

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Parliament Set to Resume March 1st

BC parliamentarians will not return to the legislature until March 1, 2021. The late start was announced in December 2020. It is expected that the first month will be used to tie up loose ends from the previous session with the speech from the throne not scheduled until April 12 and the Budget to be unveiled April 20. You can view the newly published [Parliamentary Calendar](#) for further details.

PGA Amendments – February 5th

On June 1, 2019, [Bill 49](#), the *Professional Governance Act* was partially brought into force. The *Professional Governance Act* (PGA) provides a consistent governance framework for self-regulating professions that incorporates best practices of professional governance. The PGA initially governs the five professional regulators overseeing agrologists, applied biologists, applied science technologists and technicians, engineers and geoscientists, and forest professionals. Professional regulators governed by the PGA will be referred to as "regulatory bodies". The PGA also strengthens government oversight by establishing a statutory Office of the Superintendent of Professional Governance (OSPG) in the Ministry of Attorney General. On February 5th, [B.C. Reg. 11/2021](#) brings into force a significant number of sections of the Bill that were not yet law; however, this Reporter was published on February 4th and will not therefore include these amendments. You can expect to see these amendments published live to Quickscribe on the Friday, February 5th. You may view these amendments via the "Recent Changes" tab on the home page at that time. This is also a good reminder to take advantage of some the other customizable alerts Quickscribe has to offer via the My Alerts tab on the top menu bar.

Latest Annotations


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

- [Greg Gehlen](#) – Gehlen Dabbs Lawyers, [Bankruptcy and Insolvency Act](#)
- [Deborah M. Cumberland](#) – [Business Corporations Act](#)
- [Michael Bain](#), Q.C., Hamilton, Howell Bain & Gould – [Power of Attorney Act](#), [Arbitration Act](#), [Wills, Estates and Succession Act](#)
- [Rachel Roy](#), Allevato Quail & Roy – [Electoral Boundaries Commission 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.

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COMPANY & FINANCE

Company and Finance News:

Provincial and Federal Financial Institution Regulation – 2020 in Review

Although 2020 saw some disruption and slowdown in activity across all industries, there were several regulatory changes to financial institutions at the provincial and federal levels throughout the year. This year in review takes a look at some major changes in the regulatory framework that financial institutions should keep in mind for 2021. BC Financial Services Authority's rule-making powers and procedure (in force June 2020).

On June 22, 2020, [Order in Council No. 341](#) brought certain provisions into force from the [Financial Institutions Amendment Act](#), S.B.C. 2019, c. 39 (FIA Act). In addition, the Order introduced the [Financial Services Authority Rule-Making Procedure Regulation](#), outlining how the BC Financial Services Authority (BCFSA) can publish rules under its rule-making powers. This was the next incremental step in introducing BC's new regulatory framework for financial institutions. Read the [full article](#) by [Ross McGowan](#), [Cindy Zhang](#) and [Jason Uswak](#) with Borden Ladner Gervais LLP.

Canada Revenue Agency to Begin Issuing T4As to COVID-19 Emergency and Recovery Benefit Recipients

Since the beginning of the COVID-19 pandemic, the Government of Canada rolled out measures to support Canadians through this public health crisis. This assistance has included the delivery of unprecedented financial support programs through the Canada Revenue Agency (CRA), such as the Canada Emergency Response Benefit (CERB), the Canada Emergency Student Benefit (CESB), the Canada Recovery Benefit (CRB), the Canada Recovery Sickness Benefit (CRSB), and the Canada Recovery Caregiving Benefit (CRCB). As stated from the beginning, these benefits – which have helped millions of Canadians put food on the table and keep a roof over their head during this crisis – are taxable.

As we approach the launch of the 2021 tax season, the CRA remains committed to putting people first and providing the support Canadians need as they continue to do their part to limit the spread of COVID-19. Starting [January 11th], Canadians will begin [receiving T4A slips from the CRA](#) for these benefits to support their tax filing. Read full government [news release](#) for further details.

Federal Court of Appeal Finds Inadequate Record-keeping Does Not Justify Gross Negligence Penalties

On December 21, 2020, the Federal Court of Appeal ("FCA") released its decision in [Deyab v Canada](#), 2020 FCA 222 ("Deyab"), partly overturning the decision of the Tax Court of Canada ("TCC"). The FCA's decision clarified that failing to document corporate withdrawals may justify the reassessment of a statute-barred taxation year but does not alone warrant the imposition of gross negligence penalties.

In *Deyab*, the taxpayer was reassessed for approximately \$2.4 million of shareholder benefits received from M.D. Consulting 2005 Inc. ("M.D. Consulting") over the 2007 to 2011 years. The reassessments for 2007 to 2010 were statute-barred, having been issued outside the "normal reassessment period" (as defined in the Income Tax Act (Canada) (the "Act")). The taxpayer was also assessed gross negligence penalties for each of the 2007 to 2011 years. Read the [full article](#) by [Morgan Watchorn](#) and [Leonard Gilbert](#) with Thorsteinssons LLP.

Are You Ready for Your CEWS Audit?

