

Quickscribe Reporter

Vol: XVII – Issue: XI – November 2018

QUICKSCRIBE NEWS:

Legislature Recap

The 3rd Session, 41st Parliament wrapped up on Wednesday, November 28th. All 27 Bills introduced this fall received Royal Assent. The following Bills were introduced in November:

- [Bill 47](#), Health Sector Statutes Repeal Act
- [Bill 50](#), Human Rights Code Amendment Act, 2018
- [Bill 51](#), Environmental Assessment Act
- [Bill 52](#), Agricultural Land Commission Amendment Act, 2018
- [Bill 55](#), Passenger Transportation Amendment Act, 2018p
- [Bill 56](#), Oil and Gas Activities Amendment Act, 2018
- [Bill 57](#), Attorney General Statutes Amendment Act, 2018

Refer to the [QS Bills page](#) to determine what laws are impacted by these bills, and what sections are now in force.

A reminder that if you would like to track the progress of new bills this session, or track proposed changes to laws that matter most to you, please feel free to make use of our [BC Legislative Digest](#) tracking tool.

Early Consolidations Published on Quickscribe

For your convenience, Quickscribe has published several early consolidations for new legislation that was introduced this fall but has not yet come into force. These red-text laws are fully searchable and printable and can be accessed via the [Special Early Consolidations](#) page.

- [Civil Resolution Tribunal Act](#)
- [Employer Health Tax Act](#)
- [Lobbyists Transparency Act](#)
- [Real Estate Development Marketing Act](#) & [Regulation](#)
- [Workers Compensation Act](#) [Revised]

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](#)
- [Kimberly Jakeman](#), Harper Grey LLP – [Medicare Protection Act](#)
- [Philippa Estall](#), Public Guardian and Trustee of British Columbia – [Public Guardian and Trustee Act](#), [Infants Act](#), [Family Law Act](#)
- [Debby Cumberland](#) – [Business Corporations Act](#)
- [Laura Cundari](#), Blake, Cassels & Graydon – [Arbitration 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".

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:

New Financial Services Consumer Protection

The [Budget Implementation Act, 2018, No. 2](#) (the "Second Budget Bill") was introduced on October 29, 2018 and includes amendments to various financial services statutes, pursuant to the recent Budget and in addition to the first [Budget Implementation Act, 2018, No. 1](#), previously summarized in our [recent legal update](#). These proposed amendments represent a major change in federal financial services consumer protection regulation.

The Second Budget Bill includes a number of amendments to the [Bank Act](#), the [Trust and Loans Companies Act](#) and the [Insurance Companies Act](#) (collectively, the "Financial Services Statutes") including most notably the introduction of the anticipated Financial Consumer Protection Framework (the "Framework"), as well as related amendments to the [Financial Consumer Agency of Canada Act](#), replacing an [earlier proposed version of the framework](#), following a comprehensive report by the Financial Consumer Agency of Canada ("FCAC") on best practices in financial consumer protection, summarized in our [recent legal update](#). Read the [full article](#) Ana Badour, Barry J. Ryan, Marc J. MacMullin, Mathieu Dubord and Eve Tessier with McCarthy Tetrault LLP.

The Law of Privilege: What Happens when Company Law Collides with Family Law?

A new case from the Supreme Court of British Columbia shows that privilege may stop a director who is also a spouse in a family law dispute from inspecting company documents.

Generally speaking, it is not necessary for privilege to be waived where a director seeks to inspect company documents on the basis that the director is the company. Where the director is also a spouse engaged in a family law dispute, however, privilege may bar him or her from accessing such documents.

In the recent case of *Warde v. Slatter*, [2018 BCSC 1877](#), Justice Grauer considered how solicitor-client and litigation privilege may operate in the context of a closely held company in a family law proceeding. Read the [full article](#) by Polly Storey with Clark Wilson LLP.

Pleading Claims that Survive Bankruptcy

[Section 178\(1\)](#) of the [Bankruptcy and Insolvency Act](#) ("BIA") describes various types of debts and liabilities that will survive the discharge of bankruptcy of the bankrupt. In particular, subsections (d) and (e) provide that:

An order of discharge does not release the bankrupt from

(d) any debt or liability arising out of fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity or, in the Province of Quebec, as a trustee or administrator of the property of others;

(e) any debt or liability resulting from obtaining property or services by false pretences or fraudulent misrepresentation, other than a debt or liability that arises from an equity claim.

Where a plaintiff commences an action in which it is alleged that the claim involves "fraud, embezzlement, misappropriation or defalcation while acting in a fiduciary capacity" by the defendant or that the defendant obtained "property or services by false pretences or fraudulent misrepresentation" the subsequent judgment of the court that the alleged facts have been proved will provide a firm basis for a court at a later date to declare that the claim is one that survives the bankruptcy of the defendant, should that occur.

On occasion, however, a defendant may decide not to defend the action, and the plaintiff may obtain default judgment; or, the defendant may consent to judgment in respect of the action, but only on specific terms, which might not include admissions related to section 178(1)(d) or (e) facts. Read the [full article](#), published on the law firm Gehlen Dabbs website.

Employer Health Tax Act Receives Royal Assent

On November 8, 2018, the [Budget Measures Implementation \(Employer Health Tax\) Act, 2018](#), received Royal Assent, and will come into force on January 1, 2019. When in force, the Act will establish an employer health tax that 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. For your convenience, Quickscribe has published an [early consolidation](#) of this law as it will read when it comes into force.

FICOM News

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

- [Trust Bulletins](#) – TR-18-002
- [Insurance Bulletins](#) – INS-18-008
- [Credit Union Bulletin](#) – CU-18-003
- [Insurance Bulletin](#) – INS-18-009
- [Insurance Bulletin](#) – INS-18-010
- [Letter to BC Incorporated Life Insurance Companies and Fraternal Benefit Societies](#) – Information Bulletin INS-18-009
- [Letter to BC Incorporated Property and Casualty Insurance Companies](#) – Information Bulletin INS-18-010
- [Letter to BC Authorized Life Insurance Companies and Fraternal Benefit Societies](#) – Changes to Filing Requirements
- [Letter to BC Authorized Property & Casualty Insurance Companies](#) – Changes to Filing Requirements
- [Pensions Information Bulletin](#) – Disclosure of Solvency Deficiency for plans with Target Benefit components

Visit the FICOM [website](#) for more information.

