

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Latest Annotations

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

- [Katherine Hardie](#), Human Rights Tribunal – [Human Rights Code](#)
- [Mark Oulton](#), Hunter Litigation Chambers – [Forest Act](#)
- [Anita Mathur](#), BC Oil and Gas Commission – [Drilling and Production Regulation](#)
- [Mary Brunton](#), Reed Pope Law Corporation – [Strata Property Act](#)

Watch this 20-minute [YouTube video](#) to learn more about annotations including how to receive alerts when new annotations are published to the laws that matter most to you. To view and follow annotation contributors, select "[Annotations](#)" via the left navigation, then select the "[experienced legal professionals](#)" link under the large star icon, then "Follow User" adjacent to any "expert annotator".

Happy New Year!

We hope that you had a wonderful holiday with family and friends and would like to wish you all the best for the new year. As we look to 2019, the Quickscribe team will be working on several exciting initiatives that we hope will make your job easier. Some of these projects include the introduction of new legal content, an OIC/Regulation alert and a keyword tracking alert feature. Stay tuned!

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	OCCUPATIONAL HEALTH & SAFETY
HEALTH	PROPERTY & REAL ESTATE
LABOUR & EMPLOYMENT	WILLS & ESTATES

COMPANY & FINANCE

Company and Finance News:

Lobbying and Election Finance Reform: Roundup of Recent Developments

British Columbia, the Northwest Territories and Ontario have recently introduced significant changes to their respective lobbying and election finance regimes; the Yukon has introduced a new lobbying regime, and Prince Edward Island's lobbying regime takes effect in 2019.

British Columbia: Proposed Amendments to the Lobbying Regime

[Bill 54](#), *Lobbyists Registration Amendment Act, 2018* (BC Bill) received royal assent on November 27, 2018. Most provisions of the BC Bill have not yet been proclaimed in force, but it will amend various sections of the [Lobbyists Registration Act](#).

Definitions

The BC Bill proposes to expand the definition of "former public office holder" to also include any individual, other than administrative support staff, formerly employed in a current or former office of a current member of the executive council.

The BC Bill also proposes to revise the definition of "in-house lobbyist" in a significant way. Under the proposed definition, the 100-hour threshold for an in-house lobbyist would be removed and replaced with various qualifiers as to which individuals are not in-house lobbyists, including if:

- (a) The individual is an employee, director or officer of an organization that has fewer than six employees
- (b) The lobbying by the individual, either alone or together with other individuals in the organization, on behalf of the organization or an affiliate of the organization,
 - (i) Totals fewer than 50 hours in the preceding 12-month period, or
 - (ii) Meets the prescribed criteria, unless the primary purpose of the organization is to:
 - (i) Represent the interests of its members, or
 - (ii) Promote or oppose issues, and the lobbying by the individual is for that purpose.

Read the [full article](#) by Alexis Levine, Nicole McDonald and Charlotte Knutson (Student-at-Law) with Blake, Cassels & Graydon LLP.

Partnership Act Updated

Effective December 14, amendments made to the [Partnership Act](#) by the [Finance Statutes Amendment Act, 2012](#) provide for the expansion of online filing for partnerships and establish consistency in the fees set out under the Act.

BC Securities – Policies & Instruments

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

- [BC Notice 2018/09](#) – Fee Changes
- [BC Notice 2018/08](#) – Notice of Amendments to National Instrument 41-101 *General Prospectus Requirements*
- [23-323](#) – CSA Staff Notice and Request for Comment 23-323 *Trading Fee Rebate Pilot Study*
- [CSA Staff Notice 13-315 \(Revised\)](#) – Securities Regulatory Authority Closed Dates 2018

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	Dec. 1/18	by Reg 226/2018
Electrical Power Corporations Valuation Regulation (217/86)	Dec. 14/18	by Reg 279/2018

Eligible Notice for Major Industry Property Regulation (281/2018)	NEW Dec. 14/18	see Reg 281/2018
Extraprovincial Limited Liability Partnerships and Limited Partnerships from a Designated Province Regulation (90/2009)	Dec. 14/18	by Reg 15/2018
Income Tax Act	Jan. 1/19	by 2017 Bill 2, c. 12, section 36 only (in force by Royal Assent), Budget Measures Implementation Act, 2017
		by 2018 Bill 2, c. 4, sections 18 to 22, 24, 25 only (in force by Royal Assent), Budget Measures Implementation Act, 2018
		by 2018 Bill 25, c. 25, section 14 only (in force by Reg 230/2018), Real Estate Development Marketing Amendment Act, 2018
Managed Forest Land and Cut Timber Values Regulation (90/2000)	Dec. 14/18	by Reg 280/2018
National Instrument 41-101 <i>General Prospectus Requirements</i> (59/2008)	Dec. 10/18	by Regs 85/2017 and 260/2018
Partnership Act	Dec. 14/18	by 2012 Bill 23, c. 12, sections 83, 85, 87, 88, 90 to 93, 95 to 97, 101 (a), 104 to 106 only (in force by Reg 15/2018), Finance Statutes Amendment Act, 2012
Partnership Regulation (524/78)	Dec. 14/18	by Reg 15/2018
Railway and Pipeline Corporations Valuation Regulation (203/86)	Dec. 14/18	by Reg 282/2018
Railway, Pipeline, Electric Power and Telecommunications Corporation Rights of Way Valuation Regulation (218/86)	Dec. 14/18	by Reg 283/2018
Securities Regulation (196/97)	Dec. 30/18	by Reg 258/2018
Telecommunications Corporations Valuation Regulation (226/86)	Dec. 14/18	by Reg 284/2018

ENERGY & MINES

Energy and Mines News:

British Columbia Unveils New Clean Energy Plan

On December 5, 2018, the B.C. government unveiled a new clean energy plan, CleanBC, which outlines the government's strategy to achieve 75% of the Province's 2030 greenhouse gas (GHG) emissions target (how the remaining 25% will be achieved remains to be determined). The full report can be read [here](#). The highlights report can be read [here](#).

