

Quickscribe Reporter

Vol: XV – Issue: VI – June 2016

QUICKSCRIBE NEWS:

Latest Annotations

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

- [OnPoint Legal Research Corporation](#) – [Health Professions Act](#)
- [Michael Hargraves](#), Stewart, McDannold, Stuart – [Community Charter](#)
- [Eileen Vanderburgh](#), Alexander Holburn + Lang LLP – [Privacy Act](#), [Freedom of Information and Protection of Privacy Act](#)

Watch this 20-minute [YouTube video](#) to learn more about annotations and how to receive alerts when new annotations are published to the laws that matter most to you.

Quick Tip: Jump to Section Number

When referencing larger laws, locating and viewing a specific section can be time consuming. Quickscribe's "in-document" search bar allows you to quickly scan and jump to a section of interest within seconds. Next time you reference a larger law, look for the search bar located on the left side of the grey (top) menu bar. The search box displays instructions "Enter keyword to search law". As you type in the section number an appropriate results list will build. Simply click on the section of interest and you will be taken there within seconds.

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:

**Registration Requirements under the New British Columbia
Societies Act for Extraprovincial Non-Share Corporations**

Under the new British Columbia [Societies Act](#) (the "New Act"), which is set to come into force on November 28, 2016, a non-share corporation registered outside of British Columbia that conducts activities in British Columbia (an "Extrajurisdictional Non-Share Corporation") must register in British Columbia within 60 days after beginning to carry on activities in British Columbia.

An Extrajurisdictional Non-Share Corporation that is already registered in British Columbia prior to the New Act coming into force will be deemed to be registered under the New Act once in force unless its registration is cancelled under the New Act.

An Extrajurisdictional Non-Share Corporation that was not registered in British Columbia immediately before the New Act comes into force must be registered in British Columbia by November 28, 2016 if it carries on activities in British Columbia. Read the [full article](#) by [Tamara G. Wong](#) of Borden Ladner Gervais LLP.

BCSC Issues Guidance on Trade Reporting and Product Determination Rules

The British Columbia Securities Commission (BCSC) has advised market participants that [Multilateral Instrument 91-101 Derivatives: Product Determination](#) and [Multilateral Instrument 96-101 Trade Repositories and Derivatives Data Reporting](#) (MI 96-101) as well as amendments to MI 96-101 are targeted to come into force before July 29, 2016, subject to obtaining necessary governmental approvals. That is also the date when mandatory trade reporting begins for clearing agencies and derivatives dealers in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan and Yukon.

The BCSC has advised clearing agencies and derivatives dealers that the onboarding process with trade repositories may take several weeks to complete. Read the [full article](#) published on the Stikeman Elliott LLP website.

BC Securities – Policies & Instruments

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

- [24-102](#) – CSA Notice of Changes to Companion Policy 24-102 *Clearing Agency Requirements*
This notice provides notification of changes to Companion Policy 24-102 *Clearing Agency Requirements*. The changes to the companion policy provide additional guidance on requirements for clearing agencies, including guidance relating to the key components of clearing agency recovery plans.
- [BCN 2016-05](#) – Participant obligations under Multilateral Instrument 91-101 *Derivatives: Product Determination* and Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting*
- [11-330](#) – CSA Staff Notice 11-330 *Notice of Local Amendments – Alberta, Manitoba, New Brunswick, Nova Scotia, Québec, Ontario and Saskatchewan*
This Notice identifies the relevant local amendments to National Instrument 45-102 *Resale of Securities* and National Instrument 45-106 *Prospectus Exemptions* that affect activity only in Alberta, Manitoba, New Brunswick, Nova Scotia, Ontario, Québec and Saskatchewan.
- [11-102](#) – Adoption of Amendments to Multilateral Instrument 11-102 *Passport System* and new Multilateral Instrument 11-103 *Failure-to-File Cease Trade Orders in Multiple Jurisdictions*
- [23-316](#) – CSA Staff Notice 23-316 – Order Protection Rule: Implementation of the Market Share Threshold and Amendments to Companion Policy 23-101 *Trading Rules*
- [21-318](#) – CSA Staff Notice 21-318 – *Information Processor for Corporate Debt Securities*

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

Act or Regulation Affected	Effective Date	Amendment Information
Approved Plan Regulation (143/2005)	REPEALED June 13/16	by Reg 154/2016
Income Tax (BC Family Bonus) Regulation (231/98)	July 1/16	by Reg 114/2016
Insurance Premium Tax Act Classes of Insurance Regulation (175/2012)	REPEALED June 13/16	by Reg 154/2016

