

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Quickscribe Publishes Early Consolidation of *Criminal Code*

Quickscribe has published an [early consolidation of the *Criminal Code*](#) incorporating 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 will come 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.

New Contributor For Arbitration Law

Quickscribe is pleased to announce that Christopher Hirst, managing partner Alexander Holburn Beaudin + Lang's LLP in Vancouver, will soon be contributing annotations in the area of builders lien and construction law. Chris is the leader of the firm's Construction + Engineering Practice. Chris is also a member of the firm's Environmental, Insurance and Maritime Practices. His practice is focused on assisting construction industry clients in the management of procurement issues, the negotiation and drafting of contracts, and the resolution of builders' liens and other construction-based litigation. Chris is a frequent speaker and writer on legal issues of interest to the construction and business communities. He is a contributing author to the "BC Builders Lien Practice Manual", published by the Continuing Legal Education Society of British Columbia. Visit our [contributor page](#) to view and follow our expert annotators.

Latest Annotations


New annotations have recently been added to the Quickscribe site.

- [Stanley Rule](#), Sabey Rule LLP – [Supreme Court Civil Rules](#)
- [Anita Mathur](#), BC Oil & Gas Commission – [Oil and Gas Activities 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".

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FEDERAL LEGISLATION – For notification of federal amendments, we recommend you use our [Section Tracking](#)  tool.

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[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:

Charities and Not-for-Profit & Corporate Commercial Bulletin

The British Columbia Ministry of Finance is currently consulting with the public on proposed amendments to the British Columbia [Societies Act](#), [Business Corporations Act](#) and [Cooperative Association Act](#).

In force since November 28, 2016, the *Societies Act* governs over 27,000 societies in BC. The proposed amendments are aimed at perceived ambiguities, omissions and inconsistencies within the legislation and at streamlining certain corporate registry filings. Related changes concerning directors and shareholders/members are proposed for the *Business Corporations Act* and the *Cooperative Association Act*.

Stakeholders are invited to provide feedback on the proposed amendments: see the [Letter from Deputy Minister of Finance \(PDF\)](#). The submission deadline is August 23, 2019. Read the [full article](#) by [Dierk Ullrich, Darrell J. Wickstrom and Cara Chu](#) with Fasken Martineau DuMoulin LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Business Practices and Consumer Protection Act	July 16/19	by 2019 Bill 7, c. 22, section 9 only (in force by Reg 169/2019), Business Practices and Consumer Protection Amendment Act, 2019
Cooperative Association Act	July 15/19	by 2018 Bill 22, c. 17, s. 35 only (in force by Reg 151/2019), Civil Resolution Tribunal Amendment Act, 2018
Small Business Venture Capital Regulation (390/98)	RETROACTIVE to Feb. 20/19	by Reg 182/2019
	RETROACTIVE to Mar. 2/19	
	July 19/19	
Societies Act	July 15/19	by 2018 Bill 22, c. 17, s. 45 only (in force by Reg 151/2019), Civil Resolution Tribunal Amendment Act, 2018

ENERGY & MINES

Energy and Mines News:

Pipeline Licensee v. Contract Operator: Who is Liable for Environmental Damage arising from Integrity Mismanagement and Corrosion?

In *ISH Energy Ltd v Weber Contract Services Inc.*, 2019 ABQB 221, pipeline leaks were discovered at five locations in northern British Columbia that required significant clean up and extensive repair to the pipelines. The Alberta Court of Queen's Bench found the contract operator of the pipeline, who was responsible for the pipeline's maintenance, negligent and in breach of contract. The Court awarded significant damages of over \$24 million against the contract operator. This decision is a cautionary reminder, to pipeline licensees, service companies and customers of the importance of an effective integrity management program and the environmental exposure that may result from inadequate implementation. Read the [full article](#) by [Chidinma Thompson](#) and [Brett Carlson](#) with Borden Ladner Gervais LLP.

Environmental Concerns Could Dash Teck's Hopes of Building Massive Oilsands Mine

Regulators have recommended the federal government approve Teck Resources Ltd.'s massive new oilsands mine that could help reverse a trend of declining investment in the heavy oil formation, though analysts have been skeptical new mining projects can ever be built in the play given emissions limits and stringent regulatory reviews. The Canadian Environmental Assessment Agency and the Alberta Energy Regulator announced late Thursday [July 25th] they were recommending Environment and Climate Change Minister Catherine McKenna approve Frontier, a massive new oilsands mining project by the Vancouver-based miner, with the capacity to produce 85,000 barrels of oil per day by 2026, with future phases taking total output to 260,000 bpd by 2037. While the two agencies determined the project was in the public interest, they also withheld approvals for parts of the project on Big Creek, a waterway in the area, and made its approval contingent on 62 different conditions. Read the *Vancouver Sun* [article](#).

