

Quickscribe Reporter

Vol: XIX – Issue: IV – April 2020

QUICKSCRIBE NEWS:

Province Announces Lifting of Some Restrictions - Effective Mid-May

BC Premier Horgan announced yesterday [May 6] the province will begin Phase 2 of the re-opening plan in the coming weeks. As part of this plan, several restrictions are being relaxed but with new health and safety guidelines in place. Restrictions will soon be lifted on the following:

- Small gatherings – *Up to 6 people, includes family gatherings, small dinner parties and backyard barbeques – so long as nobody in the group has symptoms of COVID*
- Elective surgeries
- Dentistry, chiropractic, physiotherapy – *in-person counselling will also resume*
- Provincial parks/beaches – *day use only – starting May 14*
- Retail businesses, restaurants, hair salons, pubs
- Expanded in-person schooling for K-12 (voluntary) – *as early as May 11*
- Legislature resumes – *within the next few weeks*
- Museums, libraries and art galleries
- Sports leagues – *low contact sports*
- Childcare
- Office-based worksites

Some of the restrictions that remain in place but may be reopened in June/July include hotels and resorts, film industry production, movie theatres, small concerts, and camping. A decision on relaxing these restrictions will depend on the rate of COVID-19 transmission at that time. Restrictions on large gatherings of 50 or more will likely continue until a vaccine is developed. This includes concerts, international tourism and conventions.

Tip For Tracking COVID-Related Orders

Quickscribe's [Keyword Alert](#) tool is an easy-to-use service that can be used to monitor legislative activity and/or new Orders that reference subject matter or keywords of your choosing. This tool is available via "My Alerts" (top navigation) when you login to Quickscribe.

Hansard Links on Quickscribe

Quickscribe routinely selects Hansard snippets adjacent to relevant sections in order to provide you with a better understanding of statutory intent behind these sections. Included with these Hansard references are direct links to the corresponding Hansard transcripts as they read on the BC Legislative Assembly website. The implementation of a new Assembly website platform dictated that the official Hansard Transcript files be renamed, which has resulted in some of the original links we published no longer working. We are working with the folks at Hansard to identify those links and to reinstate the appropriate URL.

Latest Annotations


New annotations were recently added to Quickscribe. The annotations include contributions from

- [Don Lidstone](#) – [Local Government Act](#), [Community Charter](#)
- [Robin Longe](#) – [Mineral Tenure Act](#), [Mining Right of Way Act](#), [Ministry of Energy and Mines Act](#), [Mines Act](#)

To receive email notifications when new annotations are published by our contributors, select "My Alerts" via the top navigation, then select the "View Expert Annotators". Here you can view and "follow" any contributor from the list.

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:

Electronic Attendance at Corporate Meetings

The Electronic Attendance at Corporate Meetings (COVID-19) Order, [MO 116/2020](#), was issued on April 21, allowing all corporate meetings to be held electronically even where prohibited by the governing documents. Corporate Meetings include annual general meetings, special meetings, meetings of the board of directors or a committee of directors and meetings of the shareholders or the members.

Implementation of BC's Transparency Register Delayed Until October 1, 2020

Recognizing the pressures that COVID-19 issues are creating for many businesses, the Government of British Columbia is delaying the implementation of the beneficial ownership transparency register under the BC [Business Corporations Act](#) (BCBCA) until October 1, 2020. Previously, the register was to come into effect on May 1.

The change was announced in an [order in council](#), dated April 6, 2020, that also modifies some of the rules that will govern the transparency register once it is in effect. The primary purpose of the register is to create an accurate and accessible record of the beneficial ownership of privately held BCBCA companies. Read the [article](#) by [Denise Duifhuis](#) with Stikeman Elliott LLP.

CSA Grants Blanket Relief for Executive Compensation Disclosure Filing Requirements

In light of COVID-19 and the ability of certain issuers to delay their annual general meetings (AGMs) in 2020, the Canadian Securities Administrators (CSA) have published temporary blanket relief (Blanket Relief) from certain filing and delivery requirements, which are generally tied to the sending and filing of materials for AGMs.

National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) requires reporting issuers that send proxy circulars to securityholders for AGMs to include prescribed executive compensation disclosure in Form 51-102F6 *Executive Compensation Disclosure* (Form 51-102F6) in their circulars. Pursuant to NI 51-102, such disclosure must be filed on SEDAR no later than 140 days after the financial year-end for a non-venture issuer and 180 days after the financial year end for a venture issuer. Non-venture issuers with a December 31 year end, would therefore have been required to file executive compensation disclosure by May 19. As the disclosure is contained in an AGM circular, most issuers satisfy this obligation by filing their circulars on SEDAR. Read the [full article](#) published by Stikeman Elliott LLP.

BCFSA – Pension Bulletin – Q&A

The BC Financial Services Authority (BCFSA) has prepared this [information bulletin](#) to address some common questions plan stakeholders may have regarding issues stemming from the COVID-19 pandemic. BCFSA has

prepared these questions and answers, together with the extensions of certain regulatory filings previously announced, to protect pension plan members, former members and other beneficiaries and to allow plan administrators to focus their efforts on addressing the challenges posed by this crisis.

COVID-19 and CBCA Companies: Supreme Court of British Columbia First Canadian Court to Rule on a Petition Seeking an Extension of the Delay to Hold the Annual General Meeting

Both the short- and long-term functioning of many companies have been affected by the COVID-19 pandemic. One of the important functions being significantly affected is the preparation and holding of a company's annual general meeting ("AGM"). The [Canada Business Corporations Act](#) (the "CBCA") provides that companies must hold their AGMs not later than fifteen months after holding the last preceding annual meeting but also no later than six months after the end of the corporation's preceding financial year. This requirement is proving difficult to fulfill for many companies as a result of the numerous technical and logistical difficulties posed by the COVID-19 pandemic.

Various provincial governments have responded to these difficulties by providing relief in respect of the timing of AGMs for companies incorporated under provincial legislation. However, no such relief has yet been provided for companies incorporated under the CBCA. In fact, the CBCA Director confirmed in a guidance publication dated March 26, 2020 (the "CBCA Guidance") that federally incorporated businesses will need court approval to delay an annual general meeting. The Supreme Court of British Columbia recently issued a decision with respect to petitions for the extension of the holding of the AGM of two CBCA companies, namely Glacier Media Inc. ("Glacier") and GVIC Communications Corp. ("GVIC") (collectively, the "Companies")¹. It is, to our knowledge, the first court in Canada to rule on this issue. Read the [full article](#) by [Antoine Brylowski](#), [Félix Bernard](#) and Anna Villani with Langlois Lawyers LLP.

