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# Quickscribe Reporter

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Vol: XIX – Issue: XI – November 2020

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## QUICKSCRIBE NEWS:

### Latest Update Addresses PDF Display Issues

Quickscribe has resolved an issue with how certain characters were being rendered when generating a PDF. Some clients may have noticed that certain quotes and en dashes were recently being displayed as nonsensical characters. The issue stemmed from the recent database and server upgrade and was isolated to a handful of laws. The issue has now been resolved.

### Latest Annotations

New annotations were recently added to the [Human Rights Code](#). These annotations were published by [Katherine Hardie](#) with the Human Rights Tribunal.

If you wish 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....**

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

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## CATEGORIES

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<a href="#">LABOUR &amp; EMPLOYMENT</a>	<a href="#">WILLS &amp; ESTATES</a>

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## COMPANY & FINANCE

### Company and Finance News:

#### COVID-19 Tax Update: a Detailed Review of the New Canada Emergency Rent Subsidy (CERS) and Lockdown Support Programs [November 26]

On November 19, 2020, Parliament enacted the Canada Emergency Rent Subsidy ("CERS"). Ostensibly designed to replace the underutilized Canada Emergency Commercial Rent Assistance ("CECRA"), the CERS subsidizes commercial real estate expenses incurred by businesses negatively affected by COVID-19. For businesses

subject to a public health order, the CERS includes a separate, but intertwined, "lockdown support" top-up component.

The CERS is available as of September 27, 2020. Consequently, as of that date businesses qualifying for both the basic CERS and "lockdown support" top-up may receive up to \$67,500 per property per month from the federal government. Similar to the Canada Emergency Wage Subsidy (the "CEWS"), CERS payments come in the form of a refundable tax credit under the federal [Income Tax Act](#) (Canada). Read the [full article](#) by Thorsteinssons LLP & Alexander Demner & Gloria Wang.

### Further Update on Employee Stock Options

On November 30, 2020, the Department of Finance ("Finance") released its 2020 Fall Economic Statement which included draft legislation (the "2020 Proposals") refining previous proposed amendments to the taxation of employee stock options. The changes had been anticipated, and are based on previous draft legislation released on June 17, 2019 (the "2019 Proposals"), summarized in more detail in our update of [June 27, 2019](#). Finance had announced on December 19, 2019 that the 2019 Proposals, which were to be effective January 1, 2020, [would be delayed](#). The 2020 Proposals reintroduce them with some notable modifications and clarifications.

If the 2020 Proposals are passed in their current form, they will apply to employee stock options (a term inclusive of options to acquire units in a mutual fund trust) granted on or after July 1, 2021. The 2019 Proposals, by contrast, were to become effective January 1, 2020. Importantly, the 2020 Proposals would preserve treatment under the current rules for option agreements made on or after July 1, 2021 that result from an exchange of options (originally granted prior to July 1, 2021) to which subsection 7(1.4) of the [Income Tax Act](#) (Canada) (the "Act") applies. Read the [full article](#) by [Mark Firman](#) with Stikeman Elliott LLP.

### Fall Economic Statement 2020 – Key Tax Announcements

On Nov. 30, 2020, The Honourable Chrystia Freeland tabled the Fall Economic Statement 2020 (the Statement). The Statement proposes short-term pandemic relief measures, including more support for families and those working remotely from home, as well as extensions of the Canada Emergency Wage Subsidy (CEWS) and the Canada Emergency Rent Subsidy (CERS). The Statement also provides a preview of longer-term initiatives aimed at tackling this year's \$381 billion fiscal deficit. Of note, the Government announced that it will impose GST/HST on many digital products, goods supplied through fulfillment warehouses, and platform-based short-term accommodation and that it is moving forward with the previously announced \$200,000 annual limit on employee stock options eligible for the stock option deduction. Read the [full article](#) by [Ryma Sachedina](#), [Elizabeth Egberts](#), [Joseph Marando](#), [Craig J. Webster](#), [Braek Urquhart](#), [Shannon James](#), [Beverly Gilbert](#) and [Pamela L. Cross](#) with Borden Ladner Gervais LLP

### BC Securities – Policies & Instruments

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

- [51-518](#) – BC Instrument 51-518 *Temporary Exemption from Certain Business Acquisition Report Requirements*
- [25-302](#) – CSA Staff Notice 25-302 - *Matters Relating to CDOR, LIBOR and Other Interest Rate Benchmarks*
- [51-361](#) – CSA Multilateral Staff Notice 51-361 *Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2020 and March 31, 2019*

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

### PST Bulletins – December 1st

The following PST Bulletins were published by the government on December 1st:

[Bulletin PST 003](#), Small Sellers, has been revised to clarify that you do not qualify as a small seller if you sell vapour products in the ordinary course of your business.

[Bulletin PST 004](#), Direct Sellers and Independent Sales Contractors, has been revised to clarify that exclusive products cannot be vapour products.

[Bulletin PST 204](#), Bicycles and Tricycles, has been revised to update the Converting Bicycles to Electric-Assist section to:

- Clarify how PST applies to electric conversions
- Correct an error in the example regarding the child seat

[Bulletin PST 312](#), Gifts, has been revised to clarify that PST applies to vapour products at the rate of 20%.

Visit the "What's New in BC Sales Taxes" [website](#) for more information.