BC Securities – Policies & Instruments

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

- [11-339](#) – CSA Staff Notice 11-339 Notice of Local Changes in Alberta

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	Nov. 1/18	by Regs 195/2018 and 225/2018
	Dec. 1/18	by Reg 226/2018
Government Organization Accounting Standards Regulation (257/2010)	Nov. 7/18	by Reg 231/2018
Insurance Premium Tax Regulation (154/2016)	Nov. 5/18	by Reg 229/2018

Special Accounts Appropriation and Control Act	Nov. 27/18	by 2018 Bill 45, c. 46, section 158 only (in force by Royal Assent), Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018
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ENERGY & MINES

Energy and Mines News:

NEB Agrees to Consider Whether Pipeline Serving LNG Canada Project Requires NEB Approval

In late October 2018, the National Energy Board (NEB) issued a [letter](#) indicating that the NEB will consider a jurisdictional challenge over whether the NEB must approve the Coastal GasLink Pipeline (CGLP) that would serve the recently-confirmed [LNG Canada project](#). The CGLP is a proposed 670 km natural gas pipeline entirely within the province of British Columbia that would supply the LNG Canada project. The CGLP was [authorized](#) by and is currently regulated by the British Columbia Oil and Gas Commission (BCOGC). The NEB proceeding was prompted by an application by Michael Sawyer, who argues that the CGLP, along with the existing NOVA Gas Transmission Ltd. (NGTL) System, comprise a single federal undertaking and is therefore subject to federal regulation (NEB oversight).

In argument on the preliminary question of whether his application should proceed, Mr. Sawyer referred to and relied upon a recent Federal Court of Appeal [decision](#) in a case related to the NEB's jurisdiction over the proposed Prince Rupert Gas Transmission Project (PRGTP). That decision (which was also prompted by Mr. Sawyer) found that there was a "*prima facie*" case that the PRGTP appeared to be functionally integrated with federally-regulated works (including the NGTL system) that would also be part of the planned supply to an LNG facility. The Federal Court of Appeal indicated that there was an arguable (*prima facie*) case that the PRGTP would be functionally integrated with a federal undertaking and subject to the NEB Act. Read the [full article](#) by [David Stevens](#), a partner at Aird & Berlis LLP Group.

Squamish Nation's Yes to Woodfibre LNG Deal Was Not a Simple Decision

Squamish First Nation Coun. Khelsilem voted against accepting benefit agreements flowing from the \$1.6-billion Woodfibre LNG project south of Squamish, putting him on the losing side of the decision.

On Friday [November 30th], however, Khelsilem, who goes by his traditional name, found himself front and centre representing council's decision to accept the agreements reached with Woodfibre, FortisBC and the province as the designated spokesman for the governing body.

His position is emblematic of the complexity of the Squamish Nation's decision, which featured opposition to the resource development because of environmental concerns, but also a strong desire to exert maximum influence over a project in their territory. "One of the challenges I personally have, and a lot of First Nations have around these projects, is just the way we're set up," Khelsilem said of dealing with large industries and big governments.

However, the Squamish were given a unique opportunity to conduct their own environmental assessment of Woodfibre's proposal, separate from the provincial environmental assessment process. Read [The Vancouver Sun article](#).

Oil and Gas Amendments Protect People and Environment

Michelle Mungall, Minister of Energy, Mines and Petroleum Resources, has introduced [amendments](#) to the [Oil and Gas Activities Act](#) that will better protect people and the environment.

The proposed changes will support a made-in-B.C. approach to methane oversight that is equivalent to federal regulations and provide a legal framework for off-site environmental mitigation.

These amendments will create the legislative framework for a complaint mechanism that allows the public to request an investigation of alleged contraventions of methane emission regulations and requires the BC Oil and Gas Commission to investigate.

Additionally, the amendments will support government's actions to strengthen environmental protection and remediation in areas where oil and gas activities occur. For example, mitigating impacts to caribou habitat within

an operating area by treating or restoring previously disturbed caribou habitat outside of the permit holder's operating areas. Read the government [news release](#).

Drilling and Production Regulation Amended

Effective November 1st, the [Drilling and Production Regulation](#) was amended to change reporting requirements and implement housekeeping amendments. The effect is more consistency and greater oversight in the following cases:

- In the event of gas being flared at a well, a report must be made to the Oil and Gas Commission 20 days after the end of the month, as opposed to the regular 60 day period
- A permit holder must report the quantity of water from a water source well 20 days after the end of the month, down from the current 25
- Reporting of injection or disposal must occur no later than 20 days after the end of the month.

Act or Regulation Affected	Effective Date	Amendment Information
Clean Energy Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Drilling and Production Regulation (282/2010)	Nov. 1/18	by Reg 174/2018
Fee, Levy and Security Regulation (8/2014)	Dec. 1/18	by Reg 240/2018
Hydro and Power Authority Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
	Nov. 27/18	by 2018 Bill 45, c. 46, section 154 only (in force by Royal Assent), Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018
Liquefied Natural Gas Project Agreements Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Net Profit Royalty Regulation (98/2008)	Nov. 1/18	by Reg 194/2018
Oil and Gas Activities Act	Nov. 27/18	by 2018 Bill 56, c. 54, sections 2 and 10 only (in force by Royal Assent), Oil and Gas Activities Amendment Act, 2018
Oil and Gas Activities Act General Regulation (274/2010)	Nov. 1/18	by Reg 221/2018
Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation (495/92)	Nov. 1/18	by Reg 194/2018
Vancouver Island Natural Gas Pipeline Exemption Regulation (524/95)	Nov. 15/18	by Reg 237/2018

FAMILY & CHILDREN

Family and Children News:

The British Columbia Supreme Court on Family Status Discrimination: Parenting Roles, Stereotypes and In-flux Jurisprudence

The recent British Columbia Supreme Court ("BCSC") decision in [Envirocon Environmental Services, ULC v. Suen](#) confirms that the law in British Columbia with respect to family status discrimination remains unsettled. The decision also provides insight into the reasoning of the British Columbia Human Rights Tribunal (the "Tribunal") regarding parenting roles and stereotypes and the interpretation of the purposes underlying the British Columbia *Human Rights Code* (the "Code").

