Aequitas NEO Exchange Inc. The amendments come into force on November 17, 2015.
- [31-343](#) – CSA Staff Notice 31-343 *Conflicts of interest in distributing securities of related or connected issuers*

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

Act or Regulation Affected	Effective Date	Amendment Information
Chartered Professional Accountants Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 1 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Multilateral Instrument 51-105 <i>Issuers Quoted in the U.S. Over-the-Counter Markets</i> (235/2012)	Nov. 17/15	by Reg 208/2015
National Instrument 41-101 <i>General Prospectus Requirements</i> (59/2008)	Nov. 17/15	by Reg 208/2015
National Instrument 44-101 <i>Short Form Prospectus Distributions</i> (370/2005)	Nov. 17/15	by Reg 208/2015
National Instrument 45-106 <i>Prospectus Exemptions</i> (227/2009)	Nov. 17/15	by Reg 208/2015
National Instrument 51-102		

Continuous Disclosure Obligations (110/2004)	Nov. 17/15	by Reg 208/2015
National Instrument 52-110 Audit Committees (57/2008)	Nov. 17/15	by Reg 208/2015
National Instrument 58-101 Disclosure of Corporate Governance Practices (241/2005)	Nov. 17/15	by Reg 208/2015
National Instrument 81-101 Mutual Fund Prospectus Disclosure (1/2000)	Nov. 17/15	by Reg 208/2015
Tobacco Tax Act	Nov. 17/15	by 2015 Bill 37, c. 41, sections 10 to 13 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015

ENERGY & MINES

Energy and Mines News:

Burnaby, BC, Loses Court Battle over Trans Mountain Pipeline

The City of Burnaby's bylaw battle against the Trans Mountain pipeline has been shut down by a BC Supreme Court judge who has declared that the National Energy Board rules take precedence over the city's. The Metro Vancouver city has tried to hamper preliminary planning in advance of laying the 1,100-kilometre-long pipeline between Alberta and coastal BC through two separate bylaws. But Justice George Macintosh said in a ruling posted online [November 23rd] that the National Energy Board has the constitutional power to direct or limit the enforcement of Burnaby's bylaws. Macintosh said the energy board can take such action when city bylaws interfere with or block the regulation of the pipeline and expansion project, ruling NEB laws are supreme. "Where valid provincial laws conflict with valid federal laws in addressing interprovincial undertakings, paramountcy dictates that the federal legal regime will govern," said Macintosh. "The provincial law remains valid but becomes inoperative where its application would frustrate the federal undertaking." Macintosh ruled the city's bylaws were lawful but constitutionally inoperative and inapplicable. Read *The Globe and Mail* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Mineral Tax Costs and Expenditures Regulation (405/89)	Dec. 1/15	by Reg 187/2015
Mineral Tax Disposition of a Mine Regulation (400/89)	Dec. 1/15	by Reg 187/2015
Mineral Tax General Regulation (401/89)	Dec. 1/15	by Reg 186/2015
Mineral Tax Reclamation Regulation (8/98)	Dec. 1/15	by Reg 187/2015

Mineral Tax Return Form Regulation (86/98)	Dec. 1/15	by Reg 188/2015
Oil and Gas Activities Act	Nov. 17/15	by 2015 Bill 40, c. 40, sections 10 and 20 only (in force by Royal Assent), Natural Gas Development Statutes Amendment Act, 2015
Partnership Election Form Regulation (60/91)	Dec. 1/15	by Reg 187/2015
Utilities Commission Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 24 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015 ; and 2015 Bill 41, c. 42, sections 17 to 27 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2015

FAMILY & CHILDREN

Family and Children News:

Acting as Counsel for Children in Care

From [CLEBC](#) website – Practice Points: Fiona M. Beveridge provides a practical overview of the sections of the [Child, Family and Community Services Act](#) ("CFCSA") that relate to children's involvement in court proceedings, the role of counsel for children and the available options that will allow the child's views to be considered by the court. Click [here](#) to view a PDF version of the paper.

