

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Laws Now Load Faster – *Much Faster!* (Hansard Restored)

Some clients may have noticed that the laws on Quickscribe have not been loading in a timely manner. The issue stemmed from how the new [Hansard](#) references were being extracted and displayed on the table of contents of each law. As part of this fix, we had to temporarily remove the Hansard from the database. We are pleased to report that through this process we have not only restored the Hansard feature, but have significantly increased the speed of the database. In fact, laws now load faster than ever before. Please help us by forwarding this news to your colleagues who may have experienced this issue but are not set up to receive this Reporter notice.

New Video – How Can You Benefit from Quickscribe's New Keyword Alert Tool?

We have published a short, [five-minute video](#) that demonstrates how easy it is to set up your own personalized alert for legislative activity or legislative debates that reference keywords or subject matter of your choosing. The setup only takes a few seconds and we will then keep you informed on legislative activity that matters most to you. [Have a look for yourself!](#)

Legislature Wrap-up

The 4th session, 41st Parliament concluded May 30th. The busy spring session included a total of 34 government bills being tabled, all of which have received Royal Assent, with the exception of [Bill 13, Community Safety Amendment Act, 2019](#). There were 24 non-government bills tabled, two of which, [M206, Residential Tenancy Amendment Act, 2019](#), and [M209, Business Corporations Amendment Act \(No. 2\), 2019](#), received Royal Assent in May. To review the status of all the Bills, visit Quickscribe's [Bills' Page](#) for further details.

Latest Annotations


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

- [John-Paul Boyd](#), Wise Scheible Barkauskas – [Family Law Act](#)
- [Katherine Hardie](#), British Columbia Human Rights Tribunal – [Human Rights Code](#)
- [Laura Johnston](#), Community Legal Assistance Society – [Mental Health Regulation, Adult Guardianship Act](#)
- [Kimberly Jakeman](#), Harper Grey LLP, [Health Professions 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....

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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

Company and Finance News:

What's New in Employer Health Taxes

Important deadline! If you are required to pay employer health tax in instalments, your first instalment payment is due June 15, 2019. Watch the [Employer Health Tax Instalment Payment Tutorial](#) video for step by step instructions on how to make instalment payments in eTaxBC. For more information and other related bulletins, visit the government [Employer Health Tax site](#).

BCBCA Beneficial Ownership Register

In 2017, Canadian finance ministers entered into an Agreement to Strengthen Beneficial Ownership Transparency. The finance ministers agreed to introduce certain safeguards to prevent corporations and other legal entities from being used for tax evasion and other criminal purposes, including a commitment to make legislative changes to require corporations to maintain information on beneficial owners by July 1, 2019. We previously [reported](#) on amendments to the [Canada Business Corporations Act](#) ("CBCA") (in force on June 13, 2019) which introduced a beneficial ownership register for CBCA corporations.

[Bill 24, Business Corporations Amendment Act, 2019](#), proposes to introduce a beneficial ownership register for companies organized under the British Columbia [Business Corporations Act](#) ("BCBCA"). Bill 24 passed second reading on May 1, 2019 and is expected to come into force. If Bill 24 comes into force, all BCBCA private corporations (corporations other than reporting issuers, reporting issuer equivalents, publicly-listed corporations and corporations within prescribed classes) will be required to maintain a transparency register with information on significant individuals. Read the [full article](#) by Sarah Fitzpatrick with Miller Thomson LLP.

Policy Prevails over Fine Print: Successful Ambush in British Columbia Clarifies the Use of Blank Proxies

A recent decision of the British Columbia Supreme Court in [Russell v Synex International Inc.](#) (Synex) validated a dissident's floor nomination and the subsequent election of an entirely new board. Notably, the dissident cast his votes using the authority given to him by shareholders who appointed him as their proxyholder, using the management form of proxy. The Court concluded that when a shareholder uses a management form of proxy to appoint a proxyholder other than the named management appointees and does not provide voting instructions, the proxy provides full discretionary voting authority to the named proxyholder. Accordingly, the dissident in this case was able to elect an entirely new board by relying on the private proxy solicitation exemption and without issuing his own form of proxy.

Background

Synex International Inc. (Synex or the Company), a TSX-listed company incorporated in British Columbia, is involved in the development of hydroelectric projects. At its annual shareholder meeting on November 2, 2018, Synex proposed increasing the size of the board from six to seven and elect seven directors. The dissident was the Company's largest shareholder, holding approximately 33% of the outstanding shares as at the record date of the meeting.

Read the [full article](#) by [Aaron J. Atkinson](#) and [Patricia L. Olasker](#) with Davies Ward Phillips & Vineberg LLP.

Pre-incorporated Companies and Privity of Contract

Privity of contract is the notion that only parties to a contract may receive the benefits of or may be called upon to perform the obligations of a contract. This legal principle governs all contractual disputes and determines if a party is properly named in any lawsuit concerning any contractual rights or obligations.

There are limited instances where the law allows for parties other than those named in a contract to be held

liable for or to be able to sue in relation to a contract. One such instance is in the case of pre-incorporated entities. Such was the case in the recent decision of *The Owners, Strata Plan LMS 3905 v. Crystal Square Parking Corporation*, [2019 BCCA 145](#) ("Crystal Square").

In *Crystal Square* the question before the court was whether a strata corporation, once incorporated, was bound by a contract entered into by its predecessors, in particular, one that concerns shared expenses for a parking garage. The issue stemmed from the agreement in question having been entered between the developer, a corporation, prior to the strata corporation coming into existence. Read the [full article](#) by Jeremy Burgess of Pushor Mitchell LLP.

BC Securities – Policies & Instruments

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

- [13-102](#) – CSA Notice and Request for Comment Proposed Repeal and Replacement of Multilateral Instrument 13 102 System Fees for SEDAR and NRD
- [13-103](#) – CSA Notice and Request for Comment – Proposed National Systems Renewal Program Rule and Related Amendments
- [44-102](#) – CSA Notice and Request for Comment Proposed Amendments to National Instrument 44-102 *Shelf Distributions* and Change to Companion Policy 44-102CP *Shelf Distributions* relating to At-the-Market Distributions

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

FICOM News

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

- [Pensions](#) – Systems Upgrade Electronic Filing Systems
- [News Release](#) – Reports on money laundering in real estate recommend regulatory changes
- [Enforcement News Release](#) – TruNorth heavy truck warranty insurance not authorized
- [Letter](#) – Appointment of new Deputy Superintendent, Prudential Supervision at FICOM
- [Pensions](#) – Systems Upgrade - Electronic Filing Systems
- [Enforcement News Release](#) – Jay Chaudhary

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Corporations Act	May 16/19	by 2019 Bill 24, c. 15, sections 3, 4 and 10 only (in force by Royal Assent), Business Corporations Amendment Act, 2019
Business Practices and Consumer Protection Act	May 16/19	by 2019 Bill 7, c. 22, sections 2, 4 to 6, 8, 12, 18 and 19 only (in force by Royal Assent), Business Practices and Consumer Protection Amendment Act, 2019
Designated Accommodation Area Tax Regulation (93/2019)	May 1/19	by Reg 88/2019
	June 1/19	by Reg 102/2019
Wines of Marked Quality Regulation (168/2018)	May 13/19	by Reg 100/2019

ENERGY & MINES

Energy and Mines News:

First Timelines in Western Canada for Oil and

Gas Well Cleanup Announced in New Plan

The BC Oil and Gas Commission (Commission) has introduced a new regulation, making BC the first province in western Canada to impose in law timelines for the restoration of oil and gas wells. The [Dormancy Regulation](#) is included in the Commission's new [Comprehensive Liability Management Plan](#) (CLMP) which ensures 100 per cent of the cost of reclaiming oil and gas sites continues to be paid for by industry.