Insurance Premium Tax Act Regulation (52/2003)	REPEALED June 13/16	by Reg 154/2016
Insurance Premium Tax Regulation (154/2016)	NEW June 13/16	see Reg 154/2016
Multilateral Instrument 11-102 <i>Passport System</i> (58/2008)	June 23/16	by Reg 158/2016
Multilateral Instrument 11-103 <i>Failure-to-File Cease Trade Orders in Multiple Jurisdictions</i> (159/2016)	NEW June 23/16	see Reg 159/2016
National Instrument 45-106 <i>Prospectus Exemptions</i> (227/2009)	June 30/16	by Reg 161/2016
Provincial Sales Tax Act	July 1/16	by 2016 Bill 14, c. 10, section 67 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
Taxable Insurer Regulation (77/94)	REPEALED June 13/16	by Reg 154/2016
Training Tax Credits Regulation (243/2007)	June 2/16	by Reg 127/2016

ENERGY & MINES

Energy and Mines News:

Canadian LNG from a Global Perspective

The next several months are set to be an important period for Canada's nascent liquefied natural gas (LNG) industry. After nearly half a decade of project announcements, commercial development, increasing press coverage and often intense political debate, it is expected that the remainder of 2016 could see one or more of the country's first affirmative LNG final investment decisions.

The stakes are considerable. In the event a significant amount of liquefaction capacity is approved, Canada could become an important player on the global LNG stage. By contrast, should the industry stall, it could be a decade or more before the next meaningful LNG development "window" opens for the country.

On what basis then, are such final investment decisions being made – in what context and according to what considerations? Or perhaps more poignantly, how does Canada's LNG industry compare with its international counterparts; which final investment decision considerations are applicable to the LNG industry in general and which may be considered more endemic to Canada? Read the [full article](#) by Michael Laffin and Paul Blyschak of Blake, Cassels & Graydon LLP and published on the Lexology website.

Two BC Wind Farm Projects Halted with Huge Site C Dam in Wings

Publicly traded Northland Power has withdrawn two wind projects from BC's environmental approval process, officially halting proposals that had been dormant for several years as the Site C hydroelectric dam puts a chill on renewable energy projects.

The proposals – for Mount George Wind Park, a 300-megawatt wind farm 38 kilometres southeast of Prince George, and Mount Kathleen Wind Park, a 250-megawatt wind farm near Summerland – were officially withdrawn last week, following correspondence between BC's Environmental Assessment Office and Northland about lack of activity on both projects.

The withdrawals highlight challenges faced by would-be renewable energy developers in BC now that Site C is in

the wings, says Vancouver energy lawyer David Austin. Site C is a multibillion-dollar hydroelectricity project now under construction on the Peace River. Read *The Globe and Mail* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Direction Respecting Liquefied Natural Gas Customers (150/2016)	NEW June 10/16	see Reg 150/2016
Groundwater Protection Regulation (39/2016)	June 10/16	by Reg 152/2016
Surface Lease Information Regulation (139/2016)	NEW June 10/16	see Reg 139/2016
Water Sustainability Fees, Rentals and Charges Tariff Regulation (37/2016)	RETROACTIVE to Feb. 29/16	by Reg 151/2016

FAMILY & CHILDREN

Family and Children News:

Dealing with Child Support Issues when One Parent Lives Outside BC

Suppose you live in BC and need a court order for child or spousal support but the other parent lives in another province or country. How do you get it? British Columbia has made agreements with all the Canadian provinces and territories and several foreign countries to recognize each other's child and spousal support orders and agreements.

The BC Ministry of Justice [Family Justice website](#) provides Interjurisdictional Support Order (ISO) forms online. The site guides you to the right forms; you fill them out and mail them with supporting documents to an office in Vancouver. The ISO office then takes care of sending the necessary information to the other province or country. There, the other parent appears in court and an order can be made without your having to attend.

But what if one parent lives in Saskatchewan, has an order for child or spousal support under provincial legislation, wants to change it, and the other parent has moved to British Columbia? BC's [Interjurisdictional Support Orders Act](#) (ISO) established a process for doing that as well. Unfortunately, the process was very long and involved. Read the [full article](#) published on the Provincial Court of British Columbia website.

Act or Regulation Affected	Effective Date	Amendment Information
Coroners Regulation (298/2007)	June 10/16	by Reg 135/2016
Supreme Court Civil Rules (168/2009)	July 1/16	by Reg 3/2016
Supreme Court Family Rules (169/2009)	July 1/16	by Reg 4/2016

FOREST & ENVIRONMENT

Forest and Environment News:

Federal Government Announces Review of Key Environmental and Regulatory Legislation and Processes

On June 20, 2016 the Government of Canada announced its review of several environmental and regulatory processes. The review will focus on three areas:

1. the federal Environmental Assessment process, which was revised in 2012 by the Conservative government,
2. modernization of the National Energy Board, and
3. the federal [Fisheries Act](#) and [Navigation Protection Act](#), both of which were amended in recent years under the Conservative government.