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (22/2013)	Nov. 1/20	by <a href="#">Reg 227/2020</a>
Business Corporations Regulation (65/2004)	Nov. 30/20	by <a href="#">Reg 250/2020</a>
Contravention of Prescribed Provisions Regulation (566/2004)	Nov. 1/20	by <a href="#">Reg 227/2020</a>
Financial Products Disclosure Regulation (573/2004) (formerly titled <i>Marketing of Financial Products Regulation</i> )	Nov. 1/20	by <a href="#">Reg 227/2020</a>
Prescribed Offences Regulation (576/2004)	Nov. 1/20	by <a href="#">Reg 227/2020</a>

## ENERGY & MINES

### Energy and Mines News:

#### **\$18-Billion LNG Project Projected to Meet Mid-decade Start Despite COVID-19 Delays**

LNG Canada project had to cut in half its 1,500 workforce in the spring because of safety concerns related to the coronavirus pandemic. The \$18-billion project will liquefy natural gas from northeast BC in a plant at Kitimat in northwest BC, where it will be loaded onto ships and transported to Asian markets.

It is the only project that moved ahead to the construction phase among several that had been proposed in BC to tap into growing demand for energy in Asia and diversify from reliance on export to the U.S. The major players backing the project include Shell, Malaysian state-owned Petronas, state-owned PetroChina, Mitsubishi in Japan and South Korea's KOGAS. Read the *Vancouver Sun* [article](#).

#### **Recent BCOGC Bulletins**

The BCOGC has recently issued the following bulletin:

- [INDB 2020-25](#) – Dormant Sites Annual Work Plan and Annual Report Submission Changes
- [IB 2020-09](#) – AMS Payment to be Renamed as ePayment
- [IB 2020-10](#) – Disposal Well Near Hudson's Hope Decommissioned

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

Act or Regulation Affected	Effective Date	Amendment Information
Fuel Price Transparency Regulation (52/2020)	Nov. 1/20	by <a href="#">Reg 213/2020</a>
Zero-Emission Vehicles Act	Nov. 1/20	by 2019 Bill 28, c. 29, sections 17 and 18 only (in force <a href="#">Reg. 196/2020</a> ), <a href="#">Zero-Emission Vehicles Act</a>
Zero-Emission Vehicles Regulation (196/2020)	Nov. 1/20	by <a href="#">Reg. 196/2020</a>

**FAMILY & CHILDREN**

**Family and Children News:**

**60-Year Old Spouse Receives More Than 50% of Family Property Upon Separation**

In *Cook v. Cook* [2020 BCSC 389](#) the issue was whether fairness, after a 38-year marriage, required a reapportionment of property in favour of Mrs. Cook, or compensatory spousal support. The parties were 60 and 61 respectively. The facts revealed that the end of their marriage accompanied Mr. Cook's receipt of a \$425,000 inheritance and a cottage property, (excluded property) a windfall that he failed to disclose to his wife. At the same time, he changed his will to benefit their adult children.

The court noted that taking into account Mr. Cook's excluded property, he was leaving the marriage with assets valued at more than half of a million dollars more than his wife. Quoting *Moge v. Moge* SCC and *Chutter v. Chutter* BCCA, the court recited the legal maxim that "the longer the duration of the marriage, the closer the economic union, the greater will be the claim to an equal standard of living upon marriage dissolution." Read the [full article](#) by Georgiale Lang published on her blog "Lawdiva's Blog".

**Shift Changes May Impact on Childcare Arrangements But That Is Not Discriminatory**

In *Ziegler v. Pacific Blue Cross* (No. 2), [2020 BCHRT 125](#), the BC Human Rights Tribunal (Tribunal) determined that Pacific Blue Cross (PBC) did not discriminate against Ms. Ziegler on the basis of family status when it imposed a change to her work schedule that impacted on her childcare arrangements. The Tribunal dismissed the complaint. Ms. Ziegler was employed by PBC, a unionized workplace in Burnaby. At the time the complaint was made, she had a one-year child who was enrolled in a daycare near her home in Langley. Read the [full article](#) by Scott Marcinkow with Harper Grey LLP.

**Spotlight on Child Protection: Disclosure**

BCLI is running a public consultation (closing date: 15 January 2021) on child protection. It is asking for public input into its proposed changes to the [Child, Family and Community Service Act](#). For information on how to participate in the consultation please visit the [Modernizing the Child, Family and Community Service Act Project](#) webpage. This post is part of a series that spotlights issues discussed in the [Consultation Paper on Modernizing the Child, Family and Community Service Act](#). To read other posts in the series please [click here](#). Read the [full article](#) by Kevin Zakreski with the BC Law Institute.

**Act or Regulation Affected**

**Effective Date**

**Amendment Information**

*There were no amendments this month.*

**FOREST & ENVIRONMENT**

**Forest and Environment News:**

**Early Consolidation of Contaminated Sites Regulation & EMA**

For your convenience, Quickscribe has published an early consolidated version of the [Contaminated Sites Regulation](#), B.C. Reg. 375/96, and [Environmental Management Act](#) as they will read on February 1, 2021, once [Bill 17, Environmental Management Amendment Act, 2019](#), comes into law. Originally introduced in May 2019, Bill 17 intends to streamline and simplify site identifications while capturing contaminated sites that were previously left unregulated. Among other changes, there is a new requirement that a site disclosure statement be submitted to the registrar as opposed to the director. The operator and owner of the property now have added responsibilities to ensure the person associated with the contaminated site is captured in the disclosure requirements. The amendments will allow for more focus on ministry resources on high-risk sites and overall compliance verification and enforcement, with the overall result of increased protection for human health and the environment. The changes address issues raised during the initial consultation with industry, other ministries, local governments and Indigenous nations across the province. These and other early consolidated legislation can be found on the ["Special Early Consolidations"](#) page via the left navigation on Quickscribe.