"The Dormancy Regulation and new Comprehensive Liability Management Plan address long-standing concerns raised by many people in BC," said Minister of Energy, Mines and Petroleum Resources Michelle Mungall. "These changes to better manage inactive sites and orphan wells are the result of legislation our government brought in last spring that provides the BC Oil and Gas Commission with the tools it needs to better protect our land and water." The CLMP ensures no direct cost to BC residents, protects public safety and safeguards the environment. Read the entire BCOGC [news article](#).

A Victory for Canadian Energy Development & Federalism: BC Court of Appeal Reference Case

On May 24, 2019, the BC Court of Appeal released its much-anticipated reference decision concerning provincial regulatory authority over interprovincial pipelines. In a rare unanimous five judge decision, the Court held that BC's proposed amendments (the "Proposed Amendments") to its [Environmental Management Act](#) ("EMA") which purported to apply to the Trans Mountain Expansion Project ("TMX") were outside of the powers of a provincial legislature as they were primarily focused on a federal interprovincial undertaking. This strong, unanimous decision provides much needed legal clarity on regulatory jurisdiction at a time of considerable uncertainty in the energy industry.

BC has already announced its intention to appeal the decision to the Supreme Court of Canada.

A reference decision is an advisory opinion rendered by a court on a major legal issue at the request of either a provincial government or the federal government. Technically, a reference case is not a binding decision but, in practice, reference decisions are given as much weight as decisions rendered in regular proceedings.

This decision provides much needed legal clarity on the regulatory jurisdiction of interprovincial projects at a time of uncertainty in the energy industry. In substance, this is the strongest possible decision for project proponents, as it struck down the Proposed Amendments at the validity stage – holding outright that provinces do not have constitutional authority to regulate interprovincial pipelines - without having to apply the sometimes complex and murky doctrines of interjurisdictional immunity and federal paramountcy. Read the [full article](#) published by [Michael A. Marion](#), [Alan L. Ross](#), [Stephen Armstrong](#) and [Brett Carlson](#) with Borden Ladner Gervais LLP.

British Columbia Utility Commission Proceeds with Inquiry Into Regulation of Indigenous Utilities

In response to direction from the British Columbia government (set out in an [Order in Council](#)), the British Columbia Utilities Commission (BCUC) has established an Inquiry Respecting the Regulation of Indigenous Utilities. Among other things, the BCUC plans to address what are the characteristics of an "Indigenous Utility" and whether and how Indigenous Utilities should be regulated. The BCUC is required to submit an interim report describing the commission's preliminary findings by December 31, 2019, and to submit a "final report describing the results of consultations undertaken by the commission and the commission's findings and recommendations" by January 31, 2020.

As set out in the Order in Council and confirmed in the BCUC's Notice, when looking at the characteristics of an Indigenous Utility, the BCUC will consider the ownership and operation of the utility, the services provided, the service recipients and the area served by the utility. When looking at whether and how an Indigenous Utility should be regulated, the BCUC will consider whether the current [Utilities Commission Act](#) should be used or whether another mechanism is appropriate, and how ratepayers will be protected if there is no regulation. Read the [full article](#) by David Stevens with Aird & Berlis LLP.

Alberta Repeals its Carbon Tax Legislation

On June 3, 2019, Alberta's United Conservative Party government passed Bill 1 – *An Act to Repeal the Carbon Tax* (the Repeal Act). The *Repeal Act* received royal assent today [June 3rd], and is expected to be proclaimed imminently. Upon coming into force, the *Repeal Act* repeals the *Climate Leadership Act*, which enabled provincial carbon levies under the former NDP government. As a result of the *Repeal Act*, fuel purchasers will no longer be charged a provincial levy at the time of sale, and sellers and distributors will no longer be required to remit levies to the provincial government. However, this does not mean that Alberta is free from carbon tax. Alberta will soon become one of the federal backstop provinces. Albertans need to understand the federal carbon tax

requirements, compliance methods and potential impacts resulting from the change in carbon regime.

The *Climate Leadership Act* is repealed retroactively to May 30, 2019, and news reports indicate that the provincial government had already started implementing the changes as at May 30, 2019. For fuel purchased before the repeal date, but not yet taken into possession, no levy is deemed to have been payable at the time of purchase. This effectively allows the purchasers to obtain a refund from the fuel seller. Further, anyone who owned fuel for the purposes of resale as of the repeal date, and who paid a carbon levy when they bought or imported the fuel, may file a report with the Alberta Minister of Energy by no later than June 29, 2019 requesting a refund of the levies paid. This provides a mechanism for sellers to recover levies they paid on unsold fuel which they can no longer pass on to their purchasers. Read the [full article](#) by [Chidnma Thompson](#) and [Bradon Willms](#) of Borden Ladner Gervais.

Act or Regulation Affected	Effective Date	Amendment Information
Clean Energy Act	May 16/19	by 2019 Bill 19, c. 24, sections 1 to 8 only (in force by Royal Assent), Energy Statutes Amendment Act, 2019
Drilling and Production Regulation (282/2010)	May 17/19	by Reg 103/2019
Hydro and Power Authority Act	May 16/19	by 2019 Bill 19, c. 24, section 9 only (in force by Royal Assent), Energy Statutes Amendment Act, 2019
Mineral Tax Costs and Expenditures Regulation (405/89)	May 13/19	by Reg 233/2019
Mineral Tenure Act	May 30/19	by 2019 Bill 14, c. 26, sections 35 and 36 only (in force by Royal Assent), Heritage Conservation Amendment Act, 2019
Oil and Gas Activities Act	May 30/19	by 2019 Bill 14, c. 26, sections 37 and 38 only (in force by Royal Assent), Heritage Conservation Amendment Act, 2019
Utilities Commission Act	RETROACTIVE to June 14/12	by 2019 Bill 19, c. 24, section 17 only (in force by Royal Assent), Energy Statutes Amendment Act, 2019
	May 16/19	by 2019 Bill 19, c. 24, sections 10 to 16 and 18 only (in force by Royal Assent), Energy Statutes Amendment Act, 2019

FAMILY & CHILDREN

Family and Children News:

New Approach to Resolving Family Law Disputes Launched in Victoria Provincial Court!