What's In the Plan?

The plan outlines a number of initiatives that are intended to "clean" or "green" the transportation, construction, waste and industrial sectors of the BC economy, primarily by reducing the use of fossil fuels and increasing the use of electricity in these sectors. Key initiatives planned for the industrial sector of the BC economy include:

- Working with natural gas providers to put in place a minimum requirement for 15 per cent renewable content in natural gas by 2030.

Read the [full article](#) by [Erika Lambert-Shirzad](#) with Borden Ladner Gervais LLP.

Regulator Schedules Hearings for BC LNG Natural Gas Pipeline Challenge

The National Energy Board is scheduling hearings over the next three months to consider a jurisdictional challenge of the approval of a pipeline needed to supply natural gas to the recently sanctioned \$40-billion LNG Canada project.

But planning for construction to begin early next year will continue based on the \$6.2-billion Coastal GasLink Pipeline's provincial approvals and permits, said a spokeswoman for the project.

The NEB hearings will consider only the question of whether the British Columbia Oil and Gas Commission had jurisdiction to issue approvals for the project, the NEB says.

If it decides the project should be under federal jurisdiction, the regulator says the proponent will have to make a formal NEB application and undergo a separate process to win federal approval.

"If the NEB decides Coastal GasLink is to be federally regulated, then the project believes the NEB will need to address transition from provincial to federal jurisdiction," pipeline spokeswoman Jacquelynn Benson said. Read the [full article](#) in the *Vancouver Sun*.

New Federal Timelines for Energy Project Approvals

The federal government has proposed controversial new rules to govern approvals for projects, including many Major Energy Projects. The pace and direction of future development of Canada's energy sector could lie in the balance.

- [Bill C-69](#) proposes a new 5-stage Impact Assessment process that could easily take more than 5 years to complete.
- The federal proposals are designed to encourage the regulatory phases of the Impact Assessment process to be completed within approximately 2 ½ years – or roughly 30 months.
- Other portions of the process, which are in the hands of project proponents, are expected to be completed within a further 3 years – or roughly 36 months.
- Whether these timelines will actually work or not will likely depend on the commitment of the federal government to respect and apply the legislated timelines rather than to suspend or extend them.

Read the [full article](#) by [Jonathan Drance](#), [Glenn Cameron](#) and [Rachel V. Hutton](#) of Stikeman Elliott.

Act or Regulation Affected	Effective Date	Amendment Information
BC Hydro Integrated Resource Plan Regulation (266/2018)	NEW Dec. 10/18	see Reg 266/2018
Fee, Levy and Security Regulation (8/2014)	Dec. 1/18	by Reg 240/2018

FAMILY & CHILDREN

Family and Children News:

Concerns Mount as BC Paralegals Inch

Toward Practising Family Law

Paralegals aren't lawyers – but soon, they might be able to practise in B.C. courtrooms. The province has pushed through [legislation](#) to create "licensed paralegals" – a band of legal service providers that need not hold a law degree, and can provide cheaper services.

The bill was introduced following years of campaigning from the Law Society of B.C. (LSBC) in hopes of filling gaps in legal representation – in particular, low- to moderate-income British Columbians who cannot afford legal representation. The LSBC is angling for those workers to practise family law – the branch that focuses on issues like divorce settlements and includes division of assets and custody battles.

The society has the final say on granting the authority to license the paralegals. The legislation paves the way for the LSBC to do so. But while the legislation might be seen as a victory for those looking to improve access to justice, a group of lawyers are warning that it could have the opposite effect. Read the [full article](#) on the *CBC News* website.

Designing Rules of Procedure for the Arbitration of Family Law Disputes

In Canada, the available sets of arbitration rules are designed for corporate-commercial disputes and general civil disputes. None are designed for family law disputes, which is especially problematic in jurisdictions like British Columbia, where the [Arbitration Act](#) specifies the rules that will be used absent the parties' agreement to the contrary. Those rules, by the way, are the domestic rules of the [BC International Commercial Arbitration Centre](#), which are hardly ideal for family law disputes and require [hefty payments](#) to the Centre.

As a result, in many jurisdictions lawyers taking a case to arbitration simply adopt the local rules of court. This makes sense, as anyone who litigates will be intimately familiar with those rules, and some jurisdictions, again like British Columbia, have rules of court written just for family law disputes. However, it's not necessarily the best solution, as adopting the rules of court by default, or by reflex, robs parties of one of the key benefits of arbitration: the ability to shape and customize the arbitration process to suit their needs, their dispute and their finances. Read the [full article](#) by [John Paul Boyd](#) published on SLAW.

Changes to Family Maintenance Enforcement Act

Effective January 1, 2019, changes made to the [Family Maintenance Enforcement Act](#) no longer require the entirety of a family law order or agreement to be filed in the land title office as security for the payment of child or spousal support. Instead, a "notice of maintenance order" containing only the information needed to identify the order or agreement is required for filing purposes.