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

FAMILY & CHILDREN

Family and Children News:

Alternatives to Court: Parenting Coordination

This is the last column in LawNow's series on resolving family law disputes out of court. The other columns in this series include Sarah Dargatz's articles on [collaborative negotiation](#) and [mediation](#), and my article on [arbitration](#). In this column, I'm going to talk about parenting coordination. This is a child-centred process that combines elements of both mediation and arbitration and is used to resolve disagreements between separated parents about their children.

Parenting coordination was developed in California in the 1980s in response to certain family law cases that seemed to be in court all the time, even after they had gone through trial. The people involved in these cases were making applications to adjust the parenting arrangements for their children several times each year, at a huge expense to them and a huge expense to the court. A number of people working in the justice system came up with the idea of taking these conflicts out of the court system and having them resolved privately by a lawyer or a mental health professional, like a social worker or a psychologist, working directly with the parents. Read the [full article](#) by [John-Paul Boyd](#) on *LawNow*.

Act or Regulation Affected	Effective Date	Amendment Information
Child Care Subsidy Regulation (74/97)	July 8/19	by Reg 148/2019
Child, Family & Community Service Regulation (527/95)	July 8/19	by Reg 149/2019

Representative for Children and Youth Regulation (103/2007)	July 3/19	by Reg 142/2019
Supreme Court Civil Rules (168/2009)	July 1/19	by Reg 104/2019 and Reg 115/2019
Supreme Court Family Rules (169/2009)	July 1/19	by Reg 105/2019

FOREST & ENVIRONMENT

Forest and Environment News:

Tree Seeds and Services Regulation

The new [Tree Seeds and Services Regulation](#) came into force on July 2, 2019, under the [Forest and Range Practices Act](#). The regulation provides guidelines and costs on the provision of tree seeds, vegetative material and seed processing services, as well as prices for tree seeds, both orchard and wild. Also included are tables listing fees for processing, germination tests, stratification and other tests.

Act or Regulation Affected	Effective Date	Amendment Information
BC Timber Sales Regulation (381/2008)	July 19/19	by Reg 175/2019
Disposition and Change of Control Regulation (351/2004)	July 19/19	by Reg 176/2019
Tree Seeds and Services Regulation (138/2019)	NEW July 2/19	see Reg 138/2019
Trees Designated Area No. 1 (170/2019)	NEW July 16/19	see Reg 170/2019
Private Managed Forest Land Council Regulation (182/2007)	July 1/19	by Reg 55/2019

HEALTH

Health News:

AI in Healthcare is Coming, and We Need to be Ready

From the alarming forecasts of tech moguls to vigorous debates on online forums, there's a growing public discussion about the risks and benefits of artificial intelligence (AI) and how to manage its development. People often talk about AI by evoking grandiose prophecies about the future. While one day we may be apathetically wiped out by a rogue AI, or instead, become immortal cyborgs worshipping a god-like algorithm, important developments are happening today. And healthcare is a domain in which AI is already having a significant impact. However, these advancements give rise to various policy challenges that will need to be carefully addressed. Read the [full article](#) by Blake Murdoch in *LawNow*.

Act or Regulation Affected	Effective Date	Amendment Information
Health and Social Services Delivery	REPEALED	by 2018 Bill 47, c. 50, section 1 only (in force by

Improvement Act	July 1/19	Reg 130/2019), Health Sector Statutes Repeal Act
Health Care Facility Designation Regulation (31/2004)	REPEALED July 1/19	by Reg 130/2019
Health Sector Labour Adjustment Regulation (39/2002)	REPEALED July 1/19	by Reg 130/2019
Health Sector Partnerships Agreement Act	REPEALED July 1/19	by 2018 Bill 47, c. 50, section 1 only (in force by Reg 130/2019), Health Sector Statutes Repeal Act
Medical and Health Care Services Regulation (426/97)	July 19/19	by Reg 177/2019
Provider Regulation (222/2014)	July 19/19	by Reg 181/2019
Vaccination Status Reporting Regulation (146/2019)	NEW July 1/19	see Reg 146/2019

LABOUR & EMPLOYMENT

Labour and Employment News:

Texting at Work Wasn't Just Cause for Termination, BC Tribunal Rules

A woman who was fired with cause for texting during a meeting and not being a "team player" has been awarded \$5,164 in compensation for her seven years of service at the dental office where she worked. The employer, dentist Dr. Paula Winsor-Lee of the Monashee Dental Centre in Lumby, BC, appealed the decision that the Director of Employment Standards issued in March. But the BC Employment Standards Tribunal [recently upheld it](#).