The Canada Emergency Wage Subsidy (CEWS) program is by now well-known. It was introduced by the federal government on March 15, 2020, and pays a qualifying employer adversely impacted by the COVID-19 pandemic up to 75 percent of its employees' eligible remuneration. The basic idea is to provide subsidies to certain Canadian employers who experienced a drop in revenue due to COVID-19 in order to encourage them to retain

(or re-hire) their workers until normal operations could be resumed. It appears that many employers took the government up on their offer because, as of January 10, 2021, over 2.1 million CEWS applications had been received and nearly 99 percent were approved. To date, nearly \$57.8 billion in subsidies had been paid out.

However, with this amount of emergency government largesse comes the inevitable reckoning. The Canada Revenue Agency (CRA) has already begun to aggressively audit employers who received the CEWS, and it is demanding copious amounts of documentation and information, often on an expedited basis. Read the [full article](#) by Martin Sorensen, Hennadiy Kutsenko and Anu Nijhawan with Bennett Jones LLP.

New BC Rules for Contaminated Sites May Significantly Impact Businesses

On February 1, 2021, amendments to British Columbia's [Environmental Management Act](#) and [Contaminated Sites Regulation](#) [came] into force, changing the process for identifying contaminated sites in B.C. The changes will capture more contaminated sites and will impose more requirements on those who own or operate on contaminated land, including an automatic site investigation and reporting requirement. In this bulletin, we highlight the more significant changes and flag upcoming additional changes to the soil relocation regime that are expected later this year. Read the [full bulletin](#) by [Tony Crossman](#), [Paulina Adamson](#) and David Hillier, Articling Student of Blakes.

BC Securities – Policies & Instruments

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

- [81-523](#) – *Exemption from Proficiency Requirements in National Instrument 81-104 Alternative Mutual Funds*

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

BCFSA News

The BC Financial Services Authority published the following in December:

- [Advisory](#) – Consultations on Information Security Guideline and Outsourcing Guideline
- [Advisory](#) – Virtual Annual General Meetings - Credit Unions
- [Advisory](#) – Use of Unauthorized Insurers
- [Pension Guideline](#) – Use of Letters of Credit for Meeting Solvency Deficiencies

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

Act or Regulation Affected	Effective Date	Amendment Information
Liquidity Requirement Regulation (332/90)	Jan. 1/21	by Reg 279/2020
	Jan. 15/21	by Reg 332/90
Property Transfer Tax Exemption Regulation No. 33	NEW Jan. 25/21	see Reg 8/2021

ENERGY & MINES

Energy and Mines News:

First Nation Calls for Release of Site C Report in Open Letter to Premier

A First Nations leader is calling on the B.C. government to release several reports on the Site C dam, claiming details of escalating costs and safety concerns have been "shrouded in secrecy." In an open letter to Premier John Horgan, Chief Roland Willson of the West Moberly First Nations says work on the hydroelectric dam in northeastern B.C. should be suspended immediately until cabinet makes a decision on the project. Read the [Vancouver Sun article](#).

Adding (Less Intense) Fuel to the Fire: Proposed Canadian Clean Fuel Regulations Will Reduce the Carbon Intensity of Liquid Fuels

Last month, Canada's Climate Plan made headlines for its pledges to accelerate the national carbon price to \$170/tonne by 2030 and to invest heavily in low-carbon technologies and projects. While setting ambitious emissions targets, the Climate Plan also recognizes that many sectors of the economy will continue to rely on fossil fuels for many years to come, even under the most rapid decarbonisation scenarios. Accordingly, the Climate Plan is complemented by the federal Clean Fuel Standard ("CFS") – a policy proposal for reducing the carbon intensity of liquid fuels that are produced and used in Canada, as well as liquid fuels that are imported into Canada. Read the [full article](#) by Alex Sadvari, Chris Hummel and Graham Reeder with Gowling WLG.

Alaska Demanding Action on BC Mining Oversight

The United States government has approved \$3.6 million in spending to help Alaska pressure BC's government into reforming [mining](#) regulations they claim are lax and present an imminent threat to fish and habitat in transboundary watersheds. On Dec. 21, U.S. Congress approved the Consolidated Appropriations Act for 2021 that included \$3.1 million for the United States Geological Survey (USGS) to expand a 2019 baseline water-quality monitoring program on rivers downstream from BC mines. Read the Global News [article](#).

Banner Year for Exploration in BC, Despite Pandemic

Despite the challenges posed by the pandemic, BC recorded one of its best years in nearly a decade in terms of mineral exploration spending in 2020. It was a year that also saw several acquisitions, the advancement of what promises to be one of the largest gold mining districts in Canada (the Barkerville-Cariboo Gold project), and most mines continuing to operate and keep thousands of workers employed, despite a pandemic. Read the BIV [article](#).

Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletin:

- [INDB 2021-01](#) – Online Submissions for Corporate Financial and Reserves Information Launched
- [INDB 2021-02](#) – Pre-engagement with Halfway River First Nation
- [INDB 2021-03](#) – Changes to the EMA and CSR

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties (Mines) Regulation (47/2017)	Jan. 25/21	by Reg 6/2021
Exemption Regulation (No. 2) (285/2019)	Jan. 8/21	by Reg 2/2021
Gas Utility Act	Feb. 1/21	by 2010 Bill 20, c. 21, section 9 (a) and (c) only (in force by Reg 20/2021), Miscellaneous Statutes Amendment Act (No. 3), 2010
Mines Fee Regulation (54/2015)	Jan. 25/21	by Reg 6/2021
Oil and Gas Activities Act	Feb. 1/21	by 2019 Bill 17, c. 19, sections 45 and 46 only (in force by Reg 161/2020), Environmental Management Amendment Act, 2019
Permit Regulation (99/2013)	Jan. 25/21	by Reg 6/2021

FAMILY & CHILDREN

Family and Children News:

Double Dipping in the Division of Assets

One of the issues that can frequently come up, particularly when couples separate later on in life and when they

have higher net worth assets is the question of "double dipping". The question is, if the spouses divide their property such that one spouse is bought out and paid compensation for their interest in an asset, how does that impact on income and any spousal support entitlement in the future? The Supreme Court of Canada considered this question as it relates to pensions in *Boston v. Boston* 2001 SCC 43. In brief, the facts of this case were as follows: Read the [full article](#) by [Leneigh Bosdet](#) with Pushor Mitchell LLP.

Changes to Supreme Court Family Rules

On January 25, some of the forms in the [Supreme Court Family Rules](#) were amended to help clarify the conditions required for filing financial information (Form F8), including:

- claims made for spousal support;
- claims made for the division of property and/or debts; and
- claims made for child support.

Act or Regulation Affected	Effective Date	Amendment Information
Adoption Act	Feb. 1/21	by 2010 Bill 20, c. 21, sections 1 to 4 only (in force by Reg 20/2021), Miscellaneous Statutes Amendment Act (No. 3), 2010
Family Law Act	Feb. 1/21	by 2020 Bill 13, c. 14, sections 1 and 5 only (in force by Reg 23/2021), Miscellaneous Statutes Amendment Act, 2020
Family Law Act Regulation (347/2012)	Feb. 1/21	by Reg 23/2021
Family Maintenance Enforcement Act	Feb. 1/21	by 2020 Bill 13, c. 14, section 12 only (in force by Reg 23/2021), Miscellaneous Statutes Amendment Act, 2020
Family Maintenance Enforcement Act Regulation (346/88)	Feb. 1/21	by Reg 23/2021
Interjurisdictional Support Orders Act	Feb. 1/21	by 2020 Bill 13, c. 14, section 13 only (in force by Reg 23/2021), Miscellaneous Statutes Amendment Act, 2020
Interjurisdictional Support Orders Regulation (15/2003)	Feb. 1/21	by Reg 23/2021
Supreme Court Family Rules (169/2009)	Jan. 25/21	by Reg 5/2021

FOREST & ENVIRONMENT

Forest and Environment News:

BC Forestry Companies Agree to Abide by Cedar Protocols Drafted by Indigenous Council

Forestry companies Western Forest Products Inc. and Interfor Corporation have agreed to follow Indigenous protocols pertaining to large cultural cedars set by an Indigenous Council in BC. Several other forestry companies and BC Timber Sales have also indicated their intention to abide by traditional laws outlined in "Large Cultural Cedar (LCC) Operation Protocol," according to a statement from the Nanwakolas Council. The council consists of five First Nations members – Mamalilikulla, Tlowitsis, Da'naxda'xw Awaetlala, Wei Wai Kum, and K'ómoks – with traditional territories on northern Vancouver Island and the adjacent mainland. Read the [full](#)

[article](#) in posted in the *Campbell River Mirror*.

PGA Sections Come Into Force February 5th

[Bill 49](#), the [Professional Governance Act](#) was partially brought into force on June 1, 2019. The *Professional Governance Act* (PGA) provides a consistent governance framework for self-regulating professions that incorporates best practices of professional governance. The PGA initially governs the five professional regulators overseeing agrologists, applied biologists, applied science technologists and technicians, engineers and geoscientists, and forest professionals. Professional regulators governed by the PGA will be referred to as "regulatory bodies". The PGA also strengthens government oversight by establishing a statutory Office of the Superintendent of Professional Governance (OSPG) in the Ministry of Attorney General. On February 5th, [B.C. Reg. 11/2021](#) brings into force a significant number of sections of the Bill that were not yet law.

"Digitizing the Forest or Mill" a Key Part of BC Industry's Future

BC's forest industry has been buoyed by high construction demand and prices during the COVID-19 recession, and public health restrictions have pushed the industry into new areas of innovation. "Remote sensing" is a term familiar to the mining industry, where [Geoscience BC](#) has a long-standing program to scan vast areas from aircraft to look for magnetic signatures of mineral deposits. At this week's virtual B.C. Natural Resources Forum, participants heard about the growth of virtual forestry using drones. Mike Wilcox, president of a Vancouver startup called FYBR Inc., told a forest industry panel about the growth of his company that accelerated as pandemic restrictions forced new ways of doing business. Read the *Penticton Western News* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (Environmental Management Act) (133/2014)	Feb. 1/21	by Reg 161/2020 and Reg /2021
Contaminated Sites Regulation (375/96)	Feb. 1/21	by Reg 131/2020 and Reg 161/2020
Environmental Management Act	Feb. 1/21	by 2019 Bill 17, c. 19, sections 1 to 10 and 26 only (in force by Reg 161/2020), Environmental Management Amendment Act, 2019
Permit Regulation (253/2000)	Jan. 28/21	by Reg 19/2021