BC Increases Allowable Assets for People with Disabilities

Families of disabled people broke down in tears after the British Columbia government announced their loved ones won't lose monthly assistance payments just for getting more financial help. As of Dec. 1, the amount in assets that disabled people can hold will rise to \$100,000 for individuals who have the persons with disabilities designation and \$200,000 for couples in the same situation. Currently, the asset limits are \$5,000 for individuals and \$10,000 for couples. Kathy Bromley could barely contain her emotions in the reception hall at the legislature. "On behalf of our family, we thank you for recognizing our daughter, a hard-working, important and contributing member of society," Bromley said. The change means BC and Alberta will have the highest allowable asset levels for people with disabilities in Canada. In BC, disabled people will also be able to receive cash more than once and still be eligible for assistance. Read the CBC [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Family Maintenance Enforcement Act	Nov. 17/15	by 2015 Bill 32, c. 33, sections 1 to 3, 5 to 8 only (in force by Royal Assent), Family Maintenance Enforcement Amendment Act, 2015
Interjurisdictional Support Orders Act	Nov. 17/15	by 2015 Bill 41, c. 42, sections 28 to 35 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2015
Provincial Court (Family) Rules (417/98)	Nov. 26/15	by Reg 219/2015

FOREST & ENVIRONMENT

Forest and Environment News:

Environmental Appeal Board Decisions

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

Wildlife Act

- [Ryan Damstrom v. Regional Manager \(Kootenay Boundary Region\)](#) [Final Decision – Appeal Dismissed]

Environmental Management Act

- [Emily Toews: Elisabeth Stannus v. Director, Environmental Management Act](#) [Reconsideration Decision; Preliminary Issue of Standing to Appeal – Granted]
- [Unifor Local 2301 v. Director, Environmental Management Act](#) [Reconsideration Decision; Preliminary Issue of Standing to Appeal – Granted]
- [Geoffrey Nielson; Thomas H. Coape-Arnold: Kenneth R. Fiddes v. Director, Environmental Management Act](#) [Preliminary Application – Allowed in Part]

Water Act

- [Greengen Holdings Inc. v. Regional Water Manager](#) [Preliminary Application to Dismiss the Appeal – Granted; Application for Costs – Denied]

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

"Polluter Pays" Wins the Day: BC Court of Appeal Decides Significant Contaminated Sites Case

The BC Court of Appeal has upheld a trial decision that requires the historical polluter of James Island to pay the current landowner \$4.75 million for monies spent remediating a contaminated site on the island. This award is the largest of its kind under BC's [Environmental Management Act](#) ("EMA"). The decision is significant for reinforcing that the concept of "polluter pays" under BC's contaminated sites legal regime is paramount, despite the polluter's attempts to negate or reduce its liability by pointing to its prior efforts to remediate James Island before selling it in 1988. In [J.I. Properties Inc. v. PPG Architectural Coatings Canada Ltd.](#), the plaintiff J.I. Properties Inc. argued at trial that it should recover all of its reasonably incurred remediation costs against the defendant and historical polluter PPG Architectural Coatings Canada Inc. ("PPG"). The trial court agreed, awarding \$4.75 million. Read the [full article](#) by [Jana McLean](#) and [Michael Manhas](#) of Bull, Housser & Tupper LLP.

WorksafeBC Reviews Exemption from Coverage for Out-of-Province

The following discussion paper considers changes to the existing exemption from coverage for employers in the trucking industry. At issue is a review of Item AP1-2-1 *Exemptions from Coverage of the Assessment Manual* ("exemption policy"). Specifically, whether to change the exemption rules for out-of-province employers in the trucking industry. Also at issue is whether the current wording in the exemption policy could be improved to better reflect how the exemptions work within the larger legal framework. No substantive change to the policy would result from these amendments. Stakeholders have requested a review of the criteria and how these criteria apply to US employers who employ no BC residents, have no base of operations in BC, and already have coverage in their home states ("US carriers"). Read the [discussion paper](#).

