

Quickscribe Reporter

Vol: XVII – Issue: X – October 2018

QUICKSCRIBE NEWS:

New Bills Introduced

Recent government bills tabled at the time of the release this Reporter include:

- [Bill 36](#), Miscellaneous Statutes Amendment Act (No. 3), 2018 – *partially in force by RA*
- [Bill 37](#), Land Statutes Amendment Act, 2018 – *partially in force by RA*
- [Bill 38](#), Opioid Damages and Health Care Costs Recovery Act – *in force by RA*
- [Bill 39](#), Poverty Reduction Strategy Act – *second reading*
- [Bill 40](#), Electoral Reform Referendum 2018 Amendment Act, 2018 – *first reading*
- [Bill 41](#), Advanced Education Statute Repeal Act – *second reading*
- [Bill 42](#), Assessment Amendment Act, 2018 – *in force by RA*
- [Bill 43](#), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018 – *in force by RA*
- [Bill 44](#), Budget Measures Implementation (Employer Health Tax) Act, 2018 – *second reading*
- [Bill 45](#), Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018 – *second reading*
- [Bill 46](#), South Coast British Columbia Transportation Authority Amendment Act (No. 2), 2018 – *second reading*
- [Bill 48](#), Temporary Foreign Worker Protection Act – *second reading*
- [Bill 49](#), Professional Governance Act – *second reading*
- [Bill 50](#), Human Rights Code Amendment Act, 2018 – *first reading*
- [Bill 51](#), Environmental Assessment Act – *first reading*
- [Bill 52](#), Agricultural Land Commission Amendment Act, 2018 – *first reading*
- [Bill 53](#), Recall and Initiative Amendment Act, 2018 – *first reading*
- [Bill 54](#), Lobbyists Registration Amendment Act, 2018 – *first reading*

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.

Latest Annotations

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

- [Anita Mathur](#), BC Oil & Gas Commission – [Oil and Gas Activities Act](#)
- [Stanley Rule](#), Sabey Rule LLP – [Wills, Estates and Succession Act](#)
- [Mary Brunton](#), Reed Pope Law Corporation – [Strata Property Act](#)
- [Greg Gehlen](#), Gehlen Dabbs Lawyers – [Limitation 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:

The New Budget Measures Implementation (Employer Health Tax) Act, 2018

This [Bill](#) imposes a tax, effective for the 2019 calendar year, on the remuneration paid by employers to or on behalf of employees that report for work in British Columbia. Subject to the provisions of the Bill that provide otherwise, the tax is paid at a rate of 1.95% of the BC remuneration paid by the employer during the calendar year. If the remuneration paid by the employer is less than \$500 000, no tax is payable. If the remuneration paid by the employer is greater than \$500 000 but not greater than \$1 500 000, tax is paid at a rate of 2.925% of the amount by which the remuneration paid exceeds \$500 000. The Bill provides for proration of these thresholds if the employer has a permanent establishment in British Columbia for only part of the calendar year. The Bill provides for different thresholds for charitable or non-profit employers and, in the case of a charitable or non-profit employer with 2 or more qualifying locations, allows the tax payable to be calculated in respect of each qualifying location. The Bill also does the following:

- provides specific rules for determining the amount of remuneration paid by the employer, determining whether the employer has a permanent establishment in British Columbia and determining whether an employee reports for work at a permanent establishment of the employer;
- provides specific rules for associated employers;
- incorporates, by reference, provisions of the Income Tax Act (Canada) and modifies those provisions for the purposes of this Bill;
- provides transitional rules for the purposes of the 2019 calendar year and provides for amendments to this Bill.

Amendments to Canadian Private Placement Reporting Requirements Come into Force

This bulletin highlights some important aspects of the recent amendments (the "Amendments") to [National Instrument 45-106 – Prospectus Exemptions](#), its related companion policy and Form 45-106F1 (the "Report"), as they relate to reporting sales of securities in Canada under private placement prospectus exemptions. The Amendments came into force on October 5, 2018.

When distributing securities in Canada using a prospectus exemption, an issuer or underwriter (the "Filer") is generally required to report the sale of these securities to Canadian securities regulators. In June 2016, a number of new reporting rules were implemented that changed the private placement reporting regime. This resulted in certain unintended consequences, particularly for foreign dealers and Canadian institutional investors. The purpose of the Amendments is to address a number of issues encountered by these impacted parties and the following discusses some of them. Read the [full article](#) by [Robert Black](#) and [Grace Latimer](#) with DLA Piper LLP.

British Columbia Court of Appeal Reforms Fresh Consideration Principles

In a recent decision, *Rosas v Toca*, [2018 BCCA 191](#) [*Rosas*], the British Columbia Court of Appeal turned sharply away from traditional contract law principles by holding that parties may modify a contract without providing fresh consideration. In *Rosas*, the Court of Appeal held that when parties to a contract agree to vary its terms, the variation is enforceable without consideration, absent duress, unconscionability or other public policy concerns. While *Rosas* involved the modification of an informal loan agreement among friends, the Court of Appeal's decision, if widely adopted in British Columbia and elsewhere in Canada, could have significant

implications on the enforceability of contractual modifications.

Background

In January 2007, Ms. Rosas lent \$600,000 to her friend Ms. Toca. Ms. Toca used the loan to purchase a house. The friends agreed that the loan would be repaid without interest in one year. In the ensuing years, Ms. Toca repeatedly requested permission to delay the loan repayment, saying she would repay the loan "next year", "in a year", or "after a year." Ms. Rosas accommodated Ms. Toca's requests. In July 2014, Ms. Rosas commenced an action against Ms. Toca seeking repayment of the loan. The action was commenced more than seven years after Ms. Rosas originally advanced the loan to Ms. Toca.

Read the [full article](#) by [Denise D. Bright](#), Alexis E. Teasdale & Isabel Langlois with Bennett Jones LLP.

"Best Efforts" Doesn't Automatically Apply to all Conditional Financing Provisions, BC Court Holds

British Columbia's Court of Appeal has upheld a ruling that declined to apply a "best efforts" requirement to the fulfillment of a financing condition in a real estate purchase agreement.

- The case, [Gordon Nelson Inc. v. Cameron](#), arose in the context of a real estate acquisition agreement.
- One condition of the agreement (the "financing condition") was that the purchaser find suitable financing within 45 days.
- Neither of the two mortgage brokers approached by the purchaser was able to arrange a loan large enough to pay for the \$7 million purchase.
- The purchaser concluded that "suitable financing" was not available and refused to proceed with the purchase. In turn, the vendor refused to refund the purchaser's deposit, giving rise to this litigation.
- The B.C. Supreme Court found for the purchaser, a decision that was unanimously upheld in this ruling by the Court of Appeal.