Facts

Mr. Suen worked as a project manager based out of Burnaby, B.C., for Envirocon Environmental Services, ULC ("Envirocon"), a company providing environmental remediation services across Canada. As a project manager, Mr. Suen was sometimes temporarily assigned to projects out of town, but he was able to work remotely or fly home to Vancouver during these assignments at Envirocon's expense.

Read the [full article](#) by Donovan Plomp with McCarthy Tétrault LLP.

Law Society Seeks Feedback on Alternate Legal Service Providers

The Law Society is seeking input from the profession regarding a proposal to establish a new class of legal service professional who would hold a limited scope licence to practice in the area of family law. The concepts advanced in the scope of practice proposed in Schedule A of the discussion paper are not conclusions. They have been prepared to focus discussion. The Law Society will consider written submissions received by 5:00 pm on December 31, 2018.

Submissions on this consultation paper are collected under authority of the [Freedom of Information and Protection of Privacy Act](#), RSBC 1996, c. 165, [s. 26\(c\)](#). The information will be used to analyze and develop the policy initiative described in the consultation. Read the [full notice](#) on the Law Society of British Columbia website.

Poverty Reduction Strategy Act Now in Force

On November 8, 2018, the [Poverty Reduction Strategy Act](#) was brought into force by Royal Assent. The Act outlines the BC government's first poverty reduction strategy and provides the minister with a mandate to:

- reduce the overall poverty rate by 25% and the overall child poverty rate by 50% by 2024;
- reflect a commitment to first nations taking into account the Truth and Reconciliation Commission and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP);
- appoint an advisory committee comprised of representative groups to consult on relevant issues; and
- post the strategy by March 31, 2019, and produce an annual report beginning in October 1, 2020

Act or Regulation Affected	Effective Date	Amendment Information
Coroners Regulation (298/2007)	Nov. 1/18	by Reg 222/2018
Correction Act Regulation (58/2005)	Nov. 13/18	by Reg 219/2018
Parental Liability Act	Nov. 27/18	by 2018 Bill 57, c. 49, section 16 only (in force by Royal Assent), Attorney General Statutes Amendment Act, 2018

FOREST & ENVIRONMENT

Forest and Environment News:

BC's Take on a Modern-Style Environmental Assessment

BC recently advanced plans to modernize its EA (environmental assessment) process by passing first reading of Bill 51 – the new [Environmental Assessment Act](#). The new Act would:

- expand the Environmental Assessment Office's ("EAO's") role and purpose (to promoting sustainability and supporting United Nations Declaration on the Rights of Indigenous Peoples ("UNDRIP") implementation);
- flush out early planning processes (before EA certificate ("EAC") applications are submitted);
- prohibit projects that cause "extraordinarily adverse effects";
- recognize Indigenous land use plans; and
- provide for cost recovery to the Province and Indigenous nations.

The Province is aiming to have the new Act come into force in late 2019 – if that timeline is met, there could be implications for both new and existing major resource projects across the Province around this time next year. Read the [full article](#) by Maya Stano and Mark Youden with Gowling WLG.

BC Government Review of Professional Reliance The Good and the Bad in Bill 49

A review of [Bill 49](#), the proposed *Professional Governance Act*, by the ABCFP's legal counsel and senior staff, has identified number of provisions we believe are positive and will strengthen the role and ability of professional regulators under the Act, should it pass.

At the same time, we have also identified areas of concern and a number of drafting errors and unclear policy provisions. We remain committed to working with government to ensure that Bill 49, should it pass and become law, it functions as effectively as possible in implementation, despite our reservations about the necessity of a new Act and the creation of the Office of the Superintendent of Professional Governance. Read [more](#) on the Association of BC Forest Professionals website, and link to the summary of areas supported and a list of drafting errors and unclear policy statements.

Viewpoint: Five (More) Things You Should Know about the Proposed BC Environmental Assessment Act

From Blake, Cassels & Graydon LLP blog Business Class:

Recently, Sam Adkins and I commented on the Indigenous aspects of [Bill 51](#), the proposed legislation to replace BC's current [Environmental Assessment Act](#) (BCEAA). For more information, please see our November 2018 [Blakes Bulletin: Government of British Columbia Introduces Indigenous Consent Requirement for Major Projects](#). If you're considering a project in BC, here are five more things you should know about Bill 51.

1. There's No Guarantee That You Won't Have to Go Through an Environmental Assessment (EA) Process Under BCEAA, the EA process is triggered when someone proposes to build a "reviewable project". A reviewable project is a project that exceeds certain established thresholds, usually based on size or production capacity. While the responsible minister has the power to require other projects to go through an EA, this power is rarely exercised.

Under Bill 51, size won't matter – or at least as much as it used to. Bill 51 still anticipates predetermined thresholds that would automatically trigger an EA, which haven't been identified yet. However, Bill 51 also expands the minister's discretion to require other projects to go through an EA. In addition, anybody can apply to the minister for a project to be designated as a reviewable project.

To support this broader approach, Bill 51 effectively creates a further tier of projects that don't meet the established thresholds but fall within other (again yet-to-be-defined) categories. Someone proposing a project of this nature must formally notify the head of the B.C. Environmental Assessment Office (EAO). The project then can't proceed until the proponent has been told that no review is necessary, or any required review has been completed.

Read the [full article](#) by [Sandy Carpenter](#) with Blake, Cassels & Graydon LLP.

Public Invited to Comment on Proposed Fishing Regulation Changes

The public is invited to provide feedback on proposed changes to fishing regulations for the 2019-2021 Freshwater Fishing Regulations Synopsis.

A complete list and description of the proposed regulations can be viewed here:

<https://apps.nrs.gov.bc.ca/pub/ahte>

The proposals include changes to fishing methods, gear, bait, quotas, boundaries and fishery opening and closing dates. These changes are based on regional requirements and conditions, and aim to meet management objectives for native and invasive fish species, while maintaining sustainable angling opportunities for recreational fishers. Read the government [news release](#).

BC Faces Lawsuit: Fracking Dams Exempted from Environmental Review

A conservation group is suing the British Columbia government for deciding two oilpatch dams are exempt from environmental rules.

A conservation group is suing the BC government for exempting two oilpatch dams from environmental rules years after the dams were built.