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Tax Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 7 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Conservation Officer Service Authority Regulation (318/2004)	Nov. 1/15	by Reg 193/2015
Environmental Management Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 5 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015

Integrated Pest Management Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 6 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Land Survey Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 14 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Livestock Identification Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 2 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Natural Resource Officer Authority Regulation (38/2012)	Nov. 1/15	by Reg 193/2015
Park, Conservancy and Recreation Area Regulation (38/2012)	Nov. 1/15	by Reg 193/2015

HEALTH

Health News:

Ontario's Proposed Youth Concussion Law Should Be Adopted in BC: Doctor

BC needs a concussion law for youth sports like one that was recently proposed in Ontario, says a Vancouver doctor. Ontario is on track to introduce the [first concussion legislation in Canada](#) for young athletes in the wake of a teenage rugby player's death. "I would certainly encourage our legislators to look at what they're doing in Ontario and bring it in here," Dr. Jim Bovard, chief medical officer for the Vancouver Whitecaps. "Why wouldn't we do it? I can't think of a good reason." Bovard said currently in BC, it's up to each sports league to decide how to deal with concussions, with Hockey Canada being one of the most proactive organizations. "But it's not mandatory, so it's from organization to organization. Read the CBC [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Health Care Costs Recovery Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 18 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015

LABOUR & EMPLOYMENT

Labour and Employment News:

BC Supreme Court Overturns Human Rights Tribunal Record Award for Injury to Dignity

by Larry Page

We [reported previously](#) on the decision of the Human Rights Tribunal in *University of British Columbia v. Kelly*. In that decision, the Human Rights Tribunal concluded that the University of British Columbia had discriminated against Dr. Carl Kelly, who had been enrolled in the Family Medicine Residency Program in the Faculty of Medicine. Dr. Kelly had difficulty in the program because he had Attention Deficit Hyperactivity Disorder and a Non-verbal Learning Disorder. One of the issues was whether the University of British Columbia had taken proper steps to accommodate Dr. Kelly's disabilities. The Human Rights Tribunal decided that Dr. Kelly had not

been accommodated to the extent required by the duty to accommodate, and Dr. Kelly was awarded damages, which included an award of \$75,000 for injury to dignity, feeling, and self-respect. Read the [full article](#) by [Larry Page](#) of DLA Piper LLP.

Terminated? Laid Off? Dismissed? 7 Factors in Assessing Severance Pay

We've all heard one of the following stories ... An employee in heavy industry is laid off because of a downturn in the economy. Or an office worker is let go because she doesn't get along with her supervisor. Or a company is going through a restructuring and has to terminate a quarter of its staff. While the creation and destruction of jobs is essential to our economy and our workplaces, people dealing with job loss are nonetheless dealing with a unique form of personal tragedy. After all, a job is not only a source of income, it contributes to our overall well-being and is an important part of our identity. From a legal perspective, however, an employment relationship is a contract. And like any contract, it can be broken, provided that appropriate compensation is paid. For lawyers and judges, there are seven important factors to be considered in assessing how much "reasonable notice" (or in common parlance, severance pay) is owed for terminating a non-unionized employee. Read the [full article](#) by [David Brown](#) of Pushor Mitchell LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 28 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Employment and Assistance for Persons with Disabilities Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 29 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Employment and Assistance Regulation (263/2002)	Dec. 1/15	by Reg 204/2015
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Dec. 1/15	by Reg 204/2015
Workers Compensation Act	Nov. 17/15	by 2015 Bill 35, c. 38, sections 1 to 3 only (in force by Royal Assent), Workers Compensation Amendment Act (No. 2), 2015

LOCAL GOVERNMENT

Local Government News:

New Revised *Local Government Act* – Coming Soon!