HEALTH

Health News:

Ottawa Lays Groundwork for New Indigenous Health Legislation

The federal government capped two days of meetings this week into eliminating anti-Indigenous racism in the health-care system by announcing plans to begin co-developing new legislation to overhaul Indigenous health. The legislation aims to ensure Indigenous control over the development and delivery of health services. "What we're doing is not working for Indigenous people," said Health Minister Patty Hajdu at a Thursday [January 28] evening news conference concluding the discussions. Read the CBC [article](#).

Supreme Court Leaves the Standard of Care in Medical Negligence Untouched

It is rare for medical negligence cases to make their way to the Supreme Court of Canada. Until last week, the last case focused on the test for standard of care in medical negligence was [ter Neuzen v. Korn](#) in 1995.

On Jan. 18, 2021, the Supreme Court of Canada heard the [Armstrong v. Ward](#) case, which centered on the appropriate standard of care for a surgeon and the proper order of the elements of negligence. After hearing from both parties and two interveners, the panel of seven Supreme Court Justices unanimously ruled from the bench to allow the appeal and adopt the reasons from Justice van Rensburg, who dissented below at the Court of

Appeal.

Justice van Rensburg's reasons maintain the status quo of the law of negligence. In them, she reinforced the well-established burden of proof on the plaintiffs and emphasized that courts ought to avoid the dangers of a results-oriented approach. Read the [full article](#) by Anna Marrison and John McIntyre of Borden Ladner Gervais.

Cambie Surgeries Corporation v. British Columbia (Attorney General): Case Comment

In *Cambie Surgeries Corporation v. British Columbia (Attorney General)* ("Cambie"), the plaintiffs claimed that sections 14, 17, 18 and 45 of British Columbia's ("B.C.") [Medicare Protection Act](#) (the "MPA") violated their rights under sections 7 and 15 of the [Canadian Charter of Rights and Freedoms](#) (the "Canadian Charter" or the "Charter"), and that these violations could not be saved under section 1 of the Charter.

Vancouver's Cambie Surgery Centre (the "Cambie Clinic") was the primary plaintiff in the action. The Cambie Clinic is a privately-owned surgical clinic, which offered medically required physician services that would typically be categorized as "benefits" under the provincial health insurance plan. The Cambie Clinic was of the position that, due to long wait times in the public system, patients should be able to exercise a choice to pay for private care to avoid such wait times. This case concerned whether the Cambie Clinic could offer these medically required services in contravention of the MPA, which seeks in part to protect the provision of medically required physician services through a publicly funded and administered system in accordance with the criteria established by the [Canada Health Act](#). Read the [full article](#) by [Tracey M. Bailey](#), [Annie Alport](#), [Christie McLeod](#) and [Sarah DeGenova](#) with Miller Thomson LLP.

Drug Pricing in Canada

It happened quietly, at the eleventh hour. Regulatory changes to pharmaceutical drug prices were due to come into force on January 1st. Two days before, the federal government announced that they were delayed by another six months, the second such extension. Billed as the most significant overhaul of the system in 30 years, the new regulations are supposed to give the Patented Medicines Price Review Board (PMPRB), a federal agency, new tools to protect Canadians from excessive drug prices.

"The COVID-19 pandemic has increased demands for pharmaceutical products and created shortages," said Aisling MacKnight, a spokesperson for health minister Patty Hajdu. "This is why the coming-into-force of the regulations has been postponed."

The new regulations have been in the works since December 2015, and the process to adopt the modernized regulations. PMPRB has met with over 260 stakeholders, and received 120 written submissions as part of the process. Read the [full article](#) by Dale Smith and published in the CBA National.

BCCNM Board Approves Amendments to RPN Scope of Practice Relating to Immunizations

The BC College of Nurses and Midwives (BCCNM) board on Jan. 28, 2021, approved revisions to the [Scope of Practice for Registered Psychiatric Nurses: Standards, Limits and Conditions](#) relating to immunoprophylactic agents. These changes are effective immediately.

The previous RPN scope of practice limits and conditions for prescribing, compounding, administering or dispensing immunoprophylactic agents for the purpose of preventing disease were seen as a barrier to RPNs participating fully in the provincial COVID-19 vaccination program. As such, they have been broadened to require that RPNs possess the competencies established by the BCCDC and follow decision support tools established by the BCCDC. Visit the [BCCNM website](#) for further details.

Patient Hopes Canada will Introduce Regulations for Psychotherapy with "Magic Mushrooms"

Psilocybin is one of several psychedelics being given temporary legal exemptions to help ease emotional suffering.

As the first terminally ill cancer patient in Canada to legally use so-called magic mushrooms to treat anxiety, Thomas Hartle is hopeful that more temporary approvals from the federal government signal a permanent regulatory regime may be in the works.