During the hearing, Winsor-Lee argued that she had established cause to fire her employee, Mieka Mandalari, primarily for texting during a meeting after several years of what the dentist identified as problematic texting during work hours. Read the CBC [article](#).

When is an Independent Contractor Not So Independent

Many employers use a variety of types of arrangements for their workforce. One of the arrangements we see quite frequently is that of independent contractor. An independent contractor relationship has a variety of benefits both for the contractor and for the employer. One of the key benefits for the employer is the ability to limit liability for termination of the relationship. In an independent contractor relationship, generally there are specific terms governing how the relationship can be terminated. This is different than the requirements that arise in an employment relationship to comply with regulatory standards in the [Employment Standards Act](#) and of the requirement to provide reasonable notice of the termination of the employment relationship. That requirement can result in significant liability for an employer. Some employers will rely on the use of independent contractor relationships to limit that potential liability for provision of reasonable notice. There are risks however of doing so. Read the [full article](#) by [Rose Keith](#) with Harper Grey LLP.

Locked-in Retirement Accounts the Focus of July 2019 Pension Division Review Project Committee meeting

At this month's meeting, the [Pension Division Review Project Committee](#) examined locked-in retirement accounts. British Columbia's [Pension Benefits Standards Act](#) defines locked-in retirement account to mean "an RRSP that is prescribed to be a locked-in retirement account." The [regulation](#) completes this definition by adding that "an RRSP is a locked-in retirement account if the RRSP includes locked-in money." Locked-in retirement accounts are commonly created when an employee, who was a member of an employer's pension plan, ceases to be employed by that employer, for whatever reason, after the plan vests.

While [part 6 of the Family Law Act](#) doesn't apply to benefits from a locked-in retirement account, these benefits

are considered to be family property under [part 5](#) and may be divided under that part. The committee grappled with whether this approach should continue to prevail or whether the act should be amended to provide for division of locked-in retirement accounts under part 6. Read the [full article](#) by Kevin Zakreski of BCLI.

Act or Regulation Affected	Effective Date	Amendment Information
Community Services Labour Relations Act	July 1/19	by 2018 Bill 47, c. 50, section 2 only (in force by Reg 130/2019), Health Sector Statutes Repeal Act
Designated Institutions Regulation (158/2003)	July 18/19	by Reg 172/2019
Employment and Assistance Regulation (265/2002)	July 1/19	by Regs 122/2019 and 123/2019
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	July 1/19	by Regs 122/2019 and 123/2019
Employment Standards Act	July 8/19	by 2018 Bill 48, c. 4, section 84 only (in force by Reg 158/2019), Temporary Foreign Worker Protection Act
Temporary Foreign Worker Protection Act	NEW July 8/19	c. 45, SBC 2018, Bill 48 (in force by Reg 158/2019)
Temporary Foreign Worker Protection Regulation (158/2019)	NEW July 8/19	see Reg 158/2019

LOCAL GOVERNMENT

Local Government News:

New Responsibilities for Vessel Owners in Connection with Wrecked Vessels in Force July 30, 2019

The [Wrecked, Abandoned or Hazardous Vessels Act](#), SC 2019, c. 1 (the "Act") will come into force on July 30, 2019 and incorporates the *Nairobi International Convention on the Removal of Wrecks, 2007* (the "Convention") into Canadian Law. The implications of the new statute are that vessel owners are made liable for wrecks that may pose a hazard, and certain vessel owners must also hold insurance related to wreck recovery.

The Act intends to "promote the protection of the public, of the environment, including coastlines and shorelines, and of infrastructure by [...] regulating wrecks and vessels posing hazards, prohibiting vessel abandonment, and recognizing the responsibility and liability of owners for their vessels." Read the [full article](#) by Jaclyne Reive of Miller Thomson LLP.

Should a Local Government be Liable for an Assault Captured by its CCTV on a Public Overpass?