A proposed revised *Local Government Act* and concordance is now available in PDF. The purpose of the revision is to improve the readability of the Act, by renumbering and eliminating gaps between repealed sections and decimal numbers. Quickscribe plans to create a fully searchable early consolidation of the new Act shortly. The Quickscribe version will include some convenient links between the old and new versions of the Act. While no date has officially been set as to when the new revision will come into force, the expectation is that it may come into law by regulation as early as January 1, 2016. We will continue to keep you posted.

- [Proposed Revised Local Government Act \[PDF\]](#)
- [Concordance – Current LGA to Proposed Revised Version](#)
- [Concordance – Proposed Revision to Current LGA](#)

Burnaby, BC, Loses Court Battle over

Trans Mountain Pipeline

The City of Burnaby's bylaw battle against the Trans Mountain pipeline has been shut down by a BC Supreme Court judge who has declared that the National Energy Board rules take precedence over the city's. The Metro Vancouver city has tried to hamper preliminary planning in advance of laying the 1,100-kilometre-long pipeline between Alberta and coastal BC through two separate bylaws. But Justice George Macintosh said in a ruling posted online [November 23rd] that the National Energy Board has the constitutional power to direct or limit the enforcement of Burnaby's bylaws. Macintosh said the energy board can take such action when city bylaws interfere with or block the regulation of the pipeline and expansion project, ruling NEB laws are supreme. "Where valid provincial laws conflict with valid federal laws in addressing interprovincial undertakings, paramountcy dictates that the federal legal regime will govern," said Macintosh. "The provincial law remains valid but becomes inoperative where its application would frustrate the federal undertaking." Macintosh ruled the city's bylaws were lawful but constitutionally inoperative and inapplicable. Read *The Globe and Mail* [article](#).

Policy Update: Community Paramedicine Initiative

In April of this year, the BC Emergency Health Services (BCEHS) launched the province's first Community Paramedicine Initiative, a program that will help provide patients with better access to health care in rural and remote communities by expanding the role of qualified paramedics. This article provides a look at how this program is operating in BC. A 2014 UBCM Resolution (B 130) called on the BC government and BCEHS to research the Community Paramedicine Model of health care for use in all of rural and remote BC communities. The resolution also requested that ambulance paramedics be employed full time to deliver this service. BCEHS is working closely with the Ministry of Health, the province's Health Authorities, the Ambulance Paramedics of British Columbia (Local 873), the First Nations Health Authority, UBCM and others to implement the initiative, which will see 80 new full-time equivalent (FTE) community paramedics over the next four years. Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Auditor General for Local Government Act	Nov. 17/15	by 2015 Bill 36, c. 34, sections 1 to 19 only (in force by Royal Assent), Auditor General for Local Government Amendment Act, 2015
Community Charter	Nov. 17/15	by 2015 Bill 29, c. 31, sections 1 and 2 only (in force by Royal Assent), Property Taxation (Exemptions) Statutes Amendment Act, 2015
Election Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 20 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Electoral Purposes for Access to and Use of Personal Information Regulation (205/2015)	NEW Nov. 6/15	see Reg 205/2015
Elevating Devices Safety Regulation (101/2004)	Nov. 19/14	by Reg 210/2015
Liquor Control and Licensing Regulation (244/2002)	Nov. 24/15	by Reg 215/2015
Municipal Liabilities Regulation (254/2004)	Nov. 2/15	by Reg 201/2015
School Calendar Regulation		

(314/2012)	Nov. 4/15	by Reg 203/2015
Taxation (Rural Area) Act	Nov. 17/15	by 2015 Bill 29, c. 31, section 3 only (in force by Royal Assent), Property Taxation (Exemptions) Statutes Amendment Act, 2015
Voter Registration Regulation (206/2015) (replaces B.C. Reg. 383/2004)	NEW Nov. 6/15	see Reg 206/2015
Voter Registration Regulation (383/2004)	REPEALED Nov. 6/15	by Reg 206/2015