"It seems like the government was really playing catch-up," Olivia French, the lawyer handling the lawsuit for the B.C. Sierra Club, said Monday. "Progress Energy acted with a bit of disregard for BC's laws – one of those typical, 'Ask for forgiveness, not for permission' sort of positions."

The lawsuit asks that the exemptions given the two dams be revoked. French said the issue is becoming too common in the province's northern natural gas fields. A statement of defence has not yet been filed and none of the lawsuit's claims has been proven in court. Progress Energy is an Alberta company owned by Malaysian oil giant Petronas. The dams were built in 2012 and 2014 to store water used by the company's fracking operations northwest of Fort St. John, BC. BC Environment Minister George Heyman said legal officials are looking into the two dams.

"It's very clear under the existing [Environmental Assessment Act](#) that proceeding with a project without undergoing an assessment is against the act," he said. "Four months ago we referred the results of our investigation to Crown counsel and it's now in their hands." Read *The Vancouver Sun* [article](#).

Report Says Experts Should Monitor BC's Efforts to Protect At-Risk Species

BC government efforts to protect species at risk should be monitored by a special independent scientific body, a team of conservation and biodiversity experts said in a study released October 30.

"This is a key idea that I think helps move to action quickly," said Brian Starzomski, a biodiversity professor at the University of Victoria. He was co-author of the Protecting Biodiversity In British Columbia study.

As the provincial government drafts species-at-risk legislation expected in 2019, Mr. Starzomski's team says the proposed oversight organization is central to their proposal for saving species at risk – a necessity given what the group describes as a "patchwork" of provincial laws and regulations it says has not prevented species loss and decline.

The group cites findings by the national Committee on the Status of Endangered Wildlife in Canada that 278 species are at risk of extinction in BC – the largest number in any Canadian province or territory – but notes that BC has no law to protect such species. Read *The Globe and Mail* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Tax Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Climate Change Accountability Act (formerly titled <i>Greenhouse Gas Reduction Targets Act</i>)	Nov. 9/18	by 2018 Bill 34, c. 32, sections 1, 3 and 4 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Closed Areas Regulation (76/84)	Nov. 22/18	by Reg 239/2018

Drinking Water Protection Regulation (200/2003)	Nov. 15/18	by Reg 237/2018
Environmental Management Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Greenhouse Gas Industrial Reporting and Control Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Hunting Regulation (239/2018)	Nov. 22/18	by Reg 239/2018
Logging Tax Regulation (166/2016)	Nov. 5/18	by Reg 229/2018

HEALTH

Health News:

Spotlight on Medical Implant Devices Spurs Regulatory Changes

In the past few days, there has been increased media attention in Canada and around the world on the safety, efficacy, and regulation of medical implant devices. This focus is on multiple reports of alleged adverse events related to certain medical implant devices, such as replacement hips, vaginal mesh, permanent contraceptives, spinal disc replacements, breast implants, pacemakers, and cardiac defibrillators.

Regulators around the world have been quick to announce plans to address some of the public concerns arising out of the international attention to these products. On November 26, 2018, the U.S. Food and Drug Administration unveiled its plans to update the regulatory review of certain medical devices sold and marketed in the United States. On November 29, 2018, the Canadian Federal Minister of Health announced that Health Canada would focus on strengthening pre-market approvals and post-market surveillance of medical devices, and recognizing the need for increased transparency. The key anticipated changes by Health Canada include:

- Review of the policies and scientific requirements for the approval of higher-risk medical devices. Presumably, this may suggest that a higher level of scientific evidence on safety and efficacy data would be required to be submitted by manufacturers for the purpose of obtaining a medical device license. There is some suggestion that this may include a requirement for clinical data for high-risk medical devices.

Read the [full article](#) by [Glenn Zakaib](#) and [Edona C. Vila](#) with Borden Ladner Gervais LLP.

BC Brings Gender-Affirming Surgery for Trans People Closer to Home

Transgender people in British Columbia will soon have access to publicly funded gender-affirming lower surgeries within the province, as British Columbia becomes the first province in western Canada to offer these procedures next year.

"The trans community has advocated over a number of years for improved access to care, including access to complex lower surgeries within BC," said Adrian Dix, Minister of Health. "For those seeking lower surgery, people were required to travel to Montreal or to the U.S., resulting in additional medical risks associated with travelling long distance after surgery and in receiving followup care if there were complications."

Reconstructive gender-affirming surgeries will be available within Vancouver Coastal Health starting in 2019. In addition, trans people throughout the province now have improved access to publicly funded gender-affirming chest and breast surgeries. A total of 14 surgeons will provide these surgeries in Burnaby, Kamloops, Kelowna,

Port Moody, Prince George, Vancouver and Victoria. Read the BC Government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
British Columbia Cancer Agency Research Information Regulation (286/91)	Nov. 15/18	by Reg 215/2018
Medical Research (BC Cancer Agency) and Health Status Registry Act (<i>statute revision of Health Act, RSBC 1996, c. 179</i>)	STATUTE REVISION Nov. 15/18	c. 1, RSBC 2018, in force by Reg 236/2018
Transfer of Union Board Powers and Duties Regulation (32/97)	REPEALED Nov. 15/18	by Reg 237/2018

LABOUR & EMPLOYMENT

Labour and Employment News:

Bill C-86: Federal Government Proposes Significant Changes to Minimum Labour Standards of *Canada Labour Code*

Through [Bill C-86](#), introduced in First Reading on October 29, 2018, the federal government is proposing to amend a number of provisions of Part III of the [Canada Labour Code](#) (the Code) prescribing minimum labour standards for federally-regulated employers.

These amendments result from consultations conducted by Employment and Social Development Canada (the ESDC) in 2017 and 2018 with individuals, trade unions, employers, university professors and other experts and groups advocating the reform of the Code. This article will identify the main legislative changes set out in the Bill.

Proposed Amendments

1. Hours of Work

Under the Bill, employees will be entitled to an unpaid break of at least 30 minutes during every five consecutive hours of work. Where an employee is required to remain at the disposal of the employer during the break period, that period will be with pay.

Employees will also be entitled to a minimum rest period of eight consecutive hours between each work period or shift.

Employers will be obliged to give employees written notice of their work schedules 96 hours before the start of their first work periods or shifts, otherwise employees can refuse to work. This new requirement will not apply to employees employed under the terms of a collective agreement that specifies an alternate time frame for providing the work schedule or which provides that this requirement does not apply to those employees.

