

Toll Free: 1-877-727-6978  
Phone: 1-250-727-6978  
Fax: 1-250-727-6699

Email:  
info@quickscribe.bc.ca

Website:  
www.quickscribe.bc.ca

# Quickscribe Reporter

---

Vol: XVIII – Issue: VIII – August 2019

---

## QUICKSCRIBE NEWS:

### New Contributor to Publish Annotations for Campaign Law

Quickscribe is pleased to announce that [Rachel Roy](#), a partner at Allevato Quail & Roy, will act as Quickscribe's expert annotator in the area of campaign law. Rachel provides advice related to electoral finance and campaign regulation to candidates and political parties as well as third party organizations at the municipal, provincial, and federal level. In addition to her experience as in-house legal counsel to a national political party, Rachel has significant expertise in assisting clients with judicial recounts, investigations by regulatory bodies, including Elections BC and Elections Canada, and compliance with applicable privacy, CRTC, CASL, and campaign finance rules.

### Quickscribe Now Serves All BC Local Governments

– Victoria

Effective November 1, 2019, Quickscribe will acquire all BC legislation services (business) currently handled by Diligent Corporation, headquartered in New York. Since 2006, iCompass Technologies (now Diligent) has contracted Quickscribe to provide both hard copy and online legislation services to their BC local government clients. The new arrangement will see Quickscribe take over full responsibility for these clients and will solidify Quickscribe's position as the go-to source for legislation in BC.

### Latest Annotations

New annotations have recently been added to the Quickscribe site.

- [Greg Gehlen](#), Gehlen Dabbs Lawyers – [Bankruptcy and Insolvency Act](#)
- [Melanie Harmer](#), McMillan LLP – [Civil Resolution Tribunal Act](#), [Judicial Review Procedure Act](#)
- [Erik Magraken](#), MacIsaac & Company, [Supreme Court Civil Rules](#)


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

<a href="#">COMPANY &amp; FINANCE</a>	<a href="#">LOCAL GOVERNMENT</a>
<a href="#">ENERGY &amp; MINES</a>	<a href="#">MISCELLANEOUS</a>

[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 BC Business Corporations Act Transparency**

##### **Register Requirements: A Primer**

Beginning on a date to be announced, privately-held BC [Business Corporations Act](#) ("BCA") companies will be required to maintain a "transparency register" of "significant individuals", being individuals who:

- directly or indirectly hold a significant number of shares; or
- have the right (or control or influence another SI's right) to elect, appoint or remove the majority of directors of the company

Currently, BCA companies do not have to look behind the names of their registered shareholders to determine ultimate beneficial control.

These changes flow from BC's commitments under an agreement made in December 2017 among Canada's provincial and federal Finance Ministers to combat money laundering and terrorist financing.

Canada has already amended the [Canada Business Corporations Act](#) ("CBCA") to require private federal corporations to create and maintain a register of "Individuals with Significant Control" (an "ISC Register"). Manitoba has introduced amendments modelled on the CBCA rules. It is likely that all other provinces and territories will follow suit over time. The proposed BC rules differ in some material ways from the federal rules. Read the [full article](#) by Megan Filmer with DLA Piper LLP.

#### **Climate Change-Related Risks and their Potential Financial Impacts**

##### **Classified as Mainstream Business Issues by CSA**

New CSA guidance highlights the importance of climate change-related disclosure to securities regulators and investors and aims to assist issuers in identifying, and improving disclosure of, material risks posed by climate change.

The Canadian Securities Administrators (CSA) recently published [CSA Staff Notice 51-358 Reporting of Climate Change-related Risks](#) (the Notice). The Notice was motivated by increased investor interest in climate change-related risks, particularly among institutional investors, the CSA's view that issuers' existing disclosure with respect to climate change can be improved, and the large number of reports on climate change disclosure and other environmental governance topics over the last several years.

The Notice does not create any new legal requirements but expands upon the guidance regarding continuous disclosure requirements relating to climate change previously provided in [CSA Staff Notice 51-333 Environmental Reporting Guidance](#). Read the [full article](#) by Alexis Slatt of Stikeman Elliott.

#### **Senate Report Offers Blueprint for Federal Charity Law Reform**

With a federal election slated for this October, there is little chance we will see any major changes to the *Income Tax Act* (ITA) rules governing registered charities in the coming weeks.