## Federal Government Introduces Bill C-12 to Mandate 2050 Net-Zero Emission Requirements

On November 19, 2020, the federal government introduced [Bill C-12](#), the *Canadian Net-Zero Emissions Accountability Act*, the latest in a series of federal government initiatives aimed at satisfying Canada's obligations under the Paris Agreement, which establishes the framework for national greenhouse gas emission reduction targets to attain net-zero emissions by 2050.

The main features of Bill C-12 include:

1. the requirement to set national greenhouse gas emission reduction targets for each milestone year of 2030, 2035, 2040, and 2045, culminating in a national net-zero emission target by 2050;

Read the [full article](#) by Thomas McInerney, Sharon Singh, Radha Curpen, Parker Mckibbon and Kenryo Mizutani With Bennett Jones LLP.

## Environmental Appeal Board Decisions

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

### [Water Sustainability Act](#)

- [Kulwinder Singh Gill: Avninderjit Kaur Gill v. Assistant Water Manager](#) [Consent Order – Appeal Dismissed with Directions]

### [Wildlife Act](#)

- [Chad Sjodin, Hanna M.K. Buchanan, 1002670 BC Ltd., Scott B. Campbell v. Director, Wildlife and Habitat Branch](#) [Summary Dismissal Decision – Appeals Dismissed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Zero-Emission Vehicles Act	Nov. 1/20	by 2019 Bill 28, c. 29, sections 17 and 18 only (in force <a href="#">Reg 196/2020</a> ), <a href="#">Zero-Emission Vehicles Act</a>
Zero-Emission Vehicles Regulation (196/2020)	Nov. 1/20	by <a href="#">Reg 196/2020</a>

## HEALTH

### Health News:

#### Review Recommends Steps to Solve Widespread Racism in BC Health Care

Indigenous people in British Columbia are exposed to widespread racism that often results in negative experiences at the point of care, inequitable medical treatment, physical harm and even death, the independent review into Indigenous-specific discrimination in the province's health-care system has found.

Informed by the voices of nearly 9,000 Indigenous patients, family members, third-party witnesses and health-care workers, as well as unprecedented analysis of health data, the review found clear evidence of pervasive interpersonal and systemic racism that adversely affects not only patient and family experiences but also long-term health outcomes for Indigenous peoples.

The report, *In Plain Sight: Addressing Indigenous-specific Racism and Discrimination in BC Health Care*, concludes that this problem is widely acknowledged by many who work in the system, including those in leadership positions. The report makes 24 recommendations to address what is a systemic problem, deeply rooted in colonialism. Read the full government [news release](#).

#### Access to PharmaNet

Effective December 1, changes to the Information Management Regulation require all new users who need

PharmaNet to deliver direct patient care to enrol in PRIME.

**Discriminatory on the Basis of Mental Illness**

After a year's delay due in part to the pandemic, Parliament is considering a bill to change the Medical Assistance in Dying (MAiD) regime to comply with the *Truchon* ruling in Quebec. The province's Superior Court has granted the federal government an extension until December to update its legislation to conform to the ruling. The Canadian Bar Association has taken the position that the bill doesn't go far enough toward addressing the *Truchon* ruling, as well as the Supreme Court of Canada decision in [Carter](#) that initially struck down the federal prohibition on physician-assisted dying.

"The government is doing its best with the limited time that they have to respond to the *Truchon* decision," says David Roberge, a partner at McCarthy Tétrault in Montreal and member of the CBA's End of Life Working Group. "And overall, they consulted a lot of people and they've taken into account a lot of points of view, as much as they could, but the exclusion of all persons with mental illness is likely to be constitutionally challenged." Read the [full article](#) by Dale Smith, published in the CBA National.

**COVID-19: More than 100 Fines Issued in BC to People Breaking Health, Quarantine Orders**

A total of 105 fines – totalling more than \$100,000 – have been issued to individuals since late August for breaking health orders or federal quarantine rules. The rundown of tickets being issued was shared Tuesday evening [November 11] in a statement from the BC government formally extending the province's state-of-emergency declaration. Read the *Vancouver Sun* [article](#).

**Changes to COVID-19 Legislation**

On November 24, [M425/2020](#), the Use of Face Coverings in Indoor Public Spaces (COVID-19) Order, was made and incorporated as a provision in the [COVID-19 Related Measures Act](#). The [Violation Ticket Administration and Fines Regulation](#) was also updated to set out the fines for contravening specific provisions of the Order:

Item 23.6 of Schedule 2  
Use of Face Coverings in Indoor Public Spaces (COVID-19) Order

Contravention	Fine	Victim Surcharge Levy	Ticketed Amount
Fail to wear face covering in indoor public space	\$200	\$30	\$230
Abusive or belligerent behaviour	\$200	\$30	\$230
Fail to comply with direction from enforcement officer	\$200	\$30	\$230

Act or Regulation Affected	Effective Date	Amendment Information
COVID-19 Related Measures Act	Nov. 9/20	by <a href="#">Reg 267/2020</a>
	Nov. 13/20	by <a href="#">Reg 269/2020</a>
	Nov. 24/20	by <a href="#">Reg 271/2020</a>
Information Management Regulation (74/2015)	Dec. 1/20	by <a href="#">Reg 74/2015</a>

**LABOUR & EMPLOYMENT**

**Labour and Employment News:**

**Harvey v Gibraltar – The Latest Development in the Test for Discrimination on the Basis of Family Status in BC**

The BC Human Rights Tribunal's (the "Tribunal") decision in *Harvey v. Gibraltar Mines Ltd. (No. 2)*, [2020 BCHRT 193](#) ("Harvey"), is the latest in a series of cases clarifying the test for discrimination on the basis of family status in BC.