Hartle, 53, received a one-year exemption from the [Controlled Drugs and Substances Act](#) last August to use psilocybin, the active psychedelic ingredient in magic mushrooms, during psychotherapy. Since then, Health Canada has approved 24 more applications from cancer patients for treatment of end-of-life distress. It has also granted exemptions to 19 health-care providers, giving them the right to possess and use mushrooms containing psilocybin for professional training purposes, a spokesperson said in a statement. Read the CBC [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
COVID-19 Related Measures Act	Jan. 8/21	by Reg 1/2021
Laboratory Services Regulation (52/2015)	Jan. 1/21	by Reg 52/2015

LABOUR & EMPLOYMENT

Labour and Employment News:

Canada Labour Code and Employment Equity Act: New Year, New Requirements

A series of changes to federal employment and labour laws came into effect on January 1, 2021. Only federally regulated businesses are affected. Such businesses include those in aviation, banking, radio and television broadcasting, as well as many First Nations activities.

In December, we advised you ([here](#)) about an administrative monetary penalty (AMP) regime being introduced under the [Canada Labour Code](#) (Code). The AMP regime allows for penalties up to \$250,000 and the public naming of employers who violate the Code.

Employers will have a year to adjust to the new regime, as monetary penalties for administrative violations (like with respect to record-keeping and reporting, for example) will not be imposed until January 1, 2022. Read the [full article](#) by the [Employment and Labour](#) lawyers of Clark Wilson LLP.

Lessons Learned: Largest Data Breach

On December 14, 2020, the Privacy Commissioner of Canada, Daniel Therrien, issued a [statement regarding the recent data breach at Desjardins](#). The statement involved the investigation conducted under the [Personal Information Protection and Electronic Documents Act](#) (PIPEDA) concerning the largest ever data breach in Canada's financial services sector. Plainly put, the investigation revealed that Desjardins did not demonstrate the appropriate level of attention required to protect the sensitive personal information entrusted to its care. In fact, the Privacy Commissioner stated, "What happened to Desjardins could have happened to other companies. As we know, these types of breaches happen all too often. This breach should serve as a lesson to other organizations."

What happened?

As can be seen by the [PIPEDA Report of Findings #2020-005](#), on May 27, 2019, Desjardins notified the Office of the Privacy Commissioner of Canada (OPC) of a breach of security safeguards, which affected approximately 9.7 million individuals in Canada and abroad. The personal information involved included: first and last names; dates of birth; social insurance numbers; residential addresses; telephone numbers; email addresses; and transaction histories.

Read the First Reference blog [article](#) by Christina Catenacci, BA, LLB, LLM, PhD.

Wait Times for Worker Complaints in BC Unacceptable, Advocates Say

BC's labour minister says the province is working to fix backlog at Employment Standards Branch. Prince Rupert resident Sharlene Wilson was in her early 60s when she lost her job of more than 30 years in October 2019. A month later, legal advocate Paul Lagace with the Prince Rupert Unemployed Action Centre filed a complaint with the B.C. Employment Standards Branch on her behalf, arguing she should be entitled to eight weeks' severance. More than a year later, Wilson is dead, and the branch has yet to look at her case. Lagace is now acting on behalf of her estate. Read the [full article](#) by [Maryse Zeidler](#) of *CBC News*.

BC Court Decision in Freezer Case Offers Guidance on Breach of Confidence Law: Plaintiff's Lawyers

The Court of Appeal for BC's affirmation of a lower court ruling awarding more than \$7 million in damages to a Vancouver hygienic refrigerator manufacturer provides more precise guidance on the tort of breach of confidence by former employees and the remedies available, say two of the lawyers who acted for the plaintiff.

The appellate court's upholding of the decision in [GEA Refrigeration Canada Inc. v. Chang](#) means that, unless successfully appealed to the Supreme Court of Canada, the trial court's ruling "will stand as a leading authority" in the province on issues of misappropriation of confidential information, says Mark Stacey, head of the civil litigation group at Singleton Urquhart Reynolds Vogel LLP. Read the [full article](#) by [Zena Olijnyk](#) and published in the *Canadian Lawyer*.

Workplace Violence is not Restricted to Physical Assault

Studies indicate that violence in any workplace is a matter of significant concern across Canada, including British Columbia. Many employers and employees associate violence with physical assault, but it includes other acts such as threats, abuse and intimidation. Establishing an accurate number of workers affected is not easy because many cases go unreported.

[Threatening acts](#) like the destruction of property, shaking fists and throwing objects are also included in workplace violence, as well as insults, swearing or other forms of verbal abuse from both workers and other individuals in the workplace. Some workers may use written threats to intimidate colleagues. Harassment such as bullying, intimidation, humiliation, threatening gestures, causing embarrassment and annoying other workers are often cited in reports about workplace violence. Read the [full article](#) published on behalf of Overholt Law LLP posted in [Labour and Employment Law](#).

