

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Kathryn Stuart to Contribute Annotations to Local Government Legislation on Quickscribe

Quickscribe is pleased to announce that [Kathryn Stuart](#), a partner of Stewart McDannold Stuart, will begin publishing annotations to local government legislation on Quickscribe Online. Kathryn has practised exclusively for more than 28 years in the field of Local Government Law and Administrative Law and advises clients on a wide variety of matters, including corporate and regulatory powers, planning and real estate matters, FIPPA, conflicts, procedure and issues of statutory interpretation. She regularly drafts all manner of bylaws, leases, licences, tenders, RFP's, servicing and development agreements and has seen to the incorporation of local government owned corporations. She lectures at C.L.E. courses on Local Government Law, teaches a local government law course at the University of Victoria for the School of Public Administration and has been a regular presenter at LGMA, the Justice Institute, Capilano University and other functions of local government organizations. She is the past chair of the Municipal Law Section of the BC Branch of the Canadian Bar Association. Kathryn will contribute annotations to local government legislation on Quickscribe Online.

Legislative Assembly Resumes October 7th – Want to Stay Informed?

With the BC Legislative Assembly set to resume shortly, now is a great time to set up your own personal Keyword Alert that will notify you when new legislative debates (Hansard) or other legislative activity (such as Bills) references keywords or subject matter of your choosing. This [short video](#) will explain how easy it is to sign up to this alert – which is included with your subscription. We also recommend visiting the "[My Alerts](#)" page for more information on this and other customizable alerts you may find useful.

Latest Annotations


New annotations have recently been added to the Quickscribe site.

- [Greg Gehlen](#), Gehlen Dabbs Lawyers – [Employment Standards Act](#)
- [Laura Johnston](#), Community Legal Assistance Society – [Mental Health Act](#), [Adult Guardianship Act](#)
- [Christopher Hirst](#), Alexander Holburn Beaudin + Lang LLP – [Builders Lien Act](#)
- [Kimberly Jakeman](#), Harper Grey LLP – [Health Care \(Consent\) and Care Facility \(Admission\) Act](#), [Tobacco Damages and Health Care Costs Recovery Act](#)
- [Erik Magraken](#), MacIsaac & Company – [Supreme Court Civil Rules](#)

Watch this 20-minute [YouTube video](#) to learn more about annotations including how to receive alerts when new annotations are published to the laws that matter most to you. To view and follow annotation contributors, select "[Annotations](#)" via the left navigation, then select the "[experienced legal professionals](#)" link under the large star icon, then "Follow User" adjacent to any "expert annotator".

Tip: Log in to Quickscribe Online prior to clicking Reporter links....

View [PDF](#) of this Reporter.

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

[\[Previous Reporters \]](#)

CATEGORIES

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:

Reducing Regulatory Burden for Investment Fund Issuers

On September 12, 2019, the Canadian Securities Administrators (the "CSA") published a *Notice of Consultation: Reducing Regulatory Burden for Investment Fund Issuers - Phase 2, Stage 1* (the "Publication") (PDF), for a 90-day comment period, which proposes draft amendments aimed at reducing the regulatory burden for investment fund issuers (the "Draft Amendments"), including the following: Read the [Investment Management Bulletin](#) published by Fasken Martineau DuMoulin LLP.

Key Trends from the CVCA's Venture Capital and Private Equity Canadian Market Overview for H1 2019

The Canadian Venture Capital and Private Equity Association ("CVCA") released its [H1 2019 VC & PE Canadian Market Overview](#) (the "Report"). The Report illustrates the main trends in Venture Capital ("VC") and Private Equity ("PE") activity in Canada during the first half of 2019 (the "Period").

Some of the key findings from the Report are outlined below. Generally, the Report shows that there continues to be a significant uptick in VC investment in Canada, with the Period seeing record VC investment. Conversely, the Period saw a slowdown in PE dollars invested in the Canadian markets, which reflects the trend in other markets, including the United States. Read the [full article](#) by [Myron Mallia-Dare](#) and [Elsir Tawfik](#).

BC Securities – Policies & Instruments

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

- [51-102](#) – CSA Notice and Request for Comment Proposed Amendments to National Instrument 51-102 *Continuous Disclosure Obligations* and Changes to Certain Policies Related to the Business Acquisition Report Requirements
- [81-102](#) – CSA Notice and Request for Comment Reducing Regulatory Burden for Investment Fund Issuers – Phase 2, Stage 1
- [BC Notice 2019/02](#) – Amendments to BC Instrument 13-502 *Electronic filing of reports of exempt distribution* related to filing annual reports of exempt distribution in eServices.