Act or Regulation Affected	Effective Date	Amendment Information
Family Maintenance Enforcement Act	Jan. 1/19	by 2018 Bill 10, c. 14, section 1 only (in force by Reg 277/2018), Family Maintenance Enforcement Amendment Act, 2018
Infants Act	Dec. 3/18	by 2018 Bill 24, c. 23, section 2 only (in force by Reg 154/2018), Miscellaneous Statutes Amendment Act (No. 2), 2018
Public Guardian and Trustee Act	Dec. 3/18	by 2018 Bill 24, c. 23, section 11 only (in force by Reg 154/2018), Miscellaneous Statutes Amendment Act (No. 2), 2018

FOREST & ENVIRONMENT

Forest and Environment News:

A Closer Look: BC Government Releases Draft Legislation for Revitalized Provincial Environmental Assessment Process

In March 2018, the BC government launched the process for revitalizing the province's environmental assessment (EA) process. More background information is available in our earlier [blog](#). Following the release of

the [Discussion Paper](#) in June 2018 and public consultations over the summer, the BC government introduced [Bill 51 – 2018 Environmental Assessment Act](#) in November 2018. which is designed to replace the current provincial [Environmental Assessment Act](#). An overview of the changes proposed in Bill 51 is set out in the BC government's [Intentions Paper](#). If passed, Bill 51 will introduce significant changes to the provincial EA process including the creation of an early engagement process, increased opportunities for public participation, and prescriptive measures to meet the BC government's commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

What will the New EA Process Mean for Proponents?

While the proposed new EA process will retain certain components of the current EA process, including the "one project, one assessment" approach and the concept of a project description, new elements will be introduced into existing processes along with entirely new concepts. A comparison of the key differences between the current EA process and the proposed changes under Bill 51 is set out below.

Read the [full article](#) by Selina Lee-Andersen with McCarthy Tétrault LLP.

BC Ups Fines for Off-road Vehicles and Snowmobiles in Sensitive Habitats

[Fines are going up](#) for anyone who uses off-road vehicles and snowmobiles in environmentally sensitive areas of British Columbia. Anyone operating the vehicles in those areas will face a \$575 fine, effectively immediately.

Previously, the fines were either \$230 or \$345, depending on the violation. As well, the provincial government says court convictions for snowmobiling in southern mountain caribou habitats may result in a fine up to \$200,000 and six months in jail.

Chris Doyle with BC's Conservation Officer Service says snowmobilers can have an impact in displacing caribou as well as laying tracks that predators can easily access into caribou habitat.

"We're hoping [the fines] will be an adequate deterrent to keep those that are tempted to either stray into closed areas or not plan ahead ... and [those who] deliberately enter those closed areas to access different terrain or powder," Doyle said. Read the [CBC News article](#).

Environmental Appeal Board Decisions

There were three Environmental Appeal Board decisions in the month of December:

[Environmental Management Act](#)

- [Canadian National Railway Company; Canadian Pacific Railway Company; BNSF Railway Company v. Delegate of the Director, Environmental Management Act](#) [Stay Applications – Granted]
- [City of Burnaby v. Director, Environmental Management Act](#) [Final Decision – Allowed in Part; Sent Back with Directions]
- [GFL Environmental Inc. v. District Director, Environmental Management Act](#) [Stay Application – Denied]

[Wildlife Act](#)

- [Li Zhu Liu v. Deputy Director, Fish and Wildlife Branch](#) [Final Decision – Appeal Dismissed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Cut Control Regulation (578/2004)	Dec. 10/18	by Reg 269/2018
Fish and Seafood Licensing Regulation (261/2016)	Jan. 1/19	by Reg 261/2016, section 68
Forest Planning and Practices Regulation (14/2004)	Dec. 10/18	by Reg 262/2018

Interest Rate Under Various Statutes Regulation (386/92)	Jan. 1/19	by Reg 268/2018
Provincial Forest Use Regulation (176/95)	Dec. 10/18	by Reg 262/2018
Water Sustainability Regulation (36/2016)	Dec. 3/18	by Reg 259/2018
Wildlife Management Areas Regulation	Dec. 17/18	by Reg 285/2018

HEALTH

Health News:

Pill Press Regulations Tackle Manufacturing of Illicit Drugs

New legislation is now in place to support B.C.'s actions to prevent the illegal production of illicit opioids, bolstering police efforts to disrupt the supply chain and helping to get counterfeit pills off the streets.

The [Pill Press and Related Equipment Control Act](#) and the associated [Pill Press and Related Equipment Control Regulation](#) will come into force on Jan. 15, 2019. The act is comprehensive legislation that will limit the ownership, possession and use of manufacturing equipment for pills and capsules to those with a legitimate business or professional purpose.

The regulation sets out the information that authorized owners, including registered sellers, must provide in events such as the acquisition, sale, loss or theft of controlled equipment and will update a database of equipment possessed by legitimate owners and businesses. This will enable tracing and random inspections. Read the government [news release](#).

