

Quickscribe Reporter

Vol: XIX – Issue: IX – September 2020

QUICKSCRIBE NEWS:

Early Consolidation of *Land Owner Transparency Act*

For your convenience, Quickscribe has published an early consolidated version of the [Land Owner Transparency Act](#) as it will read when [2019 Bill 23](#) comes into force on November 30th. According to the government, the amendments provide for greater transparency of land ownership by requiring relevant corporations, trustees of relevant trusts and partners of relevant partnerships to file transparency reports if they are registered, or applying to be registered, as owners of interests in land. The information provided in filed transparency reports is required to be made available for inspection and search by specified government, law enforcement and other officials. Specified identification information about individuals having underlying interests in relation to the interests in land is required to be made available for search by the public. [Please be advised that that the initial publication of this early consolidation included an omission of a paragraph in section 12 of the Act. This has since been corrected.]

Latest Annotations

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

- [Laura Johnston](#), Health Justice – [Mental Health Amendment Act, 2020](#) [Bill 22], [Mental Health Act](#)
- [Rachel Roy](#), Allevato Quail & Roy LLP – [Election Act](#)
- [Kathryn Stuart](#), Stewart McDannold Stuart – [Building Act](#), [Architects Act](#), [Community Charter](#), [Interpretation Act](#)
- [Mary Brunton](#), Reed Pope Law Corporation – [Strata Property Act](#)

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.

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

[\[Previous Reporters \]](#)

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COMPANY & FINANCE	LOCAL GOVERNMENT
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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: BC Announces Provincial Sales Tax (PST)**Rebate for Corporations on Select Machinery and Equipment**

BC has [announced](#) a PST rebate for most incorporated businesses on select machinery and equipment purchased or leased between September 17, 2020 and September 30, 2021. This is a temporary program intended to help incorporated businesses recover from the financial impacts of COVID-19.

Most incorporated entities will qualify for the rebate. The rebate will not be available to select entities, including Crown and government corporations, charities and non-profit corporations, schools, hospitals, regional health boards, and agents of the foregoing.

Although the government publication is silent in respect of partnerships, we expect the rebate program to apply to partnerships with incorporated partners given that the PST rules generally do not treat a partnership as a separate person but rather look through to the partners (or possibly the general partner alone in the case of a limited partnership). Read the [full article](#) by [Zheting Su](#) with Thorsteinssons LLP.

BC Brings "Benefit Company" Corporate Status to Canada

As corporate governance issues related to sustainability come under greater scrutiny, British Columbia has introduced a new form of corporate structure into Canada – the "benefit company."

Valerie Mann, a partner at Lawson Lundell in Vancouver, says the move follows in the footsteps of 36 U.S. states using this type of corporate vehicle to help manoeuvre in a world of "evolving stakeholder capitalism."

Benefit companies is a new corporate status meant for-profit entities. However, they must promote one or more "public benefits" and, perhaps more importantly, conduct business in a way that is "responsible and sustainable." Benefit companies can be either private or publicly traded. Read the [full article](#) by [Zena Olijnyk](#) in *Canadian Lawyer Magazine*.

Transparency Register

Effective October 1, 2020, [amendments](#) to the [Business Corporations Act](#) will require private businesses in B.C. to keep and maintain transparency records of beneficial owners, including individuals who have direct or indirect control of the company or its shares. Information collected includes full legal name, date of birth, citizenship and last known address. Companies need to contact their shareholders to compile the required information. Companies can request that their shareholders provide information for the transparency register at any time. Shareholders have a duty to take reasonable steps to gather the requested information and to send it to the private company promptly. Read [more](#) on the BC government website.

Regulatory Easing Measures Update – Credit Unions

In response to the continuing COVID-19 pandemic and resulting disruptions, BC Financial Services Authority ("BCFSA") is updating the regulatory easing measures that were previously announced to support the credit union sector, credit union members and local communities.

The updates, including adjustments to the capital treatment of loan deferrals, are set out as follows:

Appendix 1 – COVID-19 Easing Measures Update

Appendix 2 – COVID-19 Regulatory Filing Deadline Extensions Update

Read the [full advisory](#) from the BCFSA website.

Enhanced Disclosure Obligations Proposed for Issuers Involved in Real Estate Activities or Acting as Collective Investment Vehicles

Proposed amendments to National Instrument 45-106 *Prospectus Exemptions* (NI 45-106) are intended to provide investors with industry-specific disclosure where certain issuers use the offering memorandum exemption.

- On September 17, 2020, the Canadian Securities Administrators (CSA) published for comment [proposed amendments to National Instrument 45-106 Prospectus Exemptions](#).
- The proposed amendments would introduce new disclosure obligations applicable to issuers engaged in real estate activities or acting as collective investment vehicles that are using the offering memorandum exemption found in section 2.9 of NI 45-106 (OM Exemption).
- The proposed amendments are intended to ensure investors are provided with better and more industry

- tailored information in respect of an issuer's activities.
- Comments on the proposal are being accepted until December 16, 2020.

Read the [full article](#) by [Laura Levine](#) with Stikeman Elliott LLP.

BC Securities – Policies & Instruments

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

- [94-101](#) – CSA Notice and Request for Comment - Proposed Amendments to National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives*
- [81-333](#) – CSA Staff Notice 81-333 Guidance on Effective Liquidity Risk Management for Investment Funds
- [81-105](#) – CSA Notice of Amendments to National Instrument 81-105 *Mutual Fund Sales Practice* and Related Consequential Amendments Prohibition of Mutual Fund Trailing Commissions Where No Suitability Determination Was Required
- [45-106](#) – CSA Notice and Request for Comment – Proposed amendments to National Instrument 45-106 Prospectus Exemptions, Companion Policy 45-106CP Prospectus Exemption

