

Quickscribe Reporter

Vol: XVI – Issue: XI – November 2017

QUICKSCRIBE NEWS:

Parliament Adjourned

The 37-day sitting of Parliament saw a total of 17 Government Bills introduced this fall session, all of which have now received Royal Assent. None of the 11 non-government bills progressed passed First Reading. To review and check the current status of all the bills, visit the bills page via the link on the left navigation.

A reminder that if you would like to track the progress of these bills, or to track changes to any laws that bills amend, please feel free to make use of our [BC Legislative Digest](#) tracking tool, and have us monitor and alert you to changes for laws of your choosing.

Anita Mathur from OGC to Contribute Annotations

Quickscribe is thrilled to announce that Anita Mathur, Legislation Specialist at the Oil and Gas Commission (OGC), will soon begin contributing annotations to the [Oil and Gas Activities Act](#) and associated regulations. Anita worked for several years as an engineer in the oil and gas industry in Calgary in Reservoir Engineering, Production Engineering, and Joint Ventures. She later received her MA (Law) from the University of Cambridge and LLM from Osgoode Hall in Energy and Infrastructure Law. Anita uses her hybrid engineering-law knowledge to focus on continuous adjustments to the operational regulations at the OGC to meet a dynamic and ever-changing industry and the regulations that govern it. Anita's first annotations will focus on providing some guidance as the Oil and Gas Commission updates the requirements of the [Emergency Management Regulation](#) by repealing and replacing the existing regulation with a [new one](#), effective March 1, 2018. For your convenience, Quickscribe plans to publish a red-text, early consolidation of the new regulation within the next few business days.

Latest Annotations

[Deborah Cumberford](#) has published a number of annotations to the [Business Corporations Act](#). You can view the new annotations to this or any law by selecting the "View Annotations" on the top menu bar that appears when you open a law.

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.


New Feature/Bug Fixes

Quickscribe recently uploaded a number of minor bug fixes and enhancements. Included in the recent updates is a resolution for an issue that prevented some IP users from viewing Expert Annotations without first logging in with a user name and password.

The monthly Reporters are now being indexed so that they will be included in keyword searches. The keyword search results will be displayed under the "other" tab on the search results page.

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:

BC Simplifies Rules for Selling Securities to Non-Residents

The British Columbia Securities Commission (BCSC) has made it easier for BC issuers to access capital outside the province. As of October 31, 2017, three new and/or improved exemptions to the prospectus requirement are available for distributions to purchasers outside BC:

- Private placement exemption (improved)
- Public offering exemption (new)
- Testing of the waters exemption (new).

The changes are found in the new [BC Instrument 72-503 Distribution of Securities outside British Columbia](#), which revokes and replaces the previous version of the same instrument. Read the [full article](#) by Michael G. Urbani with Stikeman Elliott LLP.

Excising Uncertainty: Comments on Proposed Amendments to the ETA

The purpose of a definition is to define. The purpose of a clarification is to clarify. According to the CBA [Commodity Tax, Customs and Trade Section](#), draft amendments to the [Excise Tax Act](#) do neither, and in fact create uncertainty.

In its [submission](#), the Section comments on subsection 272.1(8) proposed in draft amendments related to "investment limited partnerships.

"While the clear intent of the amendment is to levy unrecoverable GST/HST on management or administrative services provided by general partners, the amendments as proposed create "significant" uncertainty, the Section says. Read the [full article](#) published on the *CBA National Blog*.

BC Securities – Policies & Instruments

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

- [BCN2017/05](#) – Notice of Revocation and Replacement of BC Instrument 72-503 *Distribution of Securities outside British Columbia*
Effective October 31, 2017, the Commission revoked and replaced BC Instrument 72-503 *Distribution of Securities outside British Columbia*. This instrument provides exemptions from the prospectus requirement to facilitate distributions by issuers located in BC to purchasers outside of BC.

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

FICOM News

The Financial Institutions Commission of BC published the following announcements and bulletins in October:

- [PRPP Agreement](#) – The Second 2017 Agreement Amending the Multilateral Agreement Respecting Pooled Registered Pension Plans and Voluntary Retirement Savings Plans, which is effective November 15, 2017, adds the province of Manitoba as a participant to the Agreement
- [Letter to Board Chairs/CEOs/General Managers, BC Authorized Credit Unions](#) – Working Group Report on Risk-Based Premium Assessment Methodology-Date Extension for Comments

[Letter to CFOs/Finance Managers](#), BC Authorized Credit Unions 2017 Updates to the Capital Adequacy Return Completion Guide – Final

- [Letter to CEOs / General Managers, BC Incorporated Property and Casualty \(P&C\) Insurers and Reciprocal Insurance Exchanges](#) Adoption of Minimum Capital Test 2018 Guideline
- [Letter to CEOs / General Managers, BC Credit Unions](#) BC Credit Union ICAAP Reporting

Act or Regulation Affected	Effective Date	Amendment Information
Business Practices and Consumer Protection Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Budget Transparency and Accountability Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 5 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Chartered Professional Accountants Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 6 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Clean Energy Vehicle Tax Remission Regulation (207/2017)	NEW Nov. 14/17	see Reg 207/2017
Cooperative Association Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Designated Accommodation Area Tax Regulation (93/2013)	Nov. 1/17	by Reg 181/2017
Financial Administration Act	RETRO to Apr. 21/97	by 2017 Bill 9, c. 10, section 13 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Frustrated Contract Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
	RETRO to Mar. 1/15	by 2017 Bill 2, c. 12, section 52 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
	RETRO to Jan. 1/16	by 2017 Bill 2, c. 12, sections 19, 21, 24, 28, 31, 33, 39, 41 and 45 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
	RETRO to Jan. 1/17	by 2017 Bill 2, c. 12, sections 17, 22, 23, 25, 29, 32, 34, 35, 37, 38, 40 and 42 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
	RETRO to Feb. 22/17	by 2017 Bill 2, c. 12, section 59 only (in force by Royal Assent), Budget Measures Implementation Act, 2017