Once the election is over, however, whichever party forms government could do worse than use the recently-released Report of the Special Senate Committee on the Charitable Sector as a blueprint for a needed and long-awaited revamping of federal regulation of charities and non-profit organizations. The report, *Catalyst for Change: A Roadmap to a Stronger Charitable Sector*, is available [online](#).

Leaving aside the issue of the role of registered charities in public policy debate, which was the subject of new legislation passed by Parliament last December, charity regulation is not something that has drawn much attention federally in recent years. (Indeed, action on the political activities rules was only prompted once there had been a successful court challenge to the old ITA provisions under the *Canadian Charter of Rights and Freedoms*.)

The report offers a roadmap for addressing a host of problems plaguing the current regulatory regime. Read the [full article](#) by [Peter Broder](#) and published on LawNow.

### BC Securities – Policies & Instruments

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

- [51-358](#) – CSA Staff Notice 51-358 – *Reporting of Climate Change-related Risks*
- [31-355](#) – CSA Staff Notice 31-355 – *OBSI Joint Regulators Committee Annual Report for 2018*
- [95-301](#) – CSA Staff Notice 95-301 – *Margin and Collateral Requirements for Non-Centrally Cleared Derivatives*
- [31-356](#) – CSA Staff Notice 31-356 – *Guidance on Compliance Consultants Engaged by Firms Following a Regulatory Decision*

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

### FICOM News

The Financial Institutions Commission of BC published the following in August:

- [Letter to CEOs/General Managers, BC Credit Unions](#) – CUDIC Data Requirements for Deposit Insurance Determination Version 2.0

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	Sept. 1/19	by <a href="#">Reg 102/2019</a> and <a href="#">Reg 139/2019</a>

## ENERGY & MINES

### Energy and Mines News:

#### BCOGC Bulletin – Proposed Activities Must Be Considered within Established s. 16/17 *Land Act* Dispositions

The BC Oil and Gas Commission issued the following bulletin on August 29, 2019:

Effective Immediately – Applicants wishing to submit a new application or an amendment application through the BC Oil and Gas Commission's (Commission) Application Management System, must consider proposed activities, which fall within a s. 16 or s. 17 [Land Act](#) disposition established by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD). View the full bulletin [here](#).

#### English Commercial Court Enforces Multi-Billion Arbitral Award Over Failed Gas Project

On August 16, 2019, the England and Wales High Court of Justice (Commercial Court) released its decision in *Process & Industrial Developments Limited v The Federal Republic of Nigeria* ("Process & Industrial Developments"), [2019] EWHC 2241, in which it enforced a US\$9 billion arbitral award against the Republic of Nigeria ("Nigeria"). The enforcement of this 'mega-award' is significant for oil and gas companies doing business abroad and also for the practice of international commercial arbitration.

Process & Industrial Developments Ltd. ("PID"), a BVI entity, entered a "Gas Supply and Processing Agreement" with Nigeria (the "Agreement"). Under the Agreement, PID was to build and operate a gas processing plant for "wet gas" to be supplied from the Nigerian Ministry of Petroleum Resources. The Agreement had a 20 year term. Furthermore, the Agreement contained an arbitration clause, which stated:

"The Agreement shall be governed by, and construed in accordance with the laws of the Federal Republic of Nigeria. ... The Parties agree that if any difference or dispute arises between them concerning the interpretation or performance of this Agreement and if they fail to settle such difference or dispute amicably, then a Party may serve on the other a notice of arbitration under the rules of the Nigerian Arbitration and Conciliation Act (Cap A18 LFN 2004) which, except as otherwise provided herein, shall apply to any dispute between such Parties under this Agreement. ... The

arbitration award shall be final and binding upon the Parties. ... The venue of the arbitration shall be London, England or otherwise as agreed by the Parties. The arbitration proceedings and record shall be in the English language. ..." (emphasis added)

Read the [full article](#) by [Jack Maslen](#) of Borden Ladner Gervais.

### BCUC Completes EV Charging Inquiry with Recommendations about Regulated Utilities' Role

In June 2019, the British Columbia Utilities Commission (BCUC) issued the [Phase 2 Report](#) from its [Inquiry into the Regulation of Electric Vehicle \(EV\) Charging Service](#). This Report looked at the role that might be played by regulated utilities in providing EV charging services and concluded that their participation should be limited, with appropriate protections for their ratepayers and for unregulated market participants. The Report includes a number of considerations and recommendations for the B.C. government to take into account when directing the BCUC about how to regulate utility involvement in this activity.