Class Action Certified vs. Ontario in Alleged Charter Breach against Developmentally Disabled

The Ontario Superior Court of Justice has certified a class action for plaintiffs pushed "to the brink of disaster" by long wait lists for Ministry of Community and Social Services (MCSS) support for developmentally disabled persons over 18 years old. The certification of the [s. 7 Charter](#) claim, lawyers said, is "fairly novel." In *Leroux v. Ontario* 2018 ONSC 6452, the court heard that the plaintiff, Marc Leroux, brought the class action against the Province of Ontario as the litigation guardian for his 20-year-old daughter Briana, who is developmentally disabled. According to court documents, released Dec. 14, Briana was diagnosed with a brain disorder when she was 2 years old and remains non-verbal. She will be disabled for the rest of her life and requires constant care. Leroux relies on financial support and social services supplied by the provincial government through the Ministry, but long wait lists have left him without aid for over a year. "According to the material that is before the court, the experience of parents and families in dealing with the MCSS on behalf of disabled loved ones has 'pushed [them] to the brink of disaster,' " wrote Justice Edward Belobaba on the motion for certification at the Ontario Superior Court of Justice. Justice Belobaba noted that families run into issues with the MCSS after the developmentally disabled individual has been assessed and approved for services, writing "the evidence is that the families are then 'are dropped off a cliff' and nothing happens – for a very long time." Read the [full article](#) by Amanda Jerome on *The Lawyer's Daily*.

New Public Health Regulation

On January 1, 2019, the [Reporting Information Affecting Public Health Regulation](#) came into effect. The Regulation replaces the [Health Act Communicable Disease Regulation](#) and the [Public Health Act Transitional Regulation](#) and includes a list of prescribed infectious agents responsible for reportable communicable diseases. Health officials must report infected persons to a medical health officer in the form and manner required by the medical health officer. In addition, those in charge of an institution or workplace have a duty to report the contact information of any person who may have been exposed to an infected person as advised by a medical health officer.

Act or Regulation Affected	Effective Date	Amendment Information

Drug Plans Regulation (73/2015)	Jan. 1/19	by Reg 134/2018
Drug Schedules Regulation (9/98)	Dec. 7/18	by Reg 261/2018
Health Act Communicable Disease Regulation (4/83)	REPEALED Jan. 1/19	by Reg 167/2018
Public Health Act Transitional Regulation (51/2009)	REPEALED Jan. 1/19	by Reg 167/2018
Reporting Information Affecting Public Health Regulation (167/2018)	NEW Jan. 1/19	see Reg 167/2018

LABOUR & EMPLOYMENT

Labour and Employment News:

Changes to BC Labour Relations Code Proposed in Independent Review Panel Report

In February 2018, the British Columbia Minister of Labour, the Honourable Harry Bains, appointed an independent Labour Relations Code Review Panel (the "Panel"), which was afforded a broad mandate to review the BC [Labour Relations Code](#), RSBC 1996, c. 244 (the "Code") and provide recommendations for any amendments.

In its consultation process, the Panel interviewed stakeholders and individuals at 10 public meetings across BC, and met with groups including the BC Federation of Labour, the BC Business Council, the Arbitrators Association of B.C., the Labour Relations Board (the "Board") and the Labour Subsection of the Canadian Bar Association.

Entitled *Recommendations for Amendments to the Labour Relations Code* (the "Report"), the Panel's Report was publicly released on October 25, 2018. It contains 29 recommendations. None of the proposed amendments would result in sea changes to the Code, but employers should be particularly aware of the following recommendations: Read the [full article](#) by [Abigail Cheung](#) with McCarthy Tétrault.

Employer Health Tax Act Now in Force

The new [Employer Health Tax Act](#) came into force January 1. The new law will replace the Medical Services Plan premiums by January 1, 2020. The annual tax will apply to all businesses, but exemptions are made for those with payrolls under \$500 000 and up to \$1.5 million for charities and non-profits. Businesses with payrolls between \$500 000 and \$1.5 million will pay 2.925 per cent of their payroll less \$500 000, and employers with payrolls exceeding \$1.5 million will pay the full 1.95 per cent of the employer health tax.

Breaking Up Is Hard to Do: Court Awards More than C\$112,000 to Employee Terminated for Breach of Trust

How should an employer respond when they discover an employee's misconduct? When is misconduct just cause for termination? Many employers wrestle with these questions. The BC Supreme Court's decision in [Kerr v. Arpac Storage Systems Corporation](#), 2018 BCSC 704 is a cautionary tale for employers that terminate employment first and ask questions later.

Background

In March 2017 Arpac Storage Systems Corporation (Arpac) gave its 70-year-old occupational health and safety (OHS) manager one year's working notice that his employment would be terminated. The OHS manager had almost 23 years of service and no disciplinary record. However, his relationship with Arpac had deteriorated because his supervisor no longer saw him as an asset.

The OHS manager was diagnosed with reactive depression after receiving notice of termination. He gave Arpac a doctor's note stating that he was not fit to attend work. While he was off work, the OHS manager altered a spreadsheet to make it inaccurate and deleted hundreds of business and personal emails from his work e-mail account.

Read the [full article](#) by [Matthew Larsen](#) with Fasken Martineau DuMoulin LLP.

BC Supreme Court Provides Yet Another Reminder to Employers About the Importance of Drafting Restrictive Covenants which are Clear and Not Over Broad

A recent decision of the British Columbia Supreme Court issued October 10, 2018 has provided employers with yet another very clear reminder that care must be taken to ensure that employee restrictive covenants are clear and not over broad in scope.

In *Telus Communications Inc. v. Golberg* [2018] BCSC 1825 Telus sought an interlocutory injunction to restrain a senior employee from taking up new employment with Rogers Media Inc. following his resignation.