The Provincial Court and the Ministry of the Attorney General are collaborating on an initiative to change the rules of procedure for family matters in Provincial Court. As part of that process they are launching a program in Victoria on May 13, 2019 to try out key aspects of a new approach, evaluate how they work, and apply the lessons learned before making permanent changes to the rules.

This new approach to family law disputes emphasizes the importance of needs assessment and consensual

dispute resolution, not as an alternative process, but as a first step in the resolution of any family law dispute. Read the [full article](#) published on the Provincial Court of BC website.

**Precedent-Setting Ruling Nets Client
\$331,000 From Ex-Spouse**

A client of Calgary and Vancouver family lawyer [Marcus Sixta](#) has recouped more than \$300,000 from his estranged spouse following a precedent-setting [ruling](#) from the Supreme Court of British Columbia.

The spouse had siphoned hundreds of thousands of dollars from a family business during their marriage to fuel a gambling habit, court documents show. "Gambling corporate funds during the relationship was found to be dissipation of a family asset, and she will have to pay our client back," Sixta, founder of [Crossroads Law](#), tells [AdvocateDaily.com](#) The court awarded the 64-year-old businessman more than \$331,000, his half of the \$663,000 of unauthorized company funds found to have been used for gambling by his ex-spouse.

The woman "regularly, and without authority, facilitated the use of company funds for the specific purpose of gambling," wrote presiding Justice Joyce DeWitt-Van Oosten. Read the [full article](#) published on [AdvocateDaily.Com](#).

Act or Regulation Affected	Effective Date	Amendment Information
Family Law Act Regulation (347/2012)	May 13/19	by Reg 75/2019 and Reg 84/2019
Provincial Court (Family) Rules (417/98)	May 13/19	by Reg 61/2019

FOREST & ENVIRONMENT

Forest and Environment News:

Professional Governance Act

Sections of Bill 49 [Professional Governance Act](#) came into force June 1, while some sections will come into force at a later date by regulation. According to the government, the intent of the law is to modernize and strengthen the roles and expectations of qualified professionals in the province, in turn providing greater, science-based public oversight of how BC's natural resources are managed. It will also establish an office of the superintendent of professional governance to ensure consistency and best practices are applied in the work of qualified professionals moving forward.

Public Feedback Invited into Management of Forests and Range and Private Forests

The BC government is inviting British Columbians to provide input on a two initiatives – to review the [Forest and Range Practices Act](#) and [Private Managed Forest Land Program](#) (PMFLP). A discussion paper, Forest and Range Practices Act Improvement Initiative: Renewal and Resilience, and feedback form are available online: <http://engage.gov.bc.ca/forestandrangepractices>. Feedback can be provided until July 15, 2019.

The *Forest and Range Practices Act* governs on-the-ground forest and range activities on BC's public forests and rangelands. Guiding principles for proposed changes include putting the resiliency of the land first, public trust, reconciliation with First Nations and scientific knowledge, as well as flexibility and adaptation. The Private Managed Forest Land Program was established in 2003 with the introduction of the [Private Managed Forest Land Act](#). Public input on the program is welcome until 4 p.m. on July 9, 2019. Feedback forms and more information are available: <https://engage.gov.bc.ca/privatemanagedforest> The objectives of the review are to confirm the primary goals of the program, which are to encourage private landowners to manage their lands for long-term forest production and encourage sustainable forest management practices, including protecting key public environmental values. Government also wants to increase public awareness and understanding of the program. For these and other news items, visit the [Ministry website news portal](#).

Environmentalists Threaten Legal Action if BC Spotted Owls' Habitat not Protected

It's estimated just 6 of the birds remain in the wild – all in BC

Conservationists are demanding Ottawa do more to protect the spotted owl, and are [threatening legal action](#) against the federal government if it doesn't take more steps to save one of the most endangered animals in

Canada.

Environmental advocate group Ecojustice says that there are an estimated six spotted owls left in the wild in Canada – all in BC – and the animals are at risk of being completely wiped out. Ecojustice and the Wilderness Committee want the federal government to come to the rescue of the birds by committing to a tougher plan for the spotted owl in southwestern BC.

The group recently sent a letter to Catherine McKenna, minister of the Environment and Climate Change, demanding she fulfill obligations to protect and restore species under the federal [Species at Risk Act](#). Read the CBC [article](#).

Follow-up Report on Forest Stewardship Plans, Are They Meeting Expectations?

In 2015, the Forest Practices Board published a special investigation report on forest stewardship plans (FSPs). The 2015 report findings were substantial, and the recommendations triggered a quick response from government in the form of non-legal direction and training for practitioners and government staff. Since the 2015 report came out, many FSPs have expired and new replacement FSPs have been submitted to the province for approval. Read the [full report](#) on the Forest Practices Board website.

Making Producers Pay – From Product Stewardship to Innovative EPR Programs

Product and packaging waste is increasingly drawing public attention across the globe. This stems, in part, from a growing awareness of massive plastic pollution accumulation zones in our oceans, government bans of single use plastics, China's recent import ban on scrap plastics, and news of the Philippines wanting to return Canadian "recyclables." In this era, governments are increasingly turning to innovative waste management and diversion policies and laws.

To date, Canada has focused on two approaches for managing products and their packaging at end-of-life: (1) extended producer responsibility or "EPR", and (2) product stewardship programs. For the most part, these programs (which cover various categories) fall under provincial jurisdiction.

To varying degrees, these programs shift the end-of-life waste responsibility away from governments (and tax payers) and on to producers (e.g., brand owners, manufacturers and first importers). Depending on the program, this responsibility includes reporting and funding (at least in part) the management of the waste created by their products. Read the [full article](#) by [Mark Youden](#) and [Maya Stano](#) with Gowling WLG.

Forestry Legislation Amendments

On May 30, 2019, [Bill 22, Forest Amendment Act, 2019](#), amending the [Forest Act](#), came fully into force by Royal Assent. The amendments require forest companies to gain approval from the minister before disposing of or transferring a tenure agreement to another party. This will allow the minister to refuse or approve a new arrangement if it is not in the public interest or to put conditions on an approval. Bill 21, [Forest and Range Practices Amendment Act, 2019](#), also received Royal Assent, but largely comes into force in future by regulations. The bill amends the [Forest and Range Practices Act](#) to improve the health and sustainability of BC's forest and range lands and increase public confidence in how these lands are managed. For your convenience, Quickscribe has published [an early consolidation](#) of the *Forest and Range Practices Act*, as it will read when all changes come fully into force.