BC Securities – Policies & Instruments

The following policies and instruments were recently published on the BCSC website:

- [51-360 CSA Staff Notice](#) - Frequently asked questions regarding filing extension relief granted by way of a blanket order in response to COVID-19
- [31-357](#) - CSA Notice 31-357 – *Blanket Orders/Class Orders in respect of Certain Client Focused Reforms Provisions of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations*

In light of COVID-19 and its impact on registrants, the BC Securities Commission is providing registrants with blanket relief, between December 31, 2020 and June 30, 2021, from the obligation to comply with the enhanced conflicts of interest requirements under the client focused reforms to Part 13 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

- [51-360](#) - CSA Staff Notice Updated: Frequently asked questions regarding filing extension relief granted by way of a blanket order in response to COVID-19
- [81-520](#) - Temporary Variation from Borrowing Limit to Accommodate Redemption Requests of Mutual Funds Investing in Fixed Income Securities. This instrument addresses some of the challenges presented by the COVID-19 pandemic by providing mutual funds that invest in fixed income securities with the ability to borrow up to 10% of their net asset value for the limited purposes described in the order.
- [51-516](#) - BC Instrument 51-516 Temporary Exemptions from Certain Requirements to File or Send Securityholder Materials

As a result of the COVID-19 pandemic, reporting issuers (non-investment fund) may have difficulties complying with certain filing and sending/delivery requirements associated with holding their annual general meetings. The BC Securities Commission is providing blanket relief in connection with requirements under NI 51-102 concerning executive compensation disclosure, and sending annual request forms, annual financial statements and MD&A to securityholders. We expect other CSA members to adopt similar orders. This order is effective May 1, 2020.

- [51-360](#) - Updated: Frequently asked questions regarding filing extension relief granted by way of a blanket order in response to COVID-19

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

Act or Regulation Affected	Effective Date	Amendment Information
Provincial Sales Tax Act	Apr. 1/20	by 2018 Bill 2, c. 4, sections 82 to 85 and 88 only (in force by Reg 12/2020), Budget Measures Implementation Act, 2018

ENERGY & MINES

Energy and Mines News:

Canada Energy Regulator Amends Pipeline Regulations and Introduces New Power Lines Regulations

On August 28, 2019, the [Canadian Energy Regulator Act](#) (CERA) came into force, repealing the [National Energy Board Act](#) (NEBA). Through the CERA, the National Energy Board became the Canada Energy Regulator.

The Regulator has made a number of housekeeping changes to existing regulations, including updating references of the "National Energy Board" to the "Canada Energy Regulator". In addition to these housekeeping amendments, substantive changes have been made to [Section 6 of the Onshore Pipeline Regulations](#), and two new regulations have been enacted to address damage prevention for international and interprovincial power lines.

Federally regulated pipeline and power line owners and operators should be aware of these regulatory changes, and how the regulatory changes may impact them. Read the [article](#) by Marie Buchinski and Colm Boyle with Bennett Jones LLP.

Collaboration on Methane Research Establishes Two-year Research Plan

The BC Oil and Gas Methane Emissions Research Collaborative (MERC) has established a two-year plan to advance research on methane emissions from oil and gas activity. The joint initiative of industry, government, the regulator and non-profits supports BC's methane emission reduction targets.

MERC's 2019-2021 research plan will lead to recommendations on the design and implementation of key research deliverables necessary to meet methane reduction goals and to monitor the efficiency and effectiveness of BC's methane regulations.

The provincial and federal governments have goals for reducing methane emissions from upstream oil and gas operations. The Government of BC has a reduction goal of 45 per cent by 2025, relative to 2014 levels, while the Government of Canada has a reduction target of 40-45 per cent by 2025, relative to 2012 levels. Read the [full news release](#) issued by the BC Oil & Gas Commission.

Relief for BC Hydro Customers

As referenced in the previous Reporter, On April 2, the Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief, [B.C. Reg. 76/2020](#), was introduced to implement BC Hydro's COVID-19 Relief Fund. The COVID-19 Relief Fund allows eligible residential customers who have experienced job loss to receive three months of free credit on their BC Hydro bill based on their average consumption. The fund also allows eligible small businesses that have been forced close due to COVID-19 to have their power bills waived from April to June 2020. In addition, major industries, such as pulp and paper mills and mines, have the opportunity to defer 50% of their bill payments for three months.

Sierra Club Loses Legal Fight against Environmental Exemptions for BC Frack Dams

An environmental group has lost its legal challenge of regulatory exemptions given to a pair of dams in northern British Columbia. "It's bitterly disappointing and a worrying judgment," Alan Andrews, lawyer for the Sierra Club of B.C., said Wednesday [April 22]. Progress Energy built the dams to store water for its natural gas fracking operations in the northern part of the province. Court heard the company inadvertently built the dams too high, which brought into force environmental regulations the dams couldn't meet. The province granted the company an exemption from the rules. Read the *Vancouver Sun* [article](#).

BCOGC Bulletins

The BCOGC has issued the following bulletins this month:

- [INDB 2020-09 Pipeline Levy Payment Terms Adjusted](#)
- [IB 2020-04 Initial Commission Actions in Response to COVID-19](#)

Visit the [BCOGC website](#) to view these and other bulletins.

Effective

Act or Regulation Affected	Date	Amendment Information
Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief (76/2020)	NEW Apr. 2/20	see Reg 76/2020
First Nations Clean Energy Business Fund Regulation (377/2010)	Apr. 1/20	by Reg 7/2017 and Reg 149/2018
Mineral Tax Costs and Expenditures Regulation (405/89)	Apr. 27/20	by Reg 89/2020

FAMILY & CHILDREN

Family and Children News:

Suspension of Legal Limitation Periods

Effective April 15, 2020, the Limitation Periods (COVID-19) Order No. 2, [MO 98/2020](#), was made, suspending the mandatory limitation periods in court proceedings within which a civil or family action, proceeding, claim or appeal must be commenced in the Provincial Court, Supreme Court or Court of Appeal. The suspension does not apply to any other mandatory time period established under the [Builders Lien Act](#) or [relevant provisions of the Strata Property Act](#).

Child-protection Committee Examines Selected Protection Issues at Monthly Meeting

At its April 2020 committee meeting, BCLI's [Child Protection Project Committee](#) began consideration of a new topic: provisions in the [Child, Family and Community Service Act](#) concerning protection issues. The focus of the meeting was on the grounds for protection set out in [section 13 of the act](#) and on decisions relating to whether a child should remain in care.

The committee began by tackling the ground for protection relating to emotional harm ("the child is emotionally harmed by (i) the parent's conduct, or (ii) living in a situation where there is domestic violence by or towards a person with whom the child resides"). This ground uses the present-tense verb "is," in contrast to the preceding four grounds in section 13, which extend to the risk of future harms ("has been, or is likely to be"). Should the ground relating to emotional harm also embrace the future risk of emotional harm? Read the [full article](#) by Kevin Zakreski with BCLI.