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

Act or Regulation Affected	Effective Date	Amendment Information
Arbitration Act	NEW Sept. 1/20	c. 2, SBC 2020, Bill 7 , whole Act in force by Reg 160/2020
Arbitration Act [c. 55, RSBC 1996]	REPEALED Sept. 1/20	by 2020 Bill 7, c. 2, section 72 (in force by Reg 160/2020), Arbitration Act
Arbitration Regulation (160/2020)	NEW Sept. 1/20	see Reg 160/2020
Arbitration Act Application Regulation (96/2019)	REPEALED Sept. 1/20	by Reg 160/2020
Business Corporations Act	Oct. 1/20	by 2019 Bill 24, c. 15, sections 1, 2, 5 to 9, 11 to 15 only (in force by Reg 77/2020), Business Corporations Amendment Act, 2019
Business Corporations Regulation (65/2004)	Oct. 1/20	by Reg 77/2020 and Reg 230/2020
Carbon Tax Regulation (125/2008)	Sept. 30/20	by Reg 239/2020 and Reg 260/2020
Carbon Tax Remission (COVID-19 Emergency) Regulation (217/2020)	Sept. 20/20	by Reg 260/2020
Commercial Recreation Tenure (COVID-19 Emergency) Relief Regulation (233/2020)	NEW Sept. 18/20	see Reg 233/2020
Designated Accommodation Area Tax Regulation (93/2013)	Sept. 1/20	by Reg. 114/2020
Emergency Benefit for Workers Regulation (249/2020)	NEW Sept. 20/20	see Reg 249/2020

Film and Television Tax Credit Regulation (4/99)	Sept. 20/20	by Reg 262/2020
Financial Institutions Act	Sept. 10/20	by 2020 Bill 14, c. 16, sections 14 and 15 only (in force by Reg 227/2020), Municipal Affairs and Housing Statutes Amendment Act (No. 2), 2020
International Commercial Arbitration Act	Sept. 1/20	by 2020 Bill 7, c. 2, section 72 (in force by Reg 160/2020), Arbitration Act
National Instrument 21-101 <i>Marketplace Operation</i> (251/2001)	Sept. 14/20	by Reg 226/2020
Political Contributions Regulations (343/95)	Sept. 20/20	by Reg 262/2020

ENERGY & MINES

Energy and Mines News:

BC Partnership Powers Mine Operations with Clean Electricity

People in northern BC will benefit from improved air quality when a remote mine switches to a clean energy source, reducing greenhouse gas emissions and local air pollution, while creating good, clean jobs.

"We are working together with industry to encourage investment in clean technology that will reduce pollution, support good jobs and create new opportunities in a global marketplace that is increasingly looking for cleaner products," said George Heyman, Minister of Environment and Climate Change Strategy. "Through our CleanBC climate and economic plan, we're supporting the switch to clean electricity at Mount Milligan Mine for part of its operations to help address climate change and build back our economy from the impacts of COVID-19."

The Province is contributing \$440,000 to help install an overhead powerline from Mount Milligan Mine, located north of Vanderhoof, to a nearby pumping facility at Phillips Lake. This will replace diesel-powered generators and pumps with grid-connected electric equipment. Read the government [news release](#).

B.C. Supreme Court Hears Petition for Judicial Review of Coastal GasLink Certificate

Lawyers for the Office of the Wet'suwet'en were in B.C. Supreme Court on Thursday [October 1st] seeking an order quashing the extension of the environmental assessment certificate for a pipeline that was at the centre of countrywide protests in February.

The executive director of B.C.'s Environmental Assessment Office granted Coastal GasLink an extension last October, nearly five years after a certificate was first issued for the 670-kilometre natural gas pipeline.

A petition filed in February on behalf of the Office of the Wet'suwet'en, a non-profit society governed by several hereditary chiefs, says environmental assessment certificates set a deadline of five years, by which time a project must be "substantially" underway. If it's not, the certificate holder may apply for a one-time extension. Coastal GasLink submitted its application in April 2019, about six months before its certificate was to expire. Read the CBC [article](#).

Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletin:

- [INDB 2020-24](#) – Commission to Inspect Oil and Gas Camps for COVID-19 Protocols

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

Act or Regulation Affected	Effective Date	Amendment Information

Net Profit Royalty Regulation (98/2008)	Sept. 20/20	by Reg 239/2020
Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation (495/92)	Sept. 20/20	by Reg 239/2020

FAMILY & CHILDREN

Family and Children News:

Retroactive Child Support: Clarifications from the Supreme Court of Canada

The Supreme Court of Canada recently clarified the law on retroactive child support orders under the [Family Law Act](#), SBC 2011, c 25 (the "FLA"). The Court confirmed that judges can order retroactive child support even if that order was applied for after the child has turned 19 and has withdrawn from their parents' charge. The Court's decision affirms the child's right to support and seeks to help remedy the burden women disproportionately face following a relationship's breakdown.

The case is *Michel v Graydon*, [2020 SCC 24](#). Ms. Michel and Mr. Graydon had a child, A.G., in 1991 and separated in 1994. In 2001, they agreed that Mr. Graydon would pay Ms. Michel \$341/month in child support. They based that amount on Mr. Graydon's declared annual income of \$39,385. As it turns out, Mr. Graydon's income was more than that in 2001 and exceeded that amount every year between 2001 and 2012 except for 2004. Read the [full article](#) by Chantal M. Cattermole and Alison Colpitts with Clark Wilson LLP.

Annulment for Non-Consummation

In *S.Z. v X.J.* [2020 BCSC 1336](#) an annulment was granted on the grounds that the marriage had not been consummated, and could not be consummated due to the respondent's impotence. An annulment was brought instead of a divorce by reason of religious grounds.

An action for annulment must be based on facts which existed as at the date of the marriage, and not facts that arose only after the date of the marriage, and in the latter the remedy for the claimant is an order for divorce.

The petitioner alleged that the marriage contract, which she entered into with the respondent is void as a result of his inability to complete an essential implied term of the contract, namely engaging in sexual intercourse. Read the [full article](#) published by *Disinherited – Estate Disputes and Contested Wills*.

Preparing for a Family Case Conference: a Checklist

In a family case conference, a judge meets with the parties to a family court dispute (and lawyers, if parties have them) to help them talk about resolving the dispute. Although these meetings usually take place in a courthouse conference room, this spring the Provincial Court of BC began conducting case conferences by telephone or audio- or video-conference to help reduce the spread of COVID-19.