Financing Clause

The case turned on the following financing clause: The offer is subject to the following conditions: The Buyer finding, in their sole discretion, suitable financing for the property within 45 business days of receipt of a satisfactory Phase I environmental report for the subject property. This condition is for the sole benefit of the Buyer.

Read the [full article](#) by [Andrew S. Cunningham](#) with Stikeman Elliott LLP.

FICOM News

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

- [Consumer Alert](#) – Claiming a refund for improperly sold pay day lender creditor group insurance
- [Pensions](#) – Government consultation on Solvency Funding of DB Plans
- [Insurance Bulletins](#) – INS-18-001 - INS-18-004
- [Letter to Insurance](#) – 2018 Annual Update to the Manual of Financial Reporting Forms and Instructions for Life Insurance Companies and Fraternal Benefit Societies
- [Letter to Insurance](#) – 2018 Annual Update to the Manual of Financial Reporting Forms and Instructions for Property and Casualty Insurance Companies
- [Trust Bulletins](#) – TR-18-001
- [Insurance Bulletins](#) – INS-18-005 - INS-18-007
- [Credit Union Advisory](#) – Coast Capital Savings Credit Union

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 October:

- [81-102](#) – CSA Notice of Amendments - Modernization of Investment Fund Product Regulation - Alternative Mutual Funds
- [45-308](#) – CSA Staff Notice 45-308 (Revised) *Guidance for Preparing and Filing Reports of Exempt Distribution under National Instrument 45-106*
- [45-106](#) – Adoption of Amendments to National Instrument 45-106 Prospectus Exemptions and Change to Companion Policy 45-106CP Prospectus Exemptions relating to Reports of Exempt Distribution
- [51-357](#) – CSA Staff Notice 51-357 *Staff Review of Reporting Issuers in the Cannabis Industry*
- [11-338](#) – CSA Staff Notice 11-338 *CSA Market Disruption Coordination Plan*

- [24-102](#) – CSA Notice and Request for Comment - Proposed Amendments to National Instrument 24-102 *Clearing Agency Requirements* and Proposed Changes to Companion Policy 24-102 *Clearing Agency Requirements*
- [31-103](#) – CSA Notice and Request for Comment Proposed Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* - Custody-Related Amendments
- [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
Assessment Act	Oct. 31/18	by 2018 Bill 42, c. 38, section 1 (in force by Royal Assent), Assessment Amendment Act, 2018
Assessment Authority Act	RETRO to May 17/80	by 2018 Bill 43, c. 39, section 1 (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Business Corporations Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 19 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Business Practices and Consumer Protection Act	Oct. 17/18	by 2018 Bill 30, c. 29, s. 142 only (in force by Reg 202/2018), Cannabis Control and Licensing Act
Business Number Regulation (388/2003)	Oct. 17/18	by Reg 201/2018
Chartered Professional Accountants Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 24 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Cooperative Association Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 20 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Credit Union Incorporation Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 21 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
		by 2018 Bill 43, c. 39, section 7 (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Designated Accommodation Area Tax Regulation (93/2013)	Oct. 1/18	by Reg 144/2018
	Nov. 1/18	by Regs 195/2018 and 225/2018
Financial Information Act	Oct. 26/18	by Reg 223/2018
International Commercial Arbitration Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 12 (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018

National Instrument 45-106 <i>Prospectus Exemptions</i>	Oct. 5/18	by Reg 198/2018
Provincial Sales Tax Act	Oct. 1/18	by 2018 Bill 2, c. 4, sections 69, 79, 80 and 87 only (in force by Reg 141/2018), Budget Measures Implementation Act, 2018
	Oct. 17/18	by 2018 Bill 30, c. 29, s. 159 only (in force by Reg 202/2018), Cannabis Control and Licensing Act
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	Oct. 1/18	by Reg 141/2018
	Oct. 17/18	by Reg 212/2018
	Oct. 26/18	by Reg 227/2018
Provincial Sales Tax Regulation (96/2013)	Oct. 1/18	by Reg 141/2018
	Oct. 17/18	by Reg 211/2018
Societies Act	Oct. 1/18	by 2018 Bill 24, c. 23, sections 18 to 20 and 22 to 24 only (in force by Reg 192/2018), Miscellaneous Statutes Amendment Act (No. 2), 2018
Societies Transition Interim Regulation (99/2016)	REPEALED Oct. 1/18	by Reg 192/2018
Small Business Venture Capital Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 25 (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Societies Act	Oct. 31/18	2018 Bill 36, c. 36, section 23 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Tobacco and Vapour Products Control Act	Oct. 17/18	by 2018 Bill 30, c. 29, s. 162 only (in force by Reg 202/2018), Cannabis Control and Licensing Act
Tobacco and Vapour Products Control Regulation (232/2007)	Oct. 5/18	by Reg 213/2018
	Oct. 17/18	

ENERGY & MINES

Energy and Mines News:

Public Input Sought on Water Use in Mineral Exploration and Small-scale Placer Mining

The Government of British Columbia is proposing to make temporary provisions for water use in mineral exploration and small-scale placer mining operations a permanent part of the *Water Sustainability Act* regulations, and has released an intentions paper for public comment.

Historically, water use for prospecting did not require an authorization. Legislation and policy at the time considered mineral exploration and small-scale placer mining as prospecting. This changed in 2016 with the narrow definition of prospecting under the [Water Sustainability Act](#), and individuals undertaking these activities became subject to the requirement to obtain an authorization to use water.

In light of existing permitting requirements and restrictions for these activities under the [Mines Act](#), government put in place temporary rules to allow the use of available water for mineral exploration and small-scale placer mining activities without an authorization, subject to additional restrictions under the [Water Sustainability Regulation](#). Read the government [news release](#).

Cryptocurrency Mining: The Legal Issues

Blockchain technology and its application to cryptocurrencies are becoming increasingly prominent in Quebec. While the technology has been in existence for some 10 years, the development of large-scale real estate projects dedicated to cryptocurrency mining is currently in full swing. The availability of large tracts of land, the relatively cold climate and the low cost of electricity combine to make Quebec a favourable environment for the development and growth of this industry.

It is against this backdrop that Hydro-Québec recently asked Quebec's energy regulator, the *Régie de l'énergie* (the "Board") to intervene pursuant to ministerial order no. 2018-004 of the Ministry of Energy and Natural Resources ("Order 2018-004"). The subsequent decisions of the Board will impact the majority of entrepreneurs engaged in cryptocurrency mining using Blockchain technology in Quebec.

In this regard we are publishing a series of bulletins on the legal issues specific to cryptocurrency mining, of which this first is a summary of the four major impacts of Order 2018-004 and the Board's subsequent decisions.