New Family Law Quick Reference Tool Published by Legal Aid BC

A newly published set of postcards introduces readers to the basics of family law. The easy-to-understand information and visuals provide guidance and links to resources for the public. Each card covers one legal aspect of separation such as which laws apply, how couples can reach agreements and how to deal with issues involving children and money. You can find a link to this document on the [Legal Services Society website](#).

Implementing Children's Participation in Family Court Cases: View of the Child and Beyond Orders and Procedures at this Month's [March] Meeting from CLEBC – Practice Points:

In this paper from CLEBC Online Course Materials, The Honourable Donna Martinson Q.C., retired Justice of the Supreme Court of BC, and The Honourable Judge Rose Raven, Provincial Court of BC discuss: the Child Rights Approach of the UN Convention on the Rights of the child; the Legal Status of the Convention and General Comments in Canada; and the UN Convention Participation Framework. Read the [notice](#) or [view the PDF](#) of the full Paper.

Act or Regulation Affected	Effective Date	Amendment Information
Child Care Subsidy Regulation (74/97)	Apr. 27/20	by Reg 88/2020

Coroners Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)
Family Maintenance Enforcement Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)

FOREST & ENVIRONMENT

Forest and Environment News:

COVID-19: BC Government Defers Stumpage Fees for Forest Sector

The BC government says it will defer the forest sector's stumpage fees to help it navigate the COVID-19 pandemic financial crisis. Stumpage, the fee operators pay the province to harvest, buy or sell trees from Crown land, will be deferred for three months. Minister Doug Donaldson and Parliamentary Secretary Ravi Kahlon, with the Ministry of Forests, Lands, Natural Resource Operations and Rural Development, made the announcement Thursday [April 30]. Donaldson said the deferral may help some companies start up again sooner, or prevent some from shutting down during this time. The forest industry is considered an essential service and companies have been allowed to operate during the pandemic restrictions. Market conditions, including shaky consumer confidence and a decline in new housing starts are the main challenges in the forest sector, said Donaldson. Read the *Vancouver Sun* [article](#).

Tree Planting to Proceed Under Strict Guidelines – COVID 19

On April 23, 2020, the Provincial Health Officer released [guidelines](#) to reduce and mitigate the risks of COVID-19 for all tree planters in response to forestry and silviculture being defined as essential services.

All tree planters will be subject to strict screening procedures for COVID-19 symptoms before admission to field camps or community accommodations. Provincial regional staff will be reaching out to communities within the affected planting areas to discuss plans, protocols and procedures. Read the [full UCBM article](#).

Cross-Country Check-In: COVID-19 and the Environment

This Bulletin is current to May 1, 2020 and will be updated as events warrant. [update]

The COVID-19 pandemic has created an unprecedented global crisis impacting all aspects of life in Canada. All levels of government have issued urgent orders and directions designed to protect public health including mandatory shutdowns of certain sectors. While Canada has a complex environmental regulatory regime at both the federal and provincial levels, some governmental and regulatory bodies have taken steps to temporarily alter legal requirements in light of the current crisis in order to lessen the burden on businesses and encourage the manufacture of products to assist in combatting the virus and its consequences.

British Columbia's environmental regulatory response to COVID-19 includes restrictions on open burning as well as changes to the Environmental Appeal Board's operations. The Ministry of Environment and Climate Change Strategy ("MECCS") has also directed environmental authorization holders to contact the MECCS in the event of any COVID-19 related compliance issues. Read the [Environmental Law Bulletin](#) published by [Ralph Cuervo-Lorens](#), [Talia Gordner](#), [Candice Hévin](#), [Julia Loney](#) and [Holly Sherlock](#) with McMillan LLP.

Bridge Design, Construction, Safety Significantly Improved

An investigation of 269 bridges and 59 wood-box culverts constructed throughout the province in the last three years has found significant improvement since a similar investigation was published in 2014, according to a new report. "We set out to see whether practices had improved as a result of our last report in 2014 and we are very pleased with the findings," said Kevin Kriese, board chair, Forest Practices Board. "We found much better results than last time and industry, the professional associations and government deserve recognition for their efforts." Read the [full article](#) published by the BCFPB.

Environmental Appeal Board Decisions

There were two Environmental Appeal Board decisions in the month of April:

[Environmental Management Act](#)

- [GFL Environmental Inc. v. District Director, Environmental Management Act](#) [Interim Relief Application #2 – Granted with Conditions]

- [Delfresh Mushroom Farm Ltd. v. District Director, Environmental Management Act](#) [Final Decision – Appeal Allowed in Part, Application for Costs – Denied]

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

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Tax Act	Apr. 1/20	by 2018 Bill 2, c. 4, sections 6 to 10 only (in force by Reg 12/2020), Budget Measures Implementation Act, 2018
Carbon Tax Regulation (125/2008)	Apr. 1/20	by Reg 12/2020
Environmental Assessment Fees Regulation (246/2019)	Apr. 1/20	by Reg 66/2020
Environmental Management Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)
Greenhouse Gas Emission Reporting Regulation (249/2015)	Apr. 1/20	by Reg 74/2020
Hunting Regulation (190/84)	Apr. 16/20	by Reg 84/2020
Limited Entry Hunting Regulation (134/93)	Apr. 16/20	by Reg 84/2020
North American Gypsy Moth Eradication Regulation, 2019 (87/2019)	REPEALED Apr. 6/20	by Reg 81/2020
North American Gypsy Moth Eradication Regulation, 2020 (81/2020)	NEW Apr. 6/20	see Reg 81/2020
Reviewable Projects Regulation (243/2019)	Apr. 1/20	by Reg 243/2019

HEALTH

Health News:

Support for Family Caregivers during COVID-19

As part of British Columbia's emergency COVID-19 response plan, the Province is doubling this year's funding for Family Caregivers of British Columbia to \$1 million, helping support both caregivers and seniors.

Family Caregivers of BC is a not-for-profit organization that supports people who are caring for elderly loved ones, family or friends. With a network of local agencies throughout BC, Family Caregivers will increase the capacity of its helpline and offer a number of virtual connections that can bring family caregivers together. Read the full government [news release](#).

Prices Are Soaring for Supplies to Keep Frontline Workers Safe

Before the COVID-19 pandemic, a box of 50 disposable masks from one British Columbia supplier cost less than five dollars. Now Alert First-Aid Inc. is charging \$79.99 for the earloop masks, designed so health-care workers looking after someone with an infectious disease like COVID-19 can use them once and discard them.