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

FICOM News

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

- [Pensions](#) – E-Filing Systems and Communication Update
- [2019 Report on Pension Plans Registered in BC](#) – CUDIC Data Requirements for Deposit Insurance Determination Version 2.0

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

Act or Regulation Affected	Effective Date	Amendment Information
BC Instrument 13-502 <i>Electronic Filing of Reports of Exempt Distribution</i>	Sept. 30/19	by Reg 194/2019

(183/2009)		
Designated Accommodation Area Tax Regulation (93/2013)	Sept. 1/19	by Reg 102/2019 and Reg 139/2019
	Oct. 1/19	by Reg 139/2019
Government Cheque Cashing Fees Regulation (127/2018)	Sept. 15/19	by Reg 169/2019

ENERGY & MINES

Energy and Mines News:

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

[Updated September 9, 2019]

Applicants wishing to submit a new application or an amendment application through the BC Oil and Gas Commission's (Commission) Application Management System, must consider proposed activities, which fall within a [s. 16 or s. 17 Land Act](#) disposition established by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD). For proposed activities, which will impact land subject to a s. 16 or s. 17 Land Act disposition, applicants must complete a FrontCounter BC Application Form for Proposed Activities within Established Section 16 or 17 Land Act Dispositions, which can be found [here](#). Read the full BC Oil & Gas Bulletin article. Visit the [BCOGC website](#) for a list of other industry bulletins published in September.

Act or Regulation Affected	Effective Date	Amendment Information
Conifex Power Exemption Regulation (199/2019)	NEW Sept. 16/19	see Reg 199/2019
quA-ymn Solar Limited Partnership Exemption Regulation (204/2019)	NEW Sept. 24/19	see Reg 204/2019

FAMILY & CHILDREN

Family and Children News:

Child Protection Project Committee Considers Definitions and Terms Used in *Child, Family and Community Service Act*

The British Columbia Law Institute's [Modernizing the Child, Family and Community Service Act Project](#) benefits from having an expert project committee. After a pair of organizational meetings held in the late spring and early summer, the committee has drawn up a work plan, and settled into a monthly meeting schedule.

As part of its work plan, the committee has decided to focus its attention first on the aspect of this project that concerns a focused review of the [Child, Family and Community Service Act](#) to identify outdated provisions and operational incompatibilities and gaps within the statute. The starting place for this review has been the terms and legislative definitions used in the act. Read the [full article](#) by Kevin Zakreski with BCLI.

Case Law on Parenting Coordination: A Work in Progress

Parenting coordination has been available as a dispute resolution mechanism for over six years, and the case law on this topic continues to develop, though somewhat slowly. The following is a review of recent case law on parenting coordination, mostly from the past two years, grouped into three categories: whether a parenting coordinator ("PC") should be appointed, delineating the mandate of the PC, and disputes. As summarized at the

conclusion of this review, there is a wide field for further developments in the law on parenting coordination in BC as well as for general research about this topic. Read the [full article](#) by Magal Huberman with Pietrow Law Group and published in the fall issue of *The Verdict* – from TLABC.

Family Law: Sharing Major Lottery Winnings with a Former Spouse

Hitting the lottery jackpot would make most people jump up and down for joy. But the delight might be short-lived for divorced British Columbia residents who get a windfall if they have to share the winnings with a former spouse. These are the types of issues that fall under the provincial family law umbrella, but they're not always so cut and dried. Much might hinge on where in the divorce process the couple is at the time one had the fortune of winning the lottery. A lot depends upon a couple's unique circumstances whether a major lottery winning would have to be shared. In most parts of Canada, the sharing of lottery winnings when a couple is either separated or divorced is unlikely to be ordered by a court. But estranged or divorced couples have still fought over it. Read the [full article](#) posted on the Peterson Stark Scott *Family Law* blog.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

FOREST & ENVIRONMENT

Forest and Environment News:

Resiliency & Change in BC Forests

from UBCM

BC's forests, forest industry and its forest dependent communities are in the midst of a transition that is unprecedented, delegates to the forests policy session heard on Tuesday afternoon [September 24th]. Presenters confirmed and described the present crisis and pointed to signs of hope for rural communities.

Forests Minister Doug Donaldson reminded attendees that BC's rural communities and its larger cities are all dependent on forestry.

At least 22 mills in BC's interior have either closed or curtailed their operations this year. "We need to manage our forests differently to create more resiliency in face of climate pressures, addressing carbon issues, water issues and many other issues," Donaldson said. Citing engineered wood and improved skills and training, he invited attendees to embrace his vision of a brighter future for forestry communities based on a newfound maturity focused on value rather than volume.