As described in earlier posts ([here](#) and [here](#)), the BCUC EV charging Inquiry was aimed at examining whether, and how, EV charging in British Columbia should be regulated, and it was conducted in two phases. Read the [full article](#) by David Stevens with Aird & Berlis LLP.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this week.

## FAMILY & CHILDREN

### Family and Children News:

#### BCLI Launches New Project Page for the Modernizing the Child, Family and Community Service Act Project

A new project webpage for the *Modernizing the [Child, Family and Community Service Act](#)* Project has just been created on the BCLI website. The project webpage will be the place to go find about the project and to read project publications. Read the [full article](#) by Kevin Zakreski with the British Columbia Law Institute.

#### When Does Spousal Separation Occur?

*Shin v Mun 2019*, [BCSC 1124](#), reviewed the law regarding the determination of the date of when separation of spouses occurs, which can often be in dispute.

In *HSS v SHD*, 2016 [BCSC 1300](#), the law was summarized as follows: It is clear that the law does not require a meeting of the minds with respect to the intention to separate. A physical separation, coupled with one party's intention to live separate and apart, is sufficient. *Nearing v Sauer*, [2015 BCSC 58](#), at para.54.

The legal framework for determining that spouses of live separate and apart requires that the court find, first in intention of one spouse to repudiate or in the marital relationship and, second, action consistent with that intention.

In the *Nearing* decision at paragraph 54, the court recognized that there must be a unilateral intention, as well as "action consistent with that intention". At paragraph 56 the court observed that a clear statement by one of the parties of his or her desire to terminate the relationship is one of a range of factors the court will consider in determining whether there has been a separation. Read the [full article](#) by Trevor Todd on *Disinherited*.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this week.

## FOREST & ENVIRONMENT

## Forest and Environment News:

### A Summary of the ABCFP's Submission on the Forest and Range Practices Act

In July, the Association of BC Forest Professionals submitted a response to the BC government about proposed changes to the [Forest and Range Practices Act](#) (FRPA). When FRPA was introduced in 2004, it increased the reliance on the advice and judgement of forest professionals and reduced the amount of prescriptive practices set by government. The FRPA model also shifted government's role from reviewing and approving all plans or project designs to:

1. Establishing the goals, rules, and objectives or results to be achieved;
2. Relying on regulated professionals hired by resource users (tenure holders) to advise how those objectives or results will best be met;
3. Monitoring the results and environment; and
4. Enforcing compliance among resource users through its laws. For the past 20 years, the ABCFP and its forest professionals have made significant investment and effort to support the proper function of professional reliance under the Act.

Read the [full article](#) by Paul Nuttall, RFP, in the September-October 2019 issue of *BC Forest Professional* magazine.

### Five Things Project Proponents Need to Know about Canada's New Impact Assessment Act Introduction

Effective [August 28, 2019], the [Impact Assessment Act](#) ("IAA") will set aside the past 40 years of federal environmental assessment in Canada. Impact assessment will replace environmental assessment. Similarly, federal decisions on whether or not to approve designated infrastructure, energy and mining projects will be made after assessing the overall "public interest" of the project, replacing the existing test of avoiding "significant adverse environmental effects".

[The] implementation of the IAA remains controversial. It follows more than 18 months of heated debate inside and outside Parliament and the Senate. Stepping back from specific controversies, here are five things all project proponents (and other participants) need to know about the IAA as they address its new requirements and processes. Read the [full article](#) by [Rodney Northey](#), [Liane Langstaff](#) and Anna Côté with Gowling WLG (Canada) LLP.

### The Benefits of Tactical Forest Planning for British Columbia

In early July, the Forest Practices Board released a report recommending that government implement a tactical forest planning process as part of the next stage of amendments to the [Forest and Range Practices Act](#). The Board sees tactical forest planning as a practical way to translate broad goals set out in legislation, policy, or land use plans into direction for forestry operations to implement across a specific landscape and management unit.

Our report describes the Board's vision of tactical forest planning, the benefits it would bring to BC and the principles that should be incorporated in a new planning process. We published our report during the public consultation period for amendments to the [Forest and Range Practices Act](#) (FRPA) to encourage public and stakeholder discussion of this concept. Read the [full article](#) by Kevin Kriese, chair of the Forest Practices Board, in the September-October 2019 issue of *BC Forest Professional* magazine.