This review follows up on the Liberal government's earlier commitment to review and restore public confidence in federal environmental and regulatory processes. The reviews of the federal Environmental Assessment processes and of the National Energy Board will each be conducted by an Expert Panel established for that purpose. The review of the recent *Fisheries Act* and *Navigation Protection Act* amendments will be conducted by the Parliamentary Standing Committees on Fisheries and Oceans and on Transport, Infrastructure and Communities. All of these reviews will seek input from the Canadian public.

The draft Terms of Reference for the Expert Panels are open for public comment until July 20, 2016. The Expert Panels are expected to submit their reports to the applicable Ministers by January 31, 2017. Similarly, it is anticipated that the Parliamentary Standing Committees will submit their reports to Parliament in early 2017. Read the [full article](#) by [Jennifer Nyland](#) of Lawson Lundell LLP.

Contaminated Site Update: Rough and Ready Allocation of Liability

On May 5, 2016, the Supreme Court of British Columbia released its decision in *Domovitch v. Willows*, [2016 BCSC 1068](#) in which the court allocated liability amongst a number of "responsible persons" under the Contaminated Sites provisions of the BC [Environmental Management Act](#), S.B.C. 2003, c. 53 (the "EMA").

Despite the reasons for judgment being pronounced orally, the decision in *Domovitch* contains a rare, succinct and clear treatment of a number of provisions in the *EMA*, including the "innocent purchaser" exemption from liability and the allocation of liability amongst responsible persons.

Innocent purchaser exemption

To be entitled to the "innocent purchaser" exemption under the *EMA*, a party must establish that:

1. at the time of purchase:
 - a. the property was contaminated;
 - b. the purchaser had no reason to know or suspect that the property was contaminated; and
 - c. the purchase undertook all appropriate inquiries into the previous ownership and use of the property and also undertook other investigations consistent with good customary practice at that time in an effort to minimize potential liability;

Read the [full article](#) by Nicholas R. Hughes of McCarthy Tétrault on the Lexology website.

Input Sought on Northern Vancouver Island Old Growth Management Areas

British Columbians are invited to review and comment on amended old growth management areas for the San Josef Landscape Unit on northwestern Vancouver Island until August 29, 2016. The proposed amendments are intended to enhance the design of old growth management areas to better represent wildlife, old growth and non-timber values in the San Josef Landscape Unit. Members of the public are invited to submit comments about the proposed land use objectives during a 60-day review and comment period that ends on August 29, 2016.

Written comments may be sent to:

"OGMA Comments"

North Island-Central Coast Natural Resource District

Box 7000, Port McNeill, B.C. V0N 2R0

Comments may also be emailed to: SJOGMAComments@gov.bc.ca

More information on strategic land and resource planning for the San Josef Landscape Unit, as well as a map of the area, is available at: https://www.for.gov.bc.ca/TASB/SLRP/NVI_san_josef.html

Source: [Gov't of BC](#)

Obama, Trudeau: "Significant Differences Remain" in Summit Softwood Talks

A settlement remains elusive but Canada and the U.S. have edged closer to a job-saving settlement on the softwood lumber dispute, President Barack Obama and Prime Minister Justin Trudeau said here Wednesday [June 29].

"The United States and Canada have made important progress in our negotiations, but significant differences remain," they said in a joint statement.

Thousands of jobs are at stake in the \$20-billion Canadian industry that supports 370,000 jobs, primarily in BC but also in Quebec and Ontario, Canada's second- and third-largest exporters, government and industry officials have recently warned. They said their officials will "maintain an intensive pace of engagement" with the goal of striking a deal before this autumn's expiration of a 2006 peace accord.

The last battle, known as Softwood IV, was settled in 2006 when Ottawa struck an agreement with Washington that limited Canada's access to the U.S. market through a combination of quotas and export taxes.

That deal expires on Oct. 12, opening the door to the U.S. industry launching a legal battle to impose punitive duties on Canadian exports. But a Canadian analyst questioned whether the U.S. is actually determined to settle the dispute. Read *The Vancouver Sun* [article](#).

Lawn Laws: New Pesticide Regulations Take Effect in BC

Some property owners may have to change their habits with how they keep their lawns perfectly manicured as [new pesticide regulations](#) went into effect Friday [July 1] across the province.

The regulations now require private land owners to obtain a certificate from the province through an [online course](#) before using certain pesticides on landscaped areas such as lawns or flower beds.