Ms. Harvey and her husband both worked the same 12-hour shift at Gibraltar Mines Ltd. ("Gibraltar"). Upon returning from maternity leave in 2017, Ms. Harvey asked her supervisor if she and her husband could work different shifts, so that they could access childcare. She proposed two options that would allow them to work slightly different hours but continue to share some time off. Her supervisor rejected these proposals and suggested instead that Ms. Harvey or her husband switch to an opposing 12-hour shift, either permanently or until they could find a better childcare solution. Ms. Harvey rejected this suggestion on the basis that working opposite shifts would negatively affect their family. She then brought a claim alleging that Gibraltar failed to accommodate her by denying her request and discriminated against her on the basis of family status, marital status, and sex, contrary to s. 13 of the BC [Human Rights Code](#), RSBC 1996, c. 210 (the "Code"). Gibraltar applied to have the complaint dismissed, arguing that the facts pled did not disclose a breach of the Code, that the complaint had no reasonable prospect of success, and that it would not further the purposes of the Code, pursuant to ss. 27(1)(b), (c) and (d)(ii). Read the [full article](#) by Abigail Cheung and Heather Mallabone with McCarthy Tétrault LLP.

**Supreme Court of Canada Clarifies Scope of Adverse Effect Discrimination**

In *Fraser v. Canada (Attorney General)*, [2020 SCC 28](#), the Supreme Court of Canada found that a workplace policy of the RCMP amounted to unlawful discrimination because it indirectly institutionalized and perpetuated a long-standing source of economic disadvantage for women.

The case involved three female RCMP officers who participated in a job-sharing program in order to work reduced hours when their children were young. The RCMP had a pension "buy-back" policy which allowed officers who had taken a leave from work to "buy back" pension credits to erase gaps in full-time service. The RCMP informed the three officers that the job-sharing program constituted part-time work, and as a result, the officers could not benefit from the pension "buy-back" policy. The Supreme Court of Canada found that the RCMP's policy amounted to unlawful adverse effect discrimination. Read the [full article](#) by [Titus Totan](#) & [Alice Wang \(Articling Student\)](#) with DLA Piper.

**When Can Employees Claim Payment for Travel Time?**

It is not uncommon for disputes to arise about employees' eligibility for payment for travel time. Employment law regarding travel time can be complicated. Therefore, British Columbia employers are advised to [draft a company policy](#) that includes information about travel time in the employment contracts when new staff members are appointed.

Here is what the BC [Employment Standards Act](#) says about paid and unpaid travel time:

**Commute time:**

The time spent travelling to and from work is not regarded as work time. It is important to note that this applies even if the worker drives a company vehicle or if another employee or the employer picks up the worker.

Read the [full article](#) published by Overholt Law and posted in [Labour and Employment Law](#) on Thursday, November 26, 2020.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Nov. 9/20	by <a href="#">Reg 268/2020</a>

	Dec. 1/20	by <a href="#">Reg 270/2020</a>
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Nov. 9/20	by <a href="#">Reg 268/2020</a>
	Dec. 1/20	by <a href="#">Reg 270/2020</a>
Salary Range Regulation (152/2017)	Dec. 1/20	by <a href="#">Reg 274/2020</a>

**LOCAL GOVERNMENT**

**Local Government News:**

**ALR Update: What Local Governments Need to Know**

The regulations under the [Agricultural Land Commission Act](#) have undergone significant and swift recent changes, with potentially far-reaching effects on local governments' powers and limitations when it comes to regulating in respect of farm lands within their jurisdiction. Examples of such changes are the changes to the application process to exclude land from the Agricultural Land Reserve and new land-use regulations for land designated within the Agricultural Land Reserve. This update will discuss these recent changes and potential issues of which local governments should be aware. Download the [PDF article](#) published by Bill Buholzer, Elizabeth Anderson and Steven Shergill of Young Anderson Barristers & Solicitors.

**Vancouver Council Unanimously Approves Motion to Seek Decriminalization of Drug Possession**

If approved by Ottawa, city would become first in Canada to decriminalize simple possession. Vancouver city councillors have voted unanimously in favour of a motion to ask the federal government for the legal power to decriminalize simple possession of illicit drugs. The vote Wednesday night [November 25] means the city will ask the federal government for an exemption from the [Controlled Drugs and Substances Act](#) to allow the possession of small amounts of illegal substances within the city's boundaries.

If successful, Vancouver will become the first jurisdiction in Canada to decriminalize simple possession. Mayor Kennedy Stewart said Wednesday that he was grateful for the support of councillors, as well as the advocacy of drug users and their allies who have been pushing for decriminalization for years. Read the CBC [article](#).