### BC Court of Appeal Addresses Pollution Exclusions and Special Costs in Coverage Actions

In *West Van Holdings Ltd. v. Economical Mutual Insurance Co.*, [2019 BCCA 110](#) ("West Van Holdings"), a dry cleaning company (the "Insured") was sued by owners of adjacent properties who alleged that dry-cleaning products had migrated to their respective properties and caused damage, prior to and during the Insured's ownership of its land. Four separate causes of action were alleged: negligence, nuisance, strict liability and statutory liability under the [Environmental Management Act](#) ("EMA").

The Insured sought a defence to the underlying action from two of its insurers (collectively, the "Insurers") under different commercial general liability policies issued by the Insurers since 1998. The Insurers denied coverage on the basis of the application of environmental liability or pollution liability exclusions contained within the policies. The Insured applied to Court for a declaration that the Insurers were obligated to provide a defence. Read the [full article](#) by Nicholas McKnight of Alexander Holburn Beaudin + Lang LLP.

### Environmental Appeal Board Decisions

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

[Environmental Management Act](#)

- [Emily Toews: Elisabeth Stannus: Unifor Local 2301 v. Director, Environmental Management Act](#) [Consent Order – Appeals Dismissed]

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

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

*There were no amendments this month.*

## HEALTH

### Health News:

#### Health Care (Consent) and Care Facility (Admission) Act – Early Consolidation

Quickscribe has published [an early consolidation](#) of amendments to the [Health Care \(Consent\) and Care Facility \(Admission\) Act](#), made by the [Health Statutes Amendment Act, 2007](#). The amendments apply the definition of a care facility to a broader range of facilities, and will also provide for informed consent on the admission and release to these care facilities, establishing a clear framework for an adult or a person acting on the adult's behalf to apply for admission into or release from a residential care facility. The amendments will come into force on November 4, 2019, by [B.C. Reg. 114/2019](#).

#### Medical and Health Care Services Regulation Changes

Effective September 1, 2019, changes to the [Medical and Health Care Services Regulation](#) ensure international students continue to contribute to BC's health-care coverage, by updating their payment method. A monthly health-care coverage fee of \$37.50 will be charged to all international K-12 and post-secondary students. When the MSP premiums are fully eliminated on January 1, 2020, the health-care coverage fee for international students will be raised to \$75 per month.

Act or Regulation Affected	Effective Date	Amendment Information
Medical and Health Care Services Regulation (426/97)	Sept. 1/19	by <a href="#">Reg 188/2019</a>

## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### Case Summary: Complaint Dismissed: What Can the BC Human Rights Tribunal Consider when Dismissing a Complaint on the Basis that it "Would Not Further the Purpose of this Code"

The court considered the scope of the authority of the BC Human Rights Tribunal to take into account the results of a separate workplace proceeding when deciding to dismiss a complaint under the [Human Rights Code](#) pursuant to [section 27\(1\)\(d\)\(ii\)](#).

*Sebastian v. Vancouver Coastal Health Authority*, [2019] B.C.J. No. 1201, [2019 BCCA 241](#), British Columbia Court of Appeal, June 28, 2019, L.A. Fenlon, B. Fisher and P. Abrioux JJ.A.

The appellant, an X-Ray technician for the Vancouver Coastal Health Authority, appealed from an order of the chamber's judge dismissing his petition for judicial review of the decision of the BC Human Rights Tribunal (the "Tribunal"). The Tribunal dismissed the appellant's complaint on the basis that to proceed with it would not further the purpose of the *Human Rights Code*, pursuant to section 27(1)(d)(ii). Read the [full article](#) by Adam R.



Way with Harper Grey LLP.

### Attention Federal Employers: Significant Changes to Canada Labour Code as of September 1, 2019

Federally regulated employers should take note of significant reforms to the [Canada Labour Code](#) (Code) that have been proclaimed into force and have taken effect as of September 1, 2019. These changes are part of sweeping reforms aimed at modernizing the outdated Code through a series of Budget Implementation Bills (notably, [Bill C-63](#) and [Bill C-86](#)). Some of these proposed changes were highlighted in our newsletter article [Bill C-86: Federal Government Proposes Significant Changes to Minimum Labour Standards of Canada Labour Code](#). These reforms have taken effect as of September 1, 2019, and are summarized below. Read the [full article](#) by [Jennifer M. Fantini](#) with Borden Ladner Gervais LLP.