Environmental Appeal Board Decisions

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

[Environmental Management Act](#)

- [Don Tegart; Isabel and Marc Brezinger; Siamak Zand; Robert and Susan Enslin; William C. Evans; Joel Shakin; Brian D. Milne; Christiana Shum; Edward Bruce; Maria T. Reeve; Devra Faye Samson; Jennifer Taylor; Trevor Tso; Lai Y.T. Lam; Yunn Lam; Arnold E. Shuchat; Maria Carmen and Carlos P. Alfaro; Christie S.M. Michel; C. Alexandra Neufeld v. District Director, Greater Vancouver Regional District](#) [Final Decisions – Appeals Allowed in Part]
- [Harvest Fraser Richmond Organics Ltd. v. District Director, Greater Vancouver Regional District](#) [Final Decision – Resolved by Consent]
- [GFL Environmental Inc. v. District Director, Environmental Management Act](#) [Document Disclosure Applications – Granted in Part]

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

Act or Regulation Affected	Effective Date	Amendment Information
Environmental Management Act	May 16/19	by 2019 Bill 17, c. 19, sections 11 to 25 only in force by Royal Assent), Environmental Management Amendment Act, 2019
Forest Act	May 30/19	by 2019 Bill 22, c. 31, sections 1 to 23 (in force by Royal Assent), Forest Amendment Act, 2019
Forest and Range Practices Act	May 16/19	by 2019 Bill 21, c. 25, section 2 only (in force by Royal Assent), Forest and Range Practices Amendment Act, 2019
Integrated Pest Management Act	May 16/19	by 2019 Bill 29, c. 11, sections 7 to 12 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2019
Professional Governance Act	NEW June 1/19	c. 47, SBC 2018, Bill 49 , (in force by Reg 107/2019)
Professional Governance General Regulation (107/2019)	NEW June 1/19	see Reg 107/2019
Protected Areas of British Columbia Act	May 16/19	by 2019 Bill 16, c. 17, sections 1 to 4 only (in force by Royal Assent), Protected Areas of British Columbia Amendment Act, 2019 ; and 2019 Bill 32, c. 16, section 1 only (in force by Royal Assent), Protected Areas of British Columbia Amendment Act (No. 2), 2019

HEALTH

Health News:

Resident Doctors Ratify Agreement under Provincial Mandate

Members of the Resident Doctors of BC (RDBC) and the Health Employers Association of BC (HEABC) have ratified an agreement under government's Sustainable Services Negotiating Mandate. The mandate focuses on improving services for people and ensuring fair and affordable compensation. RDBC represents nearly 1,350 resident doctors working for publicly funded health-care employers in BC's hospitals and public health facilities. The agreement includes:

- a three-year term (April 1, 2019 to March 31, 2022)
- general wage increases of 2% in each year
- a collaborative approach to addressing workload that will support greater engagement with resident doctors, with the intention of retaining them in BC when they complete their programs

Read the government [news release](#).

Liberal Pharmacare Plan has Steep Legal Obstacles, say Lawyers

The federal Liberal government's plan for national pharmacare will be hampered by the constitutional separation of powers and, like the fight over the carbon tax, a pan-Canadian solution may be difficult, say lawyers.

The Liberals recently [laid out](#) their intention to devise a national pharmacare plan in the 2019 budget proposal. According to a [backgrounder](#) from the federal Department of Finance, the government plans to work with its

partners to create a new federal agency called the Canadian Drug Agency. The agency would test new drugs, negotiate prices with drug sellers, devise a list of the most cost-effective drugs to include in a national formulary and will develop a "national strategy" to help those with rare diseases get the high-cost drugs necessary for their treatment, the document states. With Canadians spending more every year on pharmaceutical drugs, the government says this will lower the cost of those drugs. Read the [full article](#) by [Aidan Macnab](#) and published in the *Canadian Lawyer*.

BC Shifting to Cover Cheaper "Biosimilar" Drugs, Health Minister says

British Columbia is changing the type of drugs funded by its prescription program by expanding the use of cheaper equivalents to treat diabetes, rheumatoid arthritis and Crohn's disease. Health Minister Adrian Dix said it's shifting, in part, to "biosimilar" drugs, which are new versions of existing medications that cost anywhere from 25 per cent to 50 per cent less.

On Monday [May 27th], Dix said Canada has one of the lowest rates of use for the lower cost drugs, while the use of biosimilars in some European countries exceeds 90 per cent.

Dix said BC is the first jurisdiction in Canada to support the increased use of biosimilar drugs, which are safe and effective. Bioengineered drugs are the single biggest expense for public drug plans. In 2018, BC spent \$125 million on three of the drugs that treat chronic conditions such as diabetes, rheumatoid arthritis and Crohn's.

Dix said the diabetes management drug Jardiance will be added immediately to PharmaCare, benefiting up to 22,000 patients. The addition of the arthritis drug Taltz will improve treatment options for people with arthritis, he said, and about 2,700 Crohn's disease and ulcerative colitis patients will be changing to a biosimilar medicine available in coming months. There will be a six-month transition period to the new drugs and then PharmaCare will no longer provide coverage for the original drugs. Read the *CBC News* [article](#).

Medicare Protection Amendment Act, 2019

On May 16, Royal Assent was granted to the [Medicare Protection Amendment Act, 2019](#), which amends the [Medicare Protection Act](#) to fully eliminate Medical Services Plan premiums on January 1, 2020.

Act or Regulation Affected	Effective Date	Amendment Information
Drug Plans Regulation (73/2015)	May 3/19	by Reg 98/2019

LABOUR & EMPLOYMENT

Labour and Employment News:

Bill 30: British Columbia Proposes Labour Friendly Changes to the *Labour Relations Code* [Now in Force]

[**Note:** This Bill came into force by Royal Assent on May 30th, and underwent amendments since this article was published. The new amendments restrict the window of opportunity for construction unions to raid their membership once every three years as opposed to every one year as was initially proposed.]

The British Columbia Government is acting on the [recommendations](#) of the Labour Relations Code Review Panel concerning proposed changes to the [Labour Relations Code](#) (the "Code"). [Bill 30](#), the *Labour Relations Code Amendment Act, 2019* ("Bill 30") was given second reading on May 14th in the Legislative Assembly of British Columbia. Not surprisingly, most of the changes are labour friendly. The following is a summary of the salient changes being proposed in Bill 30.

Unions often seek remedial certification as a remedy for unfair labour practices. The remedy is rarely granted. With the proposed amendments, the British Columbia Labour Relations Board (the "Board") will have the express ability to order remedial certification if:

- an employer is doing or has done an act prohibited by section 5 [prohibition against dismissals, etc., for exercising employee rights], section 6 [unfair labour practices], section 7 [limitations on activities of trade unions], or section 9 [coercion and intimidation] of the Code;
- the employees affected by the prohibited act are seeking trade union representation; and
- the Board believes that automatic certification is just and equitable to remedy the consequences of the prohibited act.