1. Suspension of requests for electricity by the Ministry of Energy and Natural Resources

On May 31, 2018, the Ministry of Energy and Natural Resources issued Order 2018-004, suspending the processing of new requests for electricity for cryptographic processes involving blockchains. As the potential energy demands of these data-mining projects are considerably greater than Hydro-Québec's current power-generation capacity, this measure was intended to ensure adequate distribution of electricity throughout Quebec. The suspension was to remain in effect until September 15, 2018 or until such time as the Board sets the rate applicable to such requests.

Read the [full article](#) by Mylany David and Simon Grenier of Langlois.

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (35/2011)	Oct. 22/18	by Reg 221/2018
Clean Energy Act	Oct. 31/18	by 2018 Bill 43, c. 29, section 4 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Direction Respecting Liquefied Natural Gas Customers (150/2016)	REPEALED Oct. 2/18	by Reg 197/2018
Direction Respecting Liquefied Natural Gas Customers (197/2018)	NEW Oct. 2/18	see Reg 197/2018
Domestic Long-Term Sales Contracts Regulation (201/2014)	Oct. 2/18	by Reg 197/2018
Drilling and Production Regulation (282/2010)	Nov. 1/18	by Reg 174/2018
Net Profit Royalty Regulation (98/2008)	Nov. 1/18	by Reg 194/2018

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

FAMILY & CHILDREN

Family and Children News:

For the Love of Canada and Not Your Spouse – Weddings for Immigration and Not for Love

In a recent decision by Justice Shergill, *Charan v. Charan*, [2018 BCSC 1537](#), the Court had the opportunity to consider the operation of family legislation in the context of a marriage where the spouse was "motivated less by her love for Mr. Charan, and more by her desire to immigration to Canada". The issues included the validity of the parties' first marriage ceremony, family property, and child and spousal support.

There was a 3-year marriage where the parties participated in a marriage ceremony in India and then a Hindu ceremony in Canada. The husband argued that the Indian ceremony was invalid because it did not comply with the statute under which it was purportedly performed and that the marriage was involuntary on his part. The judge rejected these arguments, noting that there was no expert evidence to rebut the presumption under the [Evidence Act](#) that the marriage was valid, and finding that the husband had not been coerced into the marriage. As to proof of validity, both parties testified that the marriage occurred. In addition, "the Canadian immigration authorities were satisfied that the Indian Marriage was valid. On the strength of the Indian Marriage, they permitted Ms. Charan and her son to immigration to Canada under the spousal sponsorship category": para. 40. As such, the judge concluded that the Indian marriage ceremony was valid. Read the [full article](#) by [Polly Storey](#), an associate with Clark Wilson LLP.

Highlights of the Proposed Amendments to Canada's Divorce Act

A recent bill introduced by Canada's Minister of Justice proposes modernizing federal family law in Canada. [Bill C-78](#) proposes to amend the [Divorce Act](#) through its first substantive changes in 30 years, and two other Acts, and make consequential changes to the [Criminal Code](#).

Bill C-78 is focused on promoting faster, more cost-effective and lasting solutions to family law disputes, reducing the burden on courts and leading to better outcomes for families. The proposed amendments would advance many goals including: promoting the best interests of the child, addressing family violence, and making Canada's family justice system more accessible and efficient. Read the [full article](#) by [Joanna Harris](#) of Miller Thomson LLP.

Legal Aid Now Available to Help Children Stay Out of Foster Care

Sometimes a grandparent, aunt, uncle or other relative is willing to care for a child who is at risk of going into foster care, or has been removed from their home already – because the parents are unable to care for them. In foster care, however, children often lose touch of the things that matter most: their family, culture and community. That's why the Legal Services Society (LSS) is now providing lawyer services to relatives who would like to care for a child on a temporary or permanent basis. Community members with a cultural or traditional responsibility towards a child may also be eligible. The intent of the new service is to keep children out of foster care whenever possible. Read the [full article](#) published on *The Factum*.

The Public Guardian and Trustee Act Amended

An [amendment](#) to the [Public Guardian and Trustee Act](#) provides clarification that the Public Guardian and Trustee may, as a corporation sole, become and act as a director of a client's company. The amendment will ensure that the Public Guardian and Trustee can act as a director of clients' companies in order to meet its obligations to clients by protecting their financial interests.

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

	Date	
Child Care Licensing Regulation (332/2007)	Oct. 1/18	by Reg 187/2018
Child, Family and Community Service Act	Oct. 1/18	by 2018 Bill 26, c. 27, sections 1 (a) (part), (c) (part), (e) (part), 14, 16, 18 (a) (part) and 27 only (in force by Reg 187/2018), Child, Family and Community Service Amendment Act, 2018
Child, Family and Community Service Regulation (527/95)	Oct. 1/18	by Reg 187/2018
Coroners Regulation (298/2007)	Nov. 1/18	by Reg 222/2018
Parental Liability Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 19 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Public Guardian and Trustee Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 8 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018

FOREST & ENVIRONMENT

Forest and Environment News:

Update Regarding Changes to Provincial Spill Reporting Requirements

[On October 30th], the requirement to submit the Update to Minister Report and End-of-Spill Report came into effect under the [Spill Reporting Regulation](#). In order to support the new spill reporting requirements, the Environmental Emergency Program of the British Columbia Ministry of Environment and Climate Change Strategy has updated their Report a Spill webpage. This webpage is now live and a short URL has been created for ease of access: www.gov.bc.ca/ReportASpill. This webpage contains information on each spill report and when they are required. There are links to the updated [Spill Reporting fact sheet](#), the Spill Reporting Regulation, and the [Environmental Management Act](#). Additionally, the new SpillReports@gov.bc.ca contact email is provided to which responsible persons (spillers) will submit their reports (other than the Initial Report) and can contact for information on spill reporting. NOTE: the Initial Report/DGIR must continue to be reported by calling the spill reporting line at 1-800-663-3456. In the 'Templates' box on the right side of the webpage, the Update to Minister/End-of-Spill Report template is provided; this template will serve as both the Update to Minister Report and the End-of-Spill Report as the Spill Reporting Regulation outlines that the same content be provided in both reports. Responsible persons will check the appropriate box in section I of the template to indicate which report they are submitting. For more information, or to view the full article, visit the [Ministry website](#).