### Occupation-specific Work Permits

When your wheel has a wobble, the solution is to fix the wheel, not reinvent it. That's the principle at play in the [Immigration Law Section's](#) response to a notice in the Canada Gazette regarding a proposal from Immigration Refugees and Citizenship Canada along with Employment and Social Development Canada to amend regulations to allow occupation-specific work permits for temporary foreign workers. In [its submission](#), the Section says rather than creating a new program, the government should concentrate on improving the services it already offers. Read the [full article](#) by Kim Covert, published on the CBA National.

#### Act or Regulation Affected

#### Effective Date

#### Amendment Information

*There were no amendments this month.*

## LOCAL GOVERNMENT

### Local Government News:

#### Cessation of Commercial Vehicle Licensing Program

The Commercial Vehicle Licensing program will be ending December 31, 2019. UBCM has administered this program since 1987. Following a program review with member input, UBCM determined that the program had ceased fulfilling the original intent of the program and distributed funds in disproportion among local governments.

The program was established in 1906 to provide a source of revenue for participating municipalities to offset the expenses related to the use of local roads and highways as a result of commercial vehicle traffic on municipal roads. As this program is contained in the *Local Government Act*, legislative amendments will be required to terminate the program. Read the full UBCM [article](#).

#### British Columbia Adds 11 New Communities to Entrepreneur Immigration Regional Pilot

British Columbia immigration has added 11 new communities to the [Entrepreneur Immigration Regional Pilot](#). The additions mean a total of 55 communities are now signed up to take part in the pilot [British Columbia Provincial Nominee Program](#) stream. The two-year pilot is designed to attract entrepreneurs to establish businesses in smaller communities with populations less than 75,000. Read the [full article](#) published on immigration.ca.

#### No Middle Ground on Dog Destruction Applications, Says Court of Appeal

In *Santics v. Vancouver (City) Animal Control Officer*, [2019 BCCA 294](#), the BC Court of Appeal considered the "dangerous dog" framework set out in the [Community Charter](#) and [Vancouver Charter](#). A key issue was whether a Provincial Court judge could find a dog to be "dangerous" within the meaning of [s. 49\(1\)](#) of the *Community Charter* or [s. 324.1\(1\)](#) of the *Vancouver Charter*, but still make a conditional order falling short of destruction. The Court found that the plain meaning of the dangerous dog provisions in the *Vancouver Charter* and *Community Charter*, considered along with the scheme and object of the legislation, made clear that there was no authority for conditional orders.

The Court did, however, confirm that the Provincial Court retains the discretion not to order destruction, even where the dog in question meets the statutory definition of "dangerous dog". The Court stated that the

"overarching question" relevant to any destruction application is whether the dog is "an unacceptable risk to the public". Read the [full article](#) by Nick Falzon of Young Anderson.

### **You Aren't Allowed to Live in Your RV Year Round, Regional District Warns**

RVs are not houses and old campers are not cabins. That's the message from the Thompson-Nicola Regional District, which is cracking down on the use of recreational vehicles as permanent dwellings in BC's Interior.

Regina Sadilkova, the director of development services for the district, said people living in recreational vehicles are an ongoing problem, but one that seems to be growing.

"There's always more and more used recreational vehicles that may not be roadworthy for sale for less and less money. So they buy them, they park them," she told [CBC Daybreak Kamloops](#) guest host Rob Polson. "Then they start building onto them: Decks, porches, roofs." Read the [CBC article](#).

### **UBCM Strikes Climate Action Committee**

UBCM has struck a Special Committee on Climate Action to generate new ideas, explore opportunities and barriers to local government action, and identify avenues for further partnership work in mitigating, and adapting to, the effects of climate change.

The new committee is comprised of elected officials and senior staff from local government, as well as representatives from the Province, environmental non-governmental organizations, crown corporations and academia. UBCM President Arjun Singh chairs the Special Committee.

In an effort to take climate action to the next level, the Committee will consider the state of climate action, local government approaches and best practices in mitigation and adaptation, and the roles and responsibilities of the orders of government and external stakeholders in supporting local action. It will also review opportunities and barriers to taking climate action to the next level, and propose options that are sensitive to local conditions, autonomy, and resources. The Committee will meet over the course of nine months, and generate a report of its findings for consideration by the UBCM Executive. Read the UBCM [article](#).