The Alberta Court of Appeal says yes. In *McAlister v Calgary (City)*, 2019 ABCA 214, the plaintiff McAlister and a woman were walking across an overpass attached to the City-run C-train system when they encountered the woman's ex-boyfriend. McAlister was violently assaulted, eventually falling to the ground six minutes into the encounter and suffering severe injuries from kicking from multiple assailants lasting about 20 minutes.

The trial judge found that the City was an occupier of the overpass and that McAlister was a visitor, and concluded that the City of Calgary owed him a duty of care. At the time of the assault, on New Year's Eve, there were two employees watching 42 monitors which cycled through 337 cameras, 25 of which were near the station where the assault occurred. The trial judge held this was insufficient and held that the assault should have been

detected within the first minute, and that help should have been dispatched. Had that been done, the court found, McAlister's injuries would have been less severe and the City was liable for those damages. Read the [full article](#) by Ethan Plato of Young Anderson.

Act or Regulation Affected	Effective Date	Amendment Information
Agricultural Land Reserve Use Regulation (30/2019)	July 4/19	by Reg 147/2019
Bylaw Notice Enforcement Regulation (175/2004)	July 10/19	by Reg 157/2019
Cannabis Licensing Regulation (202/2018)	July 19/19	by Reg 173/2019
Electrical Safety Regulation (100/2004)	July 22/19	by Reg 183/2019
Elevating Devices Safety Regulation (101/2004)	July 22/19	by Reg 184/2019
Liquor Control and Licensing Regulation (241/2016)	July 8/19	by Reg 155/2019
Liquor Possession Regulation (130/2012)	July 8/19	by Reg 156/2019
Power Engineers, Boiler, Pressure Vessel and Refrigeration Safety Regulation (104/2004)	July 22/19	by Reg 184/2019

MISCELLANEOUS

Miscellaneous News:

B.C. Civil Resolution Tribunal Assumes Responsibility for Deciding "Society Claims"

Effective July 15, 2019, the Civil Resolution Tribunal ("CRT") becomes responsible for deciding certain disputes involving societies established in British Columbia. The CRT was established in 2016 and offers an online dispute resolution process for certain claims which have a low dollar value or are of low complexity (see: Civil Resolution Tribunal). The basic idea behind the CRT is to improve access to justice and to reduce court involvement. Initially, the CRT's jurisdiction was limited to certain strata property and small claims matters. The provisions of the [Civil Resolution Tribunal Amendment Act, 2018](#) which come into force today [July 15th] expand the CRT's responsibilities to traffic accident claims, cooperative association claims and – notably "society claims". Read the [full article](#) by Dierk Ullrich and Darrell J. Wickstrom with Fasken Martineau DuMoulin LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Civil Forfeiture Regulation (164/2006)	July 19/19	by Reg 174/2019
Civil Resolution Tribunal Act	July 15/19	by 2018 Bill 22, c. 17, sections 2 (part), 4 (part), 30 (part) and 32 (part) (in force by Reg 151/2019), Civil Resolution Tribunal Amendment

		Act, 2018
Civil Resolution Tribunal Transitional Regulation (150/2019)	NEW RETROACTIVE to Jan. 1/19	see Reg 150/2019
Supreme Court Civil Rules (168/2009)	July 1/19	by Regs 104/2019 and 115/2019
Supreme Court Family Rules (169/2009)	July 1/19	by Reg 105/2019

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Canada's New Drug-impaired Driving Laws Used Mostly in Small Towns – or Not at All

The better part of a year after Parliament passed laws setting blood limits for cannabis and other drugs, police are making little use of them. Police in Alberta have laid only eight charges under the new laws, and none at all in BC. Ontario and Quebec show a different pattern. In those provinces, the new charges are being used to some extent – Ontario has laid exactly 100 up to the end of June, and Quebec 39. But they're very rarely seen in big cities. Read the Global News [article](#).

When a Two Year Limitation Period is Actually Three

In British Columbia many legal claims are subject to a two year limitation period. Once a lawsuit is started in the BC Supreme Court a Plaintiff has a year to serve the claim on the Defendants being sued. This period, totalling potentially three years, is considered when adding new parties to an existing lawsuit as demonstrated in reasons for judgement released today [July 18th] by the BC Supreme Court, Vancouver Registry.

In this case ([Jamal v. Young](#)) the Plaintiff was involved in a series of collisions and sued for damages. The Plaintiff sought to add more parties to one of the claims beyond the expiration of the two year limitation period. The application was opposed with the Defendants arguing the passage of time and limitation period was prejudicial. The Court granted the application noting the relevant period to consider prejudice in these circumstances is three years. Master Elwood provided the following useful summary of the law: Read the [full article](#) by Erik Magraken on his *BC Injury Law Blog*.