This change eliminates the requirement for unions to establish that requisite support for certification would have been obtained had the unfair labour practice not occurred. It is anticipated that this change will result in an increase in the number of remedial certifications granted by the Board. Read the [full article](#) by [Gary T. Clarke](#), [Kris R. Noonan](#) and [Maja Zdravkovic](#) with Stikeman Elliott LLP.

Minimum Wage Increases June 1

Effective June 1, the [Employment Standards Regulation](#) was amended to increase the minimum hourly wage to \$13.85 from \$12.65. This is the second of four annual increases occurring on June 1 of each year until 2021, when minimum wage will reach \$15.20 per hour. Minimum wage rates for liquor servers, resident caretakers and live-in camp leaders have also been increased.

Significant Amendments to the British Columbia Employment Standards Act Now in Force

This article will outline significant amendments to the [Employment Standards Act](#) proposed by [2019 Bill 8](#). [Note: Some sections of this Bill are not yet in force. For your convenience, Quickscribe has published an [early consolidation](#) of the *Employment Standards Act* as it will read when all of changes come into force by regulation at a later date. Check the [commencement table](#) on the Bill to see what sections are not yet in force.]

The provincial government has passed the most significant changes to the *Employment Standards Act* and [Labour Relations Code](#) in years. This article outlines important amendments to the *Employment Standards Act* implemented via Bill 8, which received royal assent on May 30. To read more about the amendments to the *Labour Relations Code*, read "[Significant Amendments to the British Columbia Labour Relations Code Now in Force](#)".

Bill 8 – Employment Standards Amendment Act, 2019

1. Collective Agreements will be required to meet or exceed Employment Standards Act Entitlements

Previously, the *Employment Standards Act* (the ESA) provided that many of its requirements, including hours of work and overtime, statutory holidays, vacation time and pay, and seniority retention, recall and individual termination entitlements, did not apply to collective agreements provided that the collective agreement had any provision dealing with these subjects. Under Bill 8, collective agreements only replace these sections of the ESA if the collective agreement provisions dealing with these subjects "meet or exceed the requirements" of the ESA. Bill 8 delays the implementation of this amendment until the expiry of the current collective agreement in force; however, compliance with these ESA requirements will need to be dealt with during subsequent rounds of collective bargaining.

2. New Unpaid Leaves of Absence

Under Bill 8, employees may take an unpaid critical illness or injury leave of up to 36 weeks if an immediate family member under 19 years of age is at risk of death, and up to 16 weeks for an immediate family member who is 19 or older.

Bill 8 also provides for a leave respecting domestic or sexual violence of up to 10 days, taken in units of one or more days, and an additional period of up to 15 consecutive weeks. Read the [full article](#) by [Andrew Nathan](#) with Borden Ladner Gervais LLP.

The Risk of a Successful Constructive Dismissal Claim

In general, if an employee decides to leave their job of their own accord they are considered to have resigned. However, if an employee leaves their job because their employer substantially changes essential terms of their employment contract, they are considered to have been constructively dismissed. One way that employers can constructively dismiss employees is by permitting an abusive, intolerable work environment.

How can employers properly address workplace conduct to minimize the risk of constructive dismissal claims? This issue was addressed by the British Columbia Supreme Court in [Baraty v Wellons Canada Corp.](#) Read the [full article](#) by Matthew Larsen with Fasken LLP.

Family Status Quo for British Columbia

Many employers and practitioners of human rights law in British Columbia (like us) have been following the Federal Court of Appeal decision in *Canada (Attorney General) v Johnstone*, expecting that, as in Alberta and Ontario, the BC Human Rights Tribunal may adopt Johnstone's broader federal human rights test for family status discrimination, which would displace the narrower BC test from [Health Sciences Association of B.C. v. Campbell River and North Island Transition Society](#) (Campbell River). Although Johnstone was not raised directly

in the decision, the BC Human Rights Tribunal recently declined an invitation to reconsider the application of Campbell River and whether its test for family status discrimination has been displaced in British Columbia. Read the [full article](#) by Christopher McHardy with McCarthy Tétrault LLP.

Target-benefit Plans and Commuted-value Transfer were the Focus of the Pension Division Review Project Committee's May 2019 Meeting

From BCLI:

The [Pension Division Review Project](#) benefits from having an [expert project committee](#). At this month's meeting, the committee's attention was focused primarily on two topics: target-benefit plan design and commuted-value transfer.

In very simple terms, target-benefit plans are pension plans that combine features found in both of the more-traditional plan designs: defined-benefit plans and defined-contribution plans. Legislation expressly addressing target-benefit plans first appeared in British Columbia in September 2015, with the coming-into-force of the new [Pension Benefits Standards Act](#). This date is significant for the Pension Division Review Project because it means that this legislation wasn't in force when [part 6](#) of the [Family Law Act](#) was being developed. Read the [full article](#) by Kevin Zakreski with the BC Law Institute.

Act or Regulation Affected	Effective Date	Amendment Information
Arbitration Act Application Regulation (16/2016)	REPEALED May 3/19	by Reg 96/2019
Arbitration Act Application Regulation (96/2019)	NEW May 3/19	see Reg 96/2019
Employment Standards Act	May 30/19	by 2019 Bill 8, c. 27, sections 2 to 5, 8, 11 to 21, 29 to 31, 36 and 37 only (in force by Royal Assent), Employment Standards Amendment Act, 2019
Employment Standards Regulation (396/95)	June 1/19	by Reg 12/2018 and Reg 80/2019
Labour Relations Code	RETROACTIVE to Apr. 30/19	by 2019 Bill 30, c. 28, section 10 only (in force by Royal Assent), Labour Relations Code Amendment Act, 2019
	May 30/19	by 2019 Bill 30, c. 28, sections 1 to 9, 11 to 26 only (in force by Royal Assent), Labour Relations Code Amendment Act, 2019
Workers Compensation Act	May 16/19	by 2019 Bill 18, c. 10, sections 1 to 3 only (in force by Royal Assent), Workers Compensation Amendment Act, 2019

LOCAL GOVERNMENT

Local Government News:

ALC No Longer Reviewing Cannabis Production

The Ministry of Agriculture has undertaken legislative and regulatory amendments that change provincial policy on cannabis production in the Agricultural Land Reserve (ALR). A key change is the classification of all cannabis production in the ALR as farm use. As a result, applications to the Agricultural Land Commission (ALC) are no longer required for any form of cannabis production in the ALR.

The ALC made this information public in its [Revised Information Bulletin 04 – Cannabis Production in the ALR](#), released in May. The bulletin indicated that, effective February 22, 2019, the [Agricultural Land Commission Act](#) and the ALR Use, Subdivision and Procedure Regulation (now the [ALR General Regulation](#)) were amended, and the [ALR Use Regulation](#) was created. Read the UBCM [article](#).