Judicial Deference to Regulators and the Workers Compensation Act

A decision of the Supreme Court of Canada (SCC) last spring may have blurred the lines between "employers" and "owners" in the BC forestry sector for purposes of workplace safety under [Part 3](#) of the [Workers Compensation Act](#) (Act). More generally, it may also erode faith in the rule of law. At issue in *West Fraser Mills Ltd. v. British Columbia* (Workers' Compensation Appeal Tribunal) was [Section 26.2](#) of the [Occupational Health and Safety Regulation](#) (Section 26.2) prescribed under the Act. Section 26.2 imposes a duty upon any "owner" of a forestry operation in relation to the planning and conduct of activities at the forestry operation. Following the death of a faller at one of its operations, West Fraser Mills Ltd. (WF) was found in contravention of Section 26.2. The faller was not an employee of WF. An administrative penalty was imposed against WF under [Section 196\(1\)](#) of the Act (Section 196) on account of this finding of contravention, even though Section 196 only authorized administrative penalties against "employers" and not "owners". The Workers' Compensation Appeal Tribunal (Tribunal) upheld the penalty on the basis that WF was also an "employer" since it used employees to perform

its duties as an "owner." The Act defines "owner" and "employer" as distinct terms, and WF did not contravene any of its duties as an employer. Read the [full article](#) by [Jeff Waatainen](#) of DLA Piper LLP and published in the November/December edition of the *BC Forest Professional Magazine*.

BC Government Review of Professional Reliance

Current Status – from ABCFP

The BC government is seeking public feedback on a Regulations Intentions Paper related to Bill 49, the proposed [Professional Governance Act](#), tabled in the legislature on October 22 and which passed second reading October 30 by a 43 to 38 vote. The intentions paper is divided into two parts. Part One describes the recently introduced Bill 49, the *Professional Governance Act*, with the main purpose being to explain how the governance of registered professionals that operate in the natural resource sector will change with the passing of the Act. Part Two describes topics that government is seeking feedback on to help inform the development of future policy and regulations. According to the paper, the government is seeking feedback on three key policy areas for which it is developing regulations. Read the [full article](#) and the latest news the from ABCFP website.

New Rules for Major Resource Projects in

BC Call for Indigenous Consent

British Columbia is [rewriting its environmental assessment act](#) to require a commitment to seek free, prior and informed consent from Indigenous communities for major resource projects, but the new law stops short of allowing them a veto if consent cannot be reached.

The change is based on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). Environment Minister George Heyman said the new law reflects the reality that the success of any major industrial project in B.C. rests on meaningful partnerships with Indigenous communities.

"What people need to understand about this process is, it is consent-based," Mr. Heyman told reporters.

The legislation also requires, for the first time, that greenhouse gas emissions be considered in the assessment process, and paves the way for the cumulative impact of industrial development in a region to be factored into decisions about individual projects.

The legislation says achieving consent is the objective, however, it is strictly needed in only very limited circumstances: when a nation has a treaty or final agreement on a treaty that spells out consent as a requirement. Only a few Indigenous communities in British Columbia have settled treaties.

"In all other cases, we are focused on getting consent," Mr. Heyman said, "but the final decision does rest with the minister." Read the [full article](#) by Justine Hunter of *The Globe and Mail*.

Act or Regulation Affected	Effective Date	Amendment Information
Boundary Act	Oct. 31/18	by 2018 Bill 37, c. 37, section 1 only (in force by Royal Assent), Land Statutes Amendment Act, 2018
Conservation Officer Service Authority Regulation (318/2004)	Oct. 17/18	by Reg 209/2018
Creston Valley Wildlife Act	RETRO to Apr. 21/97	by 2018 Bill 43, c. 39, section 8 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Financial Administration Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 10 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Financial Institutions Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 22 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018

Gasoline Vapour Control Regulation (226/95)	Oct. 1/18	by Reg 191/2018
Land Act	Oct. 31/18	by 2018 Bill 37, c. 37, in section 2 only (in force by Royal Assent), Land Statutes Amendment Act, 2018
Land-based Finfish Waste Control Regulation (68/94)	Oct. 1/18	by Reg 191/2018
Open Burning Smoke Control Regulation (145/93)	Oct. 1/18	by Reg 191/2018
Park Conservancy and Recreation Area Regulation (180/90)	Oct. 1/18	by Reg 193/2018
	Oct. 17/18	by Regs 209/2018 and 210/2018
Protected Areas of British Columbia Act	Oct. 31/18	by 2018 Bill 43, c. 39, sections 20 to 22 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Water Sustainability Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 27 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Wildfire Act	Oct. 31/18	by 2018 Bill 43, c. 39, sections 28 and 29 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Wildlife Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 30 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018

HEALTH

Health News:

BC Passes Legislation to Move Opioid Lawsuit Forward

The BC government has taken additional steps in its lawsuit against opioid manufacturers by introducing legislation that will help facilitate the action in the courts. The provincial legislature passed the [Opioid Damages and Health Care Costs Recovery Act](#) on Oct. 3. Provincial Attorney General David Eby noted the Act creates a new statutory tort of an opioid-related wrong and establishes the government has a direct cause of action to recover the health-care costs of individuals with opioid addictions. More than 40 opioid manufacturers, wholesalers and distributors are named as defendants in the [lawsuit](#), which was launched Aug. 29. The government's filing alleges the companies placed profits over the health and safety of the public and deceived people about the risks and benefits of opioids. "The legal action seeks the recovery of health-care costs incurred as a consequence of those companies' actions to market, promote and sell opioid products as less addictive, less subject to abuse and less likely to cause tolerance and withdrawal than other pain medications," said Eby. Read the [full article](#) on *The Lawyer's Daily* by Ian Burns.

Mental Health Act Amendments

[Amendments](#) to the [Mental Health Act](#) authorize the appointment of retired physicians to sit on the review panel of the Mental Health Review Board, and address the shortage of practising physicians on the review board due to limited availability, loss in clinical wages and potential conflict-of-interest situations. These amendments will provide an effective means for the Mental Health Review Board to recruit consistent and capable members to

resolve cases for citizens in a timely manner.

Act or Regulation Affected	Effective Date	Amendment Information
Health Care Costs Recovery Act	Oct. 31/18	by 2018 Bill 38, c. 35, section 13 only (in force by Royal Assent), Opioid Damages and Health Care Costs Recovery Act
Medicare Protection Act	Oct. 1/18	by 2003 Bill 92, c. 95, sections 1, 2 (part), 3, 4, 5 (part), 6 (part), 7, 8, 12 (part) and 15 only (in force by Reg 178/2018), Medicare Protection Amendment Act, 2003 , as amended by 2014 Bill 7, c. 8, Laboratory Services Act
Mental Health Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 6 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Milk Industry Standards Regulation (464/81)	Oct. 26/18	by Reg 227/2018
Opioid Damages and Health Care Costs Recovery Act	NEW Oct. 31/18	c. 35, SBC 2018, Bill 38 , in force by Royal Assent
Sewerage System Regulation (326/2004)	Oct. 1/18	by Reg 191/2018
Veterinary Drugs Act	STATUTE REVISION Oct. 26/18	c. 2, RSBC 2018, in force by Reg 227/2018

LABOUR & EMPLOYMENT

Labour and Employment News:

Recommendations for Labour Relations Changes: BC Government Releases the Report of the Labour Relations Code Review Panel

On October 25, 2018, BC's Minister of Labour released the report of the Labour Relations Code Review Panel. The report contains sweeping recommendations with respect to amending the B.C. [Labour Relations Code](#) (the "Code"). A copy of the Panel's report can be found [here](#).