### **DataBC and the Agricultural Land Commission Adopt ParcelMap BC**

The [Land Title and Survey Authority of British Columbia](#) (LTSA) is pleased to announce the [Agricultural Land Commission](#) (ALC) and the [DataBC Program](#), operated by the Digital Platforms and Data Division within the Ministry of Citizens' Services, have successfully adopted ParcelMap BC. They are the first organizations in BC to adopt the province-wide fabric in its entirety and join 16 local governments who currently use ParcelMap BC as their representation for property boundary mapping, along with over 75 more organizations who are [assessing or transitioning](#) to ParcelMap BC.

The ALC administers the provincial Agricultural Land Reserve (ALR) including maintenance of mapped ALR boundaries. In April 2019, they transitioned to using ParcelMap BC as the basis for mapping the ALR where it follows legal property boundaries. The ALR is a key component for land development in BC, informing workflows for local governments, land surveyors and other land development professionals. Read the [full post](#) on the BC Land Title & Survey Authority website.

#### **Act or Regulation Affected**

#### **Effective Date**

#### **Amendment Information**

*There were no amendments this month.*

## **MISCELLANEOUS**

### **Miscellaneous News:**

#### **Criminal Code Changes**

On September 1, 2019, the offence of brokering was added to the definition of "offence" in [section 183](#) of the [Criminal Code](#), as a result of changes to the [Export and Import Permits Act](#) that provide for regulating international arms brokering and allow Canada to accede to the Arms Trade Treaty. Quickscribe has published [an early consolidation](#) of the *Criminal Code*, incorporating these and other not yet in force changes made by Bill C-75. The significant number of changes brought by this bill represent the federal government's move to



modernize, clarify and strengthen the criminal justice system by:

- repealing provisions deemed unconstitutional
- streamlining the bail processes
- limiting the availability of preliminary hearings to offences carrying the most serious penalties
- creating a new process for dealing with administration of justice offences involving youth
- reclassifying offences to provide prosecutors with discretion to more efficiently deal with less serious conduct
- improving the jury selection process to promote more transparency and impartiality
- providing judges with tools to more effectively manage the cases before them

Bill C-75 comes into force in four stages: on Royal Assent (June 21, 2019), 30 days after Royal Assent, 90 days after Royal Assent and 180 days after Royal Assent.

### **Prompt Payment Legislation in British Columbia: Long Overdue?**

Trade contractors often face significant delays in payment on construction projects, as funds slowly wind their way down the "construction pyramid" from developers to general contractors to trade contractors. The proliferation of "pay-when-paid" clauses in contractor-subcontractor agreements in recent years (which we have written about [here](#)), has further increased the time lag for many trade contractors between completion of their work and payment. Such delays can severely restrict trade contractors' cash flow, and often result in crippling slowdowns on construction projects when builder's liens are filed.

In response to these concerns, the federal government and several provinces have now each proposed or enacted legislation to create "prompt payment" regimes for construction projects. The various laws all share the feature of setting tight timelines for the payment of trade contractors after their work is completed on a project. Read the [full article](#) by Michael Larsen and Scott Lamb with Clark Wilson LLP.

### **First Nation's Request for an Increased Allocation of Sockeye Triggers the Duty to Consult**

On August 8, 2019, the Federal Court of Appeal overturned a decision of the Federal Court, finding that Squamish First Nation's request for an increased allocation of Fraser River sockeye salmon triggered the Crown's duty to consult. This case is another recent example of the Federal Court of Appeal's readiness to examine a government agency's consultation in detail and provide commentary to guide the Crown and Indigenous groups toward meaningful consultation. Read the [full article](#) by Bridget Gilbridge and Sarah Noble (summer student) with Fasken Martineau DuMoulin LLP.

### **Procedural Differences Between Civil Actions in British Columbia and Ontario**

As we have developed greater and more rapid business relationships across greater distances, there has inevitably come with this trend a larger emphasis on cross-jurisdictional litigation. While Canadian common law is fairly uniform in its basic components, there are notable elements that have slight, yet potentially critical, differences. In this discussion, we will endeavour to identify some of the most important differences specifically between civil procedure in Ontario and British Columbia.

As a starting point, it is helpful to know that the BC Supreme Court Civil Rules are very similar to the Rules of Civil Procedure in Ontario, so the vast majority of matters in BC will proceed in a similar fashion to the way they do in Ontario.

The [Limitation Act](#) governs the limitation period for commencing an action in British Columbia. Generally speaking for most causes of action, an individual has 2 years from the date the action is discovered to commence legal proceedings. The Act states that an action may not be brought "more than two years" after the claim was or should have been discovered.