An expert forestry panel addressed the compounded issues and opportunities that forest-dependent communities face. All presenters acknowledged the commitment, talent and expertise of BC's professional foresters as an invaluable asset in face of the crisis. Read the UBCM [article](#).

Canada and BC Sign Impact Assessment Cooperation Agreement

On September 5, 2019, Canada's Minister of Environment and Climate Change and British Columbia's Minister of Environment and Climate Change Strategy announced they have signed an Impact Assessment Cooperation Agreement (the "Cooperation Agreement"). The Cooperation Agreement provides a framework for cooperation between Canada and British Columbia on environmental assessments under the new federal [Impact Assessment Act](#) ("IAA") and British Columbia's new [Environmental Assessment Act](#) ("BCEAA") and is intended to implement the principle of 'one project, one assessment'.

The Cooperation Agreement updates existing agreements to provide for cooperation under the new federal and provincial legislation. The IAA came into force on August 28, 2019. Read the [environmental bulletin](#) published by Fasken Martineau DuMoulin LLP.

Amendments to Code of Practice for Agricultural Management

The [Code of Practice for Agricultural Management Regulation](#) was amended on October 1, requiring a written risk assessment to be added as a condition for applying nutrient sources to land in a high-precipitation area during

February, March or October.

Proposed Changes to Contaminated Sites Regulation

The Province is proposing amendments to the Contaminated Sites Regulation that align with Bill 17, [Environmental Management Amendment Act](#). Bill 17 was introduced and received royal assent in May 2019 and addressed changes to the provisions for site identification in the [Environmental Management Act](#). Read the [UBCM article](#).

Forest Practices Board Releases Annual Report

The Forest Practices Board has released its annual report for the fiscal year 2018-19, providing an overview of the board's performance and work from April 2018 to March 2019.

Each year, the board randomly selects forestry operations for audit. In 2018, it published the results of 15 audits.

"Our auditors evaluate whether forest licensees are in compliance with the [Forest and Range Practices Act](#) and the [Wildfire Act](#)," said Kevin Kriese, chair, Forest Practices Board. "This year, four audits found no problems at all, while 11 found issues ranging from failing to comply with requirements for roads and bridges, to not carrying out fire hazard assessments following logging." Read the [full news release](#) on the BC Forest Practices Board website.

Environmental Appeal Board Decisions

There were four Environmental Appeal Board decisions in the month of September:

[Environmental Management Act](#)

- [Canadian National Railway Company; Canadian Pacific Railway Company; BNSF Railway Company v. Delegate of the Director, Environmental Management Act](#) [Application for Confidentiality Order – Granted in Part]
- [Princeton Standard Pellet Corporation v. Delegate of the Director, Environmental Management Act](#) [Consent Order – Resolved]
- [Gibsons Alliance of Business and Community Society; Marcia Timbres v. Director, Environmental Management Act](#) [Application for Summary Dismissal – Granted]
- [MSP Transport Ltd. v. Director, Environmental Management Act](#) [Preliminary Issues of Jurisdiction – Allowed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (Environmental Management Act) (133/2014)	Sept. 15/19	by Reg 153/2019
	Oct. 1/19	by Reg 7/2019
Code of Practice for Agricultural Environment Management (8/2019)	Oct. 1/19	by Reg 8/2019
Hunting Regulation (190/84)	Sept. 6/19	by Reg 192/2019
Motor Vehicle Prohibition Regulation (196/99)	Sept. 6/19	by Reg 192/2019
Open Burning Smoke Control Regulation (152/2019)	NEW Sept. 15/19	see Reg 152/2019

Open Burning Smoke Control Regulation (145/93)	REPEALED Sept. 15/19	by Reg 152/2019
Waste Discharge Regulation (320/2004)	Sept. 15/19	by Reg 154/2019
Wildlife Act Commercial Activities Regulation (338/82)	Sept. 6/19	by Reg 192/2019

HEALTH

Health News:

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

For your convenience, Quickscribe has published [an early consolidation](#) of the [Health Care \(Consent\) and Care Facility \(Admission\) Act](#), which includes amendments made by the [Health Statutes Amendment Act, 2007](#), brought into force by [B.C. Reg. 114/2019](#), effective November 4, 2019. The new legislation will govern admission to long-term care facilities and hospitals. For some background information on this legislation, read the [article](#) by Sara Pon, published on the Canadian Centre for Elder Law website.