Deadline Extended to Complete Cannabis Cost Survey

Local governments have one additional month to complete UBCM's [survey](#) examining costs related to cannabis legalization. Data obtained through this survey will support UBCM's discussions with the provincial government regarding cannabis excise tax revenue sharing with local governments. Completed surveys should be sent to [Bhar Sihota](#), UBCM Policy Analyst, by June 28, 2019. Read the full UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Animal Care Codes of Practice Regulation (34/2019)	NEW June 1/19	see Reg 34/2019
Cattery and Kennel Regulation (96/2016)	June 1/19	by Reg 34/2019
Civil Forfeiture Act	May 16/19	by 2019 Bill 11, c. 12, sections 1 to 18 only (in force by Royal Assent), Civil Forfeiture Amendment Act, 2019
Coastal Ferry Act	May 16/19	by 2019 Bil 25, c. 9, sections 1, 3, 5 to 12 only (in force by Royal Assent), Coastal Ferry Amendment Act, 2019
	May 22/19	by 2019 Bil 25, c. 9, sections 2 and 4 only (in force by Reg 110/2019), Coastal Ferry Amendment Act, 2019
Dairy Cattle Regulation (132/2015)	REPEALED June 1/19	by Reg 34/2019
Heritage Conservation Act	May 30/19	by 2019 Bill 14, c. 26, sections 1 to 5, 8 to 29 and 31 only (in force by Royal Assent), Heritage Conservation Amendment Act, 2019
Local Government Act	May 30/19	by 2019 Bill 14, c. 26, section 34 only (in force by Royal Assent), Heritage Conservation Amendment Act, 2019
Private Training Act	May 16/19	2019 Bill 29, c. 11, sections 5 and 6 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2019
School Tax Administration Fee Regulation (70/2017)	REPEALED May 21/19	by Reg 108/2019
School Tax Administration Fee Regulation (108/2019)	NEW May 21/19	see Reg 108/2019
School Tax Remitting Regulation (8/90)	REPEALED	by Reg 109/2019

	May 21/19	
School Tax Remitting Regulation (109/2019)	NEW May 21/19	see Reg 109/2019
Vancouver Charter	May 30/19	by 2019 Bill 14, c. 26, section 39 only (in force by Royal Assent), Heritage Conservation Amendment Act, 2019

MISCELLANEOUS

Miscellaneous News:

BC Court of Appeal Affirms Right to Hunt for Indigenous Group Located Outside of Canada

On May 2, 2019, in *R. v. Desautel*, [2019 BCCA 151](#), the British Columbia Court of Appeal found that "aboriginal peoples of Canada" in [s. 35](#) of the [Constitution Act, 1982](#) should be broadly interpreted to include persons who are not residents or citizens of Canada. In this case, the respondent (a United States citizen and descendant of the Sinixt people) was acquitted of the charges he faced under the [Wildlife Act](#) for hunting in British Columbia.

In 2010, Richard Desautel was charged for shooting a cow-elk near Castlegar, British Columbia. Mr. Desautel is not a British Columbia resident, nor did he have a hunting licence (both of which are requirements under the *Wildlife Act*). Mr. Desautel reported himself to the local wildlife conservation officers, and in his defence, claimed that he was exercising his Aboriginal right to hunt in the traditional territory of his Sinixt ancestors as a member of the Lakes Tribe (part of the contemporary Coville Confederated Tribes, located in the United States). He claimed their traditional territory extended from Washington State north into the Kootenay region of British Columbia. Read the [full article](#) by Niall Rand and Bridget Gilbride with Fasken Martineau DuMoulin LLP.

Countdown to Canada's New Trademarks Act

On June 17, Canada's new [Trademarks Act](#) takes effect, marking a transformative shift in the country's intellectual property landscape.

Significantly, the new Act will find Canada joining the Madrid Protocol for the first time, as well as adopting Nice Classification – measures that will bring Canada's trademark regime into lockstep with the rest of the world. For brand owners in Canada and abroad, these changes will give rise to fresh opportunity – as well as complex hurdles. Read the [full article](#) by Gowling WLG.

Best Practices for Protecting Privilege

A lawyer's obligation to maintain privilege is one of the cornerstones of the legal system. But in-house counsel, who often give business advice, must be particularly vigilant.

Lawyers have an ethical duty to keep communications with their clients confidential. But sometimes that duty can be subverted, whether it's because a border agent seized your phone or because someone forwarded an email to someone who shouldn't have seen it.

A panel discussion at the recent CCCA conference in Toronto addressed the particular issues faced by in-house counsel in terms of privilege – in-house counsel are often business advisors as well as legal advisors, and it can be difficult to separate the threads between the two in a way that everyone understands and properly appreciates. Read the [full article](#) by Kim Covert with the CBA, published on the CBA National.

Act or Regulation Affected	Effective Date	Amendment Information
Domestic Trade Agreement Award Regulation (97/2019)	NEW May 3/19	see Reg 97/2019
Freedom of Information and Protection of Privacy Act	June 1/19	by 2018 Bill 49, c. 47, section 143 only (in force by Reg 107/2019), Professional Governance Act

Police Act	May 16/19	by 2019 Bill 31, c. 18, section 3 only (in force by Royal Assent), Police Amendment Act, 2019
	June 1/19	by 2019 Bill 31, c. 18, section 1 only (in force by Royal Assent), Police Amendment Act, 2019
World Trade University Canada Establishment Act	REPEALED May 16/19	by 2019 Bill 29, c. 11, section 3 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2019

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Car Owners Protected from First Crash with Occasional Unlisted Drivers

People who occasionally lend their vehicles to friends or other unlisted non-household members will not have to purchase additional protection in case of a crash, due to changes to ICBC's new insurance rating model. The Province has directed ICBC to put forward additional changes that will improve fairness in how basic insurance is calculated. Once approved by the B.C. Utilities Commission (BCUC), the following adjustments to the insurance rating model will take effect for policies beginning on or after Sept. 1, 2019:

1. Unlisted Driver Protection (UDP) will be updated so owners only need to consider purchasing it after one crash involving an unlisted driver is linked to any of their vehicles. ICBC's original new rate design model gave people the option to purchase UDP if they planned to lend their vehicles to occasional drivers who are not a household member or not an employee. Occasional drivers are those who may drive a vehicle 12 or fewer days in a year and meet certain additional criteria. Purchasing UDP was one way for the vehicle owner to avoid a one-time financial consequence if the occasional driver got into a crash and was not listed as a driver. This change will help with the transition to an updated model where listing other drivers is a new concept.

Read the full government [news release](#).