MISCELLANEOUS

Miscellaneous News:

Liability for Subsidiaries Operating Abroad

In the recent [Garcia v. Tahoe Resources Inc.](#), the Supreme Court of British Columbia ruled in favor of Guatemalan claimants that sued Tahoe Resources Inc. for negligence and battery with regards to an incident in which claimants were shot and injured by security personnel hired by a wholly-owned subsidiary of the company. The BCSC ruled that British Columbia was not the appropriate forum. [As Gordon Buck notes](#),

The Court observed that while the Guatemalan justice system might be "imperfect", it still functioned "in a meaningful way" and damages to compensate for battery and negligence were available to the plaintiffs in Guatemala. Madam Justice Gerow concluded "In my view, the public interest requires that Canadian courts proceed extremely cautiously in finding that a foreign court is incapable of providing justice to its own citizens. To hold otherwise is to ignore the principle of comity and risk that other jurisdictions will treat the Canadian judicial system with similar disregard".

Read the [full article](#) published in the *CBA National Magazine*.

Act or Regulation Affected	Effective Date	Amendment Information
Advertising Sponsor Disclosure Report Regulation (431/99)	Nov. 2/15	by Reg 200/2015
College and Institute Act	Nov. 17/15	by 2015 Bill 41, c. 42, section 2 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2015
Election Financing Regulation (371/95)	Nov. 2/15	by Reg 200/2015
Enforcement of Canadian Judgments and Decrees Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 21 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Leadership Contestant Financing Regulation (433/99)	Nov. 2/15	by Reg 200/2015

Ombudsperson Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 22 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Police Act	RETROACTIVE to Dec. 31/14	by 2015 Bill 37, c. 41, section 23 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Political Party and Constituency Association Financial Reports Regulation (434/99)	Nov. 2/15	by Reg 200/2015
Red Tape Reduction Day Act	NEW Nov. 17/15	c. 36 [SBC 2015], Bill 34 , whole Act in force by Royal Assent
South Coast British Columbia Transportation Authority Act	Nov. 17/15	by 2015 Bill 37, c. 41, sections 3 and 4 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Variable Speed Signs to be Installed on Three BC Highways

The provincial government will install electronic variable speed signs early next year on three of BC's major highways warning drivers to slow down in bad weather. Minister of Transportation and Infrastructure Todd Stone says the \$12.5 million pilot project is aimed at reducing the frequency of weather-related crashes. Stone says the electronic signs will adjust the speed limit to let drivers know what speed they should be travelling during winter weather conditions. Crews are installing 18 signs along Highway 1 from Perry River to Revelstoke, 13 along the Coquihalla from Portia Interchange to the former Toll Plaza, and 16 along the Sea to Sky from Squamish to Function Junction. Read *The Vancouver Sun* [article](#).

WorksafeBC Reviews Exemption from Coverage for Out-of-Province

The following discussion paper considers changes to the existing exemption from coverage for employers in the trucking industry. At issue is a review of Item AP1-2-1 *Exemptions from Coverage of the Assessment Manual* ("exemption policy"). Specifically, whether to change the exemption rules for out-of-province employers in the trucking industry. Also at issue is whether the current wording in the exemption policy could be improved to better reflect how the exemptions work within the larger legal framework. No substantive change to the policy would result from these amendments. Stakeholders have requested a review of the criteria and how these criteria apply to US employers who employ no BC residents, have no base of operations in BC, and already have coverage in their home states ("US carriers"). Read the [discussion paper](#).