BC Considers Toughening Laws in Response to Teen Vaping, Says Health Minister

BC's health minister says the government is working on a comprehensive response to teens illegally vaping, amid a surge in the reported number of vaping-related lung diseases across North America. Adrian Dix said on Wednesday [September 18th] the province will look at toughening laws, boosting enforcement and educating teens and parents about the risks surrounding vaping, although he did not offer specifics. Dix's remarks came the same day Ontario announced the first reported case of illness linked to vaping in Canada. An Ontario teenager was [put on life support](#) after using a vaping device, but is now recovering. Read the CBC [article](#).

Medical Assistance in Dying: Reviewing the Statistics and Looking Forward

It has been just over three years since parliament's medical assistance in dying (MAID) legislation came into force. The fourth and final interim report released by Health Canada in April 2019 reveals some interesting statistics about how, where, and when MAID has been implemented in Canada.

With the implementation of any new law, especially one as groundbreaking as MAID, there are bound to be complex questions and debate about what is to come. The judiciary and parliament have already begun grappling with these difficult questions. Read the [full article](#) by [Kim Dullet](#) with Borden Ladner Gervais LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Medical and Health Care Services Regulation (426/97)	Sept. 1/19	by Reg 188/2019

LABOUR & EMPLOYMENT

Labour and Employment News:

Update on Family Status Discrimination: SCC Denies Leaves to Appeal in Suen

The end of summer and return of many Canadians to their regular work and school routines reminds us of the challenge of balancing work and family. The decision of the Supreme Court of Canada to deny leave to appeal in the matter of *Envirocon Environmental Services, ULC v. Suen* [[2019 BCCA 46](#)], ("Suen") is therefore timely. The

facts of *Suen*, and the debate surrounding the legal test for family status discrimination, highlight the complexity of this area of human rights law. Read the [full article](#) by [Katie Comley](#) of Miller Thomson LLP.

Temporary Foreign Worker Protection Amendments

Changes to the [Temporary Foreign Worker Protection Act](#) and [Temporary Foreign Worker Protection Regulation](#) require recruiters of foreign workers to become licensed by October 1, 2019. Information about recruiters who have already received their licence is publicly available online, allowing employers and foreign nationals to know which recruiters are licensed and in good standing. Foreign-worker recruiters must be licensed in BC, even if their business or main operations are located outside of the province. The licence applies to an individual only, not to a company or business.

Are British Columbia Employees Who Are on Strike or Locked Out Entitled to Health and Welfare Benefits?

Employers of unionized workforces often face different challenges and legal issues than employers of non-union workforces. The biggest difference is that in a unionized workforce the terms and conditions of employment are governed by a collective agreement negotiated by the union, as opposed to individual employment agreements negotiated between the employer and individual employee.

Collective agreements have a commencement and expiry date; however, after the expiry date, the employer is not free to impose on employees whatever terms of employment it desires. Where a collective agreement comes to an end, the British Columbia [Labour Relations Code](#) requires that the terms and conditions of the collective agreement that was previously in force continue to govern until either a new collective agreement is concluded or there is a strike or lockout. Read the [full article](#) by [Jim Boyle](#) with Lawson Lundell LLP.

Uncertain Changes and a Strained Relationship Do Not Amount to Constructive Dismissal

Reza Baraty alleged he was constructively dismissed from his position with Wellons Canada Corp. ("Wellons"). He considered: (1) his position to have been eroded to the point where he was no longer a manager; and (2) the work environment to have become intolerable because of bullying and harassment by a co-worker.

In *Baraty v. Wellons Canada Corp.*, [2019 BCSC 33](#), the B.C. Supreme Court dismissed his claims. Mr. Baraty was aware when he first became employed as chief estimator that he would be actively involved in the hands-on work of preparing estimates. Given his department only had two employees, he was required to work collaboratively with the estimator, Chris Corilla.

Early on, Mr. Baraty was shown a flow chart which described the work flow in his department. Shortly after he started in 2012, Mr. Baraty prepared a new document describing work flow procedures. From his perspective, the procedure document he prepared was in the nature of company policy, notwithstanding the fact that many of the procedures in the document were not followed in practice. Read the [full article](#) by [Melissa Dhillon \(Neate\)](#) of Roper Greyell LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Ambulance Paramedics and Ambulance Dispatchers Bargaining Association Exclusion Regulation (191/2019)	NEW Sept. 6/19	see Reg 191/2019
Employer Health Tax Regulation (268/2018)	Sept. 13/19	by Reg 196/2019
Temporary Foreign Worker Protection Act	Oct. 1/19	by 2018 Bill 48, c. 45, sections 3, 22, 23, 25, 26 (1), 27, 29 (2), 33 (1) (c) to (f), (2), 34, 35, 41(1), 50 to 53, 55 to 57, 62, 72 only (in force by Reg 158/2019), Temporary Foreign Worker Protection Act
Temporary Foreign Worker Protection Regulation (158/2019)	Oct. 1/19	by Reg 158/2019