Vancouverite Drew Stewart and his daughter Ella are careful not to use anything that isn't organic when it comes to weeding pests in their garden, and are unperturbed by the new regulations. Read the CTV [article](#).

Environmental Appeal Board Decisions

There was one Environmental Appeal Board decisions released in the month of June:

[Water Act](#)

- [Bridge Creek Estate Ltd. v. Assistant Regional Water Manager](#) [Order – Extension confirmed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Closed Areas Regulation (76/84)	July 1/16	by Reg 130/2016
Hunting Regulation (190/84)	July 1/16	by Reg 130/2016
Integrated Pest Management Regulation (604/2004)	July 1/16	by Regs 234/2015 and 235/2015
Motor Vehicle Prohibition Regulation (196/99)	July 1/16	by Reg 130/2016
New Tree Fruit Varieties Development Council Regulation (44/2002)	June 10/16	by Reg 137/2016
Organic Matter Recycling Regulation (18/2002)	June 9/16	by Reg 132/2016
Permit Fees Regulation (299/92)	June 9/16	by Reg 132/2016
Public Access Prohibition Regulation (187/2003)	July 1/16	by Reg 130/2016

Wildlife Act Commercial Activities Regulation (338/82)	July 1/16	by Reg 130/2016
--	-----------	---------------------------------

HEALTH

Health News:

Legislation Comes into Force to Regulate E-cigarettes

New laws around the sale, promotion and use of e-cigarettes will come into effect on Sept. 1, 2016.

The [Tobacco and Vapour Products Control Act](#) is designed to protect youth from the unknown effects of e-cigarette vapour and from becoming addicted to nicotine, which is why it will treat e-cigarette use exactly the same as tobacco, with the same bans and restrictions. There are no restrictions on adults buying e-cigarettes.

The [Tobacco and Vapour Products Control Act](#) was introduced as an amendment in spring 2015 to help stop the growing use of e-cigarettes by young people in British Columbia. Prevalence of e-cigarette use is highest among young people: one in five youth in Canada have tried an e-cigarette. The act as amended requires retailers to ensure e-cigarettes are sold only to adults aged 19 and above, and to ensure that no retail displays are targeted to youth. As well, there should be no retail advertising for e-cigarettes shown where youth can see it. In addition, an exception on the indoor use restriction was made so that a small number of customers in adult-only stores could learn how to use vapour products or to test products that they wish to buy. Read the full government [news release](#).

BC Critics of Canada's Assisted Dying Laws to Launch New Court Challenge

Just days after Canada's [physician-assisted dying law](#) came into force, a 25-year-old British Columbia woman with a degenerative muscle disease is challenging it in court.

Julia Lamb who lives in Chilliwack has spinal muscular atrophy and worries her body will weaken and she will be left in a state of intolerable suffering because she doesn't qualify for doctor-assisted death under the new law.

"My biggest fear is that if my condition suddenly gets much worse, which could happen any day, I will become trapped," she told a news conference on Monday [June 27th]. "I feel a shadow looming over me. I know I could lose the ability to breathe well enough on my own and require a ventilator, which could affect my ability to speak."

Lamb was diagnosed with the muscle disease at 16 months and required a wheelchair at age six, but she said she has lived a fulfilling life with a loving family and enjoys her part-time job as a marketing assistant.

The Liberal government's [Bill C-14 received royal assent on June 17](#). Lamb said she opposes the law's requirements that a doctor's help can only be given if death is reasonably foreseeable and the patient is in an advanced state of irreversible decline.

"If my suffering becomes intolerable I would like to make the final choice about how much suffering to endure," said Lamb, who has joined the B.C. Civil Liberties Association to file a constitutional challenge in B.C. Supreme Court. Read *The Vancouver Sun* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Continuing Care Fees Regulation (330/97)	June 10/16	by Reg 134/2016
Drug Schedules Regulation (9/98)	June 24/16	by Reg 160/2016
Hospital Insurance Act Regulation (25/61)	June 10/16	by Reg 134/2016
Information Management Regulation (74/2015)	June 1/16	by Reg 74/2015
Medical Practitioners Regulation (416/2008)	June 6/16	by Reg 129/2016

Milk Industry Standards Regulation (138/2016)	June 10/16	by Reg 138/2016
---	------------	---------------------------------

LABOUR & EMPLOYMENT

Labour and Employment News:

Wrongful Dismissal Settlements and Awards: Making and Defending Mitigation Arguments, and Other Creative Solutions

from [CLEBC website](#) – Practice Points

This paper from the Employment Law Conference—2016 discusses classic approaches to mitigation in wrongful dismissal claims, including the different methods by which courts can reduce damages and some lesser used strategies. Click [here](#) to view a pdf version of the paper.