We're finding that these "virtual" or "remote" conferences can be effective in helping people reach agreements. They also help the Court reserve the right amount of time for a hearing if one is needed. But to get the most out of a case conference you need to be prepared. This eNews offers suggestions on how you can prepare. The legal terms used in this article are explained [here](#). Read the [full article](#) by the Provincial Court of BC.

BCLI Launches Project to Review the Law of Parentage under Part 3 of the Family Law Act

BCLI is beginning a [new project](#), to review the law of parentage as set out in [part 3 of the Family Law Act](#). The project is slated to run until December 2022. Its goal is to produce a final report, with recommendations for legislative reform. BCLI is carrying out the project with the support of the [Justice Services Branch, Ministry of Attorney General for British Columbia](#).

Conclusively determining who a child's parents are is an important part of family law. It is the foundation of many aspects of a child's identity, such as family name and relationships, nationality, and cultural heritage. Parentage can also determine important legal rights and obligations, such as a child's inheritance rights. Read the [full article](#) by Kevin Zakreski with the British Columbia Law Institute.

Act or Regulation Affected	Effective Date	Amendment Information
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Family Law Act	Sept. 1/20	by 2020 Bill 7, c. 2, sections 73 and 74 only (in force by Reg 160/2020), Arbitration Act
Family Maintenance Enforcement Act	Sept. 1/20	by 2020 Bill 7, c. 2, sections 73 and 74 only (in force by Reg 160/2020), Arbitration Act
Small Claims Rules (261/93)	Oct. 1/20	by Reg 126/2020
Statutory Property Guardianship Regulation (115/2014)	Sept. 1/20	by Reg 206/2020
Supreme Court Civil Rules (125/2020)	Oct. 1/20	by Reg 125/2020

FOREST & ENVIRONMENT

Forest and Environment News:

Fisheries Act Protections for Canada's Marine Mammals Upheld as "Bear-banger" Court Case against Commercial Skipper Concludes in British Columbia

Fisheries and Oceans Canada is committed to protecting Canada's wildlife and biodiversity and safeguarding the long-term health and productivity of Canada's fisheries resources. These efforts include enforcing the [Fisheries Act](#) and [Marine Mammal Regulations](#). On Aug. 24, 2020, B.C. harvester Allan Marsden pleaded guilty in Courtenay Provincial Court to disturbing marine mammals under section 7.1(b) of the *Marine Mammal Regulations*. Mr. Marsden was fined \$8,000 and prohibited from possessing explosives for the next three years.

Section 7.1(b) of the Marine Mammal Regulations states that: "No person shall disturb a marine mammal except... when fishing for marine mammals under the authority of these Regulations."

In March 2019, a video surfaced on social media showing Mr. Marsden, a commercial herring harvester, tossing a modified explosive device into a group of sea lions near Hornby Island. In the video Mr. Marsden stated openly that his purpose in using the explosive device was to deter the sea lions from interfering with his fishing operations. Read the Government of Canada [news release](#).

Changes to Lumber Regulations Aimed at Increasing Domestic Production

The provincial government is keeping its commitment to protect BC jobs and support companies investing in British Columbia that are creating more high-value products from its natural resources and want to employ local workers.

[Changes](#) to the [Manufactured Forest Products Regulation](#) (MFPR) around export requirements for sawn-wood products and lumber made from western red cedar or cypress go into effect Sept. 30, 2020. These changes are intended to increase the amount of processing of wood products done within British Columbia, leading to more BC jobs, rather than having that processing done after export. Read the full government [news release](#).

Navigating Muddy Waters: the Meaning of "Changes in and about a Stream" under the WSA

Section 11 of the [Water Sustainability Act](#) (the WSA) prohibits making changes in and about a stream, unless authorized to do so (such as by a licence, change approval, or the regulations). What activities constitute a "change in and about a stream" are not well defined in the WSA, and have created significant uncertainty for those undertaking works that do not directly affect stream channels but may have incidental effects on stream function.

The British Columbia Environmental Appeal Board (EAB) recently released two decisions – *Smoluk* and *Ware* (together, the decisions) – that clarify the meaning of this prohibition. The decisions indicate that works will likely be considered a "change in and about a stream" within the meaning of WSA if, either: they modify the physical characteristics of the stream or stream channel, or they redirect flows relative to the stream at issue in a manner that modifies the "basic character or quality" of the stream. Read the [full article](#) by Max Collett, Michael Manhas and Niles Bond with Norton Rose Fulbright Canada LLP.

Area and Volume Tenure Agreements in Canada

Our forest industry employs approximately 230,000 Canadians in mills and woodlands operations in more than 400 resource-dependent communities. We have about 200 million hectares of forest land under management. Approximately 175 million hectares is Crown forest land; 20 million hectares of private woodlots are owned by 450,000 rural families; and five million hectares of "private industrial" forest land are owned by forest companies, pension funds, foundations, and private investors.

The purpose of a tenure agreement is to provide a dependable supply of timber to support the mill and employees living in the community. Tenure agreements have generally been signed between the provincial government and a forest products company under the authority of the minister, as laid out in provincial forest management legislation. Legislation is modernized at approximately 20-year intervals. The terms and conditions of tenure agreements often change with the legislation. Read the [full article](#) by Tony Rotherham, RPF(Ret), published in the fall edition of the ABCFP *BC Forest Professional Fall*.

BC Announces Second Increment of Dormant Sites Reclamation Program Funding

On September 18, 2020, the British Columbia government announced that the first half of a \$100-million fund earmarked for cleaning up dormant wells has been disbursed. The Dormant Sites Reclamation Program is dedicated to cleaning up wells which have been inactive for five or more consecutive years and are unlikely to return to service.