CVSE Bulletins & Notices

The following notices were posted in July by CVSE:

- [CT Notice 03-19](#) – Overall Width Restriction During Construction on the Carolin Bridge on Highway 5
- [CT Notice 04-19](#) – New Contact Number for Extraordinary Load Approvals
- [CVSE 1052](#) – Notice to industry that the List of Contacts for use with Form CVSE1052 has been updated (July 30, 2019)
- Tell us what you think! [Take the 16th Annual Ministry of Transportation and Infrastructure Customer Satisfaction Survey 2019](#)

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

Act or Regulation Affected	Effective Date	Amendment Information
Container Trucking Regulation	July 1/19	by Reg 144/2019
Designation of Motorcycle Safety Helmets Regulation (97/2012)	July 19/19	by Reg 179/2019

Motor Fuel Tax Act	July 1/19	by 2019 Bill 5, c. 7, sections 27 and 28 only (in force by Royal Assent), Budget Measures Implementation Act, 2019
Motor Vehicle Act	July 15/19	by 2018 Bill 17, c. 18, sections 5 (1) (part), (d), (f), 6 (a), (c), 7, 13 (a) (part), (e), (f), 14 (d), (e), 16 (b) (part), (c), 17 and 20 only (in force by Reg 125/2019), Motor Vehicle Amendment Act, 2018
Motor Vehicle Act Regulations (26/58)	July 15/19	by Reg 125/2019
Offence Act Forms Regulation (422/90)	July 4/19	by Reg 133/2019
Special Direction IC2 to the BC Utilities Commission (307/2004)	July 8/19	by Reg 159/2019
Violation Ticket Administration and Fines Regulation (89/97)	July 4/19	by Reg 133/2019

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

Workplace Injury in Construction Zones Rise in Spring and Summer

According to WorkSafeBC, activities on road construction sites in British Columbia increase significantly during the spring and summer months. This is also the time that puts road construction workers at increased workplace injury risks. Along with the typical dangers posed by the equipment these workers use in the course of their work, they are further threatened by traffic moving through the work zone.

WorkSafeBC is running the Cone Zone campaign from May through August. This campaign endeavours to raise awareness and emphasize the need to prevent construction zone accidents to ensure that every worker goes home safely at the end of each shift. WorkSafeBC reminds people that it is not only road workers and flaggers that are at risk. Tow truck operators, landscapers and first responders deserve the same consideration. Read the [full article](#) on the Overholt Law Blog.

Elevating Devices Safety Regulation Revised

Effective July 22, the [Elevating Devices Safety Regulation](#) was amended, requiring contractors who perform maintenance to prepare a transition plan for submission to Technical Safety BC. This plan must be submitted in a form that is acceptable to the provincial safety manager. The plan must describe how each contractor will bring all of the units upon which they perform maintenance into compliance with the Maintenance Control Program. A complete and acceptable plan must be submitted to the provincial safety manager no later than April 30, 2020.

Act or Regulation Affected	Effective Date	Amendment Information
Electrical Safety Regulation (100/2004)	July 22/19	by Reg 183/2019
Elevating Devices Safety Regulation (101/2004)	July 22/19	by Reg 184/2019
Power Engineers, Boiler, Pressure Vessel and Refrigeration Safety Regulation (104/2004)	July 22/19	by Reg 184/2019

PROPERTY & REAL ESTATE

Property and Real Estate News:

Strata Wind-Up Process May Commence with a Simple Majority Vote

In a recent decision (*Dubas v. The Owners of Strata Plan VR. 92*, [2019 BCCA 196](#)), the BC Court of Appeal further clarified the strata wind-up process and intent of the strata wind-up provisions in [Part 16 of the Strata Property Act](#). In this important decision, the Court of Appeal confirmed that a strata corporation could list its property for sale by way of a simple majority decision (rather than a 75% or 80% vote). With this clarification, strata corporations have been provided with greater flexibility to explore the profitability of moving forward with a sale.

The *Dubas* case involved a three-story, 41-unit building in Granville Street known as "Granville West". In 2017, Granville West's strata council started to receive requests from realtors about the possible wind-up and sale of the property. Following a town hall meeting with owners about the possibility of redevelopment, the strata council distributed an informal ballot asking owners to advise if they were interested in engaging a real estate agent for this purpose. Of the owners who responded, more than 50%, but less than 75%, were in favour of listing. Read the [full article](#) by [Lisa Frey](#) and [Edward L. Wilson](#) with Lawson Lundell LLP.