Action Taken on All Macatee's Recommendations for Workplace Safety in BC

WorkSafeBC's special advisor Gordon Macatee has released his last status report on his *WorkSafeBC Review and Action Plan* recommendations, which confirms that as of March 1, all 43 recommendations to enhance workplace safety have been implemented.

The improvements to worker safety flowing from the report continue to inform the ongoing work by the province of British Columbia and WorkSafeBC to ensure BC has a world-class inspection and investigations regime. The report covers the impact of the recommendations, lessons learned and next steps.

Following the 2012 Babine and Lakeland sawmill explosions, and the 2014 Dyble Report, Macatee was appointed as a special administrator and asked to develop the action plan to improve worker safety in the province. The plan and recommendations were accepted by the Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour Shirley Bond and the WorkSafeBC board on July 15, 2014. Read the [full article](#) on the Canadian Occupational Health and Safety website.

Watch Your Language – Health Benefits Coverage Questions Can Cause Illness for Employers

Two recent decisions highlight unexpected liabilities that can arise for employers regarding health benefits plans. These two cases demonstrate the importance of clarity in communications with employees about plan coverage and in the plans themselves.

Negligent misrepresentation – [Feldstein v. 364 Northern Development Corporation](#)

Mr. Feldstein had cystic fibrosis. After being provided with working notice of termination by his employer, Feldstein sought new employment with 364. Feldstein alleged that during the interview process he had made specific inquiries to determine whether 364's long-term disability (LTD) plan would cover him despite his pre-existing condition. Feldstein said he was given assurances that clearly indicated he would be covered, and he relied on this representation when deciding to accept employment at 364. Unfortunately, Feldstein's health deteriorated shortly after he commenced employment at 364, and his entitlement to disability benefits fell significantly short of full coverage due to a "Proof of Good Health" requirement that he did not meet.

Read the [full article](#) published by Bull, Housser & Tupper LLP.

British Columbia Court of Appeal Restores Record-high Human Rights Tribunal Damages for Injury to Dignity

We previously reported on the B.C. Human Rights Tribunal's record-high \$75,000 award for injury to dignity, and the subsequent decision of the B.C. Supreme Court that the award was patently unreasonable in the circumstances.

The B.C. Court of Appeal in [University of British Columbia v. Kelly](#) has now restored the Tribunal's original award for injury to dignity, emphasizing that it is for the Tribunal to consider the evidence in each individual case.

Dr. Kelly was a medical school graduate who had been diagnosed with ADHD and a non-verbal learning disability. He experienced significant difficulties while attempting to complete UBC's residency program. While he actively sought medical treatment, and UBC attempted to accommodate him, he continued to perform below expectations. Ultimately, UBC decided that Dr. Kelly was unsuitable for the program and discharged him with two months' severance pay.

The Tribunal found UBC's actions to be discriminatory, and awarded Dr. Kelly \$75,000 in damages for injury to dignity, more than twice the previous high water mark for this type of damages. While the B.C. Supreme Court upheld the Tribunal's finding of discrimination, it found that the Tribunal's award for injury to dignity was patently unreasonable in the circumstances. Read the [full article](#) by [Laura DeVries](#) and [Jocelyn Plant](#) of McCarthy Tétrault LLP and published in the *British Columbia Employer Advisor*.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

LOCAL GOVERNMENT

Local Government News:

Court Clarifies Authority to Require Geotechnical Reports for Hazardous Lands

[Section 56](#) of the [Community Charter](#), which applies not only to municipalities, but also to regional districts by virtue of [section 302](#) of the [Local Government Act](#), has been given some helpful interpretation by a recent decision of the Supreme Court of British Columbia. In *Compagna v. Nanaimo (City)*, [2016 BCSC 1045](#), the court concluded that while the language of section 56 is broad enough to permit a building inspector to consider, and potentially rely upon a geotechnical report previously prepared for another purpose, such as an application for subdivision, it does not require the building inspector to do so.

By way of background, section 56 provides authority for a building inspector to deal with hazardous conditions, namely flooding, mud flows, debris flows, debris torrents, erosion, land slip, rockfalls, subsidence, or avalanche. Where such a hazardous condition exists, a building inspector may require the applicant to provide a geotechnical report prepared by a qualified engineer. If the report concludes the land cannot be used safely for the use intended, the building inspector cannot issue a building permit. If the report concludes that the land may be used safely for the use intended in accordance with the conditions specified in the report, then the permit can be issued, but only if a covenant under [section 219](#) of the [Land Title Act](#) is registered against title to the land, securing the owner's promise to abide by the conditions of the report, and to reimburse the local government for any expenses resulting from the owner's breach of the covenant. Read the [full article](#) by Michael Hargraves of Stewart McDannold Stuart.