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Jan. 1/21	by Reg 268/2020 and Reg 278/2020
	Jan. 28/21	by Reg 16/2021
	Feb. 1/21	by Reg 21/2021
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Jan. 1/21	by Reg 268/2020 and Reg 278/2020
	Jan. 28/21	by Reg 16/2021
	Feb. 1/21	by Reg 21/2021
Workers Compensation Act	Jan. 1/21	by 2020 Bill 23, c. 20, sections 17 and 18 only (in force by Royal Assent), Workers Compensation Amendment Act, 2020

LOCAL GOVERNMENT

Local Government News:

Amendments to the *Environmental Management Act* and Contaminated Sites Regulation: the Local Government Perspective

On February 1, 2021, several significant amendments to the [Environmental Management Act](#), SBC 2003, c 53 (the "Act") will come into force and which will result in a substantial overhaul of the [Contaminated Sites Regulation](#), B.C. Reg 375/96 (the "CSR"). These changes reflect the efforts of the Province to streamline and clarify the process for addressing contaminated sites while addressing purported weaknesses within the previous regime through a mandatory investigation process for contaminated sites. With these amendments come a number of changes to the Act and applicable regulations that will impact local government responsibilities in the regulation of contaminated sites.

Site Disclosure Statements

The amendments to the Act repeal the definition of "site profile" and replace it with a "site disclosure statement". The site disclosure statement is intended to provide a simplified process for identifying potential contaminated sites and will include, in most circumstances, a mandatory site investigation process. The investigation procedure is intended to assess whether past or ongoing uses on the

subject property caused contamination to the site.

Read the [full article](#) by David Giroday and Andrew Buckley with Stewart McDannold Stuart Barristers & Solicitors.

1909988 Ontario Limited v. North Cowichan (Municipality), 2020 BCSC 1666

Unlike the courts, administrative decision makers, such as local governments, do not have to follow their previous decisions. This has caused inconsistency amongst decisions and courts have criticized such unpredictability. In a recent case involving the District of North Cowichan (the 'District'), British Columbia's Supreme Court offered some guidance regarding the local government's decision-making process. Read the [full article](#) by Kelsey Stuckert, articulated student with Civic Legal LLP.

Campaign Contributions, In-Stream Development Applications and Conflicts

In *Allan v. Froese*, [2021 BCSC 28](#), released on January 11, 2021, the BC Supreme Court dismissed a petition seeking the removal of the mayor and two current council members of the Township of Langley due to an alleged pecuniary conflict of interest. The petitioners argued that campaign contributions made to the respondents' 2018 local election campaigns by individuals who were connected to development companies who had various projects before Council for consideration and approval amounted to a breach of section 101 of the [Community Charter](#).

The Court noted that a multi-step inquiry is required to determine whether a council member should be disqualified on the basis of a conflict of interest. First, the petitioner must prove that the elected official has a direct or indirect pecuniary interest in the matter under consideration. Read the [full article](#) by [Kathleen T. Higgins](#) and [Sarah Strukoff](#), Articled Student with Young Anderson Barristers & Solicitors.

Why 15-minute Neighbourhoods May Be More Popular Now than Ever

The COVID-19 pandemic has had a significant impact on city living as many residing in urban areas find themselves working from home and avoiding congested public transit. This in turn has resulted in changing views on how urban revitalization may play out. Cities around the world are striving to transform and reinvent themselves as they emerge from the pandemic. Turns out, part of the answer may lie in so-called 15-minute neighbourhoods.

What is a 15-minute neighbourhood? In a nutshell, it is one that is easy to get around on foot or by bike, where residents look to local businesses to meet their basic daily needs. Essentially, a 15-minute neighbourhood is a vision for city life in which residents live in a sustainable and liveable neighbourhood with the ability to find or access all (or at least most) of what they need by walking or cycling a short distance (within 15 minutes of where they live). Because key services are in close proximity and readily accessible, urban residents live locally and can reduce their dependency on private vehicles. As long commutes and unnecessary car travel are eliminated or reduced, so are traffic congestion and carbon emissions, thereby improving residents' quality of life. Read the [full article](#) by [Iris Tam](#) with Osler, Hoskin & Harcourt LLP.

Statement from BC Urban Mayors' Caucus on Meetings with the Provincial Government to Develop a Complex Care Housing Pilot

Kelowna Mayor Colin Basran and Victoria Mayor Lisa Helps, co-chairs of the BC Urban Mayors' Caucus, released the following statement following meetings this week with Attorney General and Minister Responsible for Housing David Eby and Minister of Mental Health and Addictions Sheila Malcolmson to discuss strengthening mental health and substance use supports in the face of the ongoing homelessness and opioid crises.

"On behalf of the BC Urban Mayors' Caucus, we would like to thank the Ministers for meeting this week to begin to plan how we can work together to accelerate BC's response to addressing the mental health, substance use and homelessness crises. It's great to see the priorities laid out in our Blueprint for British Columbia's Urban Future reflected in the Ministers' mandate letters. Read the [full article](#) published on the City of Victoria's website.

Clean Coast, Clean Waters Initiative Fund

The application deadline is February 15th for a new fund designed to support marine shoreline clean-up and derelict vessel removal in coastal communities within British Columbia. Funding of between \$500,000 to \$3,500,000 is available to each applicant. An approved project plan and signed agreement needs to be in place by March 31st. Funding for the [Clean Coast, Clean Waters Initiative](#) is provided by the British Columbia (BC) government as part of its far-ranging Pandemic Response and Economic Recovery initiative supporting all sectors that have been affected by the COVID-19 crisis. Read the UBCM [article](#).