As we noted in our earlier [blog](#), British Columbia received \$120 million in total from the federal government under the [COVID-19 Economic Response Plan for Canada's Energy Sector](#). In addition to the \$100 million set aside for reclaiming dormant wells, British Columbia allocated \$15 million to the Orphan Sites Supplemental Reclamation Program and \$5 million to the Legacy Sites Reclamation Program. Read the [full article](#) by Brad Gilmour, Keely Cameron, Stephanie Ridge and Shimon Sherrington with Bennett Jones LLP.

Environmental Appeal Board Decisions

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

[Environmental Management Act](#)

- [John Pickford v. Director, Environmental Management Act](#) [Final Decision – Permit Confirmed; Appeal Dismissed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Orders and Remedies Regulation (101/2005)	Sept. 11/20	by Reg 229/2020
Manufactured Forest Products Regulation (240/2003)	Sept. 30/20	by Reg 133/2020
Old Growth Designated Area No. 1 (228/2020)	NEW Sept. 11/20	see Reg 228/2020
Special Tree Protection Regulation (229/2020)	NEW Sept. 11/20	see Reg 229/2020

HEALTH

Health News:

New Public Health Order to Help Slow BC's Overdose Crisis

To help stop overdoses and save lives, Dr. Bonnie Henry, provincial health officer, has issued a public health order to increase the number of health professionals authorized to help people at risk for overdose access safer

alternatives to the toxic street drug supply, as BC works to update prescribing guidance.

"We know the pandemic has only made the street drug supply in BC more toxic than ever, putting people who use drugs at extremely high risk for overdose," Henry said. "Giving physicians and nurse practitioners the ability to prescribe safer pharmaceutical alternatives has been critical to saving lives and linking more people to treatment and other health and social services. I am issuing a provincial health officer order to expand the health professionals who are able to provide safer, accessible alternatives to the toxic street drug supply and help more people find their pathway to hope."

The order, issued under the [Health Professions Act](#), authorizes registered nurses and registered psychiatric nurses to prescribe pharmaceutical alternatives to street drugs to help separate more people from the poisoned street drug supply to save lives and provide opportunities for ongoing care, treatment and support. New nursing standards will be introduced, along with training and education, and access to expert consultation and pathways to connect people to broader addictions and primary care. Read the full government [news release](#).

British Columbia Supreme Court Rules against Expansion of Private Health Care

This decade-long legal challenge over the right to expand the provision of private health care was decided in favour of the existing public health care system in a ruling released last week. The case raised issues about the constitutionality of restricting the ability of British Columbia residents to pay privately for medically necessary health care services as an alternative to, and in the face of, long wait times in the public health care system.

Cambie Surgeries Corporation v. British Columbia was first filed in 2009. The case made its way to trial in the British Columbia Supreme Court beginning in 2016. On Thursday, September 10, 2020 the presiding judge, the Honourable Justice John Steeves, released his [880-page long decision](#), which ruled against the Plaintiffs' arguments. Read the [full article](#) by David C. Rosenbaum and Briana Maguire with Fasken Martineau DuMoulin LLP.

Federal Court Finds Reasonable Health Canada's Decision that Enantiomer of Previously Approved Drug Not Entitled to Data Protection

On September 18, 2020, the Federal Court dismissed Janssen's application for judicial review of a decision of the Minister of Health (Minister) denying Janssen data protection for its drug SPRAVATO: *Janssen Inc. v Canada (Attorney General)*, [2020 FC 904](#). SPRAVATO, which is indicated for treating major depressive disorder, contains as its medicinal ingredient esketamine hydrochloride, an enantiomer of ketamine hydrochloride which had been approved and marketed as KETALAR. Janssen sought data protection for SPRAVATO under the Food and Drug Regulations (Regulations), which provides data protection to an "innovative drug", defined as:

innovative drug means a drug that contains a medicinal ingredient not previously approved in a drug by the Minister and that is not a variation of a previously approved medicinal ingredient such as a salt, ester, enantiomer, solvate or polymorph.

Read [full article](#) by Eleanor Wilson with Smart & Biggar LLP.

Assisted Dying Bill to be Reintroduced Today as Court Deadline Looms

Facing a looming court-imposed deadline, the federal government will reintroduce legislation Monday [October 5th] to amend Canada's law on medical assistance in dying. The government has until Dec. 18 to amend the law to comply with a Quebec court ruling last fall, which found it was unconstitutional to allow only those whose natural death is "reasonably foreseeable" to be able to get medical help to end their suffering. Justice Minister David Lametti introduced a bill in response to that ruling last February but it didn't get beyond the initial stage of the legislative process before the House of Commons adjourned in mid-March due to the COVID-19 pandemic. That bill died when Prime Minister Justin Trudeau prorogued Parliament last month. Read CBC [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Assisted Living Regulation (189/2019)	Sept. 1/20	by Reg 206/2020
Health Care Consent Regulation (20/2000)	Sept. 1/20	by Reg 206/2020
	Sept. 1/20	by Reg 206/2020

Hospital Act Regulation (121/97)	Sept. 20/20	by Reg 261/2020
Information Regulation (208/2010)	Sept. 1/20	by Reg 206/2020
Laboratory Services Regulation (52/2015)	Sept. 1/20	by Reg 206/2020
Midwives Regulation (281/2020)	Sept. 1/20	by Reg 167/2020
Nurses (Licensed Practical) Regulation (224/2015)	Sept. 1/20	by Reg 167/2020
Nurses (Registered Psychiatric) Regulation (227/2015)	Sept. 1/20	by Reg 167/2020
Nurses (Registered) and Nurse Practitioners Regulation (284/2008)	Sept. 1/20	by Reg 167/2020
Vaccination Status Reporting Regulation (146/2019)	Sept. 1/20	by Reg 146/2019

LABOUR & EMPLOYMENT

Labour and Employment News:

New BC Employer Tax Credit Coming in March 2021

On September 17, 2020, the BC Government [announced](#) the BC Increased Employment Incentive, a refundable tax credit for eligible employers who increase their payroll for eligible employees between Q3 and Q4, 2020, by either creating new jobs or increasing existing employees' pay. Online applications will open in March, 2021, through the eTaxBC system.