Liquor Policy Working Group Update

On June 23, 2016, the Local Government Working Group on Liquor Policy, co-chaired by UBCM and the Province, met to discuss recent changes in provincial liquor policy, the provincial timeline for implementation of all Liquor Policy Review recommendations, and upcoming opportunities for local government input.

The Local Government Working Group on Liquor Policy is the forum created for consultation and communication between the Province and local governments with respect to changes in liquor policy. Since the release of the [Liquor Policy Review Final Report](#) in January 2014, the Province has implemented 42 of the 73 recommendations included in the report, which seeks to modernize liquor laws in British Columbia. For the reference of UBCM members, the Working Group's discussions are summarized below. Read the full UBCM [news release](#).

New Rules to Cut the Stench from Compost Facilities

British Columbia's environment ministry has announced a permit system to better control composting facilities that process food waste and biosolids.

The move, which will require permits for composting facilities, comes after complaints against some facilities, including in east Richmond where city officials want more stringent air-quality regulations to control the stink from the region's composting plant.

Harvest Power is seeking to renew its Metro Vancouver air permit after generating odour complaints from neighbours last year while processing 200,000 tonnes of food and green waste. The ministry said a permitting process will increase transparency and make it easier to monitor compliance.

Facilities with capacity to produce over 5,000 tonnes of compost per year have 60 days to apply for a permit and pay the one-time \$200 application fee. Once a permit is approved, there is an additional \$100 annual fee for permitted facilities.

If operators fail to apply for a permit within 60 days or fail to comply with permit conditions, enforcement action may be taken under the [Environmental Management Act](#), the ministry said. Read *The Vancouver Sun* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Building Act	June 10/16	by 2015 Bill 3, c. 2, sections 31 to 34 only (in force by Reg 133/2016), Building Act
Building Act Administrative Regulation (133/2016)	NEW June 10/16	see Reg 133/2016
Building Act General Regulation (131/2016)	NEW June 10/16	see Reg 131/2016

MISCELLANEOUS

Miscellaneous News:

Upcoming Amendments to British Columbia's Costs Rules: An Update

This is a brief update on the original article published in our April 7, 2016 issue titled "[Is it Going to Cost You More? Upcoming Amendments to British Columbia's Costs Rules](#)". On March 31, 2016, the Attorney General of British Columbia bowed to concerns from ICBC, the province's public auto insurer, and rescinded the amendments to the costs tariff and fees that were to come into force on July 1, 2016. This was a controversial decision by the government which came as a complete surprise to the plaintiff's bar and caused BC Supreme Court justices and senior lawyers to quit an important advisory committee, which had been tasked with recommending changes to the tariffs and the calculation of the approved expenses incurred during litigation. It appears that ICBC raised concerns that these changes could increase the cost to defend motorists and could have an impact on everyone's insurance rates. Read the [full article](#) by Fareeha Qaiser of Miller Thomson.

Practice Direction – Consent Order to Dispense with Trial Management Conference in Civil Cases – July 1, 2016

[PD-51 – Consent Order to Dispense with Trial Management Conferences in Civil Cases](#), has been issued by Chief Justice Hinkson and will take effect on July 1, 2016 to coincide with amendments to [Civil Rule 12-2](#) dealing with trial management conferences which also take effect on July 1 2016. PD-51 sets out some administrative requirements which must be observed on desk order applications to dispense with a TMC. PD-51 requires that such applications be e-filed, and that an email advice be sent to an dedicated inbox managed by Supreme Court Scheduling. This will allow such applications to be segregated from other incoming desk order applications, and dealt with on the quick turnaround that the time limits of the TMC rule will require. The judge or master reviewing the application may make the order to dispense with the TMC if satisfied that the matter is ready to proceed to trial and can be completed within the time reserved for it. Source: [Supreme Court of British Columbia](#).

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

There were no amendments this month.

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Cycling Group Pushes for "One Metre Law" in BC – [Motor Vehicle Act](#)

How much space do you leave between you and cyclists when you're behind the wheel? Police in Ottawa are using what is basically a sonar-equipped bike to let drivers know if they've come too close, breaking a recently

passed law requiring one metre of room between their vehicles and any cyclists they pass. For now, officers have been using it as an educational tool, letting drivers off with a warning. But in Metro Vancouver, Erin O'Melinn with the advocacy group [HUB Cycling](#) says it is high time BC also brought in a "one metre" law. Read the News1130 [article](#).