**The Limitation Defence in the Public Authorities Context: A Tool for Disposing of Claims Summarily**

The civic functions performed by many public authorities put their employees in routine contact with members of the public. As can be expected, their public-facing nature will consequently make these public bodies and their employees the target of some frivolous litigation. The finite time and financial resources available to address these nuisance claims are an unfortunate reality that strains the legal budgets of public authorities and acts as a drain on the use of limited court resources. Addressing and disposing of such claims in a time and cost-sensitive manner is in the best interest of the public authority so that these organizations and their legal counsel can focus their time and resources on more pressing legal matters.

While every claim is subject to the general two-year limitation period in the [Limitation Act](#), local government defendants have access to additional, shorter statutory periods that apply in certain circumstances. Legal counsel acting in the defence of public authorities should be familiar with the various statutory limitation periods that apply to public bodies and how these can be used to promptly dispose of court actions or threats of litigation. When a plaintiff or their counsel make the fatal error of missing a statutory limitation period it will almost certainly act as a bar to their claim and insulate the public authority from liability and further litigation.

On November 3, 2020 reasons were released in the Supreme Court of British Columbia case *Nungwana v. Canada (Attorney General)*, [2020 BCSC 1634](#), which provides a clear example of when the limitation defence can be utilized to promptly dispose of a claim made against a public authority. Read the [full article](#) by Josh Krusell with Stewart McDannold Stuart.

**Coquitlam Granted Leave to Appeal in Fortis Dispute**



The BC Court of Appeal has approved a City of Coquitlam application to appeal an order by the BC Utilities Commission (BCUC) that allowed Fortis to abandon a decommissioned gas pipeline running through City lands. The order had directed the City and Fortis to share the cost of removing the pipeline to allow for the installation of municipal infrastructure. UBCM provided an affidavit to the Court in support of Coquitlam that advanced the argument this was an application that could impact local governments across British Columbia.

UBCM involvement in legal appeals is limited to instances where the matter in dispute could have a broad impact to other local governments in British Columbia. The City was granted leave to appeal in a ruling by the BC Court of Appeal on October 7. The Court of Appeal ruling references the UBCM affidavit in its decision as follows, including the need for greater jurisdictional clarity over decommissioned infrastructure and the consequences of the BCUC decision for local government budgets and planning. Read the UBCM [article](#).

**COVID-19 Resilience Infrastructure Stream**

On December 1, 2020, the Ministry of Municipal Affairs and Emergency Management BC announced the launch of the new \$136 million COVID-19 Resilience Infrastructure Stream (CVRIS) under the Investing in Canada Infrastructure Program (ICIP).

The CVRIS will support projects that focus on retrofits, rehabilitation and upgrades to existing local government and indigenous community buildings, COVID-19 response infrastructure, active transportation and disaster mitigation. Read UBCM [article](#).

**How are the Courts Approaching the Duty of Care in Negligence Claims Against Local Governments**

Recent decisions indicate that the courts are more reserved in their approach to the question of whether local governments owe a duty of care in cases where claimants have sought to extend municipal negligence liability beyond traditional areas such as building inspection and road maintenance. Additionally, for the first time in over 20 years the Supreme Court of Canada is taking on a municipal negligence case that raises the important question of whether the policy/operational analysis should be retained to determine when municipal decisions are immune from a duty of care. The prospect for significant change in the law of municipal negligence law from these cases will be considered. Download the [full PDF article](#) by Barry Williamson and Sarah Strukoff, Articled Student, with Young Anderson Barristers & Solicitors.

**Funding & Resources Update**

Applications are currently being accepted for the following funding programs. A complete and chronological listing (by intake deadline) of currently offered Local Government Program Services grants is also available on the [UBCM website](#).

[Community Emergency Preparedness Fund](#): Upcoming intake deadlines for CEPF funding streams:

- Emergency Support Services – January 29, 2021
- Flood Risk Assessment, Flood Mapping and Flood Mitigation Planning – February 26, 2021
- Emergency Operations Centres and Training – March 26, 2021

[Regional Community to Community Forums](#): The goal of a Regional C2C Forum is increased understanding and improved overall relations between First Nations and local governments. Forum events are intended to provide a time and place for dialogue to build on opportunities, support reconciliation efforts, and resolve issues of common responsibility, interest or concern.

Read the full UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
COVID-19 Related Measures Act	Nov. 9/20	by <a href="#">Reg 267/2020</a>
	Nov. 13/20	by <a href="#">Reg 269/2020</a>
	Nov. 24/20	by <a href="#">Reg 271/2020</a>

COVID-19 ( <i>Residential Tenancy Act</i> and <i>Manufactured Home Park Tenancy Act</i> ) (No. 3) Regulation (267/2020)	<b>NEW</b> Nov. 9/20	see <a href="#">Reg. 267/2020</a>
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## MISCELLANEOUS

### Miscellaneous News:

#### **10 Ways Canada's Consumer Privacy Protection Act Will Impact Privacy Practices**

On November 17, 2020, the federal government proposed dramatic changes to how Canada will enforce privacy law, ushering in a new legal regime to protect individuals' personal information – and to regulate organizations' privacy practices. [Bill C-11: the Digital Charter Implementation Act](#) creates the [Consumer Privacy Protection Act](#) (CPPA) to replace the federal [Personal Information and Electronics Documents Act](#) (PIPEDA), and codify in law organizations' obligations respecting the collection, use and disclosure of personal information rather than merely rely on the Canadian Standard Association (CSA) Model Code. The federal government says it estimates 18 months for the CPPA to go through the legislative process and become law, though this is always difficult to gauge. It might be derailed by, for example, a federal election or the ongoing COVID-19 Pandemic – but it might not. It's still early days, but if the CPPA (or some form of it) passes, it will take organizations time to put the necessary compliance processes in place. Here are 10 ways the Consumer Privacy Protection Act will impact organizations' Canadian privacy practices. Read the [full article](#) by [Sarah Anderson Dykema](#), CIPP/C, Lawyer at McInnes Cooper, [David Fraser](#), Privacy Lawyer, Partner at McInnes Cooper.