Ontario has its own *Limitations Act* which governs limitation periods in the province. The basic limitation period is set out as being the second anniversary of the day on which the claim was discovered. Due to this very slight difference in description, the last day to issue a claim in BC would seem to be the day before the second anniversary, whereas an action in Ontario can be brought on the second anniversary. There is no specific case law on this comparison, but it is always best to be safe and issue claims well in advance of the second anniversary of the cause of action. Read the [full article](#) by Adam Grant of McCague Borlack LLP.

**Act or Regulation Affected**

**Effective**

**Amendment Information**

	Date	
There were no amendments this month.		
<b>MOTOR VEHICLE &amp; TRAFFIC</b>		
<b>Motor Vehicle and Traffic News:</b>		
<p><b>Passenger Transportation Amendments</b>  Effective September 3, 2019, the <a href="#">Passenger Transportation Act</a> and <a href="#">Passenger Transportation Regulation</a> were amended in preparation of the launch of commercial ride-hailing in BC. The amendments enable the Passenger Transportation Board to begin accepting applications from companies seeking to provide commercial ride-hailing in BC, and to determine the supply, boundaries and fares charged to passengers. The full implementation of the ride-hailing services will occur on September 16, 2019, after the board decides on the applications it receives.</p> <p><b>Significant Changes to Federal Labour and Employment Laws Applicable in the Transportation Sector</b>  Numerous amendments to the <a href="#">Canada Labour Code</a> (the "Code") will come into force on September 1, 2019, ahead of the October 21st federal election.</p> <p>The changes will affect approximately 18,000 federally-regulated employers, including rail, aviation, shipping, and cartage companies that move goods and people across borders.</p> <p>Employers in the federal transportation and logistics sector should take stock of the upcoming changes, reviewed below. The changes to labour standards under Part III of the Code are unprecedented in scope and certainly employee-centric.</p> <p>The Federal Government's review of labour standards under the Code started several years ago. Beginning in May 2017, the Government <a href="#">consulted</a> with various stakeholders and experts "to get their perspectives on what a robust and modern set of federal labour standards should be." These consultations focused on improving access to leave and annual vacation, supporting work-life balance, protecting employees in non-standard employment, and updating termination-of-employment provisions. Read the <a href="#">full article</a> by <a href="#">Tim Lawson</a> and Alexander Ognibene with McCarthy Tetrault LLP.</p>		
Act or Regulation Affected	Effective Date	Amendment Information
Insurance (Vehicle) Regulation (447/83)	Sept. 1/19	by <a href="#">Reg 173/2018</a>
Special Direction IC2 to the BC Utilities Commission (307/2004)	Aug. 21/19	by <a href="#">Reg 190/2019</a>
<b>OCCUPATIONAL HEALTH AND SAFETY</b>		
<b>Occupational Health &amp; Safety News:</b>		
<p><b>Consultation on Proposed Amendments to the Occupational Health and Safety Regulation</b>  The Policy, Regulation and Research Division is requesting feedback on proposed amendments to <a href="#">Part 6, Substance Specific Requirements – Cytotoxic Drugs</a>, of the <a href="#">Occupational Health and Safety Regulation</a>. The consultation phase provides stakeholders an opportunity to provide feedback prior to the proposed amendments being taken to public hearing. All stakeholder feedback is carefully considered and analyzed, and provided to the Board of Directors of WorkSafeBC as part of their decision-making process. Read the <a href="#">full article</a> published by WorkSafe BC.</p>		
Act or Regulation Affected	Effective	Amendment Information

