

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Quickscribe Welcomes New Contributors

We are thrilled to announce the addition of two experienced lawyers who will be contributing ongoing annotations to the Quickscribe site.

[Nancy Harwood](#), a lawyer and principal with [The Harwood Safety Group](#), will act as Quickscribe's official expert for Occupational Health and Safety law. Nancy has practiced in the area of occupational health and safety law for over 20 years, including as a director in the Prevention Division of WorkSafeBC, and for the past six years, as principal of The Harwood Safety Group. She provides legal advice on regulatory compliance matters and conducts respectful workplace investigations for a wide range of industry clients. The Group also provides consulting expertise in safety training, OH&S program development, accident investigations and occupational exposure control, including relating to the COVID-19 pandemic. Visit Nancy's [public profile page](#) for more information.

[Teresa Tomchak](#), a partner with the law firm [Farris LLP](#) in Vancouver, will act as Quickscribe's official expert for Securities law. Teresa has extensive experience in securities litigation and regulation and has been involved in numerous shareholder disputes, hostile take-over bids and proxy fights. She has also been involved in contested plans of arrangement and securities class actions. Teresa's practice also includes securities regulatory matters. Teresa has represented clients during investigations and enforcement hearings before various provincial securities commissions. Visit Teresa's [public profile page](#) for more information.

New Update Resolves Recent Issues

Quickscribe recently released a series of platform updates which included a fix for some minor bugs. The update has resolved the issue stemming from Chrome popups blocking certain PDF functionality. We have also updated the official Hansard links so that they point to the new URL locations. Work is also in progress to upgrade the version of the Quickscribe platform which will result in significantly faster load times.

Legislation could Extend Emergency Orders for One More Year: Attorney General

[Proposed act](#) also allows for the creation of regulations that provide protections to "responsible" and compliant businesses and groups from civil liability related to COVID-19. A physically distanced B.C. legislature opened Monday [June 22] to the announcement that the BC NDP government will seek to extend emergency orders for up to a year. Read the [full article](#) at the *Time Colonist*.

Latest Annotations


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

- [Jeff Waatainen](#), DLA Piper LLP – [Forest Act](#)
- [Kim Jakeman](#), Harper Grey LLP – [Health Professions 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:

COVID-19 Tax Update: CRA Releases National Business Resumption Plan

On June 23, 2020, the CRA released its National Business Resumption Plan (the "NBRP") for CRA employees. This follows the CRA's previous announcement that it would be transitioning from a critical services mode to a business resumption mode on June 26, 2020. The NBRP serves as a guide for the CRA's business resumption transition, though it will no doubt be subject to change over the coming weeks and months. Furthermore, the CRA re-emphasized its prior statements that the transition to full business resumption will be gradual and that its employees will not all return to work right away.

The NBRP outlines the CRA's approach to business resumption, with an emphasis that it is a live draft and expected to change as public health and economic circumstances change over time. Importantly, the CRA notes that any programs or activities scheduled to resume after August 2020 are not yet confirmed and remain subject to change. Read the [full article](#) by [Chris Canning](#) with Thorsteinssons LLP.

COVID-19 and the Frustrated Contract Act

As of June 1, 2020, the Supreme Court of British Columbia has resumed some operations, and therefore businesses with operations in British Columbia should be aware of the [Frustrated Contract Act](#) (British Columbia) (Act). The Act is likely to become more significant because of the COVID-19 pandemic. Businesses with operations in Alberta and Ontario should also be aware that those provinces have virtually identical statutes that share many similarities with the Act. Read the [full article](#) by [Alexandra Luchenko](#), [Keith Marlowe](#), [Andrew Kavanagh](#) and [Sean Gallagher](#) with Blake, Cassels & Graydon LLP.

BC's New Legislation on Benefit Companies

As of June 30, 2020, for-profit businesses that are committed to conducting business in a responsible and sustainable way will be able to demonstrate their commitment by becoming a benefit company under the British Columbia [Business Corporations Act](#) (the Act). British Columbia is the first Canadian jurisdiction to implement legislation to establish benefit companies. Introduced in the State of Maryland in 2010, and now adopted in 36 U.S. states, benefit company legislation is intended to enable a company to promote social goals while being protected from claims that doing so would breach director fiduciary responsibilities.

A benefit company is a for-profit company that commits, by a "benefit statement" and "benefit provision," to conduct its business in a responsible and sustainable way and promote one or more "public benefits". Read the [full article](#) by Trevor R. Scott, Andrew MacDougall and Sagar Memon with Osler, Hoskin & Harcourt LLP.

Marketplace Rules Amended to Streamline Reporting Requirements

On June 18, 2020, the Canadian Securities Administrators (CSA) [announced the adoption of amendments](#) to marketplace rules to streamline reporting obligations and introduce specific requirements regarding cyber resilience.

Specifically, in order to reduce the regulatory burden on marketplaces, amendments to [National Instrument 21-](#)

[101 Marketplace Operation](#) include eliminating the need for marketplaces to report certain information (for example the requirement to report historical employment information for partners, directors and officers) and changing the timelines respecting the reporting of certain other information (for example changing the requirement to file non-significant amendments to information provided in Form 21-101F1 or Form 21-101F2 from monthly to quarterly). Read the [full article](#) by Stikeman Elliott LLP.

Income Tax Act Amendments

Recent amendments to the [Income Tax Act](#) establish a new BC child opportunity benefit, replacing the early childhood tax benefit. While the early childhood tax benefit was available to children up to the age of six, the new benefit will apply to children up to age 18. The changes will be fully implemented on October 1, 2020.

Tax Court Update on Getting Back to Business – Top Ten Takeaways

On June 25, the Chief Justice and Associate Chief Justice of the Tax Court of Canada ("TCC") provided a second reopening update. Here are our top ten highlights.

1. The Government of Canada business continuity plan was transitioned on June 5 and, consequently, as of June 22, 25% of the TCC's registry staff have returned to their offices, along with law clerks and administrative support personnel. With staff back in the TCC's offices, it may be possible to pay filing fees as early as July 6 for appeals instituted during the shutdown.
2. While the TCC is not yet "up and running", it has embarked on what will be an ongoing process to get back to the "new normal". Available staff have been digitizing all file materials that have not been entered since March 16, with an expectation of bringing active files up to date by July 3.

Read the [full article](#) by Stevan Novoselac and John Sorensen with Gowling WLG.

Securities Annotations – Coming Soon!

[Teresa Tomchak](#), a partner with the law firm [Farris LLP](#) in Vancouver, will act as Quickscribe's official expert for Securities law. Teresa has extensive experience in securities litigation and regulation and has been involved in numerous shareholder disputes, hostile take-over bids and proxy fights. She has also been involved in contested plans of arrangement and securities class actions. Teresa's practice also includes securities regulatory matters. Teresa has represented clients during investigations and enforcement hearings before various provincial securities commissions. Visit Teresa's [public profile page](#) for more information.