The Pandemic and Municipal Insolvency: Part Two

As we promised in our first article in this series, we will now discuss the advantages available to municipalities if it is determined that they can rely upon Canada's insolvency legislation to restructure their affairs.

If applicable, the [Bankruptcy and Insolvency Act](#) (BIA) or the [Companies' Creditors Arrangement Act](#) (CCAA) – federal legislation that governs the restructuring of larger or complex corporate entities – could provide municipalities with much needed flexibility to restructure their affairs and recover from the financial difficulties caused by the pandemic. Read the [full article](#) by [Timothy Dunn](#) and [Stephen Skorbinski](#) with Minden Gross LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Assessment Act Regulation (433/98)	Feb. 1/21	by Reg 20/2021
British Columbia Teachers' Council Regulation (2/2012)	Jan. 14/21	by Reg 3/2021
Home Owner Grant Act	Jan. 1/21	by 2020 Bill 3, c. 22, section 4 only (in force by Reg 302/2020), Finance Statutes Amendment Act, 2020
Islands Trust Act	Feb. 1/21	by 2019 Bill 17, c. 19, section 40 only (in force by Reg 161/2020), Environmental Management Amendment Act, 2019
School Act	Feb. 1/21	by 2010 Bill 20, c. 21, section 30 only (in force by Reg 20/2021), Miscellaneous Statutes Amendment Act (No. 3), 2010
Local Government Act	Feb. 1/21	by 2019 Bill 17, c. 19, sections 43 and 44 only (in force by Reg 161/2020), Environmental Management Amendment Act, 2019
Vancouver Charter	Feb. 1/21	by 2019 Bill 17, c. 19, section 48 only (in force by Reg 161/2020), Environmental Management Amendment Act, 2019

MISCELLANEOUS

Miscellaneous News:

Drug Trafficker Tests BC's Civil Forfeiture Regime

A BC Civil Forfeiture Office claim against a convicted drug trafficker is entering its third year, as the two sides spar over the release of police documents prior to a potential challenge on constitutional grounds. Stephen Hai Peng Chen, also known as Hoy Pang Chan, is accused in the civil forfeiture suit, filed in January 2019, of using proceeds of crime to buy two properties in Vancouver. Chen is concurrently alleged to have used money service business Silver International Inc., which was central to a federal money laundering investigation that resulted in stayed charges in November 2018 against its two primary operators, one of whom was subsequently [murdered last September](#). The case against Chen highlights many issues surrounding civil forfeiture [recently raised](#) at the Commission of Inquiry into Money Laundering in BC. Read the BIV [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Civil Resolution Tribunal Act	Jan. 22/21	by 2020 Bill 11, c. 10, section 38 only (in force by Reg 4/2021), Attorney General Statutes (Vehicle Insurance) Amendment Act, 2020

New Relationship Trust Act	Feb. 1/21	by 2010 Bill 20, c. 21, section 29 only (in force by Reg 20/2021), Miscellaneous Statutes Amendment Act (No. 3), 2010
Trespass Act	Feb. 1/21	by 2010 Bill 20, c. 21, section 31 only (in force by Reg 20/2021), Miscellaneous Statutes Amendment Act (No. 3), 2010
Vital Statistics Act	Feb. 1/21	by 2010 Bill 20, c. 21, sections 32 to 34 only (in force by Reg 20/2021), Miscellaneous Statutes Amendment Act (No. 3), 2010

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Transport Canada not Budging on Enclosed Deck Rules, Despite Calls from BC Ferries Union

Transport Canada has no plans to allow passengers to remain on enclosed car decks, the agency told Black Press Media by email Wednesday (Jan. 20). The statement was in response to a letter sent by the president of the BC Ferry and Marine Workers' Union. In it, Graeme Johnston said that with new, more transmissible variants of COVID-19 spreading in Canada, the risk to passengers and crew from more people on passenger decks was too high and that the agency should allow passengers to remain on enclosed decks as it did early on in the pandemic. BC Ferries allowed passengers to remain on enclosed ferry decks from March 17 to [September 30 of last year](#), per Transport Canada regulations. Read the [full article](#) published in the *Abbotsford News*.

Electric Vehicles: Accelerating in BC and Beyond

Recent developments, including significantly increased funding under the Specialty Use Vehicle Incentive and Commercial Vehicle Pilots Program announced January 13, 2021, are accelerating the adoption of Electric Vehicles (EVs) and their associated infrastructure in British Columbia (BC). While many provincial governments are now assisting their EV industries, government support is particularly prominent in BC, which has become a leading jurisdiction in EV innovation and technology, private sector investment, and consumer adoption. Another leading jurisdiction is Ontario, where General Motors announced on January 16, 2021 that it will invest \$1 billion to transform its CAMI plant in Ingersoll to make commercial EVs. Read the [full article](#) by Wally Brault, Jimmy Burg and Emma Hobbs (Articling Student) with Gowling WLG.