Pitfalls in Transactions Involving Strata Condominiums

A recent Civil Resolution Tribunal decision highlights some important practice points for licensees in transactions involving strata condominiums. The buyer of a strata condominium claimed against the seller's agent in misrepresentation and false advertising arising from the description of the building as having a "fully rainscreened exterior" in the MLS® listing. The buyer was surprised to have to pay a \$4,700 special levy some seven months after purchasing the unit, for further repairs to the exterior wall cladding. The buyer's agent and the seller were not sued. Read the [full article](#) by Oona Hyat on the BCREA website.

Update to Land Title Forms Coming Due to Land Title Act Amendments

Significant amendments to the [Land Title Act](#) are coming into force on November 15, 2019. As a result, the Director of Land Titles has issued revised versions of all land title form templates. The forms are [available for download](#) but cannot be submitted until November 15, 2019. The forms are being made available now to enable practitioners to prepare and plan for the November 15, 2019 retirement of the current versions of land title forms. Read the [full post](#) on the LTSA website.

Act or Regulation Affected	Effective Date	Amendment Information
Homeowner Protection Act Regulation (29/99)	July 1/19	by Reg 38/2019

WILLS & ESTATES

Wills and Estates News:

Revocation of a Grant of Probate/Administration

The leading decision in British Columbia on the jurisdiction of a court to revoke a grant of administration or probate is *Desbiens v Smith* [2010 BCCA 394](#), which was referred to in Sung estate [2019 BCSC 1202](#).

In *Desbiens* the court set aside the grant of probate on the basis that the executor failed to comply with providing statutory notice to a person who had the right to bring a wills variation action.

The jurisdiction of the court to revoke a grant is quite broad, though is to be exercised sparingly and with restraint. Any failure on the part of an executor executrix to comply with statutory notice requirements merely opens the door to an application for revocation.

One of the questions that must be considered is whether the applicant's claim has sufficient merit to warrant

revocation of the grant.

[Section 121 of WESA](#) provides that an applicant for a grant of probate or administration must give notice of the proposed application to the persons referred to in the rules. [Rule 25 -2\(2\)](#) is the applicable rule. Read the [full article](#) by Trevor Todd on *Disinherited*.

**Supreme Court Civil Rules Amendments
Change Procedures in Estate Litigation**

Admittedly this isn't the most eye-catching title, but there are some significant amendments to the [Supreme Court Civil Rules](#) affecting the conduct of estate litigation matters that came into effect on July 1, 2019. I will highlight a couple of changes.

One of the changes is to broaden the scope of those persons who may file a notice of dispute. The purpose of a notice of dispute is to prevent the issuance of an estate grant when there is a dispute about a will or about the appointment of a personal representative. For example, someone may file a dispute if she alleges the will is invalid, or if she believes there are grounds to pass over the executor.

The rule used to provide that a notice of dispute could be filed by a person to whom notice must be given of the application for an estate grant, which generally limited it to those who are beneficiaries or would be entitled to notice on an intestacy. The problem was that other people, such as beneficiaries of a prior will might have good grounds to file a notice of dispute, but would not be entitled to notice. I wrote about the problem in a previous post.

Now [Rule 25-10 \(1\)](#) also allows a person "who claims an interest under a prior or subsequent will" to file a notice of dispute. Read the [full article](#) by [Stan Rule](#) of Sabey Rule LLP on *Rule of Law*.

Recent Changes to Pour Over Rules

The British Columbia Court of Appeal has held that a clause in a will directing estate property to be transferred to a trust that was created before death is invalid. We are writing to alert you to this decision so that you can review your will and determine whether changes are required.

The decision in *Quinn Estate*, [2019 BCCA 91](#), relates to the estate of Pat Quinn, the well-known hockey player, coach and general manager. Mr. Quinn included a clause in his will gifting the residue of his estate to the Quinn Family Trust, a trust which he and his wife Sandra had established prior to making the will. The Quinn Family Trust was capable of being revoked or amended by Mr. and Mrs. Quinn. The Court of Appeal found that the clause leaving part of the estate to the Quinn Family Trust was invalid and could not be validated. The issue is that a will must be executed following formal legal requirements, including the need to have two witnesses present, which a pre-existing trust does not meet. Read the [full article](#) by Richard Weiland with Clark Wilson LLP.

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

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