BC Securities – Policies & Instruments

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

- [BCN 2020/06](#) – Notice of Amendments to BC Instrument 45-530 Exemptions for Securities Issued by a Cooperative Association
The Commission is revoking and replacing BC Instrument 45-530 Exemptions for Securities Issued by a Cooperative Association to modernize the co-op exemption.
- [44-102](#) – CSA Notice of Amendments to National Instrument 44-102 Shelf Distributions and Change to Companion Policy 44-102CP Shelf Distributions relating to At-the-Market Distributions
- [21-101](#) – CSA Notice of Approval Mandatory Post-Trade Transparency of Trades in Government Debt Securities, Expanded Transparency of Trades in Corporate Debt Securities and Amendments to National Instrument 21-101 Marketplace Operation and Related Companion Policy
- [43-311](#) – CSA Staff Notice 43-311 Review of Mineral Resource Estimates in Technical Reports
- [21-101](#) – CSA Notice of Approval – Amendments to National Instrument 21-101 *Marketplace Operation* and Changes to Companion Policy 21-101CP *Marketplace Operation*
- [24-102](#) – Instrument 24-102 Clearing Agency Requirements
- [25-402](#) – CSA Consultation Paper 25-402 *Consultation on the Self-Regulatory Organization Framework*
- [31-358](#) – CSA Staff Notice 31-358 – *Guidance on Registration Requirements for Chief Compliance Officers and Request for Comments*

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Corporations Act	June 30/20	by 2019 Bill M209, c. 20, whole Act in force by Reg 105/2020 , Business Corporations Amendment Act

		(No. 2), 2019
Business Practices and Consumer Protection Regulation (294/2004)	June 26/20	by Reg 150/2020
Credit Union Incorporation Act	June 22/20	by 2019 Bill 37, c. 39, sections 105, 111, 112 (a) (part), (b) and (c) only (in force by Reg 141/2020), Financial Institutions Amendment Act, 2019
Designated Accommodation Area Tax Regulation (93/2013)	June 1/20	by Reg 41/2020
Financial Institutions Act	June 22/20	by 2019 Bill 37, c. 39, sections 1 (a) and (f), 9 (a) (part), (b) and (c), 10, 11, 18, 27, 28 (a), 29 and 42 (a), (b) (part), 43 (part), 48, 57, 58, 60 (part), 71 (a), 72, 74 (a) and (d), 75 (a), 76, 79 (d) and (e) only (in force by Reg 141/2020), Financial Institutions Amendment Act, 2019
Financial Services Authority Rule-Making Procedure Regulation (141/2020)	NEW June 22/20	see Reg 141/2020
Income Tax Act	July 1/20	by 2019 Bill 5, c. 7, sections 4, 10, 18 to 20 and 22 only (in force by Royal Assent), Budget Measures Implementation Act, 2019
Mountain Caribou Partnership General Remission Regulation (140/2020)	NEW June 22/20	see Reg 140/2020
National Instrument 24-102 <i>Clearing Agency Requirements</i> (27/2016)	June 19/20	by Reg 136/2020
Tax and Royalty Interest (COVID-19 Emergency) Remission Regulation (/2020)	NEW June 29/20	see Reg 163/2020

ENERGY & MINES

Energy and Mines News:

BC Proposes Amendments to *Mines Act*

On June 22, 2020, British Columbia [introduced amendments](#) to the [Mines Act](#). The proposed amendments formalize the separation of the Ministry of Energy, Mines and Petroleum Resources' (EMPR) permitting and compliance functions, establish an independent oversight unit, and further enhance compliance and enforcement.

The proposed amendments adopt a number of the recommendations of the [Mining Jobs Task Force](#) and the May 2016 Office of the Auditor General for BC (OAG) [report](#) on the EMPR's and the Ministry of Environment's (MOE) compliance and enforcement.

Currently, the Chief Inspector of Mines is responsible for both permitting decisions and for health, safety, and enforcement. The proposed amendments will create a new position of Chief Permitting Officer (CPO). The CPO will be responsible for permitting decisions. The delivery of permitting responsibilities will be coordinated and aligned under one area of the ministry. The Chief Inspector will remain responsible for health, safety, and enforcement.

The proposed amendments will affirm and clarify the division of responsibilities and resources between permitting functions and regulatory compliance and accountability. Read the [full article](#) by Sharon Singh, Sander Grieve and Claire Lingley with Bennett Jones LLP.

Supreme Court Dismisses Appeal of Trans Mountain Pipeline Approval

The Supreme Court of Canada will not hear a new appeal from British Columbia First Nations over the Trans Mountain pipeline expansion. The court on Thursday [July 2] dismissed the appeal from the Squamish Nation, Tsleil-Waututh Nation, the Ts'elxweyeqw Tribes and Coldwater Indian Band, effectively ending the years-long legal battle over the project. As is customary, the court did not give reasons for its decision. Read the [full article](#) in the *Financial Post*.

Province Extends Deferral of Electricity Costs for Industries Impacted by COVID-19

To further support BC's mining, forestry and other industries impacted by the COVID-19 pandemic, the Government of British Columbia and BC Hydro are extending the opportunity for companies to defer electricity bill payments for another three months. As part of the BC Hydro COVID-19 Relief Program announced on April 1, 2020, eligible industrial customers with accounts in BC Hydro's Transmission Service rate category (rate schedules 1823 and 1828) were given the opportunity to defer 50% of their electricity bill payments for the March to May 2020 billing period. Read the full government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Greenhouse Gas Reduction (Clean Energy) Regulation (102/2012)	June 22/20	by Reg 139/2020
Direction to the British Columbia Utilities Commission Respecting COVID-19 Relief (76/2020)	June 19/20	by Reg 137/2020
Fee, Levy and Security Regulation (8/2014)	June 1/20	by Reg 109/2020
First Nations Clean Energy Business Fund Regulation (377/2010)	June 3/20	by Reg 122/2020

FAMILY & CHILDREN

Family and Children News:

Government Delays *Divorce Act* Amendments Coming into Force in Response to Requests from Justice Partners Due to COVID-19 Pandemic

Divorce and separation are a reality for many Canadians, and ensuring that the family justice system can effectively respond to the needs of families in these situations is critical. That is why the Government of Canada took action by changing Canada's federal family laws to promote the best interests of the child, address family violence, help reduce child poverty, and make the family justice system more accessible and efficient.