Crash Rates Increase at Nearly Half of BC Highway Zones with Raised Speed Limits

Collision rates increased in nearly half of the 33 highway zones where the BC government raised speed limits two years ago – and the number of serious and fatal crashes increased by 11 per cent. But the province says it will roll back the speed limit for just two zones where the crash rate went up, relying instead on measures such as improved road markings, better signage and new rumble strips for the rest.

The BC government increased speed limits along the stretches of highway in 2014 – generally by 10 kilometres per hour, and against the recommendations of some health officials and police.

Transportation Minister Todd Stone, who announced the new measures [recently], noted crash rates went down or were unchanged in 19 of those areas. When asked whether the government erred in raising speed limits, he replied: "Not at all." But at the same time, he said the province wants to do everything it can to mitigate risks to the motoring public and is carefully studying the data. Read *The Globe And Mail* [article](#).

CVSE Bulletins & Notices

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

- [Notice 2016-003](#) – Provincial Sales Tax (PST) Notice: Notice to Vehicle Services and Parts Providers Multijurisdictional Vehicles
- [VI Bulletin 01-16](#) – Removable Vehicle Doors
- [Circular 02-16](#) – Implementation of new 2016 Vehicle Inspection Manual
- [VI Notice 01-16](#) – Release of 2016 Vehicle Inspection Manual (VIM)
- [VI Notice 02-16](#) – Provisional timeframe for application of mud flap inspection standards

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

Act or Regulation Affected	Effective Date	Amendment Information
Motor Vehicle Act Regulations (26/58)	June 1/16	by Reg 107/2016
	June 2/16	by Reg 125/2016
	June 16/16	by Reg 117/2016
Offence Act Forms Regulation (422/90)	June 2/16	by Reg 126/2016
Vehicle Inspection Regulation	June 3/16	by Reg 128/2016
Violation Ticket Administration and Fines Regulation (89/97)	June 1/16	by Reg 108/2016
	June 2/16	by Reg 126/2016

PROPERTY & REAL ESTATE

Property and Real Estate News:

Nothing Was Being Done to Stop Unscrupulous Real Estate Practices, BC Finance Minister Says

The provincial government ended self regulation for the BC real estate industry because the evidence was pointing to the fact that the industry wasn't regulating itself, says BC's finance minister.

[On June 30, the government announced](#) that the right to regulate the industry would be taken away from the Real Estate Council of BC and put into the hands of a newly established and dedicated superintendent of real estate.

The announcement came a day after [a special advisory group issued a damning report](#) with 28 recommendations for how the council should improve its oversight ability – but the panel was not asked to consider independent regulation. Read the [CBC article](#).

In Tight Housing Market, BC Landlords Dodge Rent Laws with Fixed-Tenancy

As renters compete for sparse and expensive housing, landlords are increasingly using a type of tenancy agreement that allows them to circumvent British Columbia's 2.9% annual rental increase limit.

Under a fixed-term rental agreement, the renter and the landlord sign a clause agreeing that the rental term will be for a certain time period, usually one year. At the end of the period, the renter agrees to vacate the unit. If the renter wants to stay, he or she must negotiate a whole new lease – which can include a big spike in rent.

"Landlords can get around the cap by getting new tenants in and raising rent," said Andrew Sakamoto, executive director of the Tenants Resource Advisory Centre (TRAC). "That's why rent has escalated so much in recent years."

The City of Vancouver has been offering incentives to developers to build new rental, but does not prohibit fixed-term tenancies in those buildings: city staff said that would require action from the provincial Residential Tenancy Branch. Read the [full article](#) in *Business in Vancouver*.

Where There's Smoke, There's Fire: Arguments Ignite over Banning Smoking in BC's Multi-unit Buildings

Paul Aradi began smoking half a century ago and had become accustomed to enjoying a cigarette in his Langley condo. That is, until his strata council banned the practice in 2009.

"They're harassing me all the time and bullying," the 71-year-old veteran said of the ban. "I'm not interfering with everybody's life, so why do people have a right to interfere in my life? Because they get more pollution when they walk in the street or whatever."

Aradi, who served as a peacekeeper in Cyprus, refused to give up smoking inside and eventually racked up \$2,300 in fines. He's filed a complaint about the ban with the B.C. Human Rights Tribunal, but earlier this year, a judge [ordered](#) Aradi to comply with the bylaw and smoke outside the building.

Aradi's waiting for triple bypass surgery, and says the walk outside to the street is too difficult for him, so he's been forced to give up cigarettes instead. In the meantime, health advocates are hoping more apartment landlords and strata councils will follow the no-smoking example of Aradi's complex. Read *The Province* [article](#).

Third-anniversary Update of the Strata Property Law – Phase Two Project (BCLI)

BCLI officially started [Phase Two of the Strata Property Law Project](#) on 4 July 2013. This post is a review of the highlights of the project's first three years.