Workers Compensation Act	Oct. 1/19	by 2018 Bill 48, c. 45, section 85 only (in force by Reg 158/2019), Temporary Foreign Worker Protection Act
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LOCAL GOVERNMENT

Local Government News:

Recent Amendments to Local Government Act

On September 16th, sections of 2018 Bill 55, c. 53, [Passenger Transportation Amendment Act, 2018](#), came into force by [B.C. Reg. 160/2019](#), Sch. 2. Some of the sections of this Bill amend the [Local Government Act](#). A summary of these amendments include:

- *Part 16: Division 2 – Licensing of Commercial Vehicles – section 628:* includes in the definition of "commercial vehicle" a prescribed passenger directed vehicle that is not licensed under the Commercial Transport Act and is prescribed for the purposes of the definition.
- *Part 16: Division 2 – Licensing of Commercial Vehicles – section 629:* clarifies that there is no longer a need for Division 2 of Part 16 of the Act to be made subject to the Passenger Transportation Act
- *Part 16: Division 3 – Regulation of Carriers – section 637:* amendment clarifies that a council may not regulate under the section to the extent that the council's authority is restricted under Division 3.1 of Part 16 of the Act, as added by this Bill.
- *Part 16: Division 3.1 – Restrictions in Relation to the Passenger Transportation Act:* adds to the Part a Division that restricts a council's powers, under specified provisions of that Part, to regulate in relation to the number of passenger directed vehicles that may be operated under passenger directed vehicle authorizations or transportation network services authorizations, and to prohibit passenger directed vehicles from operating in the municipality.

UBCM Conference Newsletter by Young Anderson

Vancouver-based law firm Young Anderson Barristers and Solicitors published a special UBCM convention edition of their newsletter. The article includes the following

- Court of Appeal Reconsiders Dangerous Dog Framework – Nick Falzon
- Keep Calm and Ride On: New Ride-Hailing Regulations Announced – Amy O'Connor
- Court of Appeal Confirms Municipal Powers to Enforce Property Clean-Up – Steven Shergill
- Consistency, Consistency, Consistency! – Inder Biring
- Working a Little too Much from Home? Home Occupations vs. Prohibited Business in Residential Zones – Jordan Adam
- Some Amendments to the Employment Standards Act Are Now in Effect – Michelle Blendell
- Miscellaneous Statutes: Did You Know? – Joe Scafe

Download the [PDF newsletter](#).

BC Municipalities Vary Widely on How They Meet Information-access Laws

A Glacier Media project to test BC freedom of information laws found municipalities met basic requirements, but varied widely in how they complied with similar requests. Glacier Media reporters and editors asked 24 municipalities each for five recent records to see if officials could or would comply within the province's FOI law. Those records were:

- 2018 and 2019 correspondence between the city and the province on cannabis legalization
- their mayor's May 2019 calendar
- their city manager's 2018 travel expenses
- city employee overtime costs
- a list of FOI requests to date in 2019

In 24 of 25 municipalities surveyed in the FOI audit, the municipalities met the 30-day deadline legislated under BC's [Freedom of Information and Protection of Privacy Act](#). Read the full *Times Colonist* [article](#).

Modernizing the Emergency Program Act

A new *Emergency Program Act* is coming for BC, a major initiative that will repeal and replace the [current act](#),

UBCM delegates heard at a Thursday [September 26th] morning clinic. Many challenges with the current legislation were revealed through local government experiences of the unprecedented 2017 and 2018 flood and wildfire seasons.

Emergency Management BC Deputy Minister Lori Halls described the process to date and the path ahead, once Cabinet confirmation is received in the coming weeks. The process will see a discussion paper and engagement with all levels of government, indigenous Nations, industry and the public later this year, culminating with a new Act coming into force by spring 2021, she said. Notably, the new Act will incorporate the Sendai Framework for Disaster Risk Reduction, a first in Canada. Read the UBCM [article](#).

Policy Options for Short-term Rentals

A new provincial – UBCM advisory group will provide the province with policy options to strengthen the regulation of short-term rentals. UBCM President Arjun Singh informed delegates of the newly formed staff-led group in an address Wednesday [September 25th]. UBCM has made repeated calls for greater provincial involvement in the establishment of platform accountability agreements with operators to increase long-term rental stock in communities and curb speculative demand. Read the UBCM [article](#).