Proposed Changes to Canada's Transportation of Dangerous Goods Regulations

Transport Canada has requested written comments on its proposed amendments to the Transportation of Dangerous Goods Regulations ("TDGR") on or before May 27, 2019.

Canada regularly updates the TDGR in an effort to harmonize with the *United Nations Model Regulations on the Transport of Dangerous Goods* ("UN Recommendations") as well as the United States' dangerous goods framework. The goals of harmonization are to ensure consistency between different modes of transport, to facilitate international trade, and to reduce the regulatory burden on Canadian consignors and carriers who deal with dangerous goods in Canada.

The proposed changes to the TDGR would harmonize it with the 20th edition of the UN Recommendations in connection with safety marks, classification information, shipping names and other special provisions, and by increasing reciprocity and alignment with US regulatory requirements for dangerous goods safety marks. Read the [full article](#) by [Jaclyne Reive](#) with Miller Thomson LLP.

Defendant Statement to ICBC Regarding Crash Details Ordered to be Produced

Reasons for judgment were published [recently] by the BC Supreme Court, Vancouver Registry, ordering production of a statement from a Defendant to ICBC to be disclosed to the Plaintiff in a personal injury lawsuit.

In this case ([Canning v. Mann](#)) the Plaintiff was injured in a crash and sued for damages. The Defendant provided ICBC a statement detailing the circumstances of the crash. The Defendant refused to provide the statement to the Plaintiff in the lawsuit arguing it was privileged. The court ordered production noting there was insufficient evidence to establish litigation privilege. In ordering the statement to be disclosed Mr. Justice Basran provided the following reasons:

[6] This principle was elaborated upon in *Janson Estate v. Kvist*, 2018 BCSC 1701, at para. 33.

Justice Saunders held that the party seeking to assert litigation privilege is required to file affidavits from those who have personal knowledge of the circumstances that are said to create the privilege. This could include the adjuster who took the information from the insured or someone else with personal knowledge of the policies surrounding the instruction of independent adjusters and the obtaining of statements.

Read the [full article](#) by [Erik Magraken](#) on *BC Injury Law Blog*.

BC Ferries Adding 1.5% Fuel surcharge to Fares

Due to rising fuel costs, BC Ferries will be charging its customers a 1.5 per cent surcharge starting June 1.

"Fuel is our second largest expense," said BC Ferries president and CEO Mark Collins in a statement. "We know that the affordability of travel is important to our customers, and we will continue to take measures to reduce our fuel consumption further through the introduction of diesel electric battery hybrid vessels," he said.

The company said over the past 15 years, it has used a fuel rebate and surcharge system that manages the ups and downs of fuel prices. When fuel prices are low, savings are passed on to customers, and conversely when prices go up, a surcharge is added. Read the [full article](#) on *CBC News*.

Act or Regulation Affected	Effective Date	Amendment Information
Container Trucking Regulation (248/2014)	June 1/19	by Reg 94/2019
Motor Vehicle Act	May 16/19	by 2019 Bill 29, c. 11, sections 28 and 29 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2019
Offence Act	May 15/19	by 2018 Bill 36, c. 36, section 7 only (in force by Reg 86/2019), Miscellaneous Statutes Amendment Act (No. 3), 2018
	May 16/19	by 2019 Bill 11, c. 12, section 21 only (in force by Royal Assent), Civil Forfeiture Amendment Act, 2019
Special Direction IC2 to the BC Utilities Commission (307/2004)	May 10/19	by Reg 99/2019
Zero-Emission Vehicles Act	May 30/19	c. 28, SBC 2019, Bill 29 , in force by Royal Assent

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

Workers Compensation Act Amendments

The [Workers Compensation Amendment Act, 2019](#) came into force by Royal Assent on May 16, 2019. The amendments to the [Workers Compensation Act](#) serve to broaden the definition of firefighter by extending the occupational disease presumptions.

Occupational Health and Safety Regulation Amendments

A significant number of amendments to the [OHSR](#) came into force on June 3rd as a result of [B.C. Reg. 14/2019](#). Amendments were made to the following Parts:

- Part 5 – Chemical Agents and Biological Agents
- Part 8 – Personal Protective Clothing and Equipment
- Part 20 – Construction, Excavation and Demolition
- Part 21 – Blasting Operations

- Part 23 – Oil and Gas
- Part 24 – Diving, Fishing and Other Marine Operations
- Part 26 – Forestry Operations and Similar Activities
- Part 29 – Aircraft Operations
- Part 34 – Rope Access

All amendments have been consolidated on the Quickscribe site.

Proposed Policy Amendments Regarding Vocational Rehabilitation and Proposed Options Regarding Cost Relief

In January 2018, WorkSafeBC's Board of Directors commissioned an external compensation policy review. The resulting report entitled *Restoring the Balance: A Worker-Centred Approach to Workers' Compensation Policy* was published April 2018 and contains a number of recommendations. Recommendations #5 through #15 propose amendments to WorkSafeBC's Vocational Rehabilitation (VR) policies, and recommendations #16 and #19 propose amendments to cost relief policy in relation to VR and return to work. Read the full WorkSafeBC News [release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Workers Compensation Act	May 16/19	by 2019 Bill 18, c. 10, sections 1 to 3 only (in force by Royal Assent), Workers Compensation Amendment Act, 2019

PROPERTY & REAL ESTATE

Property and Real Estate News:

Transparency is Coming: B.C. Passes Real Estate Beneficial Ownership Disclosure and Public Registry Law

[**Note:** Quickscribe has published [an early consolidation](#) of the [Land Owner Transparency Act](#) as it will read when it comes into force by regulation at a future date.]

On May 16, 2019, the *Land Owner Transparency Act* (LOTA), one of the BC government's signature pieces of legislation to address hidden ownership of real estate in BC, became law. LOTA requires disclosure of individuals who hold, directly or indirectly, beneficial interests in land in BC, including through corporate and partnership structures. It also creates a publicly searchable registry of such individuals. While LOTA is not yet in force as regulations are required to make it operational, it is a far-reaching piece of legislation that owners of real estate need to understand.

LOTA is consistent with the government's aim of ending hidden ownership of real estate to prevent tax evasion, fraud and money laundering. Its passage follows on the heels of numerous reports about the prevalence of money laundering in the province and the launch of a public inquiry.

A draft form of the law was released for public consultation in June 2018. LOTA generally reflects that draft, although a number of structural and substantive changes were made. Read the [full article](#) by [Mike Ventresca](#) and Steven Dhesi (Articling Student) with Blake, Cassels & Graydon LLP.

Case Summary: An Important Outcome for Residential Landlords

Recently, reasons for judgment in the case of [Aarti Investments Ltd. v. Baumann](#) were released by the Court of Appeal. Harper Grey LLP acted for the landlord, and the Community Legal Assistance Society of BC acted for the tenant. This case provided the Court of Appeal with a rare opportunity to clarify [section 49\(6\) of the Residential Tenancy Act](#) which lets a landlord end a tenancy when the landlord has all necessary permits and approvals required by law and intends, in good faith, to renovate the rental unit in a manner which requires vacant possession.