The early years of the project were focused on [terminating a strata](#). In 2014, the committee published its *Consultation Paper on Terminating a Strata* ([PDF](#)). This consultation paper garnered one of the highest levels of public response of any of BCLI's law-reform consultations. These responses were taken into account in the committee's *Report on Terminating a Strata* ([PDF](#)), which was published in early 2015. The report's key recommendations were: (1) the voting threshold for voluntary termination of strata should be lowered from unanimous consent to 80 percent of all eligible voters; and (2) to protect the interests of any dissenting owners or registered chargeholders, the strata corporation should be required to obtain an order from the supreme court, confirming that termination is in its best interests. Read the [full article](#) published on the BCLI website.

Act or Regulation Affected	Effective Date	Amendment Information
Property Transfer Tax Act	June 10/16	by 2016 Bill 10, c. 3, section 56 only (in force by Reg 111/2016), Budget Measures Implementation Act, 2016

Property Transfer Tax Exemption Regulation No. 24 (142/2016)	NEW June 10/16	see Reg 142/2016
Property Transfer Tax Exemption Regulation No. 25 (143/2016)	NEW June 10/16	see Reg 143/2016
Property Transfer Tax Exemption Regulation No. 26 (144/2016)	NEW June 10/16	see Reg 144/2016
Property Transfer Tax Exemption Regulation No. 27 (145/2016)	NEW June 10/16	see Reg 145/2016
Property Transfer Tax Exemption Regulation No. 28 (146/2016)	NEW June 10/16	see Reg 146/2016
Property Transfer Tax Exemption Regulation No. 29 (147/2016)	NEW June 10/16	see Reg 147/2016

WILLS & ESTATES

Wills and Estates News:

Requirement that Bare Trusts be Disclosed on Property Transfer Tax Returns

– by [Stan Rule](#)

The Government of British Columbia has amended the [Property Transfer Tax Return](#) to require more information on the purchase of land, effective June 10, 2016. The requirement that a purchaser who is not a Canadian citizen or permanent resident identify his or her citizenship has received some press coverage. Although I don't like it at all, I am writing about another change: the requirement that the person taking title disclose whether he or she, or it (if a corporation) holds the title in a bare trust.

The question on the Property Transfer Tax Return is "Is this a transfer of a bare trust?" I am not sure how one transfers a bare trust, but the question is intended to elicit whether the person acquiring title will hold title as a bare trustee. To hold land in a bare trust means that although you have title, you hold it for someone else, who is the true owner. Because the title holder has no management powers and is subject to the direction of the true owner, the title holder is an agent of the owner (rather than a trustee in the sense I often write about with significant powers and responsibilities). Read the [full article](#) by Stan Rule of Sabey Rule LLP.

Independent Legal Advice and Undue Influence

Under normal circumstances independent legal advice, if properly given should be sufficient to rebut any presumption of undue influence, but that was not the case in *Cowper-Smith v Morgan*, [2016 BCCA 200](#), where the Court of Appeal upheld the trial judge in finding *inter alia*, that the independent legal advice provided was inadequate to rebut the presumption of undue influence.

The case should stand as a wake-up call to any practitioners dispensing independent legal advice that it must be thorough and relevant to the assessment of the question or issue before them, and to take the time and charge accordingly. Failing to do so may expose professional liability by disappointed beneficiaries. Read the [full article](#) by lawyer Trevor Todd and published on his site: *Disinherited – Estate Disputes and Contested Wills*.

[Wong v. Chong Estate](#)

The law with respect to joint tenancy in British Columbia is nuanced. The basic idea is that if property is held in a joint tenancy between two people, on the death of one, the title passes to the survivor. But if one of the joint tenants gratuitously transferred the property into a joint tenancy or paid the purchase price to buy the property but puts title in a joint tenancy, then there is a presumption that the other joint tenant holds his or her interest in trust for the person who transferred the property or paid for it. This presumption, called a presumption or resulting trust, is a presumption only, which may be rebutted by evidence that the person who paid for the property intended a gift. When the parties are married spouses, there is a different presumption that the person who paid for the property intended a gift. But it really comes down to what the court finds what the intention

was of the person who paid for the property at the time he or she purchased it, or in the case of a transfer, the time of the transfer.

But here's where it gets more nuanced. Supposing one person buys property and puts title into a joint tenancy with another person, intending to retain control of the property during his or her lifetime, but that on death, the survivor will be entitled to the benefit of the property. In such a case, what if the joint tenancy is severed? Read the [full article](#) by Stan Rule of Sabey Rule LLP.

Act or Regulation Affected	Effective Date	Amendment Information
There were no amendments this month.		

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](#).