In seeking an interlocutory injunction, Telus relied on a restrictive covenant in the employment agreement with Daniel Golberg. Telus also relied on an alleged breach by Mr. Golberg of his fiduciary duty to Telus. Read the [full article](#) by N. David McInnes with McMillan LLP.

Bill 48 Passes – British Columbia Adopts Temporary Foreign Worker Protection Act

In 2017, British Columbia issued approximately 17,000 work permits under the Temporary Foreign Worker Program (the "TFWP"), which is the second-highest number of such permits granted in Canada after Ontario. The TFWP allows employers to hire temporary foreign workers ("TFWs") to fill jobs that cannot otherwise be filled by Canadian citizens or permanent residents. For example, the Seasonal Agricultural Worker Program, a program stream under the TFWP, allows workers from Mexico and certain Caribbean countries to be employed for up to eight months in connection with the production of goods on the National Commodities List.

The BC [Temporary Foreign Worker Protection Act](#) (the "Act"), which applies to all foreign nationals who are employed or seeking employment in BC, received royal assent on November 8, 2018, but will not be in force until regulations are enacted, likely early in 2019. The Act's stated aims are to improve the protection of TFWs by creating a registry of employers and foreign worker recruiters active in the TFWP and by expanding governmental enforcement tools. Read the [full article](#) by Christopher McHardy of McCarthy Tétrault.

Act or Regulation Affected	Effective Date	Amendment Information
Employer Health Tax Act	NEW Jan. 1/19	c. 42, SBC 2018, Bill 44 , whole Act in force by Royal Assent
Employer Health Tax Regulation (268/2018)	NEW Jan. 1/19	see Reg 268/2018
Employment and Assistance Regulation (263/2002)	Dec. 1/18	by Reg 248/2018
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Dec. 1/18	by Reg 248/2018
Employment Standards Regulation (396/95)	Jan. 1/19	by Reg 80/2018

LOCAL GOVERNMENT

Local Government News:

Rental Housing Report and Homeless Counts

The Province last week issued two key reports relating to housing and homelessness: the [2018 Report on Homeless Counts](#) in BC finding a minimum of 7,655 homeless people in BC; and the final report of the Rental Housing Task Force making 23 recommendations on wide ranging aspects of the rental housing framework.

2018 Report on Homeless Counts

The Ministry of Social Development and Poverty Reduction released the *2018 Report on Homeless Counts*, summarizing findings from 24 communities covering more than 85% of the province's

population over the past 2 years. The report found that there are at least 7,655 homeless people across BC.

Read the UBCM [article](#).

The Latest Chapter in the Development of "Occupation" Law

In two recent decisions, *Saanich (District) v Brett*, [2018 BCSC 1648](#) ("Saanich") and *Nanaimo (City) v Courtoreille*, [2018 BCSC 1629](#) ("Nanaimo"), the BC Supreme Court considered local government applications to the Court for pre-trial injunctions to terminate unauthorized homeless encampments. Generally, these cases represent examples of the Court undertaking a balancing of the homeless population's need for shelter and against the nature of these encampments within the context of the duties and authority of public authorities to reasonably manage lands falling within their jurisdiction.

In *Saanich*, the Court granted an application for an interlocutory injunction to close the encampment and on certain conditions, which included bringing a full trial or final hearing on the District's case within six months. The approximately 107 occupants of the encampment were ordered to evacuate the park until it was restored to a safe state and, once the premises were restored, to only occupy it in accordance with Saanich's zoning bylaws.

Similarly, in *Nanaimo*, the Court ordered an interlocutory injunction to vacate an encampment located on city-owned and privately-leased property. Similar to *Saanich*, the Nanaimo encampment was composed of approximately 115 tents and occupation of the premises was throughout the day and night. Read the [full article](#) by Jeff Locke, Kerri Crawford and Jessica Bond of Stewart McDannold Stuart.

A Blunt End to Non-compliant Cannabis Dispensaries in Vancouver

In a decisive statement on the scope of municipal power to regulate cannabis dispensaries, Chief Justice Hinkson of the BC Supreme Court granted a statutory injunction sought by the City of Vancouver. In *Vancouver (City) v Karuna Health Foundation*, [2018 BCSC 2221](#), the City brought a petition against several cannabis dispensaries, arguing that the dispensaries were carrying on business contrary to the City's framework for the regulation of medical cannabis retail uses under its business licence bylaw. Read the [full article](#) by Nick Falzon of Young Anderson.

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Tribunals Act	REPEALED Dec. 3/18	by 2004 Bill 56, c. 45, section 190 only (in force by Reg 251/2018), Administrative Tribunals Appointment and Administration Act
Cannabis Control Regulation (204/2018)	Dec. 10/18	by Reg 265/2018
Community Charter	Jan. 1/19	by 2018 Bill 7, c. 5, section 9 only (in force by Reg 272/2018), Miscellaneous Statutes Amendment Act, 2018
Eligible Port Property Designation Regulation (309/2010)	Dec. 10/18	by Reg 274/2018
Exempt Interests Regulation (302/90)	Dec. 10/18	by Reg 262/2018
Liquor Control and Licensing Regulation (241/2016)	Dec. 10/18	by Reg 271/2018
Local Government Act	Jan. 1/19	by 2018 Bill 7, c. 5, sections 11 and 12 only (in force by Reg 272/2018), Miscellaneous Statutes Amendment Act, 2018