Generally, the recommendations can be characterized as moving the Code to the left; protections for Unions are strengthened, and rights of employers weakened. That said, the Panel does not go so far as to seek to restore the Code to its pre-2002 form under the old NDP government.

Key recommendations are:

Regular review: The Panel recommends a public consultation process to consider further review of labour relations legislation every five years.

Restricted communication: The Panel recommends a restriction on an employer's right to communicate to employees during the certification process. The Panel suggests that employers be limited to expressing "objective neutral information that best assists the exercise of employee choice". The Panel expressly rejects allowing an employer to campaign against certification and instead recommends that the Labour Board speak on behalf of employers through an enhanced website and the provision of neutral materials to employees.

Read the [full article](#) by Richard Press of DLA Piper on *Canada in Focus*.

BC Government to Register Migrant Workers and Their Employers and Recruiters

A new provincial registry will require migrant workers, their employers and the companies that recruit them in their home countries to sign up.

"Temporary foreign workers are vulnerable to abuse in the workplace, and it can be difficult for them to get help," said BC Labour Minister Harry Bains in an emailed response to criticism that BC lags behind other provinces in safeguarding migrant workers.

The goal of the new program is to protect migrant workers from issues like underpayment, overwork, assault, sexual assault and trafficking.

Bain said in the email that the province planned to pass [a law](#) in "coming weeks" that would pave the way for the registry "to better support vulnerable foreign workers by tracking both the employers and the foreign worker recruiters."

Currently, workers from Mexico and other countries are allowed to work in Canada for up to eight months a year under federal programs such as the Seasonal Agricultural Worker Program.

The federal government keeps track of temporary foreign workers hired by Canadian companies through Labour Market Assessment forms employers fill out before hiring temporary foreign workers. Read *The Vancouver Sun* [article](#).

5 Questions Regarding PIPEDA's Mandatory Breach Reporting – What Human Resources Professionals Need to Know

On November 1, 2018, approximately 18,000 employers will be required to:

- report breaches of security safeguards involving personal information that pose a real risk of significant harm to individuals;
- notify affected individuals about those breaches; and
- keep records of all breaches involving personal information.

Failing to comply with the foregoing requirements will constitute an offence which may result in a fine of up to \$100,000. In the case of notification to individuals, it will be a separate offence for every individual left without notification of the breach. This blog answers 5 key questions employers have with respect to the new mandatory breach reporting requirements under the [Personal Information Protection and Electronic Documents Act](#). Read the [full article](#) by [Justin Turc](#) and [Danielle Douglas](#) of McCarthy Tetrault LLP

Bill 50: BC Government Tables Amendments to the Human Rights Code

On November 1, 2018, the B.C. Government introduced the [Human Rights Code Amendment Act, 2018](#), Bill 50. The Bill largely adopts the recommendations of the December 2017 report of Ravi Kahlon, Parliamentary Secretary of Sport and Multiculturalism, which can be found [here](#).

The Bill proposes the creation of a human rights commission and advisory board and the extension of the time period for filing complaints. Key provisions of Bill 50 are:

- Extended time to file claims: Bill 50 increases from 6 to 12 months the time for filing a complaint.
- Creation of Commissioner: Bill 50 creates a Human Rights Commissioner. The Commissioner is responsible for:
 - a. identifying, and promoting the elimination of, discrimination;
 - b. developing resources to prevent and eliminate discrimination;
 - c. publishing reports, making recommendations, and generally delivering public information and education about human rights to prevent discrimination;
 - d. undertaking, directing and supporting research respecting human rights;
 - e. consulting and cooperating with stakeholders, and establishing working groups, to promote and protect human rights;
 - f. promoting compliance with international human rights obligations; and
 - g. intervening in complaints and in proceedings in court.

While the Commissioner will neither adjudicate nor file complaints, the Commissioner may intervene

in a complaint before the Tribunal (likely, usually to assist a complainant). The Commissioner may also convene public inquiries in order to promote human rights. We anticipate an example of such an inquiry would be to determine whether a specific industry had a discriminatory bias against a protected group.

Read the [full article](#) by Richard Press with DLA Piper LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Oct. 1/18	by Reg 189/2018
Employment and Assistance for Persons with Disabilities Regulation (263/2002)	Oct. 1/18	by Reg 189/2018
Salary Range Regulation (152/2017)	Oct. 22/18	by Reg 216/2018
University Act	Oct. 31/18	by 2018 Bill 26, c. 36, section 3 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018

LOCAL GOVERNMENT

Local Government News:

Speculation Tax Legislation

[On October 16th] the province introduced the [Speculation and Vacancy Tax Act](#), followed by an announcement of further changes through agreement between the Green caucus and NDP. The amended legislation will see a 0.5% tax rate applied to all Canadians owning properties in designated regions, and targets revenues towards affordable housing in those regions.

Tax Structure and Application

The Speculation and Vacancy Tax will apply to properties that are not lived in as a principal residence or rented out for at least 3 months of the year in 2018, or 6 months per year in subsequent years. For 2018, the tax will be levied at 0.5% of the property's assessed value for all properties subject to the tax. For 2019 and subsequent years, the tax will be levied at:

- 2% for foreign investors and satellite families, which are defined as individuals or spousal units for whom the majority of total worldwide income for the year is not reported on a Canadian tax return; and,
- 0.5% for Canadian citizens and permanent residents who are not members of a satellite family.

The tax will apply to residential properties in: municipalities within the Capital Regional District and Metro Vancouver, excluding Bowen Island, Lions Bay and Electoral area A, but including the University of British Columbia and Endowment Lands; Abbotsford, Chilliwack, Mission, Kelowna, West Kelowna, Nanaimo and Lantzville.

Read the full UBCM [article](#).

Case Summary: Development Cost Charges May Apply if the Developer Receives a Direct or Indirect Benefit from City Drainage Works

A developer was denied an exemption to the City of Coquitlam's development cost charges for drainage works because the developer was found to benefit directly and/or indirectly from the drainage works, and it followed that this imposed new capital costs burdens on the City.

[Fraser Mills Properties Ltd. v. Coquitlam \(City\)](#), [2018] B.C.J. No. 3027, 2018 BCCA 328, British Columbia Court of Appeal, August 23, 2018, H. Groberman, L. Fenlon and B. Fisher JJ.A.