#### **Update: Face Masks or Face Coverings in British Columbia Courthouses**

Effective immediately, people attending courthouses in British Columbia are required to wear a face mask or face covering, including in entrances, lobbies, waiting areas, registries, hallways, stairways, restrooms and elevators. In addition, people are required to wear a face mask or face covering in courtrooms unless the presiding judge, justice, master or registrar directs otherwise. Face masks or face coverings must be worn in a manner that cover a person's nose and mouth. If you do not have a face mask or face covering, Sheriffs will provide one when you enter the courthouse. While wearing a face mask or face covering can reduce the spread of infection, it does not substitute for physical distancing, which must be maintained whenever possible. The requirement to wear a face mask or face covering does not apply: Visit the Courts of British Columbia website to read this and other important [related announcements](#).

#### **New Bill Would Give Provinces Discretion to Regulate Single Event Sport Betting**

David Lametti, federal justice minister and Canada's attorney general, [introduced a bill](#) on Nov. 26 that would decriminalize single event sport betting.

The proposed amendments to [s. 207\(4\)\(b\) of the Criminal Code](#) would give provinces and territories the power to manage, regulate and license single event sport betting, meaning betting on the outcome of a single sporting game with the exception of horse racing, in their respective jurisdictions. Currently, the *Criminal Code* bans all forms of gambling, subject to certain exceptions, which include the lottery schemes of provinces and territories, betting between private citizens under specific circumstances, and betting regulated by the Canadian Pari-Mutuel Agency. Read the [full article](#) by Bernise Carolino, published on *Canadian Lawyer*.

#### **Cybersecurity Among Factors Driving Privacy Law Reform in Canada**

The digital economy has changed the way we live and the way organizations carry on business. It has also raised unique privacy challenges that were not imaginable when Canada's private-sector privacy laws were originally drafted. Organizations are increasingly collecting and compiling considerable amounts of personal information, including sensitive personal information, and using it for a wide range of purposes, including data analytics and artificial intelligence (AI), to better serve their customers.

Legislators across Canada and the rest of the world are attempting to modernize legislation to keep up with these advances. The European Union bolstered its privacy laws in 2018, enacting the General Data Protection Regulation (GDPR). Legislatures in other jurisdictions followed, including in California, Japan, Korea and Brazil. In Canada, the federal government and several provincial governments have signalled their intention to modernize

their privacy legislation. Read the [full article](#) by [Wendy Mee](#), [Marie-Hélène Constantin](#) and [Alexandra Luchenko](#) with Blake, Cassels & Graydon LLP.

**Society Membership Criteria: A Reminder from the BC Court of Appeal on the Importance of Clear Bylaws**

The recent decision of *Farrish v Delta Hospice Society*, [2020 BCCA 312](#) ["Farrish"] confirms the significance of properly adhering to bylaws for societies under the [Societies Act](#) [the "Act"], as well as the consequences of failing to do so.

*Farrish* involved an appeal of a decision under the Act that 310 membership applicants had been improperly rejected by Delta Hospice Society ["DHS"], a non-profit society that provides palliative care and support to persons in the last stages of living. Following a change in its Board of Directors in 2019, DHS suspended offering medical assistance in dying ["MAiD"] on its premises. DHS subsequently set an annual extraordinary meeting for the purpose of changing its constitution and bylaws to represent the Board's anti-MAiD views and the religious principles of DHS. Prior to this meeting, DHS granted membership to applicants who held anti-MAiD views, but simultaneously rejected 310 applications from those seen as pro-MAiD or potentially pro-MAiD. The chambers judge held that the Board had acted contrary to the "open" membership contemplated by DHS's bylaws, which gave no discretion to screen applicants. Furthermore, the directors' actions were improper and lacked good faith. Read the [full article](#) by Raman Johal, Areet Kaila and Julia Tikhonova with Clark Wilson LLP.

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

**MOTOR VEHICLE & TRAFFIC**

**Motor Vehicle and Traffic News:**

**CVSE Bulletins & Notices**

The following notice was posted recently by CVSE:

- [CT Notice 06/20](#) – Planned System Outage 6 pm November 28th to 6 pm November 29th Will Interrupt the Issuing of Overheight and Overwidth Permits

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

Act or Regulation Affected	Effective Date	Amendment Information
Violation Ticket Administration and Fines Regulation (89/97)	Nov. 13/20	by <a href="#">Reg. 269/2020</a>
	Nov. 24/20	by <a href="#">Reg. 271/2020</a>
Zero-Emission Vehicles Act	Nov. 1/20	by 2019 Bill 28, c. 29, sections 17 and 18 only (in force <a href="#">Reg. 196/2020</a> ), <a href="#">Zero-Emission Vehicles Act</a>
Zero-Emission Vehicles Regulation (196/2020)	Nov. 1/20	by <a href="#">Reg. 196/2020</a>