Income Tax Act	RETRO to Mar. 31/17	by 2017 Bill 2, c. 12, section 56 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
	RETRO to Apr. 1/17	by 2017 Bill 2, c. 12, section 49 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
	RETRO to Aug. 31/17	by 2017 Bill 2, c. 12, section 55 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
	Nov. 2/17	by 2017 Bill 9, c. 10, sections 22 to 24 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
		by 2017 Bill 2, c. 12, sections 53, 54, 57 and 58 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
International Business Activity Act	RETRO to Sept. 12/17	by 2017 Bill 2, c. 12, section 55 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
Motor Vehicle Returned to Manufacturer (Volkswagen) Tax Remission Regulation (214/2017)	NEW Nov. 28/17	see Reg 214/2017
Pooled Registered Pension Plans Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 43 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
		by 2017 Bill 13, c. 14, sections 1 and 3 only (in force by Royal Assent), Pooled Registered Pension Plans Amendment Act, 2017
Securities Transfer Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Small Business Venture Capital Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 54 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Societies Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017

ENERGY & MINES

Energy and Mines News:

New Emergency Management Regulation – Oil & Gas Activities Act

The Oil and Gas Commission is updating the requirements of the Emergency Management Regulation by repealing and replacing the existing regulation with a new one, effective March 1, 2018. The new regulation generally reflects current industry practice, specifically by adopting the recently published CSA Z246.2. In

addition, the [new regulation](#) promotes the use of an incident command system, puts more emphasis on training, and advocates a two-tier system for preparation and submission of emergency response plans. For your convenience, Quickscribe plans to publish an early consolidation of the new regulation in the next few business days. [Anita Mathur](#) from the Oil & Gas Commission will be publishing annotations and links between the current and new regulation shortly.

Pembina Pipeline Approves Construction of \$260M Propane Export Facility on BC Island

Pembina Pipeline Corp. says its board of directors has approved construction of an export terminal at Prince Rupert, B.C., to be used to send liquefied Western Canadian propane to markets in Asia and Central America.

The Calgary-based company says the project on Watson Island is expected to cost about \$260 million, up from an estimate of \$150 million made last spring, due to minor scope changes, dock maintenance and additional site preparation.

Pembina's facility, which still requires regulatory and environmental approvals, is expected to be in service by mid-2020 and will have a permitted capacity of about 25,000 barrels per day of propane. Read *The Vancouver Sun* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Hydro and Power Authority Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 20 and 21 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Oil and Gas Activities Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Petroleum and Natural Gas Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 42 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017

FAMILY & CHILDREN

Family and Children News:

2017 Update to the Federal Child Support Tables

The [Federal Child Support Tables](#) set out the basic monthly amounts of child support under the Federal Child Support Guidelines. The tables have been updated to reflect more recent tax rules. The updated tables came into effect on November 22, 2017. Source – [Department of Justice](#)

New Case Out of the BC Court of Appeal Highlights the Challenges High Conflict Parenting Disputes

On November 23 the Court of Appeal released the family law decision *N.R.G. v. G.R.G.*, [2017 BCCA 407](#). This is a very important case which dealt with a multiple parenting dispute between the parents of five children. At the time that court proceedings started the children were aged 11, 9, 7 and 3 year old twins. The parties unfortunately were engaged in contested court proceedings for approximately five years and at the time that the Court of Appeal reviewed some of the earlier decisions the children were aged 16, 14, 11 and the twins were 8.

The mother is a physician and the father was described by the Court of Appeal as being "highly educated and has worked in the banking industry and property development but was effectively unemployed at the time of trial and had been for several years". This is a case where there were allegations of abuse on the part of the father, allegations of alienation on the part of the mother and evidence that both parents had behaved inappropriately at times in the presence of the children. Read the [full article](#) by Leneigh Bosdet with Pushor Mitchell LLP.

The BC Judge who "Ignored Evidence," "Erred in Law" and Put a Ministry under Fire

It's one of the most alarming family justice cases in Canadian history: A high-conflict custody battle with allegations of sexual abuse by a father and incompetence by BC's Ministry of Children and Family Development (MCFD) is raising serious questions about how our system deals with families at their breaking point.

In a five-part CKNW special investigation, reporter Charmaine de Silva takes an in-depth look at how a judge, a lawyer and our system, in general, led to justice being derailed. Access the full *Global News* story [here](#).

Act or Regulation Affected	Effective Date	Amendment Information
Coroners Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 9 and 10 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Marriage Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 33 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Trustee Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Youth Justice Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 58 and 59 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017

FOREST & ENVIRONMENT

Forest and Environment News:

Overview of BC's New Spill Reporting Regulation

On October 30, 2017 the BC Ministry of Environment and Climate Change Strategy repealed the [Spill Reporting Regulation](#), B.C. Reg. 376/2008 (the "Old Regulation") and replaced it with the [Spill Reporting Regulation \(Ministerial Order No. M329\)](#) (the "New Regulation"). The New Regulation, which is currently in effect, expands the circumstances in which spill reports must be provided to the Province and increases the information which must be contained within such spill reports. Any person who has possession, charge or control of a substance listed in the Schedule to the New Regulation (including any substance that can cause pollution) should ensure they are familiar with their obligations under the New Regulation.

The Old Regulation

Under the Old Regulation, a person who had possession, charge or control of a listed substance when it was spilled in an amount equal to or greater than the amount specified in the Schedule to the Old Regulation, was obligated to provide a spill report to the Provincial Emergency Program immediately after the spill occurred. The spill report was required to include, among other things, the contact information of the person who caused the spill, the location and time of the spill, the type and quantity of the substance spilled, the cause and effect of the spill, and the details of spill response actions. In addition, where a spill occurred, the person who had possession, charge or control of the listed substance when it was spilled was required to take all reasonable and practical steps to stop, contain and minimize the effects of the spill.

The New Regulation

Under the New Regulation, the triggers for reporting a spill, and the information which must be provided to the Province in connection with a spill, have been substantially altered. We first define the key terms below, then summarize the main features.

Read the [full article](#) by [Dionysios Rossi](#), Erika Lambert-Shirzad and Scott Duncan (Articling Student) of Borden Ladner Gervais LLP.

Private Sector Contracts: When A New Government Changes the Playing Field

Effective July 18, 2017, BC had its first change of governing parties in over 16 years and the NDP now has the opportunity to direct government policy for so long as it retains the support of the Green Party. This potential for policy change as a result of a new governing party raises concerns for those in the private sector who have ongoing contractual relationships created on the basis of expectations formed under pre-existing government policies. Changes in government policy could produce hardships or windfalls for those in pre-existing contractual relationships depending upon how the change shifts the playing field. In the forest industry, for example, previous changes in governing parties have brought about new timber harvesting regulations with cost implications for providers of logging services subject to pre-existing contracts and rates. Read the [full article](#) by [Jeff Waatainen](#), published in *Truck Logger BC*.