The COVID-19 pandemic has created challenges on many fronts for Canadians, as well as for the operations of governments, courts and the family justice system. Today [June 5], the Honourable David Lametti, Minister of Justice and Attorney General of Canada, announced the delay of the coming into force of changes to the [Divorce Act](#), which was scheduled for July 1, 2020. Due to extraordinary circumstances related to the COVID-19 pandemic, the coming into force date has been deferred until March 1, 2021. Read the full Government of Canada [news release](#).

Spousal Claims against Estates: The Utility and Impact of Domestic Contracts

Although marriage is often regarded as a rite of passage that carries with it intense societal significance, a recent

survey reported by Statistics Canada has revealed that 41% of all married couples in Canada will either separate or divorce before their 30th anniversary. Results from the 2011 Census of Population have also demonstrated that common-law relationships are the fastest growing family structure in Canada. In British Columbia alone there were more than 160,000 common law couples in 2011, and that number was growing at a rate three times faster than the number of married couples. Statistics Canada has also estimated that the number of common law couples across the country was growing approximately four times faster than the number of marriages.

Clearly, more and more Canadians are deciding to forego the legal formalities that accompany marriage and are instead choosing to live together outside of marriage as common-law partners. Unfortunately, despite this growing trend, many people in common law relationships are unaware that they may still have legal obligations to one another. Worse yet, statistics demonstrate that common law spouses are much less likely than married spouses to consult a lawyer following the breakdown of a relationship. While 58.2% of separating spouses and 76.0% of divorcing spouses sought advice, only 25.3% of separating common-law spouses did the same. Read the [full article](#) by [Alexander Swabuk](#) with Miller Thomson LLP.

Annotated Model Parenting Assessment Order for Use in the Supreme Court of British Columbia

As mentioned in an earlier post, I am part of a small working group that has been developing a standard order for the appointment of mental health professionals to prepare parenting assessments, also known as custody and access reports and bilateral assessments, under section 211 of British Columbia's [Family Law Act](#). We have finished reviewing and incorporating the feedback we received on our last draft and are now ready to share what amounts to Version One of our model parenting assessment order.

Despite the importance of parenting assessments in the resolution of family law disputes, there is no standard form of Supreme Court order used to appoint assessors, and neither the College of Psychologists of BC nor the BC Association of Clinical Counsellors presently publishes practice standards to guide their members in preparing these reports. As a result, parenting assessments vary wildly in methodology and quality. Read the [full article](#) by [John-Paul Boyd](#), QC, published on *Slaw*.

COVID-19: BC Government Boosts Climate Action Tax Credit in One-time Increase

The BC government is boosting the climate action tax credit in a one-time increase to help cover costs in the continuing COVID-19 pandemic. Starting this week, more than 80 per cent of families and individuals in BC will automatically receive the extra money along with their GST/HST returns. The boost includes an extra \$174.50 for individuals, and a \$51.25 increase for children, which B.C. Finance Minister Carole James said Thursday [July 2] is double the annual amount eligible households would have received before B.C.'s COVID-19 action plan. A family of four could see an increase of \$451.50. Read the *Vancouver Sun* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Child Care Licensing Regulation (332/2007)	June 1/20	by Reg 118/2020
Provincial Court (Family) Rules (417/98)	June 1/20	by Reg 119/2020

FOREST & ENVIRONMENT

Forest and Environment News:

Frustration and Force Majeure: Unexpected Events and Contractual Non-compliance

While public health and economic issues are ubiquitous in the media's coverage of COVID-19, the pandemic also raises a mind-boggling array of legal issues. Indeed, issues of legal liability are often connected to the consequences of COVID-19 for public health and the economy. For example, the Government of BC's Public Health Officer issues orders to protect public health through potential legal liability on account of noncompliance, and that potential liability may constrain economic activity.

Issues of legal liability associated with COVID-19 are not, of course, limited to the realm of public regulation, but

also arise in the context of the legal relationships among private parties. Contracting parties may fail to meet their obligations to one another on account of the pandemic. In these circumstances, the question quickly becomes: what legal remedies are potentially available to provide relief from liability for such a failure? Read the [full article](#) by [Jeff Waatainen](#) in the Summer 2020 issue of *BC Forest Professional* magazine.

Modernized Contaminated Sites Regime Coming to British Columbia

On June 9, the Ministry of Environment and Climate Change Strategy in British Columbia made [Ministerial Order No. 182](#) (MO 182), which amends the [Contaminated Sites Regulation](#) (CSR) to align with [Bill 17](#), the *Environmental Management Amendment Act* (Bill 17). Together, these amendments alter the contaminated site identification process in BC.

Bill 17 was approved in May of 2019 after a multi-year review and consultation process that identified a number of weaknesses in the contaminated site regime. The amendments will take effect on February 1, 2021, and are intended to streamline site identifications while capturing contaminated sites that were previously left unregulated. Bill 17 makes the following notable changes to the [Environmental Management Act](#):

- Replaces the term "site profile" with "site disclosure statement."
- Simplifies the conditions under which a site disclosure statement is required to be submitted.
- Requires that a site disclosure statement be submitted to the registrar as opposed to the director, to streamline the collection of information.
- Adds responsibilities of the "operator of the property" in addition to existing responsibilities of the "owner of the property," to ensure the person associated with the contaminated site is captured in the disclosure requirements.

Read the [full article](#) by Max Collet with Norton Rose Fulbright Canada LLP.

Environmental Appeal Board Decisions

There was one Environmental Appeal Board decision in the month of June:

[Environmental Management Act](#)

- [GFL Environmental Inc. v. District Director, Environmental Management Act](#) [Interim Relief Application #3 – Date Variations Granted]

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Boundaries Regulation (137/2014)	June 26/20	by Reg 152/2020
Administrative Penalties (<i>Environmental Management Act</i>) Regulation (133/2014)	June 29/20	by Reg 162/2020
Administrative Penalties (<i>Integrated Pest Management Act</i>) Regulation (134/2014)	June 29/20	by Reg 164/2020
BC Timber Sales Regulation (381/2008)	June 22/20	by Reg 142/2020
BC Timber Sales Business Areas Regulation (243/2003)	REPEALED June 26/20	by Reg 152/2020
Closed Areas Regulation (76/84)	July 1/20	by Reg 169/2020
Designation and Exemption Regulation (168/90)	June 26/20	by Reg 158/2020

	July 1/20	by Reg 169/2020
Hunting Regulation (190/84)	June 26/20	by Reg 158/2020
	July 1/20	by Reg 169/2020
Limited Entry Hunting Regulation (134/93)	July 1/20	by Reg 169/2020
Motor Vehicle Prohibition Regulation (196/99)	July 1/20	by Reg 169/2020
Recycling Regulation (449/2004)	June 29/20	by Reg 162/2020
Wildfire Regulation (38/2005)	June 26/20	by Reg 157/2020
Wildlife Act Commercial Activities Regulation (338/82)	June 26/20	by Reg 158/2020
	July 1/20	by Reg 169/2020
Wildlife Act General Regulation (340/82)	July 1/20	by Reg 169/2020

HEALTH

Health News:

Assisted Living Regime in BC is Under-regulated and Under-researched: Report

Many seniors in assisted living residences in BC seemingly do not meet the legislative requirements for assisted living, [according to a new report](#). The Canadian Centre for Policy Alternatives, the Hospital Employees' Union and the B.C. Health Coalition released the report titled *The Place of Assisted Living in BC's Seniors Care System: Assessing the Promise, Reality and Challenges*, which concluded that the assisted living sector in BC was under-regulated and under-researched. These findings were supported by interviews of care aides and licensed practical nurses. Under the [Community Care and Assisted Living Act](#), SBC 2002, c 75, seniors residing in assisted living residences should be able to make, on their own behalf, the decisions necessary for them to live safely, should be able to recognize the existence of an emergency, should be able to protect themselves or to follow directions during such an emergency and should not regularly require unscheduled professional health services.