**OCCUPATIONAL HEALTH AND SAFETY**

**Occupational Health & Safety News:**

**December 2020 Virtual Public Hearing on Proposed Regulatory Amendments**

– from WorkSafeBC

WorkSafeBC has rescheduled the public hearing on proposed amendments to Parts 6, 8, 16, 18, and 21 of the [Occupational Health and Safety Regulation](#) to December 10, 2020. In light of the ongoing and rapidly evolving COVID-19 pandemic, and in an effort to maximize physical distancing, the public hearing will be held virtually. The virtual public hearing will be streamed live in two sessions. The first will be from 11 a.m. to 1 p.m. and the second will be from 3 to 5 p.m. Visit [WorkSafeBC](#) for further details.

**Mandatory Face Coverings in Indoor Public Spaces**

On November 24, 2020, the Province passed Ministerial Order No. [M425/2020](#) requiring face coverings to be worn in "indoor public spaces" as defined in the Order. Indoor public spaces include retail businesses, restaurants, common areas of office buildings, city halls, community and recreation centres, and libraries. Face coverings, defined as masks or tightly woven fabrics that cover the nose and mouth, must be worn in indoor public spaces by all British Columbians, 12 years and older, subject to a few exceptions. Read the [full bulletin](#) by Amy O'Connor, Elizabeth Anderson, and Michael Moll of Young Anderson, Barristers & Solicitors.

**Challenges Faced by Public and Private Sector**

**Vehicle Drivers in the Age of COVID-19**

*Opinion*

Predictions have "contactless" journeys as a safer alternative to help people limit their interactions with key touchpoints in public travel. In places like the UK, for example, limiting the circulation of hard money, is just one such attempt to promote safe travel. This comes as an answer to rising safety concerns. In the UK, taxi death rates involving COVID-19 are one of the highest compared to other occupations, [according to official figures](#). Yet, when it comes to transportation – public, private, or commercial – this once bustling sector is still evolving to understand how it keep can both passengers and drivers protected. Read the [full article](#) by Fraser Rankin, published on the Canadian Occupational Safety website.

**WorkSafe BC Updates Guidelines – (November 13)**

– from WorkSafeBC:

A number of Occupational Health and Safety regulation guidelines were updated on November. These include:

Guidelines – Occupational Health and Safety Regulation

- Part 3 Rights and Responsibilities
  - G3.11 [Emergency circumstances](#) (retired)
- Part 5 Chemical Agents and Biological Agents
  - G5.53-1 [Workplace monitoring](#) (revised)
  - G5.53-4 [Occupational hygiene methods acceptable to WorkSafeBC](#) (revised)
- Part 18 Traffic Control
  - G18.3 [Interim Traffic Management Manual](#) (retired)
- Part 20 Construction, Excavation and Demolition
  - G20.2.1(1) and (2) [Notice of project for hazardous substances - Ongoing asbestos work](#) (revised)
- Part 24 Diving, Fishing and Other Marine Operations
  - G24.1-4 [Dive site – Definition](#) (revised)

New and revised guidelines are posted for a 60-day preliminary period, during which time the stakeholder community may [comment and request revisions](#). Visit [WorkSafe BC Updates page](#) for these and other changes.

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:**

**A "Rent" Subsidy That's Not Just for Tenants: A Guide to the New Canada Emergency Rent Subsidy**

On November 19, 2020, the new federal Canada Emergency Rent Subsidy ("CERS") was enacted into law by [Bill C-9, An Act to amend the Income Tax Act \(Canada Emergency Rent Subsidy and Canada Emergency Wage Subsidy\)](#) receiving Royal Assent. The CERS takes effect as of September 27, 2020 and continues to June 2021. Note that Bill C-9 only provides details for the first 12 weeks of the program, so details may change after December 19, 2020. Prime Minister Justin Trudeau announced today that applications will open on Monday, November 23, 2020.

A few highlights about the CERS:

- It is not limited to rent, but can also subsidize the carrying costs of business property: Despite its name, the CERS does not only subsidize commercial rent paid by tenants. It also subsidizes certain carrying costs (mortgage, insurance, property tax) paid by owners of property used in connection with a business, other than property used primarily to earn rental income (which will generally disqualify commercial landlords).

Read the [full article](#) by [Christopher Ross](#), [Richard Lord](#) and [Adrienne Woodyard](#) with DLA Piper LLP.

### Significant Risks to Buyers and Sellers of Residential Tenant Occupied Property which are not Addressed in the Typical Standard Form Real Estate Contract

In the last several years, our province has implemented significant measures intended to protect tenants of residential housing. Some of this legislation has inadvertently exposed another group of vulnerable consumers, buyers and sellers of residential housing, to risks never seen before in the context of the sale of residential property which is occupied by a residential tenant.

This article discusses the most common and significant sources of risk the author has started to see develop rapidly in BC since the recent legislative change. This article also provides suggestions about how to mitigate that risk until there is greater industry awareness about the issue, and further legislative reform. Read the [full article](#) by Michael Drouillard with Harper Grey LLP.