Wildlife Group Challenges B.C.'s Interpretation of Law On Destroying Bears – *Wildlife Act*

A woman who found a black bear cub that was later killed by a conservation officer is accusing the British Columbia government of breaking its own law on the destruction of wild animals.

Tiana Jackson and the Association for the Protection of Fur-Bearing Animals have filed a court petition challenging the officer's decision to kill the cub near Dawson Creek in May 2016.

They argue the [Wildlife Act](#) prohibits officers from killing animals unless they pose a threat to people, property or wildlife. The province counters in court documents that the law gives wide discretion to officers to destroy animals.

"The province says there are no legal limits on the ability of conservation officers to kill animals," Arden Beddoes, a lawyer representing Jackson and the advocacy group, said outside court Wednesday [November 22nd]. Read the [CBC article](#).

BC Ministry of the Environment: Cobalt Interim Background Groundwater Estimate

The ministry is hereby extending the cobalt interim background groundwater concentration estimate of 20 µg/L. The value of 20 µg/L was originally established on October 4, 2002. This measure is in response to a change in the drinking water standard for cobalt, approved under the Stage 11 amendment to the [Contaminated Sites Regulation](#). The interim background groundwater concentration estimate for cobalt is expected to remain in effect while the ministry concludes the development of background groundwater estimates for selected metals on a region by region basis for the Province. If this work is successful, regional Background Groundwater Estimates will subsequently be incorporated into a revised Protocol 9 "Determining Groundwater Background Quality". Read the [full news update](#) on the BCEIA website

Environmental Appeal Board Decisions

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

[Water Act](#)

- [Rodney Gerald Retzlaff v. Assistant Water Manager](#) [Final Decision – Appeal Dismissed]

[Environmental Management Act](#)

- [Thomas H. Coape-Arnold v. Director, Environmental Management Act](#) [Preliminary Application – Granted in Part]

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

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Tax Act	Nov. 2/17	by 2017 Bill 2, c. 12, sections 9 to 14 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
		by 2017 Bill 9, c. 10, section 63, Schedule 4 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017

Contaminated Sites Regulation (375/96)	Nov. 1/17	by Reg 253/2016 , as amended by Reg 196/2017
Controlled Recreation Area (Resort Timber Administration Act) Regulation (166/2007)	Nov. 30/17	by Reg 216/2017
Creston Valley Wildlife Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Fish and Seafood Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 14 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Forest Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 16 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Forest and Range Practices Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 62, Schedule 3 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Great Bear Rainforest (Forest Management) Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 17 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Greenhouse Gas Industrial Reporting and Control Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Hazardous Waste Regulation (63/88)	Nov. 1/17	by Reg 243/2016 , as amended by Reg 195/2017
Land Survey Act	RETRO to Apr. 21/97	by 2017 Bill 9, c. 10, section 25 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Land Surveyors Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 26 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Organic Matter Recycling Regulation (18/2002)	Nov. 1/17	by Reg 243/2016 , as amended by Regs 12/2017 and 195/2017
Private Managed Forest Land Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 44 and 45 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Protected Areas of British Columbia Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 55 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017

Recycling Regulation (449/2004)	Nov. 14/17	by Reg 206/2017
Water Sustainability Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Weed Control Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 55 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Wildlife Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 56 and 57 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
HEALTH		
<p style="text-align: center;">Health News:</p> <p>BC Government to Improve Drinking Water in Six Schools, but Postmedia Probe Shows Many More Need Repairs</p> <p>The provincial government is upgrading drinking fountains in six BC schools, but that is just a drop in the bucket when it comes to removing lead from all students' drinking water, according to a recent Postmedia investigation. The six schools are to receive \$750,000 in updates, which will benefit 1,600 students at the six schools after "recent testing found elevated levels of lead in water sources at several schools in the province," Education Minister Rob Fleming said in a statement Monday [December 4th]. Read <i>The Vancouver Sun</i> article.</p>		
Act or Regulation Affected	Effective Date	Amendment Information
Animal Health Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Drug Plans Regulation (73/2015)	Nov. 14/17	by Reg 208/2017
E-Health (Personal Health Information Access and Protection of Privacy) Act	Nov. 2/17	by 2017 Bill 10, c. 15, sections 15 and 16 only (in force by Royal Assent), Health Professions Amendment Act, 2017
Health Professions Act	Nov. 2/17	by 2017 Bill 10, c. 15, sections 1 to 14 only (in force by Royal Assent), Health Professions Amendment Act, 2017
Hospital Insurance Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 18 and 19 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Medical and Health Care Services Regulation (426/97)	Nov. 14/17	by Reg 208/2017
Pharmacy Operations and Drug Scheduling Act	Nov. 2/17	by 2017 Bill 10, c. 15, section 18 only (in force by Royal Assent), Health Professions Amendment Act, 2017
		by 2017 Bill 10, c. 15, section 20 only (in force by Royal

Public Health Act

Nov. 2/17

Assent), [Health Professions Amendment Act, 2017](#)

LABOUR & EMPLOYMENT

Labour and Employment News:

Lack of Sick Leave in [Employment Standards Act](#) a Factor in BC Human Rights Case

A dental receptionist who alleges she was fired because she was sick and couldn't afford to take unpaid leave has had her case accepted at the British Columbia Human Rights Tribunal.

In BC, as in many provinces across the country, labour law does not entitle workers to any paid or unpaid sick days.

That means many employees take a financial hit if they call in sick with the flu or a burst appendix, and employers can dismiss their staff if they miss too much work because of an illness.

Labour advocates say the case highlights the need to include sick leave in the province's labour code, but small businesses argue doing so could put them at risk. Read the [CBC article](#).

Legalization of Marijuana – What Will It Mean for BC Employers

– from [CLEBC website](#) – *Practice Points*

In this paper, Andrea Zwack of Gall Legge Grant Zwack LLP discusses primary issues that employers will need to consider in dealing with marijuana use in the workplace once it has been legalized. Click [here](#) to view a pdf version of the paper.