BC Health Officials Reopening Care Homes to Visits

BC provincial health officer Dr. Bonnie Henry and Health Minister Adrian Dix announced Tuesday [June 30] that the province will be easing visiting restrictions at its long-term care facilities, which have been at the centre of the COVID-19 pandemic in British Columbia. To start, once the facilities have completed a COVID-19 safety plan using WorkSafeBC guidelines, Henry said residents at long-term care facilities with no active cases will be able to have a single designated visitor who they can meet in a designated area in each facility. Read the [Vancouver Sun article](#).

Change is Coming to British Columbia's Health Professional Regulatory Framework – Here Is What Is Being Proposed

Changes appear to be on the horizon for BC's health professional regulatory framework, and it could be significant. In March of 2018, the BC Minister of Health initiated an inquiry into the College of Dental Surgeons of British Columbia, as well as a review of BC's [Health Professions Act](#) and the model of health profession regulation in BC as a whole. In April 2019, *An Inquiry into the performance of the College of Dental Surgeons of British Columbia and the Health Professions Act* (the "Cayton Report") was released with recommendations to overhaul and improve health professional regulation in the Province. In response, the Minister of Health established the Steering Committee on Modernization of Health Professional Regulation to investigate the best approach to

modernize the regulatory framework. Read the [full article](#) by Siobhan McConnell with Gowling WLG.

Youth Addicted to Drugs Can be Forced into Care under Proposed BC Law [Mental Health Act Amendments]

The provincial government has approved the controversial practice of forcing youth with severe addictions into treatment. Teenagers with severe drug addictions can be forced to stay in hospital, against their will, if they have a serious overdose, under [new provincial legislation](#) introduced on Tuesday [June 23].

"This is a new and much-needed tool in our tool box to help youth with severe substance use challenges and their families," Judy Darcy, the minister of mental health and addictions, said in a statement. "Experts are telling us this emergency measure is vital to ensure the immediate safety of young people in crisis." Read the [full article](#) published in *The Province*.

LifeLabs Failed to Protect Personal Health Information of Millions, Commissioners Say

LifeLabs failed to protect the personal health information of millions of Canadians, resulting in a "significant privacy breach," according to a joint investigation by Ontario and BC's information and privacy commissioners. Last December, the laboratory testing company revealed it had been the target of a large cyberattack affecting the private information of 15 million Canadians – mainly residents of BC and Ontario. The joint investigation found the company failed to implement reasonable safeguards to protect the personal health information, which violated BC's personal information protection law, Ontario's health privacy law and the *Personal Health Information Protection Act*. Read the CBC [article](#).

Health Law Bulletin – British Columbia

On June 17, 2020, British Columbia's Provincial Health Officer released a [letter](#) addressed to businesses looking to test employees for COVID-19. In it, she confirmed that, in British Columbia, the recommendation is that only symptomatic individuals and individuals otherwise identified by a health professional should be tested, and routine testing of asymptomatic people is not recommended. Serological testing is recommended for public health and research only. If businesses do test their employees, they still must continue to comply with public health measures to prevent transmission. The Provincial Health Officer also reminded employers of the laboratory accreditation process. On June 22, 2020, the province introduced [Bill 19](#), the *COVID-19 Related Measures Act*. The Act will formalize necessary ministerial orders created in response to the pandemic as the state of emergency is lifted. Previous orders will be extended for either 45 or 90 days after the end of the state of emergency. The Act will also allow the government to extend orders for up to one year after the Act is brought into force, if required to respond to a second wave.

Act or Regulation Affected	Effective Date	Amendment Information
Drug Plans Regulation (73/2015)	June 5/20	by Reg 123/2020
	June 26/20	by Reg 156/2020
Health Care Costs Recovery Regulation (397/2008)	June 26/20	by Reg 153/2020
Health Professions Designation and Amalgamation Regulation (270/2008)	June 8/20	by Reg 127/2020 and Reg 128/2020
Information Sharing Agreement Prescribed Enactments Regulation (182/97)	June 8/20	by Reg 129/2020
Laboratory Services Regulation (52/2015)	June 22/20	by Reg 144/2020
Meat Inspection Regulation (349/2004)	June 11/20	by Reg 132/2020

Residential Care Regulation (96/2009)

June 1/20

by [Reg 118/2020](#)**LABOUR & EMPLOYMENT****Labour and Employment News:****CERB Payments to be Extended for 2 More Months**

Beginning July 5, recipients must sign attestation acknowledging government wants them to work. The Canada emergency response benefit (CERB) is being extended by two more months, even as the government encourages people to look for jobs and to go back to work when it's possible to do so. CERB has provided taxable payments of \$2,000 for up to four months to Canadians who lost income because of the COVID-19 pandemic. Prime Minister Justin Trudeau announced today that the financial supports will be extended for eight weeks for those who still can't work as provinces and territories gradually reopen their economies. Read the CBC [article](#).

Canada to Help Employers with Pension and Deferred Leave Plans

As part of its economic response to the ongoing pandemic, the federal government is aiming to temporarily relax some rules in order to help employers keep their obligations when it comes to workers' pension plans and deferred salary leave.

On July 2, federal Finance Minister Bill Morneau announced the release of "draft regulations that would help employers who sponsor a Registered Pension Plan (RPP) or salary deferral leave plan for their employees to manage and maintain their benefit obligations" during the COVID-19 health crisis. Read the [full article](#) by [Terry Davidson](#), published in *The Lawyer's Daily*.

When a Temporary Layoff is No Longer Temporary

Many employers have laid off employees in response to the pandemic. Workplaces have been closed, operations restricted and companies have suffered significant financial consequences. For many workplaces, that led to laying off employees on a temporary basis, with the intent to re-employ their work force once the pandemic situation allowed it.