Despite the astronomical increase, that price is no longer unusual. A Toronto supplier, Dental Market, has a comparable product listed at \$99.99 for a box of 50. And Consumer Protection BC, the regulator [given the task](#) of cracking down on price gouging, heard from a senior who paid a hardware store \$400 for two boxes of disposable surgical masks. Read the [full article](#) by Andrew Macleod, Legislative Bureau Chief of The Tyee.

Provincial Health Officer Letter to Physicians, Midwives and Nurses Re: Testing [April 28]

Dear physicians, midwives, and nurses:

As we begin to see a decrease in the number of new COVID-19 cases, lowering our threshold for testing and increasing our capacity for case finding and contact tracing is essential as we enter this next phase of the pandemic in BC To that end I am asking physicians, nurse practitioners, registered nurses, registered psychiatric nurses, licensed practical nurses* and midwives to begin testing all individuals with new respiratory or systemic symptoms compatible with COVID-19, however mild. Please see the lab testing guidance on the BCCDC website here.

**BCCNP note: LPNs working in any setting (except Vancouver Coastal settings) require a client-specific order to test for COVID-19.*

Symptoms may include fever, chills, cough, shortness of breath, sore throat, odynophagia, rhinorrhea, nasal congestion, loss of sense of smell, headache, muscle aches, fatigue, or loss of appetite.

Read the [full letter](#) published on the BC College of Nursing Professionals website.

New Order Re: Dispensing Drugs (COVID-19)

The Minister of Health recently issued a new [Order M140](#) that amends the bylaws of the College of Pharmacists of BC effective May 1st, 2020. The amendments are intended to address related drug shortages to temporarily allow return to inventory, injectable drugs previously dispensed for the purpose of providing Medical Assistance in Dying (MAID).

Act or Regulation Affected	Effective Date	Amendment Information
Emergency Health Services Regulation (471/74)	Apr. 1/20	by Reg 58/2020
Provider Regulation (222/2014)	Apr. 1/20	by Reg 72/2020

LABOUR & EMPLOYMENT

Labour and Employment News:

Protection Against Liability – Essential Workers

On April 22, 2020, the provincial government issued the Protection Against Liability (COVID-19) Order No. 2, [MO 120/2020](#), replacing [MO 94/2020](#). The Order protects individuals who provide essential services from liability for damages relating directly or indirectly to exposure to COVID-19 while continuing to operate, as long as the essential service provider complies with all applicable emergency and public health guidance, or reasonably believes they are doing so. The list of essential services is set out in the Schedule attached to the order.

BC Interpretation Guide Updated to Consider Terminations Related to COVID-19

The British Columbia Employment Standards Branch ("B.C. ESB") updated its "Employment Standards Act Interpretation Guide" to address COVID-19-related closures and the legislative requirement to provide notice of termination or pay in lieu of notice of termination.

The updates state that if a closure or reduction in hours of an employer's business is directly related to COVID-19 and there is no way for the employee to perform work in a different way (i.e., working from home), an "impossible to perform" exception may apply. However, if COVID-19 is not the direct cause of the unforeseeable event or circumstances or the employee's work can be done in a different way, the "impossible to perform"

exception will not apply. Each situation must be addressed on a case-by-case basis and the application of this exception only relieves an employer from statutory notice requirements. Any common law notice an employee may be entitled to is not eliminated by this exception. Read the [full article](#) by [Graham Christie](#) and [Walter Pavlic, Q.C.](#) with MLT Aikins LLP.

Canadian Companies May Now Be Sued in Canada for Alleged Human Rights Abuses Abroad, Rules Supreme Court of Canada

A small group of former Eritrean workers has won a narrow, but important, preliminary victory at the Supreme Court of Canada in a British Columbia lawsuit that alleges human rights abuses against a Canadian company operating outside Canada. A slim majority of judges concluded that the case could proceed forward against a British Columbia-based, Canadian mining company, dismissing a defence motion to strike out the claims at a preliminary stage.

Earlier this year, Bennett Jones [flagged](#) *Araya v Nevsun Resources Ltd* as a key Supreme Court appeal to watch in 2020. The Court's [decision](#), released on February 28, did not disappoint. The Supreme Court split 5-4, with vigorous dissenting opinions.

In a noteworthy development in the law, a majority of the Supreme Court recognized that a Canadian company could be liable in Canada for a novel claim of breach of customary international law (CIL) that occurred in another country. Read the [full article](#) by Andrew D. Little, [Gannon G. Beaulne](#) and [Katrina Crocker](#) with Bennett Jones LLP.

COVID-19 British Columbia Benefit Access Tool

from DLA Piper:

The BC Government has been announcing a series of measures to aid businesses and workers during this unprecedented time. The following is a simple tool to help individuals and businesses quickly identify BC benefits that apply to them, how much the benefits are worth, and how to apply for them, and includes links to government websites for more information. As the contents are frequently updated, please note the "Last Modified" date for use. Please [click here](#) to access the most recent version of this document – by [Rick Bennett](#) and [Christopher Ross](#) with DLA Piper.

Government Creates COVID-19 Temporary Layoff Period

To ease financial hardship on businesses and to keep employees connected with their jobs during the COVID-19 pandemic, government has extended the temporary layoff period to 16 weeks for COVID-19 related reasons.

Previously under the [Employment Standards Act](#), a temporary layoff longer than 13 weeks in any 20-week period (or about three months in a five-month period) was considered a permanent layoff. With a permanent layoff, employers are required to provide employees with written working notice of termination and/or pay severance to qualifying employees, based on their length of service. Now, temporary layoffs relating to the COVID-19 pandemic can be extended to 16 weeks, if the employee agrees. Read the full government [news release](#).

Employment Standards Severance May Not be Required as a Result of COVID-19

The British Columbia government recently announced that employees may not be entitled to notice of termination or termination pay pursuant to the British Columbia [Employment Standards Act](#) ("ESA") if their employment is terminated as a result of COVID-19.