Federal Government Introduces New Amendments to the Canada Labour Code to Address Workplace Violence and Harassment

The Federal Government has recently introduced [Bill C-65, An Act to amend the Canadian Labour Code \(harassment and violence\), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1](#), which provides for significant changes in how federally-regulated workplaces must address workplace violence and harassment. Bill C-65 follows a year-long public consultation commissioned by the Ministry of Employment, Workforce Development and Labour that concluded that harassment and violence in workplaces is underreported and not dealt with effectively when reported. Bill C-65 seeks to enhance the current legislative framework, which was originally intended to apply to workplace accidents and did not apply to the public service nor to employees on Parliament Hill.

Bill C-65, if passed into law in its present form, would impose several new duties on employers. Employers would be required to investigate, record and report, in accordance with the requirements that would be prescribed in regulations, all occurrences of harassment or violence. In addition, employers would have to take certain prescribed measures to prevent and protect against harassment and violence in the workplace, respond to occurrences of harassment and violence in the workplace, and offer support to employees affected by harassment and violence. The scope and content of these regulations is unknown. Read the [full article](#) by Tim Lawson, Ben Ratleband and Alex Treiber of McCarthy Tétrault.

A Cautionary Tale for Employers Drafting Discretionary Bonus Plans

In the recent British Columbia Supreme Court decision of *Kenny v. Weatherhaven Global Resources Ltd.*, [2017 BCSC 1335](#), the plaintiff successfully claimed unpaid bonuses and bonus amounts owed over the contractual notice period of approximately \$170,000.

Background

Karl Kenny was employed by the defendant employer, Weatherhaven Global Resources Ltd. ("Weatherhaven") commencing in 2009, in a number of increasingly senior positions ending with the role of COO. At the time of his promotion to COO in 2013, the plaintiff signed a new employment agreement entitling him to an increased base salary of \$265,000, and "Additional Compensation" as follows:

4.2. The Executive will be eligible to receive a minimum of 20% and up to 60% of the Base Salary annually, as a performance bonus (the "Bonus"), less applicable tax withholding required by law,

based on the achievement of corporate objectives and personal objectives as mutually agreed by the Company and the Executive.

Read the [full article](#) by Jennifer M. Fatini of Borden Ladner Gervais LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Arbitration Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Employment Standards Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 62, Schedule 3 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Labour Relations Code	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Workers Compensation Act	Nov. 2/17	by 2017 Bill 10, c. 15, section 19 only (in force by Royal Assent), Health Professions Amendment Act, 2017

LOCAL GOVERNMENT

Local Government News:

Legalizing Cannabis: A Joint Effort

With the introduction of the [Cannabis Act](#), the Federal government is proposing the legalization of the recreational use of cannabis. Local governments must now consider the implementation of a local cannabis regulatory regime in the context of this new federal approach to recreational cannabis, as well as a retail and distribution framework to be determined by the provincial government.

This paper summarizes the proposed Cannabis Act, and outlines which level of government will be responsible for what under the new regime. It then discusses the status of the provincial cannabis framework, and highlights how other provinces have responded to the proposed legislation to date. Finally, the jurisdiction of local governments in determining an appropriate regulatory framework is considered, and information on what considerations a local government must take into account under a new cannabis regime is presented. Download the [article](#) by [Francesca Marzari](#) and [Stefanie Ratien](#) with Young Anderson Barristers & Solicitors.

Council Approves New Short-term Rental Regulations

City Council has approved new regulations for short-term rentals, legalizing rentals of less than 30 days in principal residences in Vancouver.

After two days of public hearing with more than 100 speakers representing different viewpoints, City Council debated the proposed regulations, which were brought forward by City staff last June to address the more than 6,000 illegal short-term rentals currently operating in Vancouver.

Council voted to approve the regulations, allowing short-term rentals in principal residences of both owners and renters. The City estimates that at least 70 to 80 percent of existing listings will be able to operate legally in Vancouver as of April 2018.

"Housing is first and foremost for homes, and I'm very pleased to see this approach to short-term rentals move forward," says Mayor Gregor Robertson. "The City's new regulations strike a fair balance that will ensure the best use of all our housing. They will protect and ultimately free up more long-term rental stock, which is desperately needed to help us solve our rental housing crisis and provide homes for the thousands of renters who are struggling. At the same time, the new rules recognize that many people rely on extra income from short-term rentals in their own homes in order to make ends meet." Read the full City of Vancouver [news release](#).

The Building Act: What You Need to Know

Legislation about building standards would ordinarily warrant, at most, a 'break-out' session at a local government law seminar; in ordinary circumstances, only a few local government staff members would be interested in, or prodded by their supervisors to attend, such a session. British Columbia's new [Building Act](#) is different, insofar as it has potential consequences for staff members working in just about any department or division through which a local government delivers its services or administers local regulations. Thus the "you" in the title of [this paper](#) could be just about anyone in local government administration.

As to the "what", a few minor aspects of the *Building Act* amount to a re-enactment of existing legislation dealing with building standards to consolidate it into a single statute and create a more logical structure. For example, the authority of a minister of the provincial government to enact a provincial building code and other building regulations has sensibly been relocated from local government enabling legislation to the new *Building Act*. These aspects of the Act would be in the "nice to know" category for local government officials, rather than "need to know", and won't be mentioned further. Read the [full article](#) by [Bill Buholzer](#) at Young Anderson Barristers and Solicitors.

Even Field for ALR Alcohol Producers Opens the Door to More BC Farming

A [change in regulations](#) has all alcohol producers in the Agricultural Land Reserve operating under the same rules, levelling the playing field for British Columbia brewers, mead makers and distillers.

The [updated regulation](#) enables all alcohol producers to operate within the ALR, providing they source at least 50% of the primary farm product used in their alcohol (e.g., grapes for wine, barley for beer, honey for mead) from their own and other BC farms, which could create new opportunities for B.C. farmers. Read the government [news release](#).

UBCM: Update – Local Elections Campaign Finance

A [bill](#) to amend the [Local Elections Campaign Financing Act](#) [received Royal Assent on November 30, 2017]. UBCM discussed the proposed legislation with Municipal Affairs and Housing Minister Selina Robinson at its Executive meeting earlier this month and expressed concerns about a proposed \$1200.00 contribution limit for candidates who self-finance their campaigns.