However, under the British Columbia [Employment Standards Act](#) when an employee's hours have been reduced to the point where they are earning 50% less than their usual earnings or less, they are considered to be laid off. To be considered temporary, the intent must be that the worker will be returned to their usual employment. Under the Act, unless the employer and employee agree to a temporary lay off, or there is a contractual right to impose a temporary lay off, a temporary lay off will be considered a termination. Also under the Act a temporary lay off becomes a termination by law if it extends to 13 weeks or more. Given the pandemic there are a number of employees who would fall into this category. Read the [full article](#) by Rose Keith with Harper Grey LLP.

COVID-19 Related Temporary Layoffs Extended

On June 25, 2020, the provincial government announced that temporary layoffs related to COVID-19 can now extend to a maximum of 24 weeks, expiring on August 30, 2020. This change follows the adoption in May 2020 of [Order in Council No. 219](#), which added a new section to the [Employment Standards Regulation](#), B.C. Reg. 369/95 permitting layoffs related to COVID-19 to extend to 16 weeks.

As a result of the most recent change, an employer will be able to lay off an employee who does not have a right of recall under a collective agreement for up to 24 weeks, if the COVID-19 emergency is a cause of all or part of the layoff, and the employee agrees to the layoff. The normal definition of "temporary layoff" under the [Employment Standards Act](#) (the "ESA"), which permits a layoff of up to 13 weeks in any 20-week period, does not apply in those circumstances. Without the extension of time, employers who were not ready to resume their operations after a 16-week layoff would have had to pay their laid off employees severance pay under the ESA notice provision or their employment contract's termination clause, whichever was applicable. Read the [full article](#) by [S. Michelle Blendell](#) of Young Anderson, Barristers and Solicitors.

Howard Levitt: Companies Can Have Dress Codes, but They Can't Enforce Them in Racially Discriminatory Ways

Employers need to tread carefully when preventing certain clothing or accessories from being worn at work. Executives across industries are sending company-wide emails to their employees and releasing public statements expressing outrage over police brutality and acts of anti-Black racism. Never before have so many

corporations taken such a public stance, with some CEOs loudly declaring that Black lives matter in statements and media interviews.

But many Black employees find these statements confusing and hypocritical as these announcements and statements of support are inconsistent with their own experiences in those very companies.

Starbucks Corp. was one such company that found itself confronted with accusations of hypocrisy recently. It had made public statements and social media posts supporting the Black Lives Matter movement, but sent an internal memo to employees not to wear Black Lives Matter T-shirts or pins while at work. Once news of these conflicting messages became known, the company faced intense backlash and quickly back-peddled. Read the [full article](#) by Howard Levitt on the *Financial Post*.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	June 18/20	by Reg 135/2020
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	June 18/20	by Reg 135/2020
Employment Standards Regulation (396/95)	June 1/20	by Reg 12/2018 and Reg 80/2018
	June 25/20	by Reg 148/2020
Salary Range Regulation (152/2017)	June 22/20	by Reg 146/2020
Social Services Employers Regulation (84/2003)	June 8/20	by Reg 130/2020

LOCAL GOVERNMENT

Local Government News:

BC Proposes First Steps to Address Sky-high Condo Insurance

Housing Minister Selina Robinson says the legislation proposes to amend the [Strata Property Act](#) and the [Financial Institutions Act](#).

The BC government says [proposed legislation](#) it has introduced takes first steps to address concerns about sky-high costs and availability of insurance for condominiums and other shared properties. Housing Minister Selina Robinson says the legislation proposes to amend the *Strata Property Act* and the *Financial Institutions Act*. Read the [full article](#) in *The Province*.

New Local Government Meetings and Bylaw Process Order (MO192)

On June 17, the Minister of Public Safety and Solicitor General issued a new order under the [Emergency Program Act](#) relating to local government meetings and timing requirements for bylaw passage, with the intent of moving local governments toward more normal operations.

Ministerial Order 192 (which can be found [here](#)) repeals and replaces [MO139](#). While still permitting flexible conduct of local government business in light of COVID-19, such as conducting public hearings and Council or Board meetings electronically where necessary, MO192 requires local governments to commence more normal operations by making "best efforts" to allow members of the public to attend open meetings of the local government.

If, despite best efforts, attendance of members of the public cannot be safely accommodated, the Council or Board must adopt a resolution providing the rationale for the continued need to meet without the public present

and describing the measures being taken to nonetheless ensure the principles of openness, transparency and accessibility are met. Read the [full article](#) by Andrew Buckley with Stewart McDannold Stuart.

Case Commentary: Issuance of Building Permit for Construction of Residential/Commercial Strata "Unreasonable" without Involvement of Architect

In the recent case of [Architectural Institute of British Columbia v. Langford \(City\)](#), the British Columbia Supreme Court conducted a judicial review of the issuance of a building permit for the construction of a residential/commercial strata complex in the City of Langford (the "City"), British Columbia. The project did not involve an architect; the designs and drawings were completed by a designer. The Architectural Institute of British Columbia ("AIBC") sought a declaration that the issuance of the building permit was unreasonable because the provisions of the [Architects Act](#), (the "Act") required the involvement of an architect. Read the [full article](#) by [Karen L. Weslowski](#) with Miller Thomson LLP.

Municipalities Press Bottom-line Requirements for Safe-restart Funds

As federal, provincial and territorial governments negotiate "safe economic restart" funding agreements, the Federation of Canadian Municipalities (FCM) today outlined four bottom-line requirements to ensure funds urgently protect frontline services for Canadians and support a nationwide economic recovery.

"From ambulance to clean water to safely-restarted recreation facilities, Canadians need to know that municipal services will keep running strong—and that a full recovery is coming. But that's at risk now with our cities and communities in financial crisis," said FCM President Bill Karsten. "The Prime Minister's safe restart commitment opens a door to solving this. But municipalities need to be part of the conversation, and sufficient funding needs to get to the front lines fast." Read the [full article](#) by [Federation of Canadian Municipalities \(FCM\)](#).

Recent Lawful Non-Conforming Use Cases

One of the murkiest areas of local government law, for professional land use planners and laypersons alike, is the law pertaining to lawful non-conforming uses. The basic idea is simple: zoning laws are not retroactive, so land and buildings that are 'lawfully used' may continue to be used despite the enactment of a new zoning law that makes that category of land use unlawful. In British Columbia, the basic idea is fleshed out in what is now Division 14 of Part 14 of the [Local Government Act](#). Most of this Division is concerned with limits on the basic principle, dealing with the effect of discontinuance of the use, change in scale or extent of the use, structural changes in buildings, and the consequences of building damage. A few sections enlarge the scope of the protection from new bylaws, deeming buildings 'lawfully under construction' to be already in use and therefore lawfully non-conforming, and permitting the extension of non-conforming uses throughout a building in which a lawful non-conforming use had been established. Lawful non-conformity has also been addressed in relation to the new rental tenure zoning power: lawful non-conforming forms of tenure in multiple-family residential buildings may continue. From the bylaw administration perspective, a lawful nonconforming use has status similar to a lawful conforming use in that business licences must be issued for non-conforming commercial uses, and building permits have to be issued as well as long as they are not authorizing new construction or (without a board of variance order based on hardship) structural alterations or additions to existing buildings intended to accommodate the non-conforming use. Read the [full article](#) by [Bill Buholzer](#) associate counsel at Young Anderson Barristers and Solicitors, published in the firm's recent newsletter.