In this case, the landlord was the owner of a rental apartment building in Vancouver's West End that was old and had numerous significant deferred maintenance issues from a time before the current landlord owned the property. Some of the required repairs and replacements to Ms. Baumann's unit included replacing the water pipes servicing the rental unit as well as the electrical system. The landlord was advised by its insurer that its property insurance for the building might be voided unless this work was addressed. The landlord served a

section 49(6) notice on Ms. Baumann to end her tenancy. Ms. Baumann applied for dispute resolution. Read the [full article](#) by Michael Drouillard with Harper Grey LLP.

Changes to the Residential Tenancy Act Regarding "Renovictions" and Land Assemblies

Over the past year, the Province has made several changes to the [Residential Tenancy Act](#) (the "RTA") to provide new protections and compensation for renters in British Columbia who might otherwise face eviction as a result of repair, renovation or demolition of residential properties. In this blog post, we first provide a summary of the changes to the RTA which have come into force over the past year or so. We then discuss the practical effects of these changes for developers and residential landlords.

Summary of Changes

Notice: Tenants now have more time to find alternate housing if their landlord ends a tenancy in order to demolish, renovate, or convert a unit and requires the unit to be vacant. The Province has increased the notice period for a landlord giving a tenant notice to end a residential tenancy for demolition, renovation, or conversion from 2 months to 4 months. The notice may not be given until all development approvals and building permits are in place. Upon receiving a notice to end a tenancy for these reasons, tenants now have more time under the RTA to dispute the notice. The time period for a tenant to dispute such a notice has been increased from 15 days to 30 days.

Compensation: Absent extenuating circumstances, landlords must now pay 12 months' rent (instead of two months' rent, as previously required under the RTA) to a former tenant if the landlord ends a tenancy for demolition, renovation or conversion, and then (i) the landlord does not take steps to accomplish its stated purpose for ending the tenancy within a reasonable period of time, or (ii) the unit is not used for the landlord's stated purpose for more than six months, such period to begin within a reasonable period of time after the effective date of the landlord's notice to end the tenancy.

Read the [full article](#) by [Kevin Hill](#), [Jisoo Vis](#) with Lawson Lundell LLP.

A Closer Look at the Report on Insurance Issues for Stratas: Should the Strata Property Act Require Strata-lot Owners to have Insurance that Covers Payment of a Deductible under a Strata-corporation Policy?

from BCLI:

This post is part of a series highlighting key recommendations in the [Report on Insurance Issues for Stratas](#). For other entries in the series, [click here](#).

There are real concerns that rising insurance deductibles could harm strata-lot owners. This potential for harm might even be exacerbated by the previous recommendation. One response to this harm might be to encourage what many strata-lot owners have already done: take out their own insurance against the prospect of having to pay the strata corporation's deductible.

A proposal for legislation to implement this requirement was considered recently in Alberta. As part of its law-reform project, Service Alberta asked "[s]hould the Act require unit owners to get condominium unit owners' insurance that also covers the payment of any deductible the owner may be required to pay on a claim made under the corporation's insurance policy?" Read the [full article](#) by Kevin Zakreski with the BC Law Institute.

Act or Regulation Affected	Effective Date	Amendment Information
Personal Property Security Act	May 16/19	by 2019 Bill 29, c. 11, sections 18 to 27 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2019
Land Title Act	May 16/19	by 2019 Bill 23, c. 23, section 121 only (in force by Royal Assent), Land Owner Transparency Act
Unclaimed Property Act	May 16/19	by 2019 Bill 29, c. 11, sections 22 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2019

WILLS & ESTATES

Wills and Estates News:

British Columbia Court of Appeal relies on BCLI report on Wills, Estates and Succession in Interpreting BC's *Wills, Estates and Succession Act*

In a recent decision involving the interpretation of the [Wills, Estates and Succession Act](#), SBC 2009, c 13, [WESA], the British Columbia Court of Appeal placed significant reliance on BCLI's report [Wills, Estates and Succession: A Modern Legal Framework](#) on the basis of which the Act was drafted.

The case, *Robledano v Queano*, [2019 BCCA 150](#), concerned the division of an estate of Ms. Jacinto, who was deemed to have died intestate. Ms. Robledano alleged that she and Ms. Jacinto had been in a marriage-like relationship that had not been terminated and that they were "spouses" within the meaning of the WESA, which entitled her to the entirety of the estate. Ms. Jacinto's siblings, represented by Ms. Queano, alleged that the relationship between Ms. Jacinto and Ms. Robledano had been "terminated" within the meaning of the WESA and therefore Ms. Robledano had no claim and they should split the estate between them. The British Columbia Supreme Court had weighed the conflicting evidence and found in favour of Ms. Robledano. Read the [full article](#) by Maria Sokolova with the BC Law Institute.

Huber Estate

There are very few reported cases in British Columbia in which a will has been rectified under [section 59](#) of the [Wills, Estates and Succession Act](#). This section has been in effect for five years, which is still relatively new. Section 59 allows the court to correct drafting and other errors in wills. The operation of this provision is illustrated in a recent decision of Madam Justice Francis, *Huber Estate*, [2019 BCSC 866](#). Section 59 allows the court to rectify a will if the judge finds that the will does not reflect the will-maker's intentions because of

- a. *an error arising from an accidental slip or omission,*
- b. *a misunderstanding of the will-maker's instructions, or*
- c. *a failure to carry out the will-maker's instructions.*

The court may consider direct evidence of the will-maker's intentions, such as the drafting lawyer's evidence of what the will-maker told the lawyer what she wanted in her will. Read the [full article](#) by [Stan Rule](#) with Sabey Rule LLP.

Marriage-like Relationship Criteria

DN v MR, 2019 BCSC 53, is another decision that explores the various criteria a court will examine in determining whether a couple has lived in a marriage-like relationship for at least two years as is required by [WESA](#) in order to be found to be spouses under the act.

The question of whether parties are living in a marriage-like relationship is largely fact-driven and depends on the individual circumstances of each case.

In *Dey v. Blackett*, [2018 BCSC 244](#), citing *Austin v. Goerz*, [2007 BCCA 586](#), the court held that the "determination of whether a relationship was marriage-like requires a 'holistic approach', in which all of the relevant factors are considered and weighed, but none of them are treated as being determinative of the question": at para. 192.

Parties can continue to "live together in a marriage-like relationship" even though they do not actually reside under the same roof: *Thompson v. Floyd*, [2001 BCCA 78](#), at para. 34. Read the [full article](#) published by Trevor Todd with *Disinherited – Estate Disputes and Contested Wills*.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

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