Following the meeting, President Booth conveyed [correspondence](#) to the Minister outlining concerns raised during the meeting.

Last week in the [House debates](#), following upon amendments proposed by the Official Opposition and in response to concerns raised by the UBCM, Minister Robinson committed to recommending a regulation to government that will allow candidates to self-contribute up to an additional \$12000.00 to their campaign in 2018. Source: [UBCM](#)

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Tribunals Appointment and Administration Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 62, Schedule 3 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Agricultural Land Reserve Use, Subdivision and Procedure Regulation (141/2002)	Nov. 9/17	by Reg 204/2017
Assessment Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 3 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Athletic Commissioner Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017

British Columbia Railway Finance Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 4 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Civil Forfeiture Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 7 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Constitution Act	RETRO to Oct. 26/17	by 2017 Bill 5, c. 11, section 1 only (in force on the day after 2017 Bill 5, c. 11 receives First Reading) Constitution Amendment Act, 2017
	Nov. 2/17	by 2017 Bill 5, c. 11, section 2 and 3 only (in force by Royal Assent) Constitution Amendment Act, 2017
Cremation, Interment and Funeral Services Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 12 and 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Election Act	Nov. 2/17	by 2017 Bill 5, c. 11, sections 5 and 6 only (in force by Royal Assent) Constitution Amendment Act, 2017
	Nov. 30/17	by 2017 Bill 3, c. 20, sections 1 to 5, 7 to 48 and 50 to 61 (in force by Royal Assent), Election Amendment Act, 2017
Electoral Reform Referendum 2009 Act	REPEALED Nov. 30/17	by 2017 Bill 6, c. 22, section 13 only (in force by Royal Assent), Electoral Reform Referendum 2018 Act
Electoral Reform Referendum 2018 Act	NEW Nov. 30/17	c. 22 [SBC 2017], Bill 6 , whole Act in force by Royal Assent
Electoral Reform Referendum 2009 Act Regulation (266/2008)	REPEALED Nov. 30/17	by 2017 Bill 6, c. 22, section 13 only (in force by Royal Assent), Electoral Reform Referendum 2018 Act
Electoral Reform Referendum Regulation (47/2005)	REPEALED Nov. 30/17	by 2017 Bill 6, c. 22, section 13 only (in force by Royal Assent), Electoral Reform Referendum 2018 Act
Fire Services Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 62, Schedule 3 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Gas Safety Regulation (203/2004)	Nov. 1/17	by Reg 209/2016
Home Owner Grant Act	Nov. 2/17	by 2017 Bill 2, c. 12, section 15 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
Home Owner Grant Regulation (100/2002)	RETRO to Jan. 1/17	by Reg 215/2017
HST (Harmonized Sales Tax) Referendum Regulation (68/2011)	REPEALED Nov. 30/17	by 2017 Bill 6, c. 22, section 13 only (in force by Royal Assent), Electoral Reform Referendum 2018 Act

Interpretation Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 and section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Local Elections Campaign Financing Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 27 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
	RETRO to Oct. 30/17	by 2017 Bill 15, c. 21, sections 1 to 29 only (in force by Royal Assent), Local Elections Campaign Financing Amendment Act, 2017
Local Government Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 30 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
	RETRO to Jan. 1/16	by 2017 Bill 9, c. 10, sections 28, 29, 31 and 32 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Manufactured Home Regulation (441/2003)	Nov. 28/17	by Reg 215/2017
Municipalities Enabling and Validating Act (No. 3)	Nov. 2/17	by 2017 Bill 9, c. 10, section 37 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
North Island-Coast Development Initiative Trust Act	Nov. 2/17	by 2017 Bill 2, c. 12, section 1 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
Plebiscite 2015 (Regional Transportation System Funding) Regulation (21/2015)	REPEALED Nov. 30/17	by 2017 Bill 6, c. 22, section 13 only (in force by Royal Assent), Electoral Reform Referendum 2018 Act
Public Service Labour Relations Act	Nov. 30/17	by 2017 Bill 16, c. 18, sections 2, 7 to 22 and 24 only (in force by Royal Assent), Tenancy Statutes Amendment Act, 2017
Railway Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Referendum Regulation (384/90)	REPEALED Nov. 30/17	by 2017 Bill 6, c. 22, section 13 only (in force by Royal Assent), Electoral Reform Referendum 2018 Act
Resort Municipality of Whistler Act	RETRO to Apr. 21/97	by 2017 Bill 9, c. 10, sections 52 and 53 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
MISCELLANEOUS		
Miscellaneous News:		

"Essential step": Liberals Move to End Sex-based

Status Discrimination in *Indian Act*

As many as 1.4 million people of First Nations descent would be eligible for status under the government's broadened plan to end sex-based discrimination in the [Indian Act](#).

The Liberal government says it will grant full legal status to all First Nations women and their descendants born before 1985, expanding the scope of its originally planned amendment that would have limited the timeframe to those born after 1951.

The expansion, a proposed amendment to a bill tabled in the Senate, would address all inequities created between 1869 and 1951 as well, the office of Crown-Indigenous Relations Minister Carolyn Bennett confirmed.

Status rights could immediately be granted to some 35,000 people in the post-1951 category when the bill comes into force. Read the [CBC article](#).

BC Supreme Court Extends Arbitration Agreement to Non-Signatories

In [Northwestpharmacy.com Inc. v. Yates](#), the BC Supreme Court upheld an application by the defendants to stay legal proceedings in favour of arbitration, despite the fact that the defendants themselves were not signatories to the arbitration agreement. The decision demonstrates the generous approach taken by the courts to granting a stay in favour of arbitration, and confirms that although a litigant may not be a signatory to an arbitration agreement, that does not determine whether it is a party to the arbitration agreement.

Application

The defendants' application related to an arbitration clause contained in a services contract between two Panamanian companies: Northwestpharmacy.com (Plaintiff) and Omega Group Inc. (Omega). The arbitration clause, which had been specifically negotiated by the Plaintiff, provided for the arbitration of "all disputes arising out of or relating to the contract" (Arbitration Agreement).

Read the [full article](#) by [Laura Cundari](#) and Brady Gordon (Student-at-Law) of Blake, Cassels & Graydon LLP.