There are three general sources of an employer's obligation to provide notice of termination or severance to an employee: employment standards legislation, the common law and an employment contract. The amount of notice or "severance" (known as termination pay) owed pursuant to employment standards legislation is set out in sections 63 and 64 of the ESA. Section 65 of the ESA contains a list of exceptions to an employer's obligation to provide notice or termination pay. It includes an exception where an employment contract is impossible to perform due to an unforeseeable event or circumstance. Read the [full article](#) by Colin Edstrom with the law firm Pushor Mitchell LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Employment Standards Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)

Fishing Industry Regulations (674/76)	Apr. 6/20	by Reg 279/2019
Human Rights Code	Apr. 1/20	by 2018 Bill 50, c. 48, sections 7, 8, 10 (part), 11 (part) only (in force by Reg 71/2020), Human Rights Code Amendment Act, 2018
Labour Relations Regulation (7/93)	Apr. 6/20	by Reg 79/2020
Occupational Disease Recognition Regulation (71/99)	Apr. 6/20	by Reg 279/2019
Occupational Health and Safety Regulation (296/97)	Apr. 6/20	by Reg 279/2019
OHS Citations Regulation (194/2015) <i>(formerly titled Lower Maximum Administrative Penalties Regulation)</i>	Apr. 6/20	by Reg 279/2019
Public Sector Employers Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)
Public Service Labour Relations Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)
Reconsideration of Prescribed Compensation Claims Regulation (177/2013) <i>(formerly titled Review of Old Permanent Disability Awards Regulation)</i>	Apr. 6/20	by Reg 279/2019
Reports of Injuries Regulations (713/74)	Apr. 6/20	by Reg 279/2019
Social Services Employers Regulation (84/2020)	Apr. 27/20	by Reg 90/2020
Workers Compensation Act	STATUTE REVISION Apr. 6/20	RS2019, c. 1 (in force by Reg 207/2019) as amended by Reg 46/2020

LOCAL GOVERNMENT

Local Government News:

COVID-19 – Bylaw Enforcement Guidance - New Powers

By [Order in Council dated April 18, 2020](#), the Province took the extraordinary step of authorizing local government bylaw enforcement officers to enforce certain provincial orders related to the COVID-19 pandemic by way of issuing a violation ticket under the *Offence Act*. This bulletin focuses on enforcing the following prohibitions:

- against secondary selling (i.e. re-selling) of essential goods and supplies ([Ministerial Order M084/2020](#))
- against price-gouging with respect to essential goods and supplies ([Ministerial Order M115/2020](#)).

The Order in Council also authorizes the enforcement of any provincial directives that would prohibit over-selling essential goods and supplies; and that would require hotel and commercial accommodation operators to

accommodate essential workers or individuals for self-isolating. Read the [full client Bulletin](#) published by Lidstone & Company.

Court Approval of Waiver of Liability Clauses Contained in Section 219 Covenants

Recently, in *Nelson v British Columbia (Environment)*, [2020 BCSC 479](#) ("Nelson"), the BC Supreme Court examined and ultimately approved a broad exclusion of liability clause contained in a restrictive covenant registered on title to property pursuant to section 219 of the [Land Title Act](#), RSBC 1996, c. 250 (the "LTA").

Under the LTA, an Approving Officer may, as a condition of approving a subdivision, require that a restrictive covenant be registered on title to the lands being subdivided "if the approving officer considers that the land is, or could reasonably be expected to be, subject to flooding, erosion, land slip or avalanche". Under the LTA, such covenants may contain terms "of a negative or positive nature". The LTA also makes express provision for the inclusion of indemnity provisions whereby the subdividing party, and the successors in title to that party, may be obliged to indemnify the subdividing authority for matters addressed in the covenant. Though not expressly addressed in the LTA, the widespread practice in British Columbia for many years on the part of both the Province and municipalities has been to include liability waivers in such covenants. Read the [full article](#) by Jessica Eastwood with Stewart McDannold Stuart.

Homeless People Relocated from Encampments

On April 24, the Encampment Health and Safety (COVID-19) Order, [MO 128/2020](#), was made in order to transition people living in encampments in Oppenheimer Park, Topaz Park and on Pandora Avenue into safe, temporary accommodations, and provide them with other health and social supports.

Cyberattacks on the Rise with COVID-19

Cybercrime is on the rise as we all grapple with the effects of the COVID-19 pandemic and local governments are not immune to this increasing threat.

One security firm has recently [reported](#) an increase of 30,000 % in COVID-19 themed phishing, malicious websites, and malware targeting remote users since January. The U.K.'s National Cyber Security Centre and the U.S. Department of Homeland Security Cybersecurity and Infrastructure Agency have also put out a joint [advisory](#) warning of an increasing number of malicious cyber actors exploiting the COVID-19 pandemic. The Canadian Centre for Cyber Security has also published an [alert](#) for Canadian health organizations, including policy-making organizations, that the COVID-19 pandemic presents an elevated risk.

Local governments are undoubtedly vulnerable to this increased risk as they transition to using new and sometimes untested tools to allow remote work to continue providing essential services to their citizens. Read the [full article](#) by Ethan Plato and David Loukidelis, QC with Young Anderson Barristers & Solicitors.

Province Supports Local Governments to Hold Public Hearings Electronically

The Province is continuing to support local governments by allowing them to hold public hearings electronically during the current provincial state of emergency.

"Local governments will be a key partner in our recovery effort," said Selina Robinson, Minister Municipal Affairs and Housing. "Construction and development activities are expected to be a key part of B.C.'s recovery efforts – and building housing, in particular, affordable housing, will contribute to our goal to provide affordable housing for all British Columbians. Amending this order will allow local governments to continue their work on land-use decision-making and keep building their communities for the people they serve."

Under the Emergency Program Act, the Province has repealed and replaced [Ministerial Order M083](#) with [M139](#) to expand the authorities given to local governments under M083. The new order will help local governments, improvement districts and the Islands Trust continue to make important decisions for their communities during the COVID-19 pandemic, including allowing local governments to hold public hearings electronically. Read the full government [news release](#).

Changing Property Tax Due Dates and Penalties in Response to the COVID-19 Pandemic

Under section 234 of the [Community Charter](#), July 2 is the date on which property taxes for a year are due under the general tax collection scheme. The [Municipal Tax Regulation](#) provides that if all or part of the property taxes payable under the general tax collection scheme remain unpaid after July 2, the collector must add a penalty equal to 10% of the portion that remains unpaid. Under the general tax collection scheme, a municipal council does not have the authority to change the due date, or to provide any relief from the penalty provisions of the

Municipal Tax Regulation. So far, the Province has not changed the due date under the general tax collection scheme in response to the COVID-19 pandemic, or the penalty provisions under the Municipal Tax Regulation. Read the [full article](#) by Peter Johnson with Stewart McDannold Stuart.

Alternative Tax Collection Schemes

The following is a Bulletin published by [Lidstone & Company Barristers and Solicitors](#):

The purpose of this bulletin is to address issues regarding implementation of alternative municipal tax collection schemes under the [Community Charter](#) ("Municipal Schemes"). We will specifically consider whether an Alternative Municipal Scheme can:

- a. set a tax due date on July 2nd; and
- b. make penalties apply as of a later date than July 3rd if the Alternative tax due date is July 2nd.

Caution: This memo is not intended to give a full overview of Municipal Schemes or the general tax collection scheme under section 234 of the *Community Charter* (the "General Scheme").

BRIEF ANSWER: The legislation, virtually unchanged from the content of the former *Local Government Act*, is open to several reasonable but conflicting interpretations on these issues. Municipalities can minimize their Alternative Municipal Scheme legal risk by avoiding both issues, by setting a due date other than July 2nd and making any penalties applicable to payments made after that due date.