### British Columbia's New Land Owner Transparency Act

British Columbia's [Land Owner Transparency Act](#) ("LOTA") is coming into force effective as of November 30, 2020. LOTA creates a land owner transparency registry for ownership of real property in BC and imposes disclosure obligations on both existing and new owners of real property. Due to its expansive scope, we anticipate that LOTA will have a significant impact on most owners of real property or interests in real property in BC including individuals, corporations, partnerships and trusts. This bulletin will summarize the key provisions of LOTA and its regulations.

On May 16, 2019, LOTA passed third reading in the legislative assembly of BC and received Royal Assent. On September 20, 2020, the Lieutenant Governor of BC signed [Order in Council 549](#) containing the [Land Owner Transparency Regulation](#) (the "Regulation") and bringing LOTA and the Regulation into force effective on November 30, 2020. Read the [full article](#) by [Catherine Gibson](#) and [Robert Dallakyan](#) with DLA Piper.

Act or Regulation Affected	Effective Date	Amendment Information
COVID-19 ( <i>Residential Tenancy Act</i> and <i>Manufactured Home Park Tenancy Act</i> ) (No. 3) Regulation (267/2020)	<b>NEW</b> Nov. 9/20	see <a href="#">Reg 267/2020</a>
Financial Products Disclosure Regulation (573/2004) ( <i>formerly titled Marketing of Financial Products Regulation</i> )	Nov. 1/20	by <a href="#">Reg 227/2020</a>
Land Owner Transparency Act	<b>NEW</b> Nov. 30/20	c. 23, SBC 2019, <a href="#">Bill 23</a> , sections 1 to 29, 39 to 108 only (in force by <a href="#">Reg 250/2020</a> and <a href="#">Reg 251/2020</a> )
Land Owner Transparency Regulation (250/2020)	<b>NEW</b> Nov. 30/20	see <a href="#">Reg 250/2020</a>

Land Title Act	Nov. 30/20	by 2019 Bill 23, c. 28, sections 109, 113 to 116 only (in force by <a href="#">Reg 250/2020</a> ), <a href="#">Land Owner Transparency Act</a>
Land Title and Survey Authority Act	Nov. 30/20	by 2019 Bill 23, c. 28, sections 122, 124 and 125 (part) only (in force by <a href="#">Reg 250/2020</a> ), <a href="#">Land Owner Transparency Act</a>

## WILLS & ESTATES

### Wills and Estates News:

#### **Powers of Attorney: Consider Allowing the Person You Appoint to Use Your Wealth to Support Your Spouse and Family**

When acting as an attorney under an enduring power of attorney in British Columbia for someone who has lost the capacity to make her own decisions, the attorney must act in the best interest of the person who appointed her. The word "attorney," in this context does not mean a lawyer, but rather the person appointed in the power of attorney. (If I may digress a little, although some refer to the attorney as the "power of attorney," a power of attorney is actually the document, rather than the person appointed.) But whether you call her an "attorney" or "power of attorney," the principle that she must act in the best interest of the person who appointed her generally makes sense. You don't want to give someone the power of sell your house, or withdraw your investments to someone who is going to take your money or give it to someone else, leaving you impoverished. But as we will see, it is not always that straightforward. Read the [full article](#) by [Stan Rule](#) with Sabey Rule LLP.

#### **No Legislative Gap in Assisted Human Reproduction Legislation, B.C. Court of Appeal Says**

B.C.'s highest court has ruled a woman cannot use her late husband's reproductive material to have a new child, despite her assertions he wanted a larger family during life.

The B.C. Court of Appeal decision in *L.T. v. D.T. Estate* 2020 BCCA 328 gives interpretation to the federal [Assisted Human Reproduction Act](#) (AHRA) and its regulations, which prohibit the removal of human reproductive material without the donor's prior, informed written consent. The couple in question, identified as Mr. and Ms. T, were married and had one child when Mr. T died. According to court documents, Mr. T made comments about wanting to expand his family but they had never given any thought to the posthumous use of his reproductive material. Read the [full article](#) by [Jan Burns](#), published on *The Lawyers Daily*.

#### **Wills Variation – Overcoming Estrangement**

Perhaps top amongst the purported reasons for disinheritance between a parent and child is alleged estrangement and such cases often present difficult wills variation cases as the facts are invariably diametrically opposed.

It is however very important to get to the basis of why/how the estrangement was caused – when I see a child leave home at an early age it is invariably for good reason.

A will-maker's reasons for disinheriting a child may negate his obligations to that child; however, the reasons must be valid and rational at the time of the will-maker's death – valid in the sense of being based on fact, and rational in the sense that there is a logical connection between the reason and the act of disinheritance. See *Kelly v. Baker*, [1996] B.C.J. No. 3050, at para. 58. Read the [full article](#) by Trevor Todd at [disinherited.com](#).

#### **BC Court Finds Father had Good Reason to Disinherit Two Sons**

If you have been left out of your parent's will or not treated equally when compared with your siblings, it may be open to you to bring a wills variation claim, asking the court to change the will in your favour after your parent's death. However, as the court's decision in *Kong v. Kong*, 2015 BCSC 1669 demonstrates, there are circumstances where the BC courts will uphold the decision of a parent to disinherit a child. Mr. Kong had seven children, all of whom were adults when Mr. Kong died in 2012. In his will, Mr. Kong left the majority of his estate to his youngest son Jackson. Read the [full article](#) published by Onyx Law Group on their Estate Litigation and Family Law blog.

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<p><i>There were no amendments this month.</i></p>		
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