Eligible employers are all employers in BC other than public institutions. The tax credit will be calculated as 15% of the amount that the employer's qualifying BC remuneration paid to eligible employees from Q4, 2020, exceeds the employer's base BC remuneration paid to eligible employees from Q3, 2020. Both the qualifying and base BC remuneration calculation will be capped at a maximum of \$1,129.33 per employee per week. Partial weeks will be prorated. Read the [full article](#) by Abigail Cheung with McCarthy Tetrault LLP.

BC Ferries Wrongfully Laid Off Hundreds of Workers amid Pandemic, Ruling Says

British Columbia's ferry operator had no right to lay off hundreds of employees during the COVID-19 pandemic, an independent labour arbitrator has ruled. The temporary layoffs at BC Ferries were announced April 4, when the first of approximately 425 regular employees and 690 casual employees were dismissed that week. But the layoffs broke the company's contract with the BC Ferry and Marine Workers Union, according to a ruling released Friday [October 3, 2020]. Read the full CTV News [article](#).

BC Labour Board Allows Union's Certification Application for Workforce on Layoff Due to COVID-19

British Columbia's Labour Relations Board (the "Board") recently considered the issue of whether a workforce on layoff due to COVID-19 can unionize.

In *Chemainus Theatre Festival Society and International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States and Canada, Local No. 168* ("Chemainus"), the union applied on April 6, 2020, for certification of the employees of the Chemainus Theatre Festival Society (the "Society") when all Society employees had been laid off or had received layoff notice.

The Society argued that the union's application should be dismissed as premature because none of the

employees had sufficient continuing interest in the proposed unit due to the indefinite closure of the Society's operations. Read the [full article](#) by Lauren Soubolski with McCarthy Tetrault LLP.

Enhanced Job Security for Federal Workers

Employment security is something every worker is concerned about, especially during a pandemic. It is generally accepted that unionized workers enjoy more security than their non-unionized counterparts do. And public sector workers are better protected than private sector workers are.

The federal government regulates only about 6% of all Canadian employees. They may be directly working for the federal government or in one of the [federally regulated industries](#) such as telecommunications, shipping, aeronautics, railroads, banking and atomic energy.

Most of these federally regulated employees are unionized. But some workers in banks, telecommunications companies, airlines, Crown corporations and other federally controlled employers are non-unionized. In 1978, Parliament amended Part III of the [Canada Labour Code](#) to add [ss. 240 to 246](#) about "unjust dismissal." These amendments granted unionized federal workers the right to written reasons for dismissal and to complain to an adjudicator if they believe they have been dismissed without just cause. This is an expansion of their collective agreement rights. An adjudicator finding the dismissal unjust can order the worker reinstated or compensated. Read the [full article](#) by [Peter Bowal](#) and [Curtis Birch-Lucas](#) published by *LawNow*.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2020)	Sept. 1/20	by Reg 206/2020
	Sept. 20/20	by Reg 247/2020 and Reg 259/2020
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Sept. 1/20	by Reg 206/2020
	Sept. 20/20	by Reg 247/2020 and Reg 259/2020
Employment Standards Regulation (396/95)	Sept. 1/20	by Reg 206/2020
Social Services Employers Regulation (84/2003)	Sept. 20/20	by Reg 255/2020
Temporary Foreign Worker Protection Act	Sept. 17/20	by 2018 Bill 48, c. 45, sections 11 to 15, 16 (c) and (d), 17 (c) and (d), 20, 21, 26 (2), 28 (2), 29 (1) (b), 33 (1) (a) and (b), 38 (2), 41 (2), 58, 59 and 61 only (in force by Reg 231/2020), Temporary Foreign Worker Protection Act

LOCAL GOVERNMENT

Local Government News:

Approving Officer Liability

The B.C. Supreme Court has recently confirmed (*Goy v. Sechelt (District)* [2020 BCSC 1242](#)) that a subdivision approving officer exercising authority under Part 7 of the [Land Title Act](#) cannot be held liable in negligence for a *bona fide* exercise of discretion in approving a subdivision application. This recent case arose from a subsidence incident that rendered uninhabitable a 28-lot residential subdivision bordering Sechelt Inlet on the Sunshine Coast, after several homes had been built and occupied. Owners of the subdivision lots alleged negligence against numerous parties, including the developer of the subdivision, engineers who reported on geotechnical hazards affecting the land being subdivided, the municipality in whose jurisdiction the subdivision is located, and the municipality's approving officer. The amount of trial time that has been estimated to be required in the case,

which the Court described as a "geotechnical disaster", is 100 days. Read the [full article](#) by [Bill Buholzer](#) with Young Anderson Barristers and Solicitors.

Province Releases EPA Follow-up Report

The provincial government has released a summary [report](#) of feedback provided in response to its discussion paper, *Modernizing BC's Emergency Management Legislation*. Emergency Management BC's 'What We Heard' report also advises that the Province plans to table new emergency management legislation next year.

The report summarizes many of the key themes outlined in [UBCM's response](#) to the discussion [paper](#), including the need for local authorities to receive additional resources and provincial support to address new responsibilities proposed by the Province. Last week, these concerns were endorsed by the UBCM membership as part of *SR1 – New Emergency Management Legislation*. Read the UBCM [article](#).

Agricultural Land Reserve Changes

On September 30, [2019 Bill 15](#) brought changes to the [Agricultural Land Commission Act](#), requiring applicants to provide notification to the Agricultural Land Commission (ALC) when registering statutory rights of way on agricultural land reserve lands. In addition, private landowners are no longer able to apply to the ALC to have land excluded from the agricultural land reserve. Exclusion applications may only be submitted by the Province, local or first nation governments or a prescribed public body. The remaining provisions of the [Agricultural Land Reserve General Regulation](#) are also now in force, which set out permitted subdivisions of agricultural land as well as procedures for proposals and applications.