Federal Court of Appeal: Past Privacy Consent Does Not Prevent New Means of Handling and Distributing Personal Information

The Federal Court of Appeal released its long-awaited decision in *Toronto Real Estate Board v Commissioner of Competition* on Friday, December 1, 2017. The [decision](#) is a statutory appeal and is the latest chapter in a very long saga in which the Competition Bureau has accused Canada's largest real estate board of acting in an anti-competitive manner to prevent new forms of competition in the real estate market.

The Canada Real Estate Board (CREA), and its members such as the Toronto Real Estate Board (TREB) own and operate the Canadian Multiple Listing Service (which is the backbone of [realtor.ca](#)). A lot of information about current properties on the market is available on the site and realtors have access to a much wider range of information, including historical sales and listing information that is essential to carrying out market analyses for buyers and sellers. Read the [full article](#) by David Fraser published on the *Canadian Privacy Law Blog*.

Ktunaxa Nation v British Columbia (Part 2): On Review and Consultation

Part 1 of TheCourt.ca's coverage of Ktunaxa v BC covered the decision's contribution to freedom of religion jurisprudence. In part 2, I ask: What does an obscure snowy mountain in British Columbia have to do with a much less snowy, much more famed mountain in Jerusalem?

The answer to that question is: "probably not a whole lot." Unless, of course, you were party to *Ktunaxa Nation v British Columbia (Forests, Land and Natural Resource Operations)* [2017 SCC 54](#) ("Ktunaxa"). One question at the hearing of the recently released Supreme Court of Canada ("SCC") decision was whether the Ktunaxa Nation was asking the Court to sanction a Canadian Temple Mount. The Ktunaxa's "no middle ground" position left the Court in a bind: either deny the freedom of religion claim or effectively grant the Ktunaxa a property interest in the land at stake. Read the [full article](#) by [Bailey Fox](#), published on *The Court.ca*.

Election Act Amendments in Force

Effective November 30, 2017, the [Election Amendment Act, 2017](#) amended the [Election Act](#) to include an expansion of the definition of what is considered election advertising. Further changes made to the Act mean political parties cannot use prior contributions for partisan advertising that is prohibited under the new rules, including advertising conducted outside the standard campaign period. The new changes also include a phased-in quarterly report of political contributions, similar to the rules for federal political parties, which has been a

priority of the Green caucus. Read more of the government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Civil Resolution Tribunal Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 8 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
	Nov. 30/17	by 2017 Bill 16, c. 18, section 59 only (in force by Royal Assent), Tenancy Statutes Amendment Act, 2017
Evidence Act	Nov. 2/17	by 2017 Bill 10, c. 15, section 17 only (in force by Royal Assent), Health Professions Amendment Act, 2017
Forensic Psychiatry Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 15 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Legislative Assembly Management Committee Act	RETRO to Oct. 26/17	by 2017 Bill 5, c. 11, section 7 only (in force on the day after 2017 Bill 5, c. 11 receives First Reading) Constitution Amendment Act, 2017
Ministry of Provincial Secretary and Government Services Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Provincial Court Act	Nov. 2/17	by 2017 Bill 11, c. 13, section 1 only (in force by Royal Assent), Provincial Court Amendment Act, 2017
Public Agency Accommodation Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 48 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Recall and Initiative Act	Nov. 30/17	by 2017 Bill 3, c. 20, sections 73 to 77 (in force by Royal Assent), Election Amendment Act, 2017
Regulations Regulation (394/83)	Nov. 1/17	by Reg 189/2017
Sheriff Act	Nov. 2/17	by 2017 Bill 14, c. 16, section 1 only (in force by Royal Assent), Sheriff Amendment Act, 2017

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Motorist Found Fully at Fault for Clipping Cyclist while Attempting to Pass

Reasons for judgement were published this week by the BC Supreme Court, Victoria Registry, assessing fault for a collision involving a cyclist and a motorist. In this week's case ([McGavin v. Talbot](#)) the Plaintiff had merged onto the roadway where a bike lane ended. Shortly thereafter the Defendant, proceeding in the same direction of travel, clipped the Plaintiff's bike while a vehicle attempting to pass causing him to lose control and crash. The motorist denied fault. Mr. Justice Masuhara found fault rested fully with the motorist in these circumstances and provided the following reasons: Read the [full article](#) by [Erik Magraken](#) with McIsaac and Company.

Safer Roads Goal of New Focus on Dangerous Drivers

Street racers and other dangerous drivers will spend longer away from the wheel – making roads safer for everyone else – as BC begins tailoring prohibitions to better deter certain serious driving behaviours.

"The drivers posing the greatest risk to people's lives are often caught repeatedly, and that tells us they aren't taking the consequences seriously," said Minister of Public Safety and Solicitor General Mike Farnworth. "We're going to be scrutinizing their driving more closely and making sure the penalty fits. Racers who won't take their cars to the track can expect to walk or use public transit."

Effective Dec. 1, 2017, longer prohibitions will replace the existing 15-day penalties for street racing and stunt driving. The prohibitions can also apply to a broader range of offences, including excessive speeding, driving without due care and attention and other high-risk driving behaviours that present an immediate risk to public safety. Read the full government [news release](#).

New Drinking and Driving Rules Bring Mandatory Alcohol Screening to Canada

Supporters of federal rules on alcohol screening say it will help prevent accidents, but critics predict Charter litigation.

In May, the federal government tabled [Bill C-46](#), which would amend the [Criminal Code](#) for impaired driving offences. The proposed changes come on the eve of the government's legalization of recreational cannabis use, and they include new "legal limit" drug offences, as well as mandatory alcohol screening.

Proponents say that mandatory alcohol screening, for one, will bring Canada into line with other Western nations that have lowered impaired driving charges using this form of screening; but the criminal defence bar cautions that aspects of the new bill may present [Charter](#) challenges and further burdens on the courts.

"I think, absolutely, we are going to see more impaired drivers before the courts, and a greater strain on the justice system," says Toronto defence lawyer Daniel Brown. "Almost exclusively, these [impaired driving] cases are prosecuted in the provincial court system," where, he says, there is "already a strain on prosecutorial and police resources; these changes will only increase the strain on all of the justice participants."

Bill C-46 has two parts. Part 1 would add new sections for driving while under the influence of drugs other than alcohol and would come into force on Royal Assent, before [Bill C-45](#), the *Cannabis Act*, comes into force. Read the [full article](#) by [Elizabeth Raymer](#), published in [Canadian Lawyer Magazine](#).