BC Cuts Fees, Not Red Tape for Farmland Home Construction

After getting an earful from BC farmers last year, Agriculture Minister Lana Popham has delivered on some promised changes to restrictions on secondary homes and road maintenance on farms that take effect Sept. 30. The changes for secondary housing may not satisfy families struggling to house enough people to keep family farms going. Popham announced June 26 that individual applications beyond the principal residence will continue to be reviewed by the Agricultural Land Commission and local governments, but the fee to apply is being reduced from \$1,500 to \$900. Read the CBC [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Cannabis Licensing Regulation (202/2018)	June 18/20	by Reg 134/2020

Gaming Control Regulation (208/2002)	June 22/20	by Reg 143/2020
Bylaw Notice Enforcement Regulation (175/2004)	June 1/20	by Reg 121/2020
Independent School Regulation (262/89)	July 1/20	by Reg 97/2020
Liquor Control and Licensing Regulation (241/2016)	June 29/20	by Reg 165/2020 and Reg 166/2020
Resort Municipality of Whistler Act	June 26/20	by 2019 Bill 3, c. 5, sections 22 and 23 only (in force by Reg 155/2020), Municipal Affairs and Housing Statutes Amendment Act, 2019
School Act	July 1/20	by 2020 Bill 8, c. 4, sections 16, 17, 21 and 24 only (in force by Royal Assent), Education Statutes Amendment Act, 2020

MISCELLANEOUS

Miscellaneous News:

New Arbitration Act

On September 1, 2020, the new [Arbitration Act](#) will come into force by [B.C. Reg. 160/2020](#), repealing and replacing the current [Arbitration Act](#). The new Act represents the first major overhaul in over 30 years, and is based largely on the *Uniform Arbitration Act*. The Act applies to most arbitrations, except disputes applicable under the [International Commercial Arbitration Act](#), and to family law arbitrations, which will be governed separately under new provisions added to the [Family Law Act](#). The Act addresses:

- arbitration agreements;
- commencement of arbitration proceedings;
- arbitral tribunal composition;
- arbitration proceedings, including arbitral powers;
- arbitral awards;
- recourse against and enforcement of arbitral awards; and
- appeal process.

The new Arbitration Regulation will also come into force on September 1, designating the Vancouver International Arbitration Centre as the appointing authority and setting out the agreements that are not applicable under the Act.

BC Non-Profit Sport Organizations – Protection from Liability Resulting from COVID-19

As the British Columbia government moves closer towards fully reopening its economy, businesses and other organizations are looking at their own practices and examining what risks they bear if a customer contracts COVID-19 at their operation.

To alleviate some of this concern for amateur sports organizations and their stakeholders, the provincial government has passed a ministerial order protecting and absolving such entities from damages resulting directly or indirectly from COVID-19 related damages, as long as the organizations are abiding by public health orders and provincial sport guidelines. This ministerial order was issued in efforts to encourage such organizations to reopen.

Under the [June 10, 2020 Order](#), sports organizations and their representatives will be eligible for legal liability protection, as long as they are operating (or reasonably believe that they are operating) in accordance with all applicable emergency and public health guidelines. It is important to note that this protection does not extend to organizations and their representatives who are found to be grossly negligent. Read the [full article](#) by Ryan Morasiewicz with MLT Aikins LLP.

Out of Many, Comes One: BCSC Confirms Insurers' Use of IVA to Advance Single Action for Numerous Subrogated Claims

Recently, the BC Supreme Court considered the ability of a motor vehicle insurer to bring one claim in its name when subrogating for a large group of insureds against the same alleged tortfeasor(s), pursuant to s.84 of the [Insurance \(Vehicle\) Act](#), RSBC 1996, c.231 ("IVA").

This summary trial application is cited as *Insurance Corporation of British Columbia v. Teck Metals Ltd.*, [2020 BCSC 259](#). However, the application hearing determined the issue for three actions: *Insurance Corporation of British Columbia v. Teck Metals et al*, *Economical Mutual Company v. Teck Metals Ltd. et al*, and *Intact Insurance Company v. Teck Metals Ltd.* Read the [full article](#) by Mia Taghizadeh with Whitelaw Twining LLP.

Federal Court of Appeal Recognizes Constitutionality of CASL

On June 5, 2020, the Federal Court of Appeal ("FCA") released its decision in *3510395 Canada Inc. v Canada (Attorney General)*, 2020 FCA 103. The decision considered the appeals of 3510395 Canada Inc. (doing business as "CompuFinder") to two findings of the Canadian Radio-Television and Telecommunications Commission ("CRTC").

The decision is significant for two main reasons. First, it recognizes the constitutionality of the scheme in [Canada's Anti-Spam Law](#) ("CASL") which regulates the sending of unsolicited commercial electronic messages ("CEMs"). Second, it provides guidance on several key aspects of CASL's CEM provisions, including: (i) the scope of the "relationship" requirement in CASL's business-to-business exemption; (ii) the effect of including a non-functioning unsubscribe mechanism in a CEM, even if the CEM also includes a functioning unsubscribe mechanism; and (iii) the scope of CASL's provisions relating to implied consent to receive CEMs. Organizations which utilize CEMs to promote business activities would be wise to pay close attention to the impacts of the decision. Read the [full article](#) by [Simon Pinsky](#) and [Kelly Samuels](#) with Edwards, Kenny & Bray LLP.

New Office of the Legislature Staff Oath Regulation

On July 1, the [Office of the Legislature Staff Oath Regulation](#) became effective, setting out the form of oath all public service employees who work for an office of the Legislature must take within the first three months of employment. Legislature offices include the following:

- the Auditor General;
- the Chief Electoral Officer;
- the Human Rights Commissioner;
- the Information and Privacy Commissioner;
- the Merit Commissioner;
- the Ombudsperson;
- the Police Complaint Commissioner; and
- the Representative for Children and Youth.

Provincial Emergency Measures to be Enacted into Law

The BC Legislature has not been in session for most of the time spanning the COVID-19 pandemic and the provincial state of emergency (the state of emergency was declared on March 18 and the Legislature's last session was on March 23).