Read the [full Bulletin](#) by Lidstone & Company.

Act or Regulation Affected	Effective Date	Amendment Information
Bylaw Notice Enforcement Regulation (175/2004)	Apr. 8/20	by Reg 80/2020
Elevating Devices Safety Regulation (101/2004)	Apr. 30/20	by Reg 184/2019
Fire Services Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)
Gas Safety Regulation (103/2004)	Apr. 1/20	by Reg 208/2019
Independent School Regulation (262/89)	Apr. 30/20	by Reg 92/2020
Taxation (Rural Area) Act Regulation (387/82)	Apr. 22/20	by Reg 87/2020

MISCELLANEOUS

Miscellaneous News:

Important COVID-19 Information

The [Court of Appeal](#) for British Columbia and the [Supreme Court of British Columbia](#) are introducing many practical measures and modified procedures in response to the ongoing COVID-19 pandemic. These measures and procedures are being taken to protect the safety and health of the members of the public, limit the transmission of the virus and maintain access to justice as an essential service for the public. Both Courts have taken steps to ensure that the public continues to have access to the courts and to deal with urgent and essential matters. As much as possible, both courts have modified and adjusted their processes to provide as many of each Court's normal services by telephone conferences, videoconferences, and in person appearances where it is safe and necessary to do so. For details about the responses of each Court including modified processes, please consult each Court's COVID-19 Information Page, and visit the Courts of British Columbia [website](#).

Lobbying Rules are Changing in British Columbia

On May 4, 2020, British Columbia's lobbying rules will change (again). The *Lobbyists Registration Act* will become the [Lobbyists Transparency Act](#) (LTA), carrying over some provisions from the current act and bringing new sections of the LTA and the [Lobbyists Transparency Regulation](#) into force.

On April 17, 2020, the Registrar extended the deadline for Lobbyists to register from June 15, 2020, to September 15, 2020, recognizing the challenges organizations are currently facing with respect to COVID-19.

The changes will impose new requirements on those already registered under the *Lobbyist Registration Act* and will bring some organizations previously exempted from registration within the scope of the LTA. Here are some of the key changes. Read the [full article](#) by Sharon G.K. Singh and Charlotte Teal with Bennett Jones LLP.

Price Gougers Face \$2 000 Fines

The Prohibition on Unconscionable Prices for Essential Goods and Supplies (COVID-19) Order, [MO 115/2020](#), prohibits any person from selling or offering to sell essential goods and supplies in a retail environment at prices that grossly exceed the price at which similar essential goods and supplies are available in similar transactions to similar consumers. The [Violation Ticket Administration and Fines Regulation](#) was also amended on April 18, granting powers to the police to fine individuals \$2 000 for selling these goods at inflated prices.

New Legal Toolkit Aims to Help Counsel Representing Clients in Sexual Assault Cases

West Coast LEAF has [released a toolkit](#) for lawyers representing clients in sexual assault proceedings.

The group said their 2018 report showed a host of issues faced by survivors of sexual assault when navigating the legal and justice system. The disclosure of private records and the introduction of evidence regarding sexual history can be a painful intrusion that can deter them from reporting the incident in the first place, or from availing of support services such as counselling, said West Coast LEAF.

The toolkit, developed by West Coast LEAF as part of a larger project undertaken with the YWCA Metro Vancouver, seeks to aid complainant counsel in dealing with [Criminal Code](#) matters relating to the admissibility of evidence of the complainant's sexual activity and relating to the production of third-party records. Read the [full article](#) published in *The Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Criminal Injury Compensation Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)
Regulations Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Trucker Travel Enhanced with Food Trucks at Key Locations

Food trucks are being set up at provincially owned locations throughout BC to support commercial truck drivers during the COVID-19 pandemic.

The Government of BC is forgoing the usual restrictions and fees for food-truck operators who want to set up on key stops for commercial truck drivers, in locations where it is safe to do so, at the currently reduced traffic volumes. Vendors are operating at rest areas, weigh scales and other commercial truck pullouts throughout the Lower Mainland and southern Interior, with more expected to be added in the coming weeks. Current locations on provincial property with permitted food trucks, providing commercial truck drivers with more food options during their travels:

- Nordel CVSE Inspection Station in Delta

- Zopkios Brake Check on Highway 5, approximately 57 kilometres north of Hope
- Britton Creek Rest Area on Highway 5, approximately 62 kilometres south of Merritt
- Kamloops Weigh Scale in City of Kamloops – food served free of cost once per week by the Salvation Army

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

Defendant Relying on "Waving" Motorists Still Found Liable For Crash

Relying on another motorist waving you through an intersection is no defense to an allegation of negligence if the intersection is in fact not clear. Motorists must keep their own proper and clear lookout and relying on representations of others that "all is clear" does not displace this duty. This principle was demonstrated in reasons for judgement published today by the BC Supreme Court, New Westminster Registry.

In today's case ([St Denis v. Turner](#)) the Defendant was stopped attempting to turn left at an intersection. The first 2 of the 3 oncoming lanes of traffic had vehicles backed up at the intersection and these motorists apparently "waved on" the Defendant. As he proceeded with his turn and entered the final oncoming lane the plaintiff drove into the intersection and a collision occurred. The Court found both motorists liable with the Defendant shouldering more of the blame. In finding that relying on "waving on" motorists was no defence to negligence Mr. Justice Funt provided the following reasons. Read the [full article](#) By [Erik Magraken](#) published on the BC Injury Law Blog.

CVSE Bulletins & Notices

The following bulletins and notices were posted recently by CVSE:

- [CT Notice 03-19](#) – Overall Width Restriction During Construction on the Carolin Bridge on Highway 5
- [NSC Bulletin 01-2020](#) – Hours of Service Regulations During the Current COVID-19 Pandemic
- [Circular 01-20](#) – REVISED: COVID-19 Vehicle Inspection Extension
- [NSC Bulletin 02-2020](#) – Modernizing Safety Regulations for Commercial Motor Vehicles – Stakeholder Engagement
- [CT Notice 02-20](#) – Alternatives to having a non-driving navigator with loads that have bridge crossing conditions are available for the duration of the state of emergency related to COVID19
- [CVSE1011](#) – Highways with Restrictive Load Limits
- [Map of rest areas and temporary portable facilities](#)
- [News Release](#) – Food trucks are being set up at provincially owned locations throughout B.C. to support commercial truck drivers during the COVID-19 pandemic
- [Circular 02-20](#) – Transportation Network Service (TNS) vehicles specialized light/beacon authorization