	Date	
There were no amendments this month.		
<b>PROPERTY &amp; REAL ESTATE</b>		
<p align="center"><b>Property and Real Estate News:</b></p> <p><b>A closer look at the Report on Common Property, Land Titles, and Fundamental Changes for Stratas: Should the Strata Property Act continue to require a resolution passed by a unanimous vote to authorize changing the basis on which a strata lot's share of the contribution to the strata's operating fund and contingency reserve fund is calculated?</b></p> <p>This post is the part of a series highlighting key recommendations in the <a href="#">Report on Common Property, Land Titles, and Fundamental Changes for Stratas</a>. For other entries in the series, <a href="#">click here</a>.</p> <p>The general rule for strata corporations is to calculate a strata lot's share of the contribution to a strata's operating fund and its contingency reserve fund on the basis of the strata lot's unit entitlement. The act allows for some flexibility within this system: through devices such as sections and types strata corporations can use unit entitlement as the basis for calculating contributions and also attempt to allocate expenses in ways that vary somewhat from a strict accounting according to unit entitlement. Read the <a href="#">full article</a> by Kevin Zakreski with BCLI.</p> <p><b>Renter Who Listed Spare Room on Airbnb Ordered to Repay Roommate's Damage Deposit</b></p> <p>Kaley Antaya has been a renter in BC for 14 years, but she says she has never faced as many problems as when she started dealing with the tight rental market in Vancouver. Last year, Antaya's living situation went sideways after her roommate, Amy Wutzke, listed a third bedroom for short-term rentals on Airbnb. "It was a nightmare," Antaya said over the phone. "I felt completely unsafe." Antaya, 33, left without giving 30 days' notice, as per her agreement with Wutzke. But when Antaya moved out, her roommate refused to refund her \$400 damage deposit. The BC Civil Resolution Tribunal recently ordered Wutzke to repay it, plus interest and the \$125 filing fee. Read the <a href="#">CBC article</a>.</p> <p><b>Condo Smarts: Make Sure Your Strata is Given Proper Notice</b></p> <p>Every day, hundreds of emails and calls are managed by the Condominium Home Owners Association's advisers from strata councils, property managers, owners, tenants and commercial users. Most complaints relate to matters involving relationships and conflicts between occupants. Most of these issues are bylaw enforcement and can be easily managed by strata corporations. However, the nature of most strata councils is to often ignore the easy solutions until those matters become a costly and disruptive crisis in their community. Enforcing bylaws is not an option for strata corporations. Read the <a href="#">full article</a> by Tony Gioventu and published in the <i>Times Colonist</i>.</p>		
Act or Regulation Affected	Effective Date	Amendment Information
There were no amendments this month.		
<b>WILLS &amp; ESTATES</b>		
<p align="center"><b>Wills and Estates News:</b></p> <p><b>Petrick (Trustee) v. Petrick, 2019 BCSC 1319 – Not All Joint Tenancies Are Created Equal</b></p> <p>In a recent decision, the Supreme Court of British Columbia has clarified the property interests that may arise when a property is held in joint names. While it is clear that a transfer of property into joint names may result in either a gift or a trust, in <i>Petrick (Trustee) v. Petrick</i>, <a href="#">2019 BCSC 1319</a>, Justice Francis has confirmed that three situations are possible.</p> <p><i>Petrick</i> involved a transfer of property from a bankrupt son to his mother. His trustee in bankruptcy applied for a</p>		

declaration that the transfer was void because it was intended to defeat his creditors. Read the [full article](#) by Polly Storey with Clark Wilson LLP.

### Executor Remuneration: When Do They Get Nothing?

There are many cases where the actions, or inactions of the executor/trustee amount to conduct that will disentitle any executors remuneration.

It is trite law that an estate executor/trustee has a fiduciary duty to act in the best interests of an estate and its beneficiaries, and in that regard, whether a professional or non-professional, an estate trustee must exercise the standard of care employed by a person of ordinary prudence in managing his or her own affairs. *Fales v Canada Permanent Trust Co.* (1977), 2 SCR 302, at paragraph 315. Read the [full article](#) by Trevor Todd with *Disinherited – Estate Disputes and Contested Wills*.

### Order Declaring Person Incapable of Managing Her Person Revokes Power of Attorney

I have recently come across an interesting issue with respect to the [Patients Property Act](#) and, perhaps, an unintended consequence in the way [section 19](#) was drafted. Under the *Patients Property Act*, a person can be declared a patient by reason of being unable to care for their person, their finances, or both. Another person can then be appointed as the committee of the estate of the patient, committee of the person of the patient, or both. However, even if the application before the Court only concerns the person, the effect of being declared a patient results in any and all power of attorney agreements being terminated from the date of the order:

Effect on power of attorney or representation agreement of person becoming a patient by court order

- 19 On a person becoming a patient as defined in paragraph (b) of the definition of "patient" in section 1,
  - (a) every power of attorney given by the person is terminated, and
  - (b) unless the court orders otherwise, every representation agreement made by the person is terminated.

Read the [full article](#) by Taeya Fitzpatrick of Sabey Rule LLP.

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

*There were no amendments this month.*

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

## QUICKSCRIBE SERVICES LTD.

### 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](#).