Fraser Mills applied to the City of Coquitlam (the "City") for building permits for the initial stage of a multi-use development. The City required Fraser Mills to pay development cost charges ("DCCs") for a number of services including drainage. Fraser Mills paid the DCCs for drainage "under protest", asserting it was entitled to an exemption under [s. 561\(3\)](#) of the [Local Government Act](#), RSBC 2015, c.1, (LGA) because the development would not benefit from the drainage works and the development would not impose new capital costs burdens on the City.

The City considered that the development imposed a new capital cost burden for drainage given the overall increased demand and the fact that the lands are located at the bottom of a hill that is historically flooded in the wet season. Fraser Mills was unsuccessful in their petition for judicial review, and appealed the matter to the B.C. Court of Appeal. A key issue on appeal was the standard of review of the City's decision. Read the [full article](#) by Joanne Barnum, and Associate with Harper Grey LLP.

BC Moves to Limit Size of Houses Built on Agricultural Land Reserve

The British Columbia government has tabled legislation aimed at cracking down on mega-mansions on protected agricultural land that would override the municipal zoning rules of cities that have set their own limits on house sizes.

Bill 52, the [Agricultural Land Commission Amendment Act, 2018](#), if passed, would limit new house sizes to about 5,400 square feet, a government guideline that was recently backed by an independent committee looking into legislative and regulatory changes to better protect the province's Agricultural Land Reserve (ALR).

Exemptions for homes needed to support farming would require approval by the Agricultural Land Commission. The commission, an independent tribunal mandated to preserve agricultural land and encourage farming, administers the ALR, which was established in 1973 to protect land with prime agricultural conditions for farming and ranching. It currently protects about 4.6 million hectares of land.

The legislation would reinstate one zone for all ALR land in BC – eliminating the previous two-zone structure – and increase penalties for dumping construction debris and other toxic waste on the protected land.

Announcing the legislation on Monday [November 5th], Minister of Agriculture Lana Popham blamed the previous Liberal government for allowing the ALR to be undermined for years.

"Instead of protecting farmland, the old government let wealthy speculators drive up property values year after year, and let some of BC's best farmland get turned into estates for mega-mansions," she said in Victoria. Read the [full article](#) by Andrea Woo and Xiao Xu of *The Globe and Mail*.

Cannabis Legislation Now in Force

Approximately 18 months after the federal government introduced legislation to legalize and regulate non-medical cannabis, the [Cannabis Act](#) is now in force. This represents a major shift in public policy, impacting local governments in areas including enforcement, land use management and administration/licensing. Provincially, control over the sale, supply and possession of non-medical cannabis is established through the [Cannabis Control and Licensing Act](#). The [Cannabis Distribution Act](#) establishes the provincial government's role as the lone wholesale distributor of non-medical cannabis in BC. In preparation for legalization, the provincial government, on October 5, 2018, released new and amended regulations for BC's legalized non-medical cannabis system. Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Bylaw Notice Enforcement Regulation (175/2004)	Oct. 24/18	by Reg 220/2018
Cannabis Control and Licensing Act	Oct. 17/18	by 2018 Bill 30, c. 29, sections 2, 14 to 20, 37 to 79, 81 to 116, 121, 123 to 125 and 141 only (in force by Reg 202/2018), Cannabis Control and Licensing Act
	NEW	

Cannabis Control Regulation (204/2018)	Oct. 17/18	see Reg 204/2018
Cannabis Control and Licensing Interim Regulation (139/2018)	REPEALED Oct. 17/18	by Reg 202/2018
Cannabis Control and Licensing Transitional Regulation (203/2018)	NEW Oct. 17/18	see Reg 203/2018
Cannabis Licensing Regulation (202/2018)	Oct. 17/18	see Reg 202/2018
Cannabis Transitional Regulation (142/2018)	REPEALED Oct. 17/18	by Reg 142/2018, s. 3
Capital Region Water Supply and Sooke Hills Protection Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 2 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Classification of Land as a Farm Regulation (411/95)	Oct. 17/18	by Reg 200/2018
Coastal Ferry Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 5 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Community Airport Exemption Regulation (369/2003)	Oct. 29/18	by Reg 228/2018
Greater Vancouver Sewerage and Drainage District Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 25 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Greater Vancouver Water District	Oct. 31/18	by 2018 Bill 36, c. 36, section 26 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Greater Victoria Community Port Improvements Exemption Regulation (345/2002)	Oct. 22/18	by Reg 218/2018
Liquor Control and Licensing Act	Oct. 1/18	by 2015 Bill 27, c. 19, section 83 (b) only (in force by Reg 186/2018), Liquor Control and Licensing Act
		by 2018 Bill 30, c. 29, sections 144 to 153 only (in force by Reg 186/2018), Cannabis Control and Licensing Act
Prescribed Classes of Property Regulation (438/81)	Oct. 22/18	by Reg 217/2018
	Oct. 1/18	by Reg 191/2018

Resort Municipality of Whistler Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 23 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Royal Roads University Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 2 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
School Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 29 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
		by 2018 Bill 43, c. 39, section 24 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
South Coast British Columbia Transportation Authority Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 26 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Trespass Act	STATUTE REVISION Oct. 1/18	c. 3, RSBC 2018, in force by Reg 193/2018
Vancouver Foundation Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 30 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Worker Qualification Regulation (214/2018)	NEW Oct. 16/18	see Reg 214/2018

MISCELLANEOUS

Miscellaneous News:

Impeachment by Prior Inconsistent Statement

– from [CLEBC: Latest Practice Point](#)

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.

BC Commissioner Releases Cannabis Sales Privacy Protection Guidelines

As a result of the recent legalization of recreational cannabis in Canada, the Office of the Information and Privacy Commissioner for British Columbia (the "OIPC") published guidelines (titled "[Protecting Personal Information: Cannabis Transactions](#)") that aim to clarify the rights and obligations of both retailers and purchasers of cannabis under the [Personal Information Protection Act](#) ("PIPA"). As a reminder, PIPA applies to any private organization that collects, uses and discloses the personal information of individuals in British Columbia.

Background

Cannabis remains illegal in most other countries around the world. As a result, transactions involving cannabis are often sensitive in nature. The potential stigma associated with the purchase or use of cannabis, as well as risks associated with cross-border information transfers, mean that retailers should tread carefully and ensure that any personal information collected, used, stored or disclosed is properly handled.

Read the [full article](#) by [Imran Ahmad](#), [Kelly Harris](#) and [Katherine Barbacki](#) with Miller Thomson LLP.

Recall and Initiative Amendment Act, 2018

The [Recall and Initiative Amendment Act, 2018](#) was recently tabled in the legislature by David Eby, Attorney General. The Act proposes to make campaigns to recall members of the legislative assembly more fair by banning corporate and union donations, as well as restricting advertising rules. In order to address these issues, the amendments to the [Recall and Initiative Act](#) will align financing rules for recall campaigns with the [Election Act](#). In addition, the proposed amendments will prohibit concurrent recall petitions in a single electoral district, so that only one recall petition can be circulating in a district within a given time.