City of Victoria Appeals to Supreme Court on Bag Ban

The City of Victoria will ask the Supreme Court of Canada to review the decision that set aside its business bylaw to regulate the use of plastic checkout bags. In July, the BC Court of Appeal overturned a lower court ruling and set aside the City's Checkout Bag Regulation Bylaw, which regulated businesses providing checkout bags to customers and included restrictions on the use of plastic checkout bags. The Court of Appeal ruled that the purpose of the bylaw was the protection of the natural environment and that it required approval from the Province of BC prior to being enacted. Read the City of Victoria [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Bylaw Notice Enforcement Regulation (175/2004)	Sept. 11/19	by Reg 193/2019
Community Charter	Sept. 16/19	by 2018 Bill 55, c. 53, section 54 only (in force by Reg 160/2019), Passenger Transportation Amendment Act, 2018
Local Government Act	Sept. 16/19	by 2018 Bill 55, c. 53, sections 62 to 65 only (in force by Reg 160/2019), Passenger Transportation Amendment Act, 2018
Regional District of Central Okanagan Regulation (381/89)	Sept. 16/19	by Reg 163/2019
Vancouver Charter	Sept. 16/19	by 2018 Bill 55, c. 53, section 79 only (in force by Reg 160/2019), Passenger Transportation Amendment Act, 2018

MISCELLANEOUS

Miscellaneous News:

Non-permanent Construction Materials and Rental Equipment: To Lien or Not to Lien

A number of construction industry participants subscribe to the principal that contractors (and subcontractors) who furnish to a construction site non-permanent rental equipment or materials do not have builders' lien rights. In this article I discuss whether, in certain circumstances, contractors who furnish to a job site non-permanent rental equipment or material, enjoy lien rights pursuant to the British Columbia [Builders Lien Act](#) (the "Act").

Throughout this article I will use as an illustrative example a typical fence-rental contractor ("Acme Corporation"). I have assumed the following about Acme Corporation, all of which assumptions may be equally applicable to contractors supplying to construction sites the many other categories of non-permanent rental equipment and materials:

- ☐ ☐ ☐ At some early point in time of a construction project, the contractor's crews mobilize to site the fence panels as well as the bolt-up equipment;
- ☐ ☐ ☐ the crews erect and bolt together its fence system; and
- ☐ ☐ ☐ at the end of the project, the crews return to disassemble and de-mobilize the entirety of its fence system.

Read the [full article](#) by Tim M. Sportschuetz with Singleton Urquhart Reynolds Vogel LLP.

Consultation on Accessibility Legislation

The provincial government launched a public consultation on proposed accessibility legislation. The proposed BC legislation will support and align with the federal government's passing of [Bill C-81, Accessible Canada Act: An Act to Ensure a Barrier-free Canada](#). The Bill came into effect in June 2019 and sets accessibility requirements for sectors or organizations under federal jurisdiction.

Provincial legislation will complement Bill C-81 and apply to sectors and organizations under provincial jurisdiction. The legislation will require the development, implementation, and enforcement of accessibility standards in BC. Read the UBCM [article](#).

BC Court of Appeal Upholds Special Costs Award Against Disability Insurer Despite No Litigation Misconduct

Reasons for judgment were published today by the BC Court of Appeal finding that trial judges do have authority to award special costs against litigants even in circumstances where no litigation misconduct occurred.

In today's case ([Tanious v. The Empire Life Insurance Company](#)) the Plaintiff was insured with the Defendant. She became disabled and sought long term disability benefits but the Defendant 'rejected her claim'. The Plaintiff successfully sued and was awarded damages along with an order of special costs.

The Defendant appealed arguing the judge was wrong in awarding special costs absent litigation misconduct. The BC Court of Appeal disagreed and found that in "exceptional cases" such awards could be justified. Read the [full article](#) by [Erik Magraken](#) on his *BC Injury Law Blog*.

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

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Fines Increase in BC for Not Following Chain-up Regulations

Starting Oct. 1, truck drivers traveling in BC will face stiffer fines if they do not chain up their tires. Base-level fines during previous winters were \$121 for not carrying chains or not installing them when the law required. This year, drivers will face a \$196 fine for not carrying chains during the time they are required, and a \$598 fine will be imposed for not installing chains during mandatory chain ups. Winter chain-up in BC runs from Oct. 1 to April 30, with vehicles over 11,794 kg required to carry tire chains and those under 11,794 kg having to use winter tires or carry chains. Previous regulations only required vehicles over 27,000 kg to carry and use traction devices, and only one wheel needed to be chained during mandatory chain ups. [New regulations](#) are now clarified for all vehicles over 5,000 kg. Read the [full article](#) published on Truck news.com.