BC Municipalities Continue to be Left Out of Cannabis Revenue-sharing

Municipal governments are once again appealing to the BC government for a share of the cannabis excise tax revenue to help deal with the extra costs and responsibilities they've taken on since marijuana legalization. It's the fifth year in a row that delegates at the Union of B.C. Municipalities (UBCM) convention have voted on a resolution about receiving some of the federal tax that is applied to medical and non-medical cannabis. The federal government passes on 75 per cent of the excise tax revenue to the provinces and territories, and although three provinces have deals to share that cash with their local governments, BC does not. Read the *Vancouver Sun* [article](#).

Existential Questions in Planning Law

It's no secret that [section 479 of the Local Government Act](#) authorizes local governments to regulate, by bylaw, "the use of land, buildings and other structures" and "the density of the use of land, buildings and other structures". These are significant powers, and lie at the heart of most local land use regulation schemes, also known as zoning bylaws. But what is "use", what is "density", and what, for that matter, is a "zoning bylaw"? This article tries to answer the last of these three vexing questions, and explain briefly why answers to the first two remain elusive. Read the [full article](#) by Guy Patterson with Young Anderson Barristers and Solicitors, published in their September Newsletter (UBCM Conference Issue).

BC Big City Mayors Call on Provincial Parties to Address Mental Health and Substance Use in Their Election Platforms

Mayors from 13 of B.C.'s biggest cities are calling on all provincial parties to commit to addressing mental health and substance use in their platforms. In a call-to-action document released today, the newly formed BC Urban Mayors' Caucus also advocated for greater provincial investment in affordable housing and public transit, as well as a new funding framework for municipalities.

"The COVID-19 pandemic has created unique challenges for B.C.'s urban communities and exacerbated existing challenges related to mental health and substance use, homelessness and lack of affordable housing," says Lisa Helps, Mayor of Victoria and Co-Chair of the BC Urban Mayors' Caucus. "We are asking all parties to commit to working more closely with leaders from B.C.'s urban communities to address the issues we face today, while we plan for restored prosperity and growth as we emerge from the pandemic as a more resilient, and equitable society." Read the [full article](#) on the City of Kelowna website.

Federal Rapid Housing Initiative

The Federal Government last week announced a \$1 billion Rapid Housing Initiative. The initiative will be administered by the CMHC and will receive applications to cover the costs of construction of modular housing, conversion of existing buildings to affordable housing, and land acquisition to support vulnerable populations such as women fleeing violence or those at immediate risk of homelessness. In addition to the new initiative, the Federal Government also announced \$236.7 million in funding for Reaching Home: Canada's Homelessness Strategy, to help extend the emergency response to COVID-19. Read the UBCM [article](#).

Involving Cities in Immigration

– from CBA

Municipal governments should be considered a partner, not a stakeholder, in the selection and retention of newcomers.

The municipal level of government is the level with the closest connection to the people it serves. That close connection is one reason why it makes sense for municipalities to have a greater stake in the immigration process, able to do their own outreach and with proper funding for programs to serve this constituency.

Immigration, Refugees and Citizenship Canada has created a draft design for a Municipal Nomination Program and requested feedback on it.

"Municipal governments have no constitutional responsibility for immigrant selection, settlements or integration, yet newcomers live in local communities and interact with municipal services every day," the CBA's Immigration Law Section said [in its submission](#) to the Department. "Municipal governments have direct knowledge of support services and employment opportunities that could inform immigration strategies. Municipal governments should be considered a partner, not a stakeholder, and should be given a larger role in the selection and retention of newcomers to their area." Read the [full article](#) by Kim Covert, published in the CBA National.

Case Summary: The Issuance of a Building Permit was Unreasonable because the Drawings Were Not Made in Compliance with the Architects Act

The issuance of a building permit was unreasonable because the drawings were not made in compliance with the [Architects Act](#).

Architectural Institute of British Columbia v. Langford (City), [2020] B.C.J. No. 886, [2020 BCSC 801](#), British Columbia Supreme Court, May 29, 2020, S.F. Kelleher J.

The Chief Building Inspector for the City of Langford issued a building permit for the construction of a mixed commercial/residential strata complex. The project drawings were prepared by a designer and did not involve an architect. Under [section 59](#) of the *Architects Act*, the practice of architecture includes the "planning or supervision of the erection or alteration of buildings" except those built for self-occupancy. [Section 60](#) qualifies section 59, stating that the *Architects Act* does not prevent "a person from advising on, planning, designing or supervising the erection, alteration or repair of a building other than (vii) any other building in excess of 470 m² gross area, being the aggregate area of all floors..." Therefore, the strata complex in Langford required the involvement of an architect pursuant to the *Architects Act*. AIBC and the City of Langford disagreed on the application of the *Architects Act* as it related to the City's Building Bylaws. Read the [full article](#) by [Jackson C. Doyle](#) with Harper Grey LLP.

Single User Plastic Item Bylaws

The Province of British Columbia has announced that the Minister of Environment will now likely approve municipal bylaws banning single use plastic items. This addresses the concern arising from the quashing of Victoria's bylaw by the BC Court of Appeal on the basis that the bylaw was environmental in nature and therefore required ministerial approval. The Minister has approved the Saanich single use plastic item ban bylaw, and has indicated that bylaws of Tofino, Richmond, Ucluelet and others will soon have approval. Read the [full article](#) by [Don Lidstone](#), Q.C., with Lidstone & Company Barristers and Solicitors.