Mineral Tenure Act	Jan. 1/19	by 2018 Bill 7, c. 5, section 13 only (in force by Reg 272/2018), Miscellaneous Statutes Amendment Act, 2018
Port Land Valuation Regulation (304/2010)	Dec. 10/18	by Reg 263/2018
Restricted-Use Property Valuation Regulation (236/2017)	Dec. 10/18	by Reg 264/2018
Vancouver Charter	Jan. 1/19	by 2018 Bill 7, c. 5, section 15 only (in force by Reg 272/2018), Miscellaneous Statutes Amendment Act, 2018

MISCELLANEOUS

Miscellaneous News:

BC AG wants Review of how Legal Aid is Delivered

After years of "dismal" funding, British Columbia Attorney General David Eby says his government plans to improve legal aid services, while a recent report from Lawyers Rights Watch Canada says chronic underfunding has caused Canada to fall short of its international human rights obligations.

In a [submission](#) to the Legal Aid Services Review of BC, the LRWC told the BC government on Nov. 22 that its "inadequate" legal aid system compromises the legitimacy of the province's justice system. The report highlights how BC has been singled out in the frequent criticism aimed at Canada's legal system by United Nations treaty monitoring bodies who say lack of legal aid funding means Canadians are not truly equal under the law. Eby's NDP government has been in power for 17 months and he places the blame on previous governments and says his plan is to make investments in legal aid, including the biggest increase in funding in 16 years. Read the [full article](#) in the *Canadian Lawyer* magazine.

Civil Resolution Tribunal Act Amendments

Amendments to the [Civil Resolution Tribunal Act](#) made by [2018 Bill 22](#), *Civil Resolution Tribunal Amendment Act, 2018*, and [2018 Bill 57](#), *Attorney General Statutes Amendment Act, 2018* came into force on January 1, 2019. These changes improve the process in place since the Civil Resolution Tribunal began, by clarifying the time limits for filing matters in court and in the tribunal, prohibiting a party who defaults in the tribunal from obtaining a new trial in provincial court, and setting time limits for the application of judicial review.

Further changes will come into force on April 1, 2019, which will grant the tribunal jurisdiction over motor vehicle accident disputes, including determinations whether an injury is a minor injury, disputes about accident benefits, and disputes about damages and fault up to \$50,000.

Act or Regulation Affected	Effective Date	Amendment Information
Civil Resolution Tribunal Act	Jan. 1/19	by 2012 Bill 44, c. 25, section 86 (2) only (in force by Reg 232/2018), Civil Resolution Tribunal Act
		by 2018 Bill 22, c. 17, sections 1, 2 (part), 3, 4 (part), 5 to 8, 9 (part), 10 to 14, 15 (part), 17 to 24 only (in force by Reg 232/2018), Civil Resolution Tribunal Amendment Act, 2018
Civil Resolution Tribunal Small Claims Regulation (111/2017)	REPEALED Jan. 1/19	by Reg 232/2018

Election Act	Jan. 1/19	by 2018 Bill 7, c. 5, section 10 only (in force by Reg 272/2018), Miscellaneous Statutes Amendment Act, 2018
Election Financing Regulation (371/91)	Dec. 31/18	by Reg 371/91, section 3.4 (5)
Interpretation Act	Jan. 1/19	by 2018 Bill 7, c. 5, sections 2 to 6 only (in force by Reg 272/2018), Miscellaneous Statutes Amendment Act, 2018
Leadership Contestant Financing Regulation (433/99)	Dec. 31/18	by Reg 433/99, section 2
Lobbyists Registration Act	Dec. 27/18	by 2018 Bill 54, c. 52, sections 2 (b) and 5 only (in force by Royal Assent), Lobbyists Registration Amendment Act, 2018
Political Party and Constituency Association Financial Reports Regulation	Dec. 31/18	by Reg 434/99, sections 2.1 and 3.1
Small Claims Rules (261/93)	Jan. 1/19	by Reg 267/2018
Tribunal Small Claims Regulation (232/2018)	NEW Jan. 1/19	by Reg 232/2018

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

CVSE Bulletins & Notices

The following notices have been posted in December by CVSE:

- [Circular 06-17](#) – Deadline for Planned Trailer Axle Weight Reductions Extended to December 31, 2020
- [Circular 07-17](#) – Temporary Increase to Steer Axle Weights for Specified Pre-Approved Logging Truck Configurations to December 31, 2019
- [CT Notice 05-18](#) – Effective January 15, 2019, carriers must have a signed [Form CVSE1053](#) on file with the Provincial Permit Centre before obtaining extraordinary load permits that have bridge crossing conditions as part of their approval.
- [Circular 03-18](#) – Introduction of the Project Cargo Corridor Pilot

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

Act or Regulation Affected	Effective Date	Amendment Information
Insurance (Vehicle) Regulation (447/83)	Dec. 18/18	by Reg 253/2018
Motor Vehicle Act	Dec. 18/18	by 2018 Bill 17, c. 18, sections 1, 15, 16 (a) (part) and 19 only (in force by Reg 255/2018), Motor Vehicle Amendment Act, 2018
Motor Vehicle Act Regulations (26/58)	Dec. 3/18	by Reg 254/2018
	Dec. 18/18	by Reg 255/2018

Offence Act Forms Regulation (422/90)	Dec. 3/18	by Reg 254/2018
Passenger Transportation Regulation (266/2004)	Dec. 1/18	by Reg 249/2018
Review of 24 Hour Driving Prohibition Regulation (591/2004)	Dec. 10/18	by Reg 273/2018
Special Direction IC2 to the BC Utilities Commission (307/2004)	Dec. 10/18	by Reg 270/2018
Violation Ticket Administration and Fines Regulation (89/97)	Dec. 3/18	by Reg 257/2018

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

WorkSafeBC Alert:

Consultation on the 2019–2021 Policy Workplans

The Policy, Regulation and Research Division has prepared draft 2019–2021 workplans for stakeholder review and comment. These workplans will encompass policy priorities relating to compensation, occupational disease, assessments, and occupational health and safety.