Ride-hailing Update

On September 16, 2019, legislation came into force supporting the full implementation of ride-hailing services, including requirements for vehicle licensing and insurance. Read [more](#) on the City of Vancouver website.

Cyclists Getting Ticketed for No Insurance

Blame Confusing e-Bike Legislation

College student Jason McCracken bought his electric bike last year to save money and, he says, act in a more environmentally conscious manner. But this summer he was hit with nearly \$600 in RCMP tickets and towing fees for failing to obtain insurance — even though ICBC does not offer insurance for his particular kind of bike. "I'm just worried if I go back to college with my e-bike, they'll give me ... maybe 10 tickets in a row," he said. Read the CBC [article](#).

New Rebates for EV Charging Stations Make it Easier to Go Electric

It is now easier for British Columbians to buy and install electric vehicle (EV) charging stations at home and at work with more than \$4 million in new CleanBC rebates. "Through CleanBC, it's more affordable and convenient than ever for British Columbians to go electric," said Michelle Mungall, Minister of Energy, Mines and Petroleum Resources. "With these new rebates for EV charging stations, we're making it easier to switch to electric vehicles."

To help with the upfront costs that come with EVs, homeowners can get a \$350 provincial rebate to install a Level 2 charging station in a single-family home. A \$2,000 rebate is available for the installation of a Level 2 charging station designed for multiple users in condominiums, apartments and workplaces. Up to five hours of free support services from an EV charging station advisor are also available for condominiums, apartments and workplaces seeking to address their EV charging needs. Read the government [news release](#).

CVSE Bulletins & Notices

The following notices were posted in September by CVSE:

- [Bulletin NSC 01-19](#) – On-duty time and Transportation Network Services
- [VI Bulletin 01-19](#) – Taxi and Ride-Hails Vehicle Inspections

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

Act or Regulation Affected	Effective Date	Amendment Information
Commercial Transport Regulations (30/78)	Sept. 16/19	by Reg 165/2019
Insurance (Vehicle) Act	Sept. 16/19	by 2018 Bill 55, c. 53, sections 57 to 60 only (in force by Reg 160/2019), Passenger Transportation Amendment Act, 2018
Insurance (Vehicle) Regulation (447/83)	Sept. 1/19	by Reg 173/2018
	Sept. 16/19	by Reg 161/2019
Motor Vehicle Act	Sept. 16/19	by 2018 Bill 55, c. 53, sections 67 to 77 only (in force by Reg 160/2019), Passenger Transportation Amendment Act, 2018
Motor Vehicle Act Regulations (26/58)	Sept. 16/19	by Reg 166/2019
	Sept. 20/19	by Reg 202/2019
	Sept. 3/19	by 2018 Bill 55, c. 53, sections 1 (a), (c) to (j) and (m), 2 (a), (b) (part), (c), (d), 3 (a), (b), 10, 12 to 14 only (in force by Reg 160/2019), Passenger

Passenger Transportation Act		Transportation Amendment Act, 2018
	Sept. 16/19	by 2018 Bill 55, c. 53, sections 1 (b), (k), (l), 2 (b) (part), 3 (c), 4 to 9, 11 (a) (part), (b), (c), 15 (part), 16 to 18, 19 (a) to (d), 20 to 39, 40 (part), 41 to 51 only (in force by Reg 160/2019), Passenger Transportation Amendment Act, 2018
Passenger Transportation Regulation (266/2004)	Sept. 3/19	by Reg 164/2019
	Sept. 16/19	
	Sept. 20/19	by Reg 203/2019
Violation Ticket Administration and Fines Regulation (89/97)	Sept. 16/19	by Reg 162/2019
	Sept. 20/19	by Reg 202/2019

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

2019 Public Hearing on Proposed Regulatory Amendments to the Occupational Health and Safety Regulation

WorkSafeBC is holding public hearing sessions for proposed amendments to the definition of "fire department" in [Part 31, Firefighting, section 31.1](#) of the [Occupational Health and Safety Regulation](#). The public hearing sessions will also cover proposed [consequential amendments to the OHS Regulation and the Lower Maximum Administrative Penalties Regulation](#) needed as a result of the statutory revisions to the [Workers Compensation Act](#). For more information and dates, read the full WorkSafeBC [article](#).