But that hasn't stopped the BC government from taking significant practical, economic, and legal measures to respond to the crisis.

These measures included thirty (by our count) Ministerial Orders issued by the Minister of Public Safety and Solicitor General under the [Emergency Program Act](#), which affected the legal rights of individuals and businesses in various ways deemed necessary "to prevent, respond to or alleviate the effects of any emergency or disaster". Read the [full article](#) by Michal Jaworski and Jessica Dorfmann with Clark Wilson LLP.

BC to Overhaul "Outdated" Policing Legislation, Says Safety Minister

BC will launch a complete overhaul of policing in the province, Public Safety Minister Mike Farnworth said Thursday [June 12]. Hours after Vancouver Mayor Kennedy Stewart publicly called on the province for a review of policing, Farnworth told Postmedia he and Premier John Horgan discussed earlier this week setting up an all-party committee to modernize BC's [Police Act](#), "with a specific focus on systemic racism." Read the [Vancouver Sun article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Correction Act Regulation (58/2005)	June 8/20	by Reg 124/2020
Office of the Legislature Staff Oath Regulation (147/2020)	NEW July 1/20	see Reg 147/2020
Public Service Oath Regulation (228/2007)	July 1/20	by Reg 147/2020
Regulations Act	June 22/20	by 2019 Bill 37, c. 39, section 131 only (in force by Reg 141/2020), Financial Institutions Amendment Act, 2019

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

BC Gov't Introduces Bill to Offer "Flexibility" around Use of Vehicle Insurance Decals

The BC government has introduced legislation that may see changes to the use of insurance decals that are placed on vehicle licence plates. [Bill 20](#), the enabling legislation, allows for validation decals to be non-expiring or valid for periods longer than one year and provides for regulations that could authorize ICBC to issue other documents regarding the validity of a vehicle licence instead of issuing decals. Attorney-General David Eby, the minister responsible for ICBC, told reporters that the bill was one component of the move to renewal of vehicle insurance online during the COVID-19 pandemic. Read the *Vancouver Sun* [article](#).

COVID-19 Protection Measures for Inland Ferries Remain in Effect

With increased travel a part of British Columbia's transition to Phase 3 of BC's Restart Plan, passengers on the Province's inland ferry system are reminded to adhere to Transport Canada's COVID-19 safety protocols.

Most importantly, all inland ferry passengers travelling by vehicle must remain in their vehicles for the duration of the trip to help protect the safety of passengers and crew. Passengers crossing Kootenay Lake who are not prepared to stay in the vehicle for the full duration of the 35-minute sailing should consider driving the Kootenay Pass instead of taking the ferry. All COVID-19 safety guidelines are set by Transport Canada to reduce the risks of COVID-19. Read government [news release](#).

BC Road Tests to Resume July 20 after Months-long Pause due to COVID-19

ICBC road tests are set to resume starting July 20 after being cancelled in March due to the pandemic, but the province warns there is a backlog of tens of thousands of appointments to get through. Attorney General David Eby says now that the province has eliminated the backlog for commercial road tests, there's enough personal protective equipment available to resume road tests for anyone trying to get a non-commercial driver's licence.

"There are about 55,000 appointments that had to be cancelled as a result of the COVID public health measures that were taken," Eby said. ICBC is now looking to hire and train more driver examiners and open additional locations to help deal with that backlog. Read the CBC [article](#).

CVSE Bulletins & Notices

The following bulletins and notices were posted recently by CVSE:

- [CT Notice 03-20](#) – Increased Steer Axle Weight and Changes to the Permitting Process for 9-Axle Logging Trucks Approved for Permits Under Letter of Authorization

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

Effective

Act or Regulation Affected	Date	Amendment Information
Offence Act	June 22/20	by 2007 Bill 33, c. 14, sections 53 and 54 (b) only (in force by Reg 138/2020), Attorney General Statutes Amendment Act, 2007
Passenger Transportation Regulation (266/2004)	June 22/20	by Reg 145/2020
	June 30/20	by Reg 266/2004
Superintendent of Motor Vehicles Records Regulation (2/97)	June 26/20	by Reg 154/2020
Violation Ticket Administration and Fines Regulation (89/97)	June 22/20	by Reg 138/2020

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

New Order Issued for Industrial Camps

A [new order](#) was recently issued by the Provincial Health Officer July 2nd which updates the requirements for employers who provide industrial camp accommodations. The amended order requires the employer to arrange for a health officer or a Provincial infection prevention and control officer to inspect the accommodation, worksite, vehicles used to transport workers and vehicles used by workers for work and to transport themselves to and from the worksite in order to determine if the accommodation, worksite and vehicles will support the prevention and control of transmission of SARS-CoV-2, and if possible, to implement the Protocol in a manner that will prevent the risk of transmission of SARS-CoV-2 among workers and to other persons. New industrial camp accommodations will require this inspection before placing workers in accommodation or operating a worksite. This order repeals and replaces an earlier order that was issued on April 23.

BC Implementing New Safety Measures for Seasonal Domestic Fruit Pickers

British Columbia is providing funding for the Okanagan communities to help with the annual arrival of seasonal fruit pickers and to better protect workers', employers' and communities' health and safety with respect to COVID-19. Through the investment, the government is helping set up designated campsite accommodations and ensure they meet health and safety requirements as outlined by the provincial health officer. Read the [full article](#) published by Canadian Occupational Safety.

Consultation on Proposed Amendments to Part 8 of the Occupational Health and Safety Regulation

from WorkSafeBC:

Our Policy, Regulation and Research Division is requesting feedback on proposed amendments to Part 8, Personal Protective Clothing and Equipment, section 8.11(1) – safety headgear, of the [Occupational Health and Safety Regulation](#). The consultation phase provides stakeholders an opportunity to share feedback prior to the proposed amendments being taken to public hearing. Read the full WorkSafeBC [news release](#).

OHS Annotations – Coming Soon!

[Nancy Harwood](#), a lawyer and principal with [The Harwood Safety Group](#), will act as Quickscribe's official expert for Occupational Health and Safety law. Nancy has practiced in the area of occupational health and safety law for over 20 years, including as a director in the Prevention Division of WorkSafeBC, and for the past six years, as principal of The Harwood Safety Group. She provides legal advice on regulatory compliance matters and conducts respectful workplace investigations for a wide range of industry clients. The Group also provides consulting expertise in safety training, OH&S program development, accident investigations and occupational exposure control, including relating to the COVID-19 pandemic. Visit Nancy's [public profile page](#) for more information.