Act or Regulation Affected	Effective Date	Amendment Information
Civil Forfeiture Regulation (164/2006)	Oct. 1/18	by Reg 191/2018
Class Proceedings Act	Oct. 1/18	by 2018 Bill 21, c. 16, sections 1 to 10 only (in force by Reg 129/2018), Class Proceedings Amendment Act, 2018
College and Institute Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 1 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Crown Counsel Act	Oct. 1/18	by Reg 191/2018
Election Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 9 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Legal Profession Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 27 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Notaries Act	Oct. 31/18	by 2018 Bill 36, c. 36, section 28 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018
Police Act	Oct. 17/18	by 2018 Bill 30, c. 29, sections 157 and 158 only (in force by Reg 202/2018), Cannabis Control and Licensing Act
Supreme Court Act	Oct. 31/18	by 2018 Bill 36, c. 36, sections 9 to 17 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2018

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Bad Drivers to Face Higher Fines in BC Starting Nov. 1

Bad drivers in British Columbia have less than 24 hours to improve their habits or face increased penalties for speeding, impaired or distracted driving and other offences.

Attorney General David Eby says in a release that fines applied under the driver risk premium and driver penalty point premium will jump 20 per cent effective Nov. 1, and a further 20 per cent in November 2019.

The driver risk premium is assessed for behaviour such as excessive speeding or two or more distracted driving violations, while the penalty point premium applies to drivers who collect four or more points from traffic violations in a single year. Read the [CBC article](#).

Case Summary: Insurance Corporation of British Columbia v. Mehat, 2018 BCCA 242

In *Insurance Corporation of British Columbia v. Mehat*, [2018 BCCA 242](#), the Court of Appeal provides guidance on the procedural and functional distinction between a "no evidence" motion and an "insufficient evidence" motion.

Insurance Corporation of British Columbia v. Mehat required the Court of Appeal to address the differences between a "no evidence" motion, an "insufficient evidence" motion, and final judgment in a civil trial.

The appellant ICBC sued the respondents Mr. and Mrs. Mehat, claiming they engaged in insurance fraud. At trial, at the close of ICBC's case, the Mehats brought an insufficient evidence motion and elected to call no evidence. The trial judge dismissed the insufficient evidence motion, and then proceeded to final submissions. As indicated by the Court of Appeal, the trial judge did not contemplate procedurally that if the Mehats lost the insufficient evidence motion, this would be equivalent to ICBC proving its case. Read the [full article](#) by [Joel Morris](#) and Ted Murray of Harper Grey LLP.

Is BC Ready for Legal Weed? Vancouver Police Chief Says Yes for Enforcement, Drug-Impaired Driving

"I'm here to tell Canadians that the police are ready."

That's the message Vancouver police Chief Const. Adam Palmer, president of the Canadian Association of Chiefs of Police (CACP) has for the public once cannabis is legal in BC and across Canada on Oct. 17.

"It's important to remember that while the legal, recreational use of cannabis will be new for Canadians come Wednesday, enforcing laws around impaired driving and the illegal production, distribution and consumption of cannabis will not be new to police," Palmer said.

"We've been dealing with drug-impaired driving for many, many decades in Canada." Read [the article](#) published on *Global News*.

Cocaine Use After Car Accident Reduces Injury Award

This car accident claimant had his injury claim reduced by 20% for failing to follow medical advice and abusing Percocet and cocaine, which interfered with his recovery.

The claimant was riding his motorcycle west on Marine Way in Burnaby, BC approaching a strip mall known as Market Crossing when a vehicle in the lane beside him changed lanes into his motorcycle. He was knocked to the ground and the vehicle crushed his left foot.

In reducing his claim for pain and suffering from \$150,000.00 to \$120,000.00 the judge reviewed the case law regarding failure to mitigate and had this to say:

[217] ... It is not the court's role to comment on the legality of the plaintiff's self-medication, or the reasonableness of his distrust for psychologists, but to assess the deleterious consequences of these actions and apply the appropriate reduction of the plaintiff's non-pecuniary damages accordingly.

[218] Given the above cases, a 20% reduction is appropriate given the plaintiff's failure to pursue any psychological counselling, as recommended to him by three separate doctors, and by failing to at least take steps towards dealing with his Percocet and cocaine addiction as it impacted his physical and psychological MVA injuries, as recommended to him...(Lewis v. Gibson, [2018 BCSC 1713](#))

Read the [full article](#) by Renn Holness of Holness Law Group.

CVSE Bulletins & Notices

The following notices have been posted in June by CVSE:

- [CVSE 2053](#) – Carrier Representative Authorization
- [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
Motor Vehicle Act	Oct. 17/18	by 2014 Bill 14, c. 14, section 16 to 18 only (in force by Reg 205/2018), Motor Vehicle Amendment Act, 2010
		by 2018 Bill 17, c. 18, sections 2 to 4, 16 (a) (part), 18 only (in force by Reg 205/2018), Motor Vehicle Amendment Act, 2018
Motor Vehicle Act Regulations (26/58)	Oct. 5/18	by Reg 206/2018
	Oct. 17/18	by Reg 205/2018
Motor Dealer Act	Oct. 31/18	by 2018 Bill 43, c. 39, sections 17 and 18 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Offence Act Forms Regulation (422/90)	Oct. 28/18	by Reg 208/2018
Physical Coordination Test Regulation (205/2018)	NEW Oct. 17/18	see Reg 205/2018
Violation Ticket Administration and Fines Regulation (89/97)	Oct. 1/18	by Reg 193/2018
	Oct. 17/18	by Regs 205/2018 and 207/2018
	Oct. 26/18	by Reg 224/2018
	Oct. 28/18	by Reg 208/2018

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

WorkSafeBC Issues New (Revised) Guidelines

Two WorkSafeBC guidelines were updated recently. These include:

- [Revised guidelines for environmental tobacco smoke and e-cigarette vapour to take into account the effects of cannabis smoke](#)
- [New, revised, and retired guidelines for first aid assessment, hand-arm vibration exposure limits, adjacent piping controls in confined spaces, and electrical testing equipment](#)

Visit the WorkSafeBC [website](#) for more information on these and other related news and material.

Cannabis Industry Must Prioritize OHS as Legalization Approaches

Trimming marijuana leaves, working around grow lamps and extracting oils take a hit on workers. Health and safety professionals across Canada are concerned about the legalization of recreational marijuana and its impact on the workplace – especially when it comes to safety-sensitive positions. But something that has been largely ignored is the health and safety of workers within the soon-to-be legal cannabis industry. Deloitte has predicted

that legalized recreational marijuana could be a \$22.6 billion industry in Canada, taking into account the retail market, growers, product makers, testing labs and security.