2019 BC Construction Health & Safety Conference

Don't miss this year's BC Construction Health & Safety Conference (formerly known as Bridging the Gap) happening October 24 – 25 in downtown Vancouver. Participants at the conference, which is presented by the BC Construction Safety Alliance (BCCSA), will learn about the following topics:

- Practical strategies to improve emotional intelligence and leverage it to build leadership skills.
- Effective approaches to address mental health stigma in the workplace and how to adapt to the evolving technological landscape.
- A recent UBC study on the use of dust-extraction vacuums in the B.C. construction industry.
- The new Builders Code initiative.
- Criminal prosecution in workplace incidents and how to effectively demonstrate due diligence.
- How to build the framework to regulate the health and safety profession under law in BC
- Strategies and ideas to plan and conduct more effective safety inspections.

For more details, read the WorkSafeBC [announcement](#).

Act or Regulation Affected	Effective Date	Amendment Information
Workers Compensation Act	Oct. 1/19	by 2018 Bill 48, c. 45, section 85 only (in force by Reg 158/2019), Temporary Foreign Worker Protection Act

PROPERTY & REAL ESTATE

Property and Real Estate News:

BCLI Issues Consultation Paper on the *Builders Lien Act*

BCLI has issued a Consultation Paper on the [Builders Lien Act](#) to gather input from stakeholders and the public at large on detailed proposals for changes to the Act. The *Builders Lien Act* is a major cornerstone of construction law. It gives contractors, material suppliers, and workers several forms of security for payment for work done or materials supplied to a building site, most notably a lien on the owner's land. The Act also lets building owners limit their exposure to claims by unpaid subcontractors and workers by maintaining a mandatory 10 percent holdback. Read the [full article](#) by Greg Blue, Q.C. with the BCLI.

Act or Regulation Affected	Effective Date	Amendment Information
Speculation and Vacancy Tax Regulation (275/2018)	Sept. 13/19	by Reg 198/2019

WILLS & ESTATES

Wills and Estates News:

WESA Amendments

On September 16, 2019, [B.C. Reg. 195/2019](#) brought into force a section of Bill 9, c. 4, [Attorney General Statutes Amendment Act, 2019](#), which amends sections of the [Wills, Estates and Succession Act](#). A summary of these amendments includes:

Part 6: Division 8 – Personal Representatives – Legal Liability and Legal Proceedings – section 151 – Beneficiary or intestate successor may sue with leave of court:

- adds a definition of "specified person" for the purposes of section 151;
- provides that a specified person may sue with leave of the court;
- changes on whose behalf a proceeding may be commenced;
- provides that an application for leave under section 151 (1) of the Act may be combined with other proceedings;
- provides that an application for leave under section 151 (2) of the Act may be made to the court hearing the proceeding being defended.

Proposed Changes to Foreign Affiliate Dumping Rules: Individuals, Trusts and Estates May Now Be Caught

The government is proposing changes to the [Income Tax Act](#) which could impact many Canadian corporations with foreign affiliates.

Of particular concern are situations where controlling interests in such corporations are owned by

- ☐ individuals emigrating from Canada, or
- ☐ trusts or estates where any beneficiaries may be, or may become, non-residents of Canada.

Anyone who thinks they could be caught should keep an eye out in the coming months to see what happens with these proposals. Depending on what changes are passed, some may wish to take steps to mitigate potential added tax costs. Since being introduced in 2012, the *Income Tax Act's* Foreign Affiliate Dumping Rules (the "FAD" rules) were generally of little concern to most because of the rules limited applicability to circumstances with a non-resident parent corporation controls a corporation resident in Canada (a "CRIC"), which in turn invests in a foreign affiliate.

However, earlier this year, first in the federal budget in March and then in revised legislative proposals in July, the Department of Finance proposed changes to broaden the application of the FAD rules so they would not just apply to CRIC's controlled by non-resident corporations, but also to cases where a CRIC is "controlled" by non-resident individuals, including through a trust or estates.

With respect to trusts and estates in particular, under the proposed FAD rules a trust or estate is assumed to be a corporation with a capital stock of 100 common shares (the "Contrived Shares"), and each beneficiary under the trust owns a portion of shares equal to their interest in the trust based on fair market value ("FMV"). Read the [full article](#) by [MaryAnne Loney](#) and [Moe Denny](#) on the McLennan Ross *Wills & Estates Law Blog*.

Act or Regulation Affected	Effective Date	Amendment Information
Wills, Estates and Succession Act	Sept. 16/19	by 2019 Bill 9, c. 4, section 8 only (in force by Reg 195/2019), Attorney General Statutes Amendment Act, 2019

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