CVSE Bulletins & Notices

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

- [VI Bulletin 03-15](#) – Fire Risk from Operation of Diesel Particulate Filter (DPF) Emission Control Device
- [Route 97 and Cecil Lake Map](#) – The Route 97 and Cecil Lake to 97 map has been updated.
- [CVSE1052](#) – District Authorizations Notifications for Very Large Loads
- [Notice NSC 02-15](#) – Temporary Changes to Profile Status Thresholds – Effective December 1, 2015

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

Act or Regulation Affected	Effective Date	Amendment Information
----------------------------	----------------	-----------------------

Insurance Corporation Act	Nov. 2/15	by 2015 Bill 15, c. 13, section 55 only (in force by Reg 202/2015), Motor Vehicle Amendment Act, 2015
Insurance (Vehicle) Act	Nov. 2/15	by 2015 Bill 15, c. 13, section 56 only (in force by Reg 202/2015), Motor Vehicle Amendment Act, 2015
Insurance (Vehicle) Regulation (447/83)	Nov. 1/15	by Reg 126/2015
Motor Vehicle Act Regulations (26/58)	Nov. 1/15	by Reg 193/2015
Motor Vehicle Act	Nov. 1/15	by 2014 Bill 13, c. 5, section 50 only (in force by Reg 193/2015), Off-Road Vehicle Act
	Nov. 2/15	by 2015 Bill 15, c. 13, sections 5, 23, 31 and 34 only (in force by Reg 202/2015), Motor Vehicle Amendment Act, 2015
Motor Vehicle Act Regulations (26/58)	Nov. 1/15	by Reg 193/2015
Off-Road Vehicle Act	Nov. 1/15	by 2014 Bill 13, c. 5, sections 13 (1) (b) and (c) and (2), 14 (a) to (c), 15, 18 to 20, 26 (1) (d), (e), (g) and (h) and (2) (c), (d) and (f), 30 (2) (h), (i) and (n) (i) only (in force by Reg 193/2015), Off-Road Vehicle Act
	Nov. 17/15	by 2015 Bill 37, c. 41, section 17 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Off-Road Vehicle Regulation (193/2015) (<i>replaces B.C. Reg. 200/2014</i>)	NEW Nov. 1/ 15	see Reg 193/2015
Off-Road Vehicle Regulation (200/2014)	REPEALED Nov. 1/ 15	by Reg 193/2015
Permitted Cost of Services (Off-Road Vehicle) Regulation (241/2014)	Nov. 1/15	by Reg 199/2015
Violation Ticket Administration and Fines Regulation (89/97)	Nov. 1/15	by Reg 193/2015

PROPERTY & REAL ESTATE

Property and Real Estate News:

Civil Resolution Tribunal Unveils New Tool

The Civil Resolution Tribunal designed a self-help, web-based tool to help strata owners, tenants and occupants resolve problems. The tool is called Solution Explorer and the CRT is asking for your input to improve it. Learn [more](#).

Strata Property Act Amendments – Early Consolidation

A number of amendments to the [Strata Property Act](#) (SPA) have been brought into force by [Bill 40, Natural Gas Development Statutes Amendment Act, 2015](#). These amendments are intended to

- clarify the voting requirement for an application to court for a special levy, SPA, [section 173](#),
- remove confusion as to what the term "all the eligible voters" means, SPA, [section 193 \(3\)](#); and
- clarify that regulation 6.11 for permitted investments applies to both contingency reserve funds and funds collected by special levy, SPA, [section 292 \(2\) \(1.1\)](#).

While some of the sections of Bill 40 came into effect on November 17, 2015, the majority of amendments are scheduled to come into force by regulation at a later date. These proposed changes will allow strata corporation members to wind up the corporation by an 80% vote. Currently, a resolution to terminate a strata corporation must be passed by a unanimous vote. The affected sections which are not yet in force include: 1 (1), 43 (3), (3.1), (6), 45(1), (1.1), (2), (2.1), (3), 53 (2), 54 (2), 58 (3), 59 (3) (h.1), (i), 174 (7), 272 (1), 273.1, 274 (b), (c), 275 (1.1), 277 (1), 278.1, 279 (2), (3), 284 (2), (3). For your convenience, Quickscribe has published an [early consolidation](#) of how the *Strata Property Act* will read once the remaining sections come into force.