Stakeholders are invited to review the discussion paper and proposed workplans, and to provide feedback by February 4, 2019. The discussion paper, proposed workplans, and information on providing feedback can be accessed on worksafebc.com.

Article 2 – Injured Worker Series:

Settlement of WorkSafeBC Claims

We are frequently asked about "settling with the Board". Our response is that you cannot settle with WorkSafeBC ("the Board").

The basic scheme of compensation for injured workers is that the Board adjudicates all claims. In other words, it makes decisions starting with whether the claim will be accepted. If it is accepted a number of other decisions will be made concerning wage loss, medical care, rehabilitation, and pension benefits. Each of these decisions in turn are based on numerous other decisions. For example, in determining wage loss benefits the Board will decide when the benefits commence, how much they will be initially and in the long term, and when they will terminate.

By the time a worker receives his first wage loss cheque several decisions may have been made by the Board. The Board does not negotiate before making its decisions. It has no legal right to do so. It is required to, and does, consider information available to it from the worker, doctors, the employer, and other witnesses in making its decisions. Read the [full article](#) by Alfred Kempf of Pushor Mitchell LLP.

WorkSafeBC Launches New Online Notice of Project Submission Process

To address employer feedback and aging technology, WorkSafeBC has upgraded its Notice of Project (NOP) online submission process and it will be accessible to all employers before the end of this year (2018).

While there will be a grace period for employers to use the old forms, at some point in the future the old Notice of Project form will be retired.

In the past, there was just one form for the different types of notices of project required by regulation; the form timed-out after 30 minutes; and it was harder to use. The new forms are now customized for each of the six required notices – two of which are needed for certain forestry projects and aircraft operations (forestry). The other four new forms are for construction, diving, underground workings, and asbestos, lead or other similar exposure work activity. The [Occupational Health and Safety Regulation](#) requires that WorkSafeBC be notified of

certain types of projects before they begin. Read the [full article](#) in the December issue of *Forest Safety News*.

Lack Of Workers' Comp Can Have Serious Consequences For Employers

Some business owners in British Columbia may not be pleased that just about every employer must register for and pay insurance premiums to protect injured workers. In BC, even property owners who build their own residences or those who hire casual workers as regular gardeners, domestic workers, nannies and cleaners must register with WorkSafe BC. While it might seem like an unnecessary expense, some argue that employers can see the value of these payments if they consider that the absence of workers' compensation insurance could require their businesses to be responsible for payment of medical fees that follow on-the-job injuries and rehabilitation.

Another compelling argument for workers' compensation exists in the fact that an incident that injures several workers can burden the business with astronomical expenses that might compromise profits. Employees who are covered by WorkSafeBC are, except for cases of gross negligence by the employer, generally prohibited from filing personal injury lawsuits against their employers in exchange for the coverage they enjoy at no cost regardless of negligence or fault. Read the [full article](#) on the Overholt Law blog.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

PROPERTY & REAL ESTATE

Property and Real Estate News:

BC's New Pre-Sale Assignment Register and REDMA Fee Changes: What Developers Must Know

Effective January 1, 2019, developers in British Columbia will be subject to new information collection, reporting and document retention requirements in connection with assignments of purchase agreements in qualifying developments. The new requirements will apply to any five (5) or more strata lots in a stratified building in British Columbia that are marketed for sale or for lease with a term longer than three (3) years (each, a "Strata Development").

These changes became law by the passing of [Bill 25 – Real Estate Development Marketing Amendment Act \(2018\)](#) and [regulations](#) amending the [Real Estate Development Marketing Act](#) (British Columbia) ("REDMA") and the [Real Estate Development Marketing Regulation](#), and the issuance of REDMA Policy Statement 16. Read the [full article](#) by [Chad Travis](#) and [May Au](#) of Lawson Lundell LLP.

New Speculation and Vacancy Tax Regulation

The new [Speculation and Vacancy Tax Regulation](#) was brought into force December 10. This regulation describes the type of land and improvements that are not considered residential property under the Act, including rental property, and property that includes four or more apartments. Parcels of land and improvements related to exempt property are also addressed. It also sets out the calculation of fair market value as stipulated in the Act.

Strata Property Law Project: 2018 Year-End Update

BCLI's [Strata Property Law Project—Phase Two](#) had an active year in 2018. The project issued three publications and held three public consultations. These consultations took the project's engagement with the public to new levels. They also set the stage for what will be a burst of publishing activity in 2019, which is set to be the project's final year.

BCLI opened its consultation on governance in March 2018, with the publication of the [Consultation Paper on Governance Issues for Stratas](#). This consultation paper contained 83 tentative recommendations for reform, covering a wide range of topics, including bylaws, statutory definitions, general meetings and strata-council meetings, finances, and notices and communications. The public consultation also included a three-proposal summary consultation, which spotlighted high-profile issues for reform on proxies, strata-council elections, and limitations.