2. Breaks for Medical Reasons or Nursing

The Bill proposes to allow employees to take unpaid breaks for medical reasons or for nursing or expressing breast milk.

Read the [full article](#) by Maryse Tremblay and Rose Massicotte with Borden Ladner Gervais LLP.

The British Columbia Supreme Court on Family Status Discrimination: Parenting Roles, Stereotypes and In-Flux Jurisprudence

The recent British Columbia Supreme Court ("BCSC") decision in [Envirocon Environmental Services, ULC v. Suen](#) confirms that the law in British Columbia with respect to family status discrimination remains unsettled. The decision also provides insight into the reasoning of the British Columbia Human Rights Tribunal (the "Tribunal") regarding parenting roles and stereotypes and the interpretation of the purposes underlying the British Columbia *Human Rights Code* (the "Code").

Facts

Mr. Suen worked as a project manager based out of Burnaby, B.C., for Envirocon Environmental Services, ULC ("Envirocon"), a company providing environmental remediation services across Canada. As a project manager, Mr. Suen was sometimes temporarily assigned to projects out of town, but he was able to work remotely or fly home to Vancouver during these assignments at Envirocon's expense.

Read the [full article](#) by Donovan Plomp with McCarthy Tétrault LLP.

Province to Regulate Recruitment of Temporary Foreign Workers

On November 8, 2018, British Columbia's government passed Bill 48, the [Temporary Foreign Worker Protection Act](#) (the "Act"). While the measures included in the Act will not come into effect until the government issues additional regulations next year, employers that rely on temporary foreign workers may want to familiarize themselves with their forthcoming legal responsibilities.

The Act establishes a registry for recruiters and employers of temporary foreign workers. Enrollment requires that foreign worker recruiters be individually licensed. Similarly, employers of temporary foreign workers will be required to be certified before recruiting the services of a temporary foreign worker. The exact process by which recruiters and employers will apply and be licensed or certified has yet to be defined. Read the [full article](#) by [Deborah Cushing](#) and [Jason Harman](#) of Lawson Lundell LLP.

**Human Rights Amendment Act, 2018
Receives Royal Assent**

The *Human Rights Amendment Act, 2018* ([Bill 50](#)), received Royal Assent [November 27th]. The following amendments come into effect on Royal Assent

- The time limit for filing a complaint is now one year. Sections [22](#) and [27\(1\)\(g\)](#) are amended.
- The Tribunal has amended the forms and Rules to reflect this change.
- The office of the Human Rights Commissioner is created and given powers. The Commissioner has the right to intervene in a complaint. [Section 22.1](#) and the definition of "intervenor" are amended. [Sections 5 and 6](#) of the [Code](#) are repealed.

Read the [news bulletin](#) on the BC Human Rights Tribunal website.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Dec. 1/18	by Reg 248/2018
Employment and Assistance Regulation (265/2002)	Dec. 1/18	by Reg 248/2018
Human Rights Code	Nov. 27/18	by 2018 Bill 50, c. 48, sections 1, 3 to 6, 9 and 12 only (in force by Royal Assent), Human Rights Code Amendment Act, 2018
Human Rights Code Regulation (373/96)	REPEALED Nov. 27/18	by 2018 Bill 50, c. 48, section 17 only (in force by Royal Assent), Human Rights Code Amendment Act, 2018
Public Education Flexibility and Choice Act	REPEALED Nov. 8/18	by 2018 Bill 41, c. 43, section 1 only (in force by Royal Assent), Advanced Education Statute Repeal Act
Public Sector Employers Act	Nov. 27/18	by 2018 Bill 55, c. 53, section 78 only (in force by Royal Assent), Passenger Transportation Amendment Act, 2018

Workers Compensation Act	Nov. 27/18	by 2018 Bill 57, c. 49, section 18 only (in force by Royal Assent), Attorney General Statutes Amendment Act, 2018
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LOCAL GOVERNMENT

Local Government News:

Climate Change and Asset Management Primer

[Climate Change and Asset Management – A Sustainable Service Delivery Primer](#) was developed in partnership between the Ministry of Municipal Affairs and Housing, UBCM and Asset Management BC. The Primer introduces an approach for integrating climate change considerations throughout the asset management process.

For many asset intensive services, climate change makes it more difficult to deliver desired levels of service. It amplifies risk and increases costs required to manage these risks.

The greatest impacts are to transportation systems, buildings, water management systems, and marine infrastructure. These assets represent the majority of local government infrastructure assets.

Climate change will also impact natural assets, which play a critical role in service delivery for all communities. Wetlands, creeks, deltas, foreshore areas, forests, groundwater aquifers, and other natural assets are all vulnerable to the effects of climate change. However, these natural assets can also provide opportunities to increase community resilience to the impacts of climate change and carbon storage to mitigate changing climate. Read the UBCM [article](#).

Off-Street Parking Rights Tax Increased in Metro Vancouver

[Amendments](#) made to [South Coast British Columbia Transportation Authority Act](#) on November 9th will allow TransLink to increase the rate of parking rights tax to a maximum of 24 per cent of the purchase for off-street parking. The tax revenue will support TransLink's ability to invest in and expand the regional transportation system, including major bus and rapid transit improvements.

Gaming Control Act Amended

On November 27, 2018, the [Gaming Control Act](#) was amended by [Bill 57](#), to address some of the recommendations in Dr. Peter German's report on money laundering in BC's gambling industry – *Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos*. The amendments aim to provide new authorities to the gaming policy and enforcement branch to begin the process of creating a more independent regulator.