Cancelling Charges under Section 35 of the Property Law Act – Don't Count On It

A recent decision of the BC Supreme Court demonstrates the difficulty of obtaining an order under [section 35](#) of the [Property Law Act](#). The case will be of particular interest to developers who intend to rely on the section as part of their development plans. Section 35 grants the Court authority to cancel or modify certain types of charges including easements, statutory rights of way, and restrictive covenants in a variety of circumstances, including when:

- cancellation would not injure the chargeholder;
- the charge is invalid or unenforceable; and
- the chargeholder has expressly or impliedly agreed to the cancellation of the charge.

In [Natura Developments Ltd. v Ladysmith \(Town\)](#), Natura Developments Ltd. (the "Developer") acquired a parcel that was encumbered by a Section 219 Restrictive Covenant (the "Covenant") in favour of the Town of Ladysmith. The Covenant prohibited development of the parcel except with approval from Ladysmith and outlined a specific review process for obtaining approval. The Developer's proposal for a 27-townhouse development was rejected by Ladysmith, which preferred to see a smaller scale project. Read the [full article](#) by Nicholas Shon of Lawson Lundell LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Application for Subdivision Approval Regulation (8/89)	Nov. 1/15	by Reg 198/2015
Land Title Act	Nov. 1/15	by 2015 Bill 25, c. 26, section 46 only (in force by Reg 151/2015), Forests, Lands and Natural Resource Operations Statutes Amendment Act, 2015
	Nov. 17/15	by 2015 Bill 37, c. 41, sections 15 and 16 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015
Strata Property Act	Nov. 17/15	by 2015 Bill 40, c. 40, sections 44, 46 and 55 only (in force by Royal Assent), Natural Gas Development Statutes Amendment Act, 2015

WILLS & ESTATES

Wills and Estates News:

[Lane Estate](#)

There have now been several reported cases in British Columbia in which the courts have been asked to give effect to a document that does not meet the formal requirements for a valid will pursuant to [section 58](#) of the [Wills, Estates and Succession Act](#). This section allows the court to give effect to a document or other record as a will if the court is satisfied that it reflects the testamentary intentions of a deceased person. [Stan Rule has] written about the first reported case dealing with this issue in British Columbia, [Estate of Young](#), 2015 BCSC 182, [here](#), and another case [Beck Estate](#), 2014 BCSC 676, [here](#). In both these cases the courts gave effect to a document that did not comply with the formal requirements. Read the [full article](#) by Stan Rule of Sabey Rule LLP.

Finance Acknowledges Concerns about Unintended Results Arising from New Taxation Rules in Effect in 2016

STEP Canada, together with other organizations, has identified several concerns relating to amendments to the *Income Tax Act* which received Royal Assent on December 16, 2014 and which will come into effect on January 1, 2016. These concerns relate broadly to changes to the taxation of spousal, alter ego and joint partner trusts (referred to collectively as "life interest trusts"), and changes to the taxation of charitable gifts on death. In response to these concerns, the Department of Finance has today sent to STEP Canada, the Joint Committee and CALU the attached letter acknowledging these concerns, agreeing to continue to engage with STEP Canada and the other addressees on these issues and seeking input on a possible solution, as discussed in the letter. Read the [full article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Adult Guardianship Act	Nov. 17/15	by 2015 Bill 37, c. 41, section 19 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2015

The content of this document is intended for client use only. Redistribution to anyone other than Quickscribe clients (without the prior written consent of Quickscribe) is strictly prohibited.

QUICKSCRIBE SERVICES LTD.

*UNSUBSCRIBE FROM THIS EMAIL SERVICE
To unsubscribe from this service, click [here](#).*