Unfortunately, when an industry is on the rise, the significant influx of new workers means occupational incidents – injuries, fatalities or both – rise as well. For example, Alberta experienced its highest number of workplace fatalities on record in 2013, clocking in at 188, during a time when the provincial economy was at its peak.

To avoid this trend, cannabis companies – especially those involved in growing and harvesting operations – need to prioritize OHS now. Read the [full article](#) by Amanada Silliker on *Canadian Occupational Safety*.

New Worker Qualification Regulation

On October 16, 2018, the [Worker Qualification Regulation](#) came into effect. Made under the [Cannabis Control and Licensing Act](#) and the [Cannabis Distribution Act](#), the regulation provides that a retail store licensee must not allow an individual to perform any work related activity as an employee, independent contractor or volunteer in a retail store unless the individual has been granted a security verification that has not expired or been revoked.

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

There were no amendments this month.

PROPERTY & REAL ESTATE

Property and Real Estate News:

BC Supreme Court Directs an Assessment of Strata Corporation's Reasonable Legal Costs for Remedying a Contravention of its Age Bylaw

In *The Owners, Strata Plan NWS3075 v Stevens*, [2018 BCSC 1784](#), the BC Supreme Court considered a strata corporation's request for an order that the respondent strata-lot owner "pay its actual legal fees, other fees and disbursements pursuant to [s. 133](#) of the [Strata Property Act](#)." Section 133 allows a strata corporation to "do what is reasonably necessary to remedy a contravention of its bylaws or rules." The court granted the strata corporation its order, and referred the assessment of the amount of costs to be paid to a registrar of the court.

Stevens involved "a 63 unit residential complex called Central Heights Manor located in Abbotsford." The strata corporation had an age bylaw, "requiring occupants to be 55 years or older." The respondent "owns a unit in the complex and is under the age of 55."

The case had a complicated procedural history, involving prior proceedings in the supreme court, the provincial court, and the Civil Resolution Tribunal. Read the [full article](#) by Kevin Zakreski and published on the BC Law Institute website.

Bill 45 – 2018, Budget Measures Implementation (Speculation and Vacancy Tax) Act, 2018

This [Bill](#) imposes an annual tax, effective for the 2018 calendar year, on owners of residential property located wholly or partly within specified areas of British Columbia. Tax is payable at a rate of 0.5%, 1% or 2% on the assessed value of a residential property. This Bill also does the following:

- provides for exemptions from tax, including exemptions in respect of the principal residence of owners who are residents of British Columbia and exemptions in respect of residential property that is tenanted or under development;
- provides for a tax credit of up to \$2 000 for owners who are residents of British Columbia and provides for a different tax credit for other owners, calculated according to the amount of income earned in British Columbia;
- provides for specific rules for the application of the tax to owners who hold an interest in a residential property as a partner in a partnership or as a trustee of a trust;
- provides for specific rules for the application of the tax in the 2018 calendar year;
- establishes an administration scheme for the administration and enforcement of the tax.

Court Finds that Strata Corporation's Decision to Share Expenses Based on Unit Entitlement was Significantly Unfair to Owner

In *King Day Holdings Ltd v The Owners, Strata Plan LMS3851*, [2018 BCSC 1772](#), the BC Supreme Court

considered a petitioner's request for "a declaration that the strata fees [and special levies] levied against it by the respondent strata corporation constitute a significantly unfair action and seeks relief under [s. 164](#)." The court sided with the petitioner, even though the respondent strata corporation had decided to calculate the strata fees and special levies at issue on the basis of strata lots' unit entitlements. Along with [Norenger Development \(Canada\) Inc v Strata Plan NW 3271](#), this decision marks the second time this month in which the court has decided that it has the power to craft orders that depart from the [Strata Property Act's](#) rather rigid provisions on cost sharing.

King Day Holdings involved "a 26-storey building known as The Westin Grand ('the hotel') located at 433 Robson Street, Vancouver," which "contains the hotel, some commercial properties (a restaurant, lounge/bar, and convenience store), and a four level underground parkade." Read the [full article](#) by Kevin Zakreski and published by the BC Law Institute.

Land Title Act Amendments

Amendments made to the [Land Title Act](#) by the [Land Statutes Amendment Act, 2018](#) bring important changes and administrative improvement for First Nations by supporting how treaty settlement lands are administered. These amendments will simplify how First Nations who are in treaty can add treaty settlement lands.

Act or Regulation Affected	Effective Date	Amendment Information
Court Order Enforcement Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 6 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Land Title Act	Oct. 31/18	by 2018 Bill 37, c. 37, sections 12, 14 to 16, 19 to 21, 23, 24, 28 and 29 only (in force by Royal Assent), Land Statutes Amendment Act, 2018
Manufactured Home Park Tenancy Act	Oct. 17/18	by 2018 Bill 30, c. 29, sections 154 and 155 only (coming into force of 2018 Bill 30, c. 29, s. 14), Cannabis Control and Licensing Act
Mortgage Brokers Act	Oct. 31/18	by 2018 Bill 43, c. 39, section 16 only (in force by Royal Assent), Miscellaneous Statutes (Minor Corrections) Amendment Act, 2018
Residential Tenancy Act	Oct. 17/18	by 2018 Bill 30, c. 29, sections 160 and 161 only (coming into force of 2018 Bill 30, c. 29, s. 14), Cannabis Control and Licensing Act

WILLS & ESTATES

Wills and Estates News:

Spousal or Child Support after Death

Bouchard v Bouchard [2018 BCSC 1728](#) dismissed an application for lump sum child maintenance for monies held in the estate of the deceased to died intestate, but reviewed the law relating to continuing obligations to pay spousal or child maintenance after death and the impact of the recently newish [Family Law Act](#) allowing for same.

The deceased had been awarded approximately \$1.9 million in a serious motor vehicle accident but became drug addicted and spent much of the estate.

Arrears of child maintenance in the amount of \$300 per month had accumulated, and the mother on behalf of the infant children of the deceased, brought a court application that monies held in trust by the personal injury lawyers be paid to her as a lump sum child maintenance.

The court declined for largely procedural reasons including the children likely or the soul intestate heirs and their rights needed to be protected. Read the [full article](#) by [Trevor Todd](#), published on *Disinherited – Estate Disputes And Contested Wills*.

Act or Regulation Affected	Effective Date	Amendment Information
Official Administrators Designation Regulation (24/58)	REPEALED Oct. 1/18	by Reg 190/2018

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

QUICKSCRIBE SERVICES LTD.

DISCLAIMER

The Reporter includes articles that should be used for information and educational purposes only and are not intended to be a source of legal advice. Please consult with a lawyer before choosing to act on any information included in the Reporter. The content in each article is owned by its respective author.

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