Act or Regulation Affected	Effective Date	Amendment Information
Administration Delegation Regulation (154/2004)	Sept. 20/20	by Reg 266/2020
Agricultural Land Commission Act	Sept. 30/20	by 2019 Bill 15, c. 32, sections 1 (a), 12, 13, 17 (d), (g) (part), 19, 20, 24 to 26, 28 (a), 35 (part), 39 (2) and (4) (in force by Reg 57/2020), and section 30 (part) (in force by Reg 149/2020), Agricultural Land Commission Amendment Act, 2019
Agricultural Land Reserve General Regulation	Sept. 30/20	by Reg 57/2020 and Reg 149/2020

Agricultural Land Reserve Transitional Regulation (171/2002)	REPEALED Sept. 30/20	by Reg 57/2020
Agricultural Land Reserve Use Regulation (30/2019)	Sept. 4/20	by Reg 225/2020
	Sept. 30/20	by Reg 149/2020
Cannabis Licensing Regulation (202/2018)	Sept. 20/20	by Reg 238/2020
	Sept. 30/20	by Reg 78/2020
Gaming Control Regulation (208/2002)	Sept. 20/20	by Reg 248/2020
Liquor Control and Licensing Regulation (241/2016)	Sept. 18/20	by Reg 234/2020 and Reg 235/2020
Local Government Grants Regulations (221/95)	Sept. 20/20	by Reg 265/2020
North Island-Coast Development Initiative Trust Regions Regulation (34/2006)	Sept. 20/20	by Reg 241/2020
Prescribed Classes of Property Regulation (438/81)	Sept. 20/20	by Reg 257/2020
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	RETROACTIVE to Feb. 19/20	by Reg 242/2020 , Reg 243/2020 and Reg 245/2020
Provincial Sales Tax Regulation (96/2013)	RETROACTIVE to Feb. 19/20	by Reg 244/2020
	RETROACTIVE to Mar. 1/20	by Reg 253/2020
	Sept. 20/202	by Reg 246/2020 and Reg 254/2020
Railway Safety Adopted Provisions Regulation (210/2004)	Sept. 20/20	by Reg 237/2020
Tobacco Tax Act Regulation (66/2002)	Sept. 20/20	by Reg 246/2020
Worker Qualification Regulation (214/2018)	Sept. 30/20	by Reg 133/2020
MISCELLANEOUS		
Miscellaneous News:		

BC Court of Appeal Confirms There Is No "Federal Common Law" Privacy Tort, but Suggests the Existence of a Provincial Privacy Tort Is an "Interesting Question"

Over the last two decades, British Columbia's courts have consistently held that there is no common law tort for breach of privacy (or intrusion upon seclusion) in British Columbia because of the similar statutory cause of action under the [Privacy Act](#), R.S.B.C. 1996, c. 373. In *Tucci v. Peoples Trust Company*, [2020 BCCA 246](#), the Court of Appeal confirmed that there is no separate "federal common law" privacy tort, including intrusion on seclusion. While noting the decades of cases rejecting the existence of a provincial common law tort for breach of privacy, the Court noted (in *obiter*) it was an "interesting question" for a future case.

Tucci is a class action arising from a data breach. The representative plaintiffs alleged various causes of action including breach of contract, negligence, breach of privacy, and intrusion upon seclusion. The statutory cause of action in the *Privacy Act* did not apply. Read the [full article](#) by Patrick Williams with McCarthy Tetrault LLP.

BC Government Announces New Sales Programs for the Cannabis Industry in 2021 and 2022

Lake Babine Nation and the federal and BC governments have [executed a new reconciliation agreement](#) contemplating a 20-year vision to recognize and implement the Nation's rights of self-determination, self-government and Aboriginal title.

Chief Gordon Alec of Lake Babine Nation, federal Minister of Crown-Indigenous Relations Carolyn Bennett and BC Minister of Indigenous Relations and Reconciliation Scott Fraser met via videoconference to sign the agreement. Read the [full article](#) published on *The Canadian Lawyer Magazine* website.

Act or Regulation Affected	Effective Date	Amendment Information
COVID-19 Related Measures Act	Sept. 20/20	by Reg 258/2020
	Oct. 1/20	by Reg 172/2020
Designation Regulation (363/95)	Sept. 1/20	by Reg 202/2020
Designation Regulation No. 2 (125/99)	Sept. 1/20	by Reg 206/2020
Human Rights Code	Sept. 1/20	by 2018 Bill 51, c. 48, sections 10 (part), 11 (part), 13 and 14 only (in force by Reg 201/2020), Human Rights Code Amendment Act, 2018
Human Rights Commissioner's Inquiry Regulation (201/2020)	NEW Sept. 1/20	see Reg 201/2020
Supreme Court Civil Rules (268/2009)	Sept. 18/20	by Reg 232/2020

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Transport Canada Marine Incident Reporting Obligations and Rights

This article provides general guidance on the rights and requirements for reporting to Transport Canada in the event of a shipping casualty, and responding to Transport Canada's request for a shipboard inspection. Readers are cautioned that each event is unique, and the extent to which any aspect of the below applies depends on the circumstances.

The [Canada Shipping Act](#) (the CSA) applies to all Canadian ships in any waters, and foreign ships in Canadian waters, excluding military vessels. Where a ship, whether proceeding under its own power or being towed, is

involved in a casualty or other dangerous occurrence, the master or any other member of the crew, operator, pilot, or person responsible for the ship must report the incident without delay. This report should be submitted to a Canadian ship reporting station via radio. Read the [full article](#) by [Robin Squires](#) with Borden Ladner Gervais LLP.

Motorist Ordered to Pay \$1,805 for "Accelerated Depreciation" Following Collision With Porsche

As discussed numerous times on this site BC law recognizes that if property is damaged by the wrongdoing of another and if that property is then worth less even after all reasonable repairs have been made the "accelerated depreciation" can be recovered against the at fault party.

In the first Accelerated Depreciation claim heard by BC's Civil Resolution Tribunal such damages were awarded to the owner of a Porsche that was damaged in a collision.

In today's case ([Lai v. Leung](#)) the Applicant's vehicle was struck by the Respondent who admitted fault of the crash. The impact caused damages which cost over \$6,500 to repair. The Applicant consulted with an appraiser who provided evidence that as a result the vehicle will be worth less on the open market. ICBC refused to recognize this. Both ICBC and the at fault motorist were sued but the tribunal noted that ICBC was not a correct party in such a dispute and the claim is properly brought against the at fault motorist with ICBC simply playing the role of their insurer. Read the [full article](#) by [Erik Magraken](#) on the *BC Injury Law Blog*.

CVSE Bulletins & Notices

The following bulletins and notices were posted recently by CVSE:

- [Notice NSC 01-20](#) – Carrier Safety Guide – Updated Version Published
- [School Bus Barrier Guidance Document](#) – Questions and answers regarding the use of barriers in school buses.