Act or Regulation Affected	Effective Date	Amendment Information
Administration Delegation Regulation (136/2004)	Nov. 27/18	by Reg 245/2018
Assessment Act	Nov. 27/18	by 2018 Bill 45, c. 46, section 152 only (in force by Royal Assent), Speculation and Vacancy Tax Act
Bylaw Notice Enforcement Regulation (175/2004)	Nov. 28/18	by Reg 244/2018
Community Charter	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
		by 2018 Bill 57, c. 49, sections 22 to 24 only (in

Gaming Control Act	Nov. 27/18	force by Royal Assent), Attorney General Statutes Amendment Act, 2018
Home Owner Grant Act	Nov. 27/18	by 2018 Bill 45, c. 46, section 153 only (in force by Royal Assent), Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018
Local Elections Campaign Financing Expense Limit Regulation (309/2016)	Nov. 27/18	by Reg 243/2018
Local Government Act	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Port Improvements (Berth Corridor) Tax Exemption Regulation (198/2004)	Nov. 27/18	by Reg 242/2018
South Coast British Columbia Transportation Authority Act	Nov. 8/18	by 2018 Bill 46, c. 44, sections 1 to 9 only (in force by Royal Assent), South Coast British Columbia Transportation Authority Amendment Act (No. 2), 2018
Safety Standards Act	Nov. 30/18	by 2018 Bill 36, c. 36, sections 31 to 43 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Taxation (Rural Area) Act	Nov. 27/18	by 2018 Bill 45, c. 46, sections 159 and 160 only (in force by Royal Assent), Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018
Vancouver Charter	Nov. 9/18	by 2018 Bill 34, c. 32, section 5 only (in force by Reg 235/2018), Greenhouse Gas Reduction Targets Amendment Act, 2018
Worker Qualification Regulation	Nov. 30/18	by Reg 214/2018

MISCELLANEOUS

Miscellaneous News:

BC Privacy Commissioner Issues Guidance Regarding Cannabis Transactions

Following the recent legalization of cannabis, private retailers are open for business from coast to coast. While cannabis remains illegal in other jurisdictions, cannabis users' personal information is highly sensitive. In light of this, British Columbia's Privacy Commissioner has issued a [guidance document](#) to help retailers understand their obligations.

The guidance is rooted in the Commissioner's interpretation of the [Personal Information Protection Act](#) (British Columbia), in particular [section 11](#), which provides that "...an organization may collect personal information only for purposes that a reasonable person would consider appropriate in the circumstances..."

The Commissioner emphasizes retailers' need to inform individuals about what personal information is being collected, and the purposes for such collection; and recommends a set of best practices for cannabis retailers. Read the [full article](#) by Michael R. Whitt Q.C., James D. Beeby, Stephen D. Burns, Kees de Ridder and Graeme S. Harrison with Bennett Jones LLP.

Impeachment by Prior Inconsistent Statement

– from CLEBC – Practice Points

In this paper, The Honourable Peter D. Leask, QC provides an overview of the legislative framework governing impeachment by prior inconsistent statement, discusses the proper method for deploying the skill, and shares his views on how best to plan and conduct this type of impeachment. View [PDF](#) of the paper.

Act or Regulation Affected	Effective Date	Amendment Information
Class Proceedings Act	Nov. 27/18	by 2018 Bill 57, c. 49, sections 19 to 21 only (in force by Royal Assent), Attorney General Statutes Amendment Act, 2018
Committees of the Executive Council Regulation (156/2017)	Nov. 26/18	by Reg 241/2018
Electoral Reform Referendum 2018 Act	Nov. 27/18	by 2018 Bill 40, c. 55, section 1 only (in force by Royal Assent), Electoral Reform Referendum 2018 Amendment Act, 2018
Freedom of Information and Protection of Privacy Act	Nov. 27/18	by 2018 Bill 50, c. 48, sections 18 and 19 only (in force by Royal Assent), Human Rights Code Amendment Act, 2018
Negligence Act	Nov. 27/18	by 2018 Bill 57, c. 49, section 15 only (in force by Royal Assent), Attorney General Statutes Amendment Act, 2018
Poverty Reduction Strategy Act	NEW Nov. 8/18	c. 40, SBC 2018, 2018 Bill 39 , whole Act in force by Royal Assent
Recall and Initiative Act	Nov. 8/18	by 2018 Bill 53, c. 41, sections 1 to 51 only (in force by Royal Assent), Recall and Initiative Amendment Act, 2018

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Ottawa Warns that a Crackdown on Impaired Drivers is Fast Approaching

Liberal ministers are warning that the risk of being nabbed for impaired driving will increase "exponentially" this holiday season – even as they concede their new impaired driving law is likely to face a court challenge.

Justice Minister Jody Wilson-Raybould and Border Security and Organized Crime Reduction Minister Bill Blair held a news conference Tuesday [December 4th] to remind Canadians that in two weeks, they will be subject to mandatory alcohol screening if they're stopped by police.

"That, frankly, is a game-changer," Blair said. "And what we want all Canadian drivers to understand is that ... should you make the criminal choice to drive under the influence of alcohol or drugs, the likelihood of getting caught is about to increase exponentially because the police have new authorities and new tools to make a determination whether or not that individual has alcohol in their system." Read the [CBC article](#).

Unsmoked Pot Pipe Earns Driver First \$230 Cannabis Ticket in West Van

Weed may now be legal in Canada but there are restrictions that users need to pay attention to.

That's what a Calgary man learned the hard way early Tuesday [November 6th] morning when he was stopped at a westbound roadblock on the Lions Gate Bridge and handed a \$230 ticket under the new B.C. [Cannabis Control and Licensing Act](#).

The 23-year-old wasn't high and wasn't driving poorly. But he did have an unlit pipe full of marijuana sitting on the centre console of his Jeep.

"It is important for drivers to make themselves aware of what is and isn't prohibited," said Const. Jeff Palmer of the West Vancouver Police Department. "This issue isn't that the cannabis is possessed to be used. The issue is there's a prohibition of it being possessed in such a way in a motor vehicle."

The *Cannabis Control and Licensing Act* [section 81\(1\)\(a\)](#) says "an adult must not operate a vehicle ... while the adult has personal possession of cannabis." Read the [full article](#) by Karin Larsen on CBC News.

Stricter Regulations for Commercial Drivers Will Improve Highway Safety

Enhanced chain-up regulations are now in place for commercial vehicle operators, which will mean safer BC highways and improved vehicle performance during winter conditions. "Last winter, 33 of 35 extended closures on the Coquihalla involved commercial vehicles, and in most cases this was due to truck drivers either poorly installing chains or not using them at all," said Claire Trevena, Minister of Transportation and Infrastructure. "While most drivers do chain up during winter weather, these new regulations, and the stricter fines that will follow will improve safety and hopefully reduce the number of closures."

Previous regulations only required vehicles over 27,000 kilograms to carry and use traction devices, with only one wheel needing chains during winter conditions and mandatory chain-ups. The new, more all-encompassing enhancements clarify requirements for all commercial vehicles over 5,000 kilograms: Read the full government [news release](#).