Publication of the consultation paper opened a three-month consultation period, which ended on 15 June 2018.

During that period BCLI received 290 submissions in total (138 being responses to the full consultation and 152 to the summary consultation). This is the highest level of response to any of the consultations held in this project.

A draft of the final *Report on Governance Issues for Stratas* is with the BCLI board of directors. Pending the board's approval, the report should be published in early 2019. Read the [full article](#) by Kevin Zakreski on the BCLI website.

Updated Versions of Land Title Forms Now In Effect

The Director of Land Titles has published updated versions of the following land title forms, in effect January 1, 2019:

Form B – Mortgage

- Item 8 Interest Mortgaged: changed field label from 'Freehold' to 'Fee Simple'
- Item 12 Execution: updated professional capacity from 'Commissioner for Taking Affidavits in British Columbia' to 'Commissioner for Taking Affidavits for British Columbia'

Form 17 – Fee Simple

- Removed nature of interest Land Title Inquiry Act Certificate

Read [more](#) on the BC Land Title and Survey website.

Act or Regulation Affected	Effective Date	Amendment Information
Property Transfer Tax Act	Jan. 1/19	by 2018 Bill 25, c. 25, section 15 (in force by Reg 230/2018), Real Estate Development Marketing Amendment Act, 2018
Real Estate Development Marketing Act	Jan. 1/19	by 2018 Bill 25, c. 25, sections 4, 5, 7, 10, 12, 13 only (in force by Reg 230/2018), Real Estate Development Marketing Amendment Act, 2018
Real Estate Development Marketing Regulation	Jan. 1/19	by Reg 230/2018
Small Claims Act	Jan. 1/19	by 2018 Bill 57, c. 49, section 17 only (in force by Royal Assent), Attorney General Statutes Amendment Act, 2018
Speculation and Vacancy Tax Regulation (275/2018)	NEW Dec. 10/18	see Reg 275/2018
Strata Property Act	Jan. 1/19	by 2018 Bill 22, c. 17, sections 46 and 47 only (in force by Reg 232/2018), Civil Resolution Tribunal Amendment Act, 2018

WILLS & ESTATES

Wills and Estates News:

Does "Death Do Us Part"? Separating the Living from the Dead in Family Law and Estate Litigation

A recent decision from the Court of Appeal for British Columbia outlines the rights and obligations between spouses in life and after death, and how these shift on separation.

In 2013 and 2014 respectively, the [Family Law Act](#) [FLA] and the [Wills, Estates and Succession Act](#) [WESA] came into force in British Columbia. Under s. 81 of the FLA, on separation, each spouse has a right to an undivided half interest in family property. Under s. 60 of the WESA, a spouse must make adequate provision from his or her estate for the proper maintenance and support of the surviving spouse. If he or she fails to do so, the survivor may bring a claim to vary the will of the deceased.

In *Gibbons v. Livingston*, [2018 BCCA 443](#), the Court clarified how these complimentary statutes define the rights and remedies available to spouses. Read the [full article](#) by [Polly Storey](#) of Clark Wilson LLP.

Credibility: Who to Believe?

Many court cases are decided on the issue of credibility. If the court does not believe one partie's evidence then in all likelihood that party will lose.

The law relating to credibility was reviewed in *Yung v Three Good Friends Property Holdings Inc.* [2018 BCSC 1963](#). In *Yung* there were three competing versions of events presented by three main parties – Messrs. Yung, Wong and Lam.

The court found Mr. Wong's recollection of the events to be extremely poor. He said he had no memory of most key events. His poor memory and the discrepancies between his discovery evidence and is evidence at trial being that I give little weight to his evidence.

Mr. Lam was argumentative, evasive and nonresponsive to questions. His evidence was rambling and internally inconsistent, and was therefore inherently unbelievable. It was infused by extreme animosity towards Mr. Yung and his evidence was transparently self-serving.

Mr. Yung won the case. The court found his evidence to be straightforward and internally consistent. He was subjected to extended and hostile cross-examination that bordered on abusive, with accusations of deceit and fraud. He retained his composure throughout. Read the [full article](#) by [Trevor Todd](#) on his blog *Disinherited – Estate Disputes and Contested Wills*.

Common Pitfalls in Estate Planning for Blended Families

The traditional concept of the nuclear family (i.e., mother, father and one or more children of a single relationship) has evolved over the years. The modern family is more complicated and may consist of parents who are in second or third relationships and who bring into a relationship children from one or more prior relationships. To further complicate the familial structure, there may also be children of the current relationship.

Stepfamilies are more frequent and more diverse than ever before. In 2016, 1 in 10 children were part of a stepfamily. 6.1% of children were living with one of their biological or adoptive parents and a step-parent by marriage or common-law union. Slightly more than half of them had no half-siblings or step-siblings (i.e., any brothers and sisters were the children of the same parent: a simple stepfamily). Slightly less than half were living in a more complex situation: they had at least one half-sibling or step-sibling. 37.2% of children in stepfamilies had both of their biological or adoptive parents present, and had at least one half-sibling.

While many of the issues which impact blended families are similar to those of traditional nuclear families, there are others that are unique to blended families and which have the potential to create discord and mistrust among the members of the family if not handled properly. Often, there is the necessity to consider the needs of a surviving spouse and perhaps competing needs of children who are not the children of the relationship but are from a prior relationship. Read the [full article](#) by Brittany Sud on *All About Estates*.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

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