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

PROPERTY & REAL ESTATE

Property and Real Estate News:

British Columbia Extends Temporary Rental Supplement and Moratorium on Eviction until August 31, 2020

The province of British Columbia has extended the temporary rental supplement (the "TRS") until the end of August 2020 to support landlords and tenants amid the COVID-19 pandemic. The moratorium on rent increases and eviction for non-payment of rent will also be extended. Both the TRS and moratorium are part of the provincial housing plan (the "Housing Plan") announced by the province on March 25, 2020. See our bulletin [British Columbia Government Announces Housing Initiative Amid COVID-19 Crisis](#). Highlights from the announcement include:

1. **Temporary Rental Supplement Extended** – The province is extending the TRS until August 31, 2020. Applicants already approved for the TRS will not need to reapply, and they will receive an email asking them to confirm plans to reside at the same address through July and August. New applicants have until the end of August to apply, and will be eligible for the TRS for the month their application is received, as well as all subsequent months.

Read the [full article](#) by Sergio Custodio and Kristian Arciaga with Fasken Martineau DuMoulin LLP.

New Ministerial Order Revises Measures in Place for Residential Landlords & Tenants in British Columbia

On June 24, 2020, the Minister of Public Safety issued a [new ministerial order](#) pursuant to the province's [Emergency Program Act](#) relating to residential tenancies (the "New Order"). The New Order replaces the prior ministerial order dealing with residential tenancies, which we summarized in our blog [here](#). The New Order will impact Landlords and Tenants as follows:

- The New Order applies commencing June 24, 2020 and ends on the date on which the state of emergency (or its extension) expires or is cancelled.
- A landlord can now issue a Notice to End Tenancy for any reason, other than unpaid rent or the late payment of rent.
- Landlords with existing orders of possession may now file them in court beginning July 2, 2020. The Landlord may then enforce a writ of possession immediately afterwards.

Read the [full article](#) by [Maxwell P. Carroll](#) and [Jeffrey Hernaez](#) with Lawson Lundell LLP.

British Columbia Amends the *Strata Property Act* to Tackle Insurance Concerns

With a bill introduced in the legislative assembly earlier this week, the British Columbia government is proposing amendments to the [Strata Property Act](#) to address concerns over the cost and availability of insurance for strata corporations. [Bill 14](#) proposes a series of amendments that touch on depreciation reports, disclosure, the scope of mandated insurance coverage, and a strata-lot owner's responsibility for a strata corporation's insurance deductible.

The bill's amendments include requiring disclosure of "a summary of the strata corporation's insurance coverage" on a Form B Information Certificate. In addition, a strata corporation will be required to "inform owners and tenants as soon as feasible of any material change in the strata corporation's insurance coverage, including any increase in an insurance deductible."

Another amendment will clearly enable strata corporations to make payments for obtaining and maintaining mandated insurance coverage out of the contingency reserve fund. This legislative amendment works hand-in-hand with a recent change to the [Strata Property Regulation](#). Read the [full article](#) by Kevin Zakreski on the BCLI website.

Suing for Unpaid Deposits

Generally speaking, if a buyer breaches a contract for the purchase of real estate and the seller accepts the buyer's refusal to perform the contract (as known as "repudiation"), an innocent seller is entitled to retain the deposit paid by the buyer under a contract of purchase and sale. But what happens when a buyer breaches a contract before the deposit is due and payable? Is the seller still entitled to the deposit if the transaction collapses due to the buyer's breach?

In a recent decision, the British Columbia Court of Appeal confirmed that a seller is entitled to an unpaid deposit owing under a contract of purchase and sale for real estate, even if the repudiation of the contract is accepted by the innocent party. In its decision in *Argo Ventures v. Choi*, the Court confirmed that a seller can sue for the unpaid deposit even after it has accepted the repudiation of the contract due to the buyer's breach or default.

The facts of the case are as follows: In the summer of 2016, the buyers entered into a contract to purchase a property in Port Coquitlam, British Columbia for approximately \$6,500,000, with an initial non-refundable deposit of \$300,000 due within ten business days. The buyers decided not to complete the purchase, despite there being a binding contract, and failed to provide the deposit within ten business days of acceptance (as set out in the contract). The buyers breached the contract (by stating that they would not complete the purchase) before the date the deposit was due. Read the [full article](#) by Lisa Niro of Bell Alliance LLP on the BC Real Estate Association website.

Act or Regulation Affected	Effective Date	Amendment Information
Property Transfer Tax Regulation (74/88)	June 1/20	by Reg 107/2020

WILLS & ESTATES

Wills and Estates News:

Proposed Legislation Recognizes Electronic Wills in British Columbia

The British Columbia Government has introduced legislation to allow digital wills. There are two main components of [Bill 21 – 2020: Wills, Estates and Succession Amendment Act, 2020](#). First, if passed and brought into effect the legislation will provide that a will-maker may make a will digitally, and the witnesses may also sign digitally. Secondly, the legislation will allow the will to be witnessed remotely, in a manner similar to that provided by the emergency order during the Covid-19 state of emergency.

The legislation amends section 37 of the [Will, Estates and Succession Act](#), which sets out the formal signing and witnessing requirements for a valid will to recognized wills in electronic form by adding the following subsections. Read the [full article](#) by [Stan Rule](#) with Sabey Rule LLP.

BC Court of Appeal Upholds Existence of Secret Trust

If a person does not make a will (i.e. the deceased dies intestate), then the BC [Will, Estates and Succession Act](#) sets out who will receive their estate. But what if the deceased person instructs the person entitled to receive their estate that the assets are actually to go to someone else? If the person entitled to receive the estate assets accepts the instructions from the deceased person, then a secret trust may be created.

In the recent case of *Bergler v. Odenthal*, [2020 BCCA 175](#), the B.C. Court of Appeal upheld a trial decision which held that a secret trust existed, with the result that the person who would have received all of the deceased's assets on an intestacy actually held the assets in trust for another person. Read the [full article](#) by [James Zaitsoff](#) with Owen Bird Law Corporation.

Maintaining an Estate Practice in the Time of COVID-19

At the outset of this article, I acknowledge that my experience with this pandemic will be different from many of yours. I work in a firm of 259 people, 95 of whom are lawyers. We work in Vancouver and we primarily file in the Vancouver Registry. I have the benefit of a team of senior management whose roles are dedicated to tasks other than delivering legal services to clients, a luxury that not all firms or solo practitioners will have. In the article, I have tried to distill some key aspects of the firm's and my own experience with the transition to working remotely from home. I am hopeful that some of those aspects will be helpful to all readers, regardless of the size of your firm or practice, and regardless of where you practice in the province.

When Candace Cho asked me to write about maintaining my estate and trust practice during this pandemic, I was less than 48 hours into it. My family and I had left early for Spring Break, and we were already travelling when Dr. Henry recommended against non-essential travel. We did cut our trip short, but my first day "back to work" was March 23. Read the [full article](#) by Amy Mortimore of Clark Wilson LLP.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

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