BC Aims to Set Zero-emission Standard on all New Light-duty Cars and Trucks by 2040

British Columbia is set to introduce legislation next spring that will set the province up to require all new light-duty cars and trucks that are sold to be zero-emission vehicles by the year 2040.

The legislation will set targets of 10 per cent zero-emission vehicles sales by 2025, 30 per cent by 2030, and 100 per cent by 2040. As part of the plan, the province will boost the incentive program, administered by the New Car Dealers Association of BC, by \$20 million this year to encourage more British Columbians to buy clean energy cars. Read the full *Global News* [article](#).

Pedestrian Found 80% at Fault for Being Struck While Jaywalking

Reasons for judgement were published this week by the BC Court of Appeal upholding a trial judge's assessment of fault for a pedestrian/vehicle collision.

In the recent case ([Vandendorpel v. Evoy](#)) the Plaintiff was struck while crossing a street. He was at a light controlled intersection. He pressed the button to activate the pedestrian walk signal but did not wait for the signal to come on. Instead, he proceeded to cross the street while the signal for traffic in his direction was still red. The Defendant was driving marginally over the speed limit and entered the intersection on a fresh yellow light striking the jaywalking pedestrian. At trial the plaintiff was found 80% at fault for the crash. In upholding this result the BC Court of Appeal agreed with the following reasoning of the trial judge: Read the [full article](#) by [Erik Magraken](#) with McIsaac and Company.

Ride Hailing in BC: Where is it going?

BC's riding public wants more options, Uber is vexed by the province's new rules and taxi drivers worry about disruptions. Dressed in a black and white Adidas track suit, with bluetooth headphones in his ears, 27-year-old Sunni Bains sits outside the Blackball ferry terminal waiting for a fare. Bains owns his Victoria Taxi cab and after five years in the business, he's now making a comfortable living. Other than the frustrations of traffic and the occasional bad driver, Bains said he likes his job. But like many taxi drivers in BC, Bains is worried about the disruptions ride hailing will bring. Read the *Times Colonist* [article](#).

CVSE Bulletins & Notices

The following notices have been posted in November by CVSE:

- [CT Notice 04-18](#) – Reminder That Axles Within the Drive Axle Group Must Be Connected to the Power

Source of a Motor Vehicle

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

Act or Regulation Affected	Effective Date	Amendment Information
Commercial Transport Act	Nov. 27/18	by 2018 Bill 55, c. 53, sections 52 and 53 only (in force by Royal Assent), Passenger Transportation Amendment Act, 2018
Insurance Corporation Act	Nov. 27/18	by 2018 Bill 55, c. 53, sections 55 and 56 only (in force by Royal Assent), Passenger Transportation Amendment Act, 2018
Insurance (Vehicle) Act	Nov. 27/18	by 2018 Bill 55, c. 53, section 61 only (in force by Royal Assent), Passenger Transportation Amendment Act, 2018
Insurance (Vehicle) Regulation (447/83)	Nov. 9/18	by Reg 234/2018
Motor Vehicle Act Regulation (26/58)	Nov. 28/18	by Reg 246/2018
Passenger Transportation Regulation (266/2004)	Dec. 1/18	by Reg 249/2018

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

Proposed Policy Amendments Regarding Instalment Model for Quarterly Reporting

WorkSafeBC calculates assessments based on payroll. Employers with an annual assessment of \$1,500 or more are generally required to report payroll and remit assessment premiums on a quarterly basis. At issue are changes to policy to reduce reporting requirements for these employers. These changes are intended to simplify reporting and payment requirements for employers and improve their experience with WorkSafeBC.

The Policy, Regulation and Research Division is releasing a discussion paper with options on proposed policy regarding an instalment model for quarterly reporting to stakeholders for comment. Read the full [WorkSafeBC news release](#).

Potential Health and Safety Risks of Processing Burnt Timber

In the fall of 2017, after a record-setting wildfire season in the history of BC, the provincial government estimated that 53 million cubic metres of timber had been burned in the Interior – an entire year's worth of harvest. It looks as though this year's wildfire season will be similarly severe, although inventories are not yet complete. Some of that timber was and will be salvageable, but processing fire-damaged wood presents its own set of risks and hazards that need to be evaluated, planned for, and mitigated. In addition to the technological and quality issues that can arise, potential health and safety risks to workers need to be addressed by employers. The most immediate exposure hazards for sawmill workers handling burnt timber are the ash and char that accompany the fire-damaged wood. Ash and char from forest fires can be complex mixtures that will vary depending on the temperature of the fire. Char is composed of a variety of carbon-based compounds which are formed at lower fire temperatures, some of which may be carcinogenic. As char is only partially combusted wood, char dust will remain combustible. Higher-temperature fires will also result in wood ash (calcium carbonate), which is no longer combustible but is a lung irritant. Char dust and wood ash are both much finer than wood dust and are easily breathable; long-term, repeated exposure at high concentrations have the potential to cause respiratory illness. Short-term health effects from exposure to wood char and ash can include

eye, nose, and throat irritation; coughing; and allergic reactions. In the long term, exposure may lead to more serious health issues, including lung diseases such as chronic obstructive pulmonary disease (COPD). Read the [full article](#) by Barry Nakahara, WorkSafeBC's Manager of Prevention Field Services in Prince George, and manager of interest for the Manufacturing and Occupational Disease Strategies – published in the November/December issue of the *ABC FP BC Forest Professional*.

WorkSafeBC Launches Process Safety Initiative

WorkSafeBC has launched a new initiative around process safety in order to help prevent low-frequency, high-consequence events, such as catastrophic fires, explosions, chemical releases and structural collapses. "Process safety is a form of risk assessment that aims to identify any significant hazards and threats at a work site and implement critical controls to mitigate any harm," WorkSafeBC said in a news release. "The goal is to prevent the release of any highly hazardous substances — such as flammable and explosive chemicals, toxic gases and combustible dust — that could lead to catastrophic consequences for workers and the public."

A team of prevention officers, engineers, risk analysts and human factors specialists at the agency have come together to conduct inspections and engage employers in process safety. "We are looking at the types of hazards and the risks they pose that are specific to each employer, and how they are managing and controlling those risks," said Gordon Harkness, manager, risk analysis unit, WorkSafeBC. "We want employers to manage the risks that are created through their processes."