Government Considers Cap on Minor Injury Claims to "Fix" ICBC Finances

The BC government is considering capping insurance claims on minor automobile accidents, as well as boosting eligible amounts for physiotherapy and other medical benefits, as it tries to stem rising financial losses at the Insurance Corporation of BC.

Attorney-General David Eby, who oversees ICBC, said a cap on the amount paid out by ICBC on minor injuries could be a key part of a suite of reforms he's drafting to help prevent massive vehicle rate hikes from the monopoly Crown auto insurer.

"We're looking at caps on minor pain and suffering awards, because there's been an explosion in the size of awards people receive for minor whiplash and minor injuries," Eby said in an interview Thursday [November 30th]. "It's a very significant piece of the portfolio of reforms we're looking at."

ICBC also hopes to find efficiencies with trial lawyers in court cases over claims, said Eby. British Columbia is the last province in Canada with a purely litigation-based insurance model, where drivers not at fault in a crash sue the at-fault driver for economic loss and suffering. Read the *Vancouver Sun* [article](#).

CVSE Bulletins & Notices

The following notices have been posted in November by CVSE:

- [Invitation Letter](#) – Invitation to participate in the Trucking Harmonization Task Force online survey
- [Circular 06-17](#) – Deadline for Planned Trailer Axle Weight Reductions Extended to December 31, 2018 for affected vehicles
- [Circular 07-17](#) – Temporary Increase to Steer Axle Weights for Specified Pre-Approved Logging Truck Configurations by General Authorization

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

Act or Regulation Affected	Effective Date	Amendment Information
Commercial Transport Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 63, Schedule 4 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Industrial Roads Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 63, Schedule 4 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Motor Dealer Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 61, Schedule 2 and 63, Schedule 4 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Motor Vehicle Act	RETRO to Sept. 20/10	by 2017 Bill 12, c. 17, section 1 only (in force by Royal Assent), Public Safety Statutes Amendment Act, 2017
	RETRO to Apr. 21/97	by 2017 Bill 9, c. 10, section 36 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
	Nov. 2/17	by 2017 Bill 9, c. 10, section 63, Schedule 4 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Motor Fuel Tax Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 63, Schedule 4 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Offence Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 40 and 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017

PROPERTY & REAL ESTATE

Property and Real Estate News:

Superintendent of Real Estate Approves New Rules

The Office of the Superintendent of Real Estate [has announced new rules](#) to improve consumer protection in the real estate industry. Set to take effect March 15, 2018, these rules will better inform buyers about the amount of compensation realtors are entitled to, and will restrict "dual agency", where one agent represents both the buyer and seller in the same transaction. The new rules stem from the recommendations made in the final report of the Independent Advisory Group on Real Estate Regulation in BC in June 2016, and are the result of [extensive consultation](#) with the real estate licensees and the public, as well as the Real Estate Council of BC. For your convenience, Quickscribe plans to publish an early consolidation of the new Rules within the new few business days.

BC Court of Appeal Clarifies Meaning of "Habitable Area" of a Residential Strata Lot

In *Barrett v The Owners, Strata Plan LMS3265*, [2017 BCCA 414](#), the BC Court of Appeal allowed an appeal from a [decision of a trial judge](#), affirming an earlier case's conclusion that " 'habitable area' means 'that area within a

residential strata lot which can, could or is capable of being lived in . . . free of serious defects that might harm health and safety.' " [Ellipsis in original.] Since "habitable area" is a key determinant of a residential strata lot's unit entitlement, and since one of the main purposes of unit entitlement is, as the court noted, "[to govern] an owner's proportionate share of the common expenses and liabilities of a strata corporation," this decision will be important to note in considering strata-corporation governance and finances.

The focal points of the case were basements and lofts included in most, but not all, strata lots. The strata property itself was an "80 strata lot residential development," located in Surrey, and built in two phases (deposited in 1998 and 2000). Upon completion of construction, "59 of the strata lots had unfinished basements, 16 had crawl spaces and five had neither a basement nor a crawl space. Two of the strata lots with basements also had unfinished lofts above their garages." Read the [full article](#) by Kevin Zakreski with the BC Law Institute.

Is Your Lien Up to Code? BC Court Decisions Provide

Clarify on Application of *Builders Lien Act*

The British Columbia Supreme Court (Court) recently released two decisions regarding the application of the *Builders Lien Act* (Act), providing clarity on limitation periods for filing a lien claim and the circumstances where an excessive lien claim can be discharged for lesser security.

Green Oak

In *Green Oak Development Corp (West 7th v. Hans Demolition & Excavating Ltd. (Inc. No. 448429) (Green Oak)*, the Court considered the application of the limitation period for filing a lien claim where the owner claimed that a head contract had been terminated.

In *Green Oak*, the defendant, Hans Demolition & Excavating Ltd., (Hans) was a subtrade hired to work on a project (Project) owned by the plaintiff Green Oak Development Corp. (West 7th) Corp., (Green Oak). During the course of work on the Project, Green Oak changed the general contractor it had engaged, awarding the remainder of the work on the Project to another general contractor, Kindred Construction. Green Oak advised Hans and other subtrades of this by way of an email in September 2016.

Read the [full article](#) by [Rosalie Clark](#) and Kirstin Mase (Student-at-Law) with Blake, Cassels & Graydon LLP.

Airbnbs and Short Term Rentals – More than just

Strata Bylaws at Play

Thinking of purchasing a strata lot to rent out on the short-term market? If, so, you may wish to familiarize yourself with the applicable rental restrictions.

The popularity of short-term rentals such as Airbnb continues to soar, making them an increasingly attractive revenue stream for potential property investors.

In *HighStreet Accommodations Ltd. v. The Owners, Strata Plan BCS2478, 2017 BCSC 1039*, the B.C. Supreme Court tackled the application of rental restriction bylaws to strata lots being used for short-term accommodation.