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

Act or Regulation Affected	Effective Date	Amendment Information
Commercial Transport Fees Regulation (328/91)	Apr. 16/20	by Reg 83/2020
Insurance (Vehicle) Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)
Motor Fuel Tax Act	Apr. 1/20	by 2018 Bill 2, c. 4, sections 46 to 50 only (in force by Reg 12/2020), Budget Measures Implementation Act, 2018
Motor Fuel Tax Regulation (414/85)	Apr. 1/20	by Reg 12/2020 and Reg 75/2020
Motor Vehicle Act Regulations (26/58)	May 1/20	by Reg 93/2020
Motor Vehicle Fees Regulation (334/91)	Apr. 16/20	by Reg 83/2020

Passenger Transportation Regulation (266/2004)	Apr. 1/20	by Reg 266/2004
Violation Ticket Administration and Fines Regulation (89/97)	Apr. 18/20	by Reg 85/2020 and Reg 86/2020

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

WorkSafeBC Looking at Presumption for COVID-19 Claims

WorkSafeBC's Board of Directors has directed the Policy, Regulation and Research Division (PRRD) to add COVID-19 (or potentially more broadly, coronaviruses or respiratory communicable diseases) to the list of diseases in [Schedule 1 of the Workers Compensation Act](#) on an expedited process. The primary significance of Schedule 1 is that COVID-19 claims will be presumed to be caused from work, unless proven otherwise. WorkSafeBC's Board of Directors has the sole authority over what diseases and associated trades, processes or industries are added to Schedule 1 of the Act. Read the [full WorkSafeBC news release](#).

Workers Can Refuse Unsafe Work to Avoid Workplace Injury

Some workers in British Columbia may not realize that they have the right to refuse job tasks that would threaten their safety. Employers must provide safety training and personal protective gear to protect employees from conditions that could cause a workplace injury.

If you feel unsafe at work, you must follow the appropriate steps when reporting hazardous conditions. The first step is to [notify your employer or supervisor of the hazard](#). The employer must address the matter without punishing you for refusing to carry out orders.

While investigating the complaint, the employer may not discipline you in any way. You may be assigned a different task without any wage losses. This will allow the employer to fix the problem. If the employer finds the complaint to be invalid, they must inform you, and you will then have the right to ask for another examination of the reported danger. Read the [full article](#) published in [Workplace Injuries](#) on Monday, April 20, 2020 – by Overholt Law.

Female Workers Struggle with Ill-fitting PPE

During this current COVID-19 pandemic, PPE shortages have largely dominated the news cycle as governments race to equip their essential workers with the necessary protective equipment to fight the virus. However, less has been made of ill-fitting PPE – especially with regards to gender concerns. British trade union Prospect has recently released a study showing that many female workers continue to struggle with ill-fitting PPE. The union found that there were the most issues with regards to ill-fitting trousers and overalls. Read the [full article](#) in [Canadian Occupational Safety](#).

Consultation on Proposed Amendments to the Occupational Health and Safety Regulation

from WorkSafeBC:

Our Policy, Regulation and Research Division is requesting feedback on proposed amendments to the [Occupational Health and Safety Regulation](#). The consultation phase provides stakeholders an opportunity to provide feedback prior to the proposed amendments going to public hearing. All stakeholder feedback is carefully considered and analyzed, and provided to WorkSafeBC's Board of Directors as part of their decision-making process. There are two proposed regulatory amendment packages under review:

- [Part 7, Noise, Vibration, Radiation and Temperature, section 7.19\(1\)\(b\)\(i\) – exposure limits](#); and
- [Parts 1, 5, 22 and 23, multiple sections – combustible liquids and flammable liquids](#).

To learn more about these proposed changes or to provide feedback, read the [full article](#) published on the WorkSafe BC website.

Canada: Cross Country Survey of Changes to Workers' Compensation System in Response to COVID-19

The workers' compensation system in Canada is a no-fault insurance system that provides employees who

become injured or ill at the workplace with compensation from a statutorily established accident fund. Most employers in Canada participate in this system either because they are obligated by legislation to do so, or because they can "opt in" in certain jurisdictions. This system exists in the provinces and territories, but does not exist at the federal level. Federally regulated employers can also choose to "opt in" to a province's or territory's workers' compensation system. Workers' compensation systems replace the right of employees to sue their employers, co-workers or others for losses arising from such accidents.

Employer contributions to a government fund for workers' compensation coverage are generally statutorily mandated. Contribution amounts vary and are dependent on factors such as the total amount of salary and wages paid by the company to its employees, the employer's "experience rating," which depends on its accident history, and the nature of the employer's business. There are limited exclusions for workers' compensation coverage. Read the [full article](#) by William McMillan, Rhonda B. Levy and Sari Springer with Littler Mendelson P.C.

Act or Regulation Affected	Effective Date	Amendment Information
Elevating Devices Safety Regulation (101/2004)	Apr. 30/20	by Reg 184/2019
Gas Safety Regulation (103/2004)	Apr. 1/20	by Reg 208/2019
Occupational Disease Recognition Regulation (71/99)	Apr. 6/20	by Reg 279/2019
Occupational Health and Safety Regulation (296/97)	Apr. 6/20	by Reg 279/2019
OHS Citations Regulation (194/2015) (formerly titled Lower Maximum Administrative Penalties Regulation)	Apr. 6/20	by Reg 279/2019
Reconsideration of Prescribed Compensation Claims Regulation (177/2013) (formerly titled Review of Old Permanent Disability Awards Regulation)	Apr. 6/20	by Reg 279/2019
Reports of Injuries Regulations (713/74)	Apr. 6/20	by Reg 279/2019
Workers Compensation Act	STATUTE REVISION Apr. 6/20	RS2019, c. 1 (in force by Reg 207/2019) as amended by Reg 46/2020

PROPERTY & REAL ESTATE

Property and Real Estate News:

Electronic Attendance at Strata Property Meetings

On April 15, 2020, the Electronic Attendance at Strata Property Meetings (COVID-19) Order, [MO 114/2020](#), was issued, permitting all strata corporations to hold council meetings and/or general meetings by electronic means until the state of emergency made as a result of the COVID-19 pandemic expires or is cancelled, whether they have a bylaw in place or not.

CMHC Outlines Eligibility Requirements for Commercial Rent Assistance Program

On April 29, 2020 the Canada Mortgage Housing Corporation (CMHC) released further details on the Canada

Emergency Commercial Rent Assistance (CECRA) program. The CECRA program is part of the Federal government's COVID-19 Economic Response Plan, aimed at providing support to help small businesses with their rent for the months of April, May and June. Our previous CECRA related update can be found [here](#). CMHC announced added eligibility requirements for both tenants and landlords. The additional requirements (underlined), along with the previously publicized requirements, are set out below:

Landlords:

- must own commercial real property that generates rental revenue from eligible small business tenants;
- must have a mortgage loan secured by the commercial real property that is occupied by one or more small business tenants (for landlords without a mortgage, information regarding an alternative mechanism will be announced in the near future);
- must have entered or will enter into a rent reduction agreement for the period of April, May and June of 2020 with the small business tenant, that will reduce impacted small business tenant's rent by at least 75%;
- must include a moratorium on eviction in the rent reduction agreement for the period of April, May and June 2020; and
- must have declared rental income on their tax return (personal or corporate) for tax years 2018 and/or 2019.