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

Act or Regulation Affected	Effective Date	Amendment Information
Commercial Transport Fees Regulation (328/91)	Sept. 20/20	by Reg 240/2020
Motor Fuel Tax Regulation (414/85)	Sept. 20/20	by Reg 239/2020 and Reg 260/2020
Motor Vehicle Act Regulations (26/58)	Sept. 20/20	by Reg 240/2020
Motor Vehicle Fees Regulation (334/91)	Sept. 20/20	by Reg 240/2020
Violation Ticket Administration and Fines Regulation (89/97)	Sept. 21/20	by Reg 192/2020

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

New COVID-19 Guidelines & Notices

In recent weeks, the BC government has updated and/or introduced the following new orders and guidelines aimed at reducing the spread of COVID-19:

- Guidance – [COVID-19 Public Health Guidance for K-12 School Settings](#) (Updated September 11)
- Order – [Registered Nurse and Registered Psychiatric Nurse Public Health Pharmacotherapy – September 16, 2020](#) (PDF, 227KB)
- Order – [Food and Liquor Serving Premises – September 18, 2020](#) (PDF, 304KB)
- Order – [Gatherings and Events – September 18, 2020](#) (PDF, 231KB)

WorkSafeBC Reminds Employers of

Premium Payment Deferral

WorkSafeBC issued a reminder to employers that the deferral period for Q1 and Q2 assessment premiums will end on Oct. 20, 2020.

Employers will have to pay their premiums for Q1, Q2, and Q3 in full by this date, and return to their regular reporting and payment schedule going forward.

Employers must log in to their online services account, or refer to their most recent Statement of Account to identify the amount deferred from Q1 and Q2. They would then have to determine the premiums for Q3 by reporting their quarterly payroll – online or by completing a Payroll and Payment Form before paying premiums for all three quarters. Read the [full article](#) recently published in the *Canadian Occupational Safety Magazine*.

BC Forest Safety Council and FPInnovations Work Together to Improve Forest Industry Safety Performance

The CEO of the BC Forest Safety Council (BCFSC), Rob Moonen, and the President and CEO of FPInnovations, Stéphane Renou, are pleased to announce that the two organizations have signed a Memorandum of Understanding (MOU) to work collaboratively on enhancing safety performance in the forest industry by sharing leading, innovative scientific and technical applications.

Under the MOU, individual projects and financial support agreements for specific activities will be identified through consultation between the two parties, with FPInnovations providing research expertise and non-proprietary technical resources or materials to assist the BCFSC in improving or expanding the support it provides to the forest industry to reduce serious injuries and fatalities. Read the [full article](#) on the BC Forest Safety website.

WorksafeBC OHS Guidelines Revised

– from WorkSafeBC:

[Guidelines](#) revised related to authority under the OHS Regulation, approved respirators, and isolation and lockout (September 18).

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

PROPERTY & REAL ESTATE

Property and Real Estate News:

B.C.'s Land Owner Transparency Act Comes into Force November 30th - Are You Ready?

On September 20, 2020, the Province of British Columbia confirmed by Order in Council that most of the provisions of the *Land Owner Transparency Act*, SBC 2019, c 23 ("LOTA"), will come into force on November 30, 2020. [Quickscribe has published an [early consolidated version of LOTA](#) as it will read on November 30, 2020] The Province also released the Land Owner Transparency Regulation (the "Regulation"), which will come into effect concurrently with LOTA. The Regulation and [Order in Council 549/2020](#) answer some key questions that have remained unanswered since the government introduced the initial framework for LOTA in 2018 read the [full article](#) by [Edward L. Wilson](#), [Brendan J. Craig](#) and [Sophie Marshall](#) with Lawson Lundell LLP.

BC Government Takes First Steps to Address Rising Strata Insurance Costs

On September 13, 2020, the Government of British Columbia (Government) announced [regulatory changes](#) (Regulations) to address rising strata insurance costs in British Columbia. These changes follow the passage of the [Municipal Affairs and Housing Statutes Amendment Act \(No.2\), 2020](#) (Bill 14), which amended certain insurance-related provisions of the [Strata Property Act](#) (SPA) and the [Financial Institutions Act](#) (FIA).

Bill 14 and the Regulations follow an interim report by the BC Financial Services Authority (BCFSA), which found that strata insurance premiums and deductibles have risen significantly on a year-over-year basis.

The increases have partly resulted from insurers struggling to sustain profitability in the B.C. strata insurance market due to rising claim costs. In addition, insurers have identified the B.C. strata insurance market as "high risk" due to rising property values and excessive exposure to earthquake risk. The BCFSA report also noted that

there is a lack of capacity in the strata insurance market to support future demand. Read the [full article](#) by [Benjamin Effa](#), [Tony Magre](#) and [Greg Umbach](#) with Blake, Cassels & Graydon LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Land Tax Deferment Regulation (57/98)	Sept. 20/20	by Reg 264/2020
Residential Tenancy Regulation	Sept. 1/20	by Reg 206/2020

WILLS & ESTATES

Wills and Estates News:

BC Court Upholds Contract Requiring One Party to Leave Estate to Other Party

What if you enter into an agreement with someone, for example to provide them with services, based on a promise from that person that they will leave something to you in their will, but then you find out that the person has made a new will which makes no provision for you? Is the agreement enforceable, and do you have to wait until after the person's death to take steps to enforce your rights?

This issue arose in the recent case of *Munro v. James* [2020 BCSC 1348](#). In *Munro*, the parties were acquaintances in the equestrian community. Ms. James (one of the defendants) owned a large farm property which included ponies. In 2007, the parties entered into an agreement whereby the plaintiffs would move onto Ms. James' farm, build a home there, and look after Ms. James' ponies for the remainder of her life. In exchange, the plaintiffs were to inherit Ms. James' estate when she died. The agreement was put in writing. Read the [full article](#) by [James Zaitsoff](#) with Owen Bird Law Corporation.

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

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