The initiative is focusing on chemical manufacturing and processing, oil and gas and wood products manufacturing. "We see process safety as the next logical step in the journey that we've been working on with health and safety in the province," said Budd Phillips, manager, prevention field services, WorkSafeBC. Read the [full article](#) on the Canadian Occupational Safety website.

Act or Regulation Affected	Effective Date	Amendment Information
Safety Standards Act	Nov. 30/18	by 2018 Bill 36, c. 36, sections 31 to 43 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018

PROPERTY & REAL ESTATE

Property and Real Estate News:

Strata Developers Must Act Quickly to Comply with New Assignment Registry Requirements

On November 5, 2018, the provincial government of British Columbia approved amendments to the [Real Estate Development Marketing Act](#) and the [Real Estate Development Marketing Regulation](#), in order to facilitate disclosure of information to provincial and federal authorities. Effective January 1, 2019, these amendments will require developers to (among other things):

1. include certain prescribed terms and notices in their purchase agreements and their disclosure statements, in order to inform buyers of information collection and reporting requirements (which are triggered by an assignment of a purchase agreement);
2. collect certain prescribed information from assignors and assignees of purchase agreements;

Read the [full article](#) by Michael Wilson of Clark Wilson LLP.

Using Strata Lot for Short-term Accommodation Wasn't a Breach of Strata's Residential-use, Rental Bylaws: BC Supreme Court

In *Semmler v The Owners, Strata Plan NES3039*, [2018 BCSC 2064](#), the Supreme Court of British Columbia found that a strata-lot owner's use of her strata lot for short-term accommodation didn't violate two strata-corporation bylaws, one of which forbade the use of a strata lot for "any business purpose" and the other of which stated "No strata lot may be rented for term of less than thirty (30) consecutive days." The case turned largely on the wording of the two bylaws at issue. It illustrates the importance of taking care in drafting such bylaws.

Semmler concerned a strata property that was "comprised of recreational lots and is known as Valley's Edge Resort," located in Edgewater, British Columbia. There were "201 recreational lots in the Strata, made up of 94

cottage lots, 6 park model lots, and 101 recreational vehicle lots." Read the [full article](#) by Kevin Zakreski with the BC Law Institute.

Change to Strata Property Regulation

Effective November 30, a change to the [Strata Property Regulation](#) will help strata corporations enforce short-term rental bylaws and address issues arising from short-term rentals, while maintaining long-term rentals in the market. Strata corporations can now impose maximum fines up to \$1 000 a day on owners or residents who do not comply with bylaws that restrict or ban short-term rentals.

Act or Regulation Affected	Effective Date	Amendment Information
Bare Land Strata Regulations (75/78)	Nov. 15/18	by Reg 234/2018
Compensation Action Procedure Rule Regulation (100/2005)	Nov. 15/18	by Reg 237/2018
Land Tax Deferment Act	Nov. 27/18	by 2018 Bill 45, c. 46, section 155 only (in force by Royal Assent), Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018
Property Transfer Tax Act	Nov. 27/18	by 2018 Bill 45, c. 46, sections 156 and 157 only (in force by Royal Assent), Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018
Speculation and Vacancy Tax Act	NEW Nov. 27/18	c. 46, SBC 2018, 2018 Bill 45 , whole Act in force by Royal Assent
Strata Property Regulation	Nov. 30/18	by Reg 162/2018

WILLS & ESTATES

Wills and Estates News:

Moore v. Sweet

On November 23, 2018, the Supreme Court of Canada released its decision in [Moore v. Sweet](#), 2018 SCC 52, in which the majority imposed a remedial constructive trust on the proceeds of a life insurance policy in favour of the life insured's former spouse. The life insured, and owner of the policy, Lawrence Anthony Moore, had orally agreed with his former spouse, Michelle Constance Moore, that he would retain her as the beneficiary of his life insurance policy, if she paid the insurance premiums. She did so, paying approximately \$7,000 in premiums after her separation from Mr. Moore. He broke his promise to her, by appointing his new common-law spouse, Risa Lorraine Sweet, as the irrevocable beneficiary. The policy paid out \$250,000. At death, Mr. Moore's estate was insolvent. Read the [full article](#) by [Stan Rule](#) of Sabey Rule LLP.

(Re:) Toigo Estate and the Power of Encroachment

When implementing an estate plan that involves a life interest, such as a spousal trust, it is typical to grant the Trustee a power to encroach on the capital of the trust for the benefit of the life interest beneficiary. A recent case out of British Columbia provides a reminder that such encroachment powers should be carefully considered and drafted to ensure that the testator's estate planning goals are achieved.

In [\(Re:\) Toigo Estate](#), the Trustees of the Estate of Peter Toigo sought the Court's approval of a resolution allowing for an encroachment of capital in favour of the Testator's spouse. The Trustees sought the Court's declaration that their exercise of discretion was lawful.

The Testator created a spousal trust in his Will under which his wife was entitled to receive the net income of the Estate during her lifetime. The Will granted the Trustees uncontrolled discretion to encroach on the capital of the

spousal trust in favour of the spouse. Following the spouse's death, the residue was to be divided into twelve equal shares: one share for each of the couple's children, and one share for each of the six grandchildren groups (in other words each group of grandchildren siblings received one share to divided equally amongst them). Read the [full article](#) by [Carolyn Hogan](#) with Miller Thomson LLP.

The Value of Digital Assets and Why It Should Not Be Ignored in Estate Planning

Your house, children, jewelry and art, these are all the typical items a person will think about when planning their Estate. However, what is often forgot about is a person's digital assets. In a report on digital assets, Kimberly Whaley, defines digital assets as digital photos, word and excel documents, blogs, iTunes collection, tweets, or even Airmiles points. A report by Deloitte estimates that by 2020, the average Canadian will have accumulated over \$10,000 in digital assets. Yet, BMO Wealth Institute finds over 57% of Canadians have failed to plan for their digital assets in their estate plans. With an increasing trend towards the digital way of life, it is key that one keeps their digital assets in mind when planning their Estate. This post attempts to demonstrate why digital assets are so important, and what steps can and should be taken to protect ones digital assets after death. Read the [full article](#) by [Marika Cherkawsky](#) of McLennan Ross LLP.

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

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