Read the [full article](#) by Richard Lord and David Gore (Articling Student) with DLA Piper.

Policy Statement 17: Temporary Extension to Early Marketing Deadlines under REDMA

Developers of residential real estate projects in BC have been faced with a number of legal and practical challenges as they attempt to navigate the repercussions of the current COVID-19 public health emergency. Among other things, developers have been required to find new and safe ways to operate their construction sites, administer rental buildings, complete home inspections and closings, and continue their ongoing marketing activities.

Effective as of April 17, 2020, the Superintendent of Real Estate in BC has issued Policy Statement 17, with the aim of providing some relief to BC developers whose marketing activities have been adversely affected by the pandemic response. The key points arising out of this initiative are summarized below. Read the [full article](#) by [Chad Travis](#) with Lawson Lundell LLP.

Rent Deferral during Pandemic May not Reduce GST/HST Payable on Rent

The COVID-19 pandemic has created unique dilemmas or opportunities for all aspects of society. While select businesses are proving to be uniquely successful during the economic downturn, most businesses are in need of assistance in order to continue to exist. Assistance is taking many forms, from government grants to wage subsidies to rent reductions and deferrals.

Rent reductions or deferrals may however come with GST/HST complications. The [Excise Tax Act](#) (Canada) (the "ETA") deems consideration for a supply (in this context, the rental of real property is a supply) to be payable at specific times and the GST/HST on that consideration (i.e., rent) to be payable at such times. In particular, the ETA states that consideration under a lease, licence or similar arrangement is to be due on the day the lessor/tenant is required to pay that consideration under an agreement for the same (generally, the rental agreement). In conjunction, the ETA states that GST/HST is payable on the earlier of the day on which the consideration is due and it is actually paid. Combined in the context of leases of real property, the rent is due on the day on which the tenant is required to pay the same pursuant to the rental agreement and the GST/HST is payable on that day unless the rent is paid earlier. Read the [full article](#) by [Ron Choudhury](#), [Colleen Ma](#) and [Marie-Hélène Tremblay](#) with Miller Thomson LLP.

CHOA – Condo Smarts Bulletin - Do We Continue to Pay Strata Fees?

Dear Tony: Our strata council has decided to defer strata fees for several months during the Covid-19 restrictions. Of the 7 council members, 5 are people who are off work for the short term, but the remainder of owners who are retired or work from home have no objection to the continuing of strata fees. Is this possible? If council members have a direct interest in an outcome is that not a time in council meetings when they should remove themselves during the decision making? We are very concerned we will end up in a serious deficit and drain what little reserve funds we have left for an emergency. The council simply advised they will not contribute

our allocated contingency amount in the annual budget to make up the difference. Read the [full article](#) and response by Tony Gioventu published in the newsletter Condo Smarts Tony Gioventu.

Act or Regulation Affected	Effective Date	Amendment Information
Mortgage Brokers Act Regulations (100/73)	Apr. 1/20	by Reg 260/2019

WILLS & ESTATES

Wills and Estates News:

Right of Spouse to Acquire Spousal Home in Intestate Estate

In British Columbia, when a person dies without a will (or in other words intestate), his or her spouse may take the deceased interest in the spousal home as part of the surviving spouse's share. The survivor does not receive the house automatically, but the [Wills, Estates and Succession Act](#) provides a mechanism for the spouse to select the home.

When someone dies without a will leaving a spouse and children or other descendants, the spouse receives the first \$300,000 if the descendants are descendants of both the deceased and the spouse, or \$150,000 if the deceased left descendants who are not also descendants of the spouse. For example, if the deceased had a child from a previous relationship, the surviving spouse would receive the first \$150,000 as her preferential share. The spouse is also entitled in either case, to one-half of the rest of the estate. Read the [full article](#) by [Stan Rule](#) with Sabey Rule LLP and published on his blog Rule of Law.

A Cautionary Tale of Consent: Widow Denied Use of Deceased Husband's Reproductive Material

In the decision of *LT v DT Estate*, [2019 BCSC 2130](#), the Supreme Court of British Columbia considered whether a wife could extract and use her recently deceased husband's reproductive material to create embryos without his prior written consent.

Ms. T and Mr. T were a young couple who had been married for three years and had recently become parents. Sadly, Mr. T died suddenly and unexpectedly. He did not have a will.

Immediately after Mr. T's death, Ms. T made an urgent application to the court for an order that Mr. T's sperm be extracted from his body, stored, and used to create embryos for Ms. T's reproductive use. There was significant evidence that Mr. T had enjoyed being a parent and wanted more children. Recognizing that the extraction needed to occur within 36 hours of his death, the court ordered that the material be extracted and stored pending a full hearing.

The main issue to be addressed at the full hearing was whether posthumous extraction and use were permitted despite the fact that Mr. T had not consented to either in accordance with the Assisted Human Reproduction Act (the "AHRA") and regulations. Read the [full article](#) by [Emma Ferguson](#) and [Catherine Bunio](#) with Alexander Holburn Beaudin + Lang LLP.

Knives Out: How Might Estate Litigation Matters Raised in the Film Have Played Out in BC

I recently had the opportunity to watch *Knives Out*, the 2019 murder-mystery film directed by Rian Johnson. This film was a delightful distraction, with a great ensemble cast and engaging plot. I highly recommend it.

It also touches on a number of estate litigation issues. Stuart Clark, a lawyer at Hull and Hull in Ontario, has authored an interesting discussion that can be found here: <https://hullandhull.com/2020/01/knives-out/>. I will discuss some additional issues which might have arisen had Mr. Thrombey resided in BC.

Warning – Spoilers Ahead! Harlan Thrombey, a wealthy crime novelist, is found with his throat slit, the morning after his family attended his 85th birthday party at his mansion. As might be expected, his family is highly dysfunctional and Harlan has strained relationships with various family members, which include two adult children, a daughter-in-law (married to his deceased son) and various grandchildren. Harlan had recently threatened to cut one of his grandchildren out of his will. Everyone has a motive, and a detective (played by

Daniel Craig) is hired to investigate the crime. Read the [full article](#) by [James Zaitsoff](#) with Owen Bird Law Corporation.

Act or Regulation Affected	Effective Date	Amendment Information
Wills, Estates and Succession Act	Apr. 6/20	by RS2019, c. 1, RevSch 2 (in force by Reg 207/2019)

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