In 2012, HighStreet entered into a tenancy agreement with the owner of a strata lot in the defendant strata corporation (the "Strata"). Soon after, the Strata passed a bylaw prohibiting owners and tenants from allowing a unit to be occupied under a lease, sublease, contract, licence or any commercial arrangement for periods of less than 180 days. HighStreet, being a "hospitality and corporate housing company" that leases properties from residential strata lot owners in order to rent them out as furnished accommodation to its clients, sued the Strata and its property manager to challenge the application of the bylaw to its corporate rental arrangements. Read the [full article](#) by [Chad Travis](#) and Aman Sara of Lawson Lundell LLP.

New Property Transfer Tax Forms –

Effective November 27th

A new [Property Transfer Tax Return \(v. 29\)](#) is in effect on November 27, 2017. Among other changes, the new forms require sellers to disclose their residency during a real-estate transaction so that information can be shared with the Canada Revenue Agency (CRA). The changes are intended to tackle the issue of capital- gains tax evasion for those who own properties they don't live in. Visit the BC Property Taxes [website](#) for more information on these changes.

Act or Regulation Affected	Effective Date	Amendment Information

Court Order Enforcement Act	RETRO to Apr. 21/97	by 2017 Bill 9, c. 10, section 11 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Land Title Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 60, Schedule 1 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Manufactured Home Park Tenancy Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
	Nov. 30/17	by 2017 Bill 16, c. 18, sections 2, 7 to 22 and 24 only (in force by Royal Assent), Tenancy Statutes Amendment Act, 2017
Personal Property Security Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 41 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Property Transfer Tax Act	RETRO to Feb. 22/17	by 2017 Bill 2, c. 12, section 69 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
	Nov. 2/17	by 2017 Bill 9, c. 10, section 46 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Property Transfer Tax Exemption Regulation No. 31 (197/2017)	NEW Nov. 6/17	see Reg 197/2017
Property Transfer Tax Exemption Regulation No. 32 (198/2017)	NEW Nov. 6/17	see Reg 198/2017
Real Estate Services Act	Nov. 2/17	by 2017 Bill 9, c. 10, sections 49 to 51 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
Residential Tenancy Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
	Nov. 30/17	by 2017 Bill 16, c. 18, sections 27, 32 to 49 and 51 only (in force by Royal Assent), Tenancy Statutes Amendment Act, 2017
Strata Property Act	Nov. 2/17	by 2017 Bill 9, c. 10, section 61, Schedule 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017
	Nov. 30/17	by 2017 Bill 16, c. 18, sections 61 only (in force by Royal Assent), Tenancy Statutes Amendment Act, 2017
WILLS & ESTATES		

Wills and Estates News:

Certificates of Pending Litigation (CPL) – Cancellation

Xie v Lai, [2017 BCSC 2035](#) involved an application to cancel a certificate of pending litigation and the law re same was reviewed.

The Legal Framework

31 The legal framework respecting the cancellation of CPLs was set out in *Jacobs v. Yehia*, [2015 BCSC 267](#). The principles can be summarized as follows:

1. A party to a proceeding who claims "an estate or interest in land" may register a CPL against the land: *Land Title Act*, R.S.B.C. 1996, c. 250 (the "Act"), [s. 215\(1\)](#). But if the party is unable to demonstrate an arguable or prima facie case for an interest in land, the CPL will be cancelled: *0861695 B.C. Ltd. v. Meola*, [2013 BCSC 121](#).
2. A CPL will also be cancelled if the action in which it has been registered has been dismissed and no appeal from the dismissal has been registered: [s. 245](#) of the Act.

Read the [full article](#) by [Trevor Todd](#) on his blog *disinherited – Estate Disputes and Contested Wills*.

Screening for Capacity and Undue Influence

– from *CLEBC website – Practice Points*

In this paper, [Stanley Rule](#) of Sabey Rule LLP discusses client interview tips, practical advice, and red flags to look for when screening for capacity and undue influence with estate planning clients. Click [here](#) to view a pdf version of the paper.

Suspicious Circumstances – Bhalla Estate, [2017 BCSC 1867](#)

In British Columbia, there are three requirements for making a valid will:

1. the will must be validly [executed](#) in accordance with requirements set out in [section 37](#) of the *Wills, Estates and Succession Act*, SBC 2009, c 13;
2. the will-maker must have the [mental capacity](#) to make a will; and
3. the will-maker has to "know of and approve" the contents of the will. This means that the individual must comprehend the terms in the will and agree that those terms represent the bequests that he/she wants to make.

Proper execution of a will leads to a presumption that the will-maker knew and approved of the contents of a will, and had the necessary capacity.

However, circumstances surrounding the creation of a will may call into question whether these validity requirements were truly met. If someone challenging a will demonstrates that these circumstances are sufficiently worrisome, then the doctrine of "suspicious circumstances" is engaged.

When a will is held to have been created under "suspicious circumstances", those seeking to prove the will have the burden of proving that the will-maker had the requisite capacity and knowledge and approval. Read the [full article](#) by Michael Larsen of Clark Wilson LLP.

Ian Mulgrew: Hollow Tree Friendship Leads to Inheritance Squabble

In its first decision involving the controversial new *Wills, Estates and Succession Act*, BC's top court has emphasized the broad discretion the law confers on judges.

The Court of Appeal upheld a lower court ruling that rejected a 93-year-old widow's note, hand-written a few months before her death, entitled "This is my last Will," in favour of a much older, professionally prepared division of her \$1.3-million estate. The case had the added fillip of seemingly involving the new attorney general.

"I hope to see Mr. David Ebby (sic) in person to write this will," Eleanor Lena Hadley added in her spiral-bound journal on Sept. 1, 2014. Eby, however, said he had never in his legal career prepared a will and didn't speak to her.

She became ill soon after she made the notes and died March 6, 2015, with no immediate family. Hadley was an extraordinary individual who was a key player in the fight to save the Hollow Tree in Stanley Park. A long-time resident of the West End, she was a spirited activist and repeat candidate for the park board.

Virginia Maziak, Anita Berecz, Grace Gagner and Carol Fitzsimmons – four nieces in Ontario – were the main heirs under Hadley's 2008 will. But in the 2014 notebook, Bruce Macdonald, an elderly historian, and Daniel Pierce, a 31-year-old filmmaker, friends of Hadley's from the successful struggle to save the Hollow Tree, were named as beneficiaries along with one niece, Maziak. Read the full *Vancouver Sun* [article](#) by Ian Mulgrew.

Act or Regulation Affected

**Effective
Date**

Amendment Information

There were no amendments this month.

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