CVSE Bulletins & Notices

The following notice was posted recently by CVSE:

- [CVSE 1052 Contacts](#) – Notice to industry that the List of Contacts for use with Form CVSE1052 has been updated (January 5 2021)
- [Circular 06-19](#) – Trial of Length Allowances for Autotarp Systems is Concluded – Allowances Will Continue Pending Further Notice

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

Act or Regulation Affected	Effective Date	Amendment Information
Motor Vehicle Act	Feb. 1/21	by 2010 Bill 20, c. 21, sections 15 to 28 only (in force by Reg 20/2021), Miscellaneous Statutes Amendment Act (No. 3), 2010
Motor Vehicle Act Regulations (26/58)	Jan. 11/21	by Reg 26/58
Motor Vehicle Fees Regulation (334/91)	Jan. 11/21	by Reg 334/91
	Jan. 8/21	by Reg 1/2021

Violation Ticket Administration and
Fines Regulation (89/97)

Feb. 1/21

by [Reg 24/2021](#)

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

WorkSafeBC Opens Consultation on Proposed Changes

WorkSafeBC recently released a discussion paper with options on Consultation on *Workers Compensation Amendment Act, 2020* ([Bill 23](#)) for [Permanent partial disability benefits](#) and [Retirement Age Determination](#). The options provided are whether further policy changes are required or if the status quo is preferable. Stakeholders are welcome to provide feedback through until Friday, April 16, 2021. For more information on these and law and policy announcements visit [WorkSafeBC](#).

New Public Health Orders

The Public Health Office (PHO) recently issued the following orders:

- [Industrial Projects Restart](#) – January 12, 2021 (PDF, 313KB)
- [Resource Sector Worksites and Industrial Camps in the Region of the Northern Health Authority](#) – January 12, 2021 (PDF, 393KB)
- [Gatherings and Events](#) – January 8, 2021 (PDF, 447KB)
 - Read related [Public Health guidelines](#)

Visit the [PHO website](#) to view these and other related orders and notices.

BC Invests for Training of Healthcare Assistants

British Columbia is investing \$8.4 million to train people to become healthcare assistants caring for seniors in the province. "We're moving forward with our plan to expand the number of healthcare assistants working in B.C. to strengthen the level of care for people in long-term care homes and assisted-living residences," said Adrian Dix, minister of health. "The Health Career Access Program is underway and is already helping train workers for some of the most important jobs in B.C." The funding will create the first 600 new training seats at public post-secondary institutions for healthcare assistants as part of the Health Career Access Program. The program was announced in September 2020 to meet the demand for healthcare assistants in B.C.'s long-term care and assisted-living residences. Read the [full article](#) published by *Canadian Occupational Safety*.

Act or Regulation Affected	Effective Date	Amendment Information
Workers Compensation Act	Jan. 1/21	by 2020 Bill 23, c. 20, sections 17 and 18 only (in force by Royal Assent), Workers Compensation Amendment Act, 2020

PROPERTY & REAL ESTATE

Property and Real Estate News:

Redevelopment of Land in BC – New Contaminated Sites Reporting Requirements

On February 1, 2021, amendments to B.C.'s [Environmental Management Act](#) and the [Contaminated Sites Regulation](#) (the Stage 13 Amendments) [came] into effect which will affect the application process for redevelopment of lands formerly used for specified industrial or commercial uses. These amendments will affect most subdivision, zoning, development permit and building permit applications for such lands, automatically requiring the applicant to undertake site investigations before the applications are approved. The amendments could also see a proliferation of litigation as developers/owners may seek to recover the increased costs of development from historical owners and operators responsible for any contamination on the lands. Read the [full article](#) by [Jennifer S. Nyland](#) and [Will J. Shaw](#) with Lawson Lundell LLP.

Amendments to the Architectural Institute of British Columbia Code of Ethics and Professional Conduct: The Introduction of the Requirement to Self-report

Since 2011, the Architectural Institute of British Columbia (the "AIBC"), which is the governing body for architects in the province, has been engaged in a comprehensive bylaw review process. The AIBC appointed a Bylaw Review Committee (the "BRC"), which is tasked with reviewing bylaws and making recommendations to the AIBC council with respect to any bylaw amendments, deletions or additions that may be appropriate in the context of the [Architects Act](#), and the AIBC's public interest and professional regulation mandate.

As part of this ongoing bylaw review process, there have been a series of amendments to the AIBC's Code of Ethics and Professional Conduct (the "Code of Ethics"). One such amendment pertains to the requirement of an architect to self-report with respect to specified matters, including legal proceedings related to professional negligence and ethics. For Underwriters of insurance policies issued to architects in British Columbia, several issues of interest arise, which are discussed below. Read the [full article](#) by Karen L. Weslowski with Miller Thomson LLP.

Face to Face: A Landlord's Guide to Mask Mandates

Let's face it. Managing a rental property during a pandemic comes with its own unique challenges, and staying on top of the latest Ministerial Orders can feel like a full-time job in itself. Since the Minister of Public Safety and Solicitor General issued its indoor mask mandate on November 24, 2020, landlords across the province have been faced with questions about how these requirements impact the rental housing industry. Can a landlord require tenants to wear masks in common areas? How can a landlord implement a mask mandate in their rental building? What happens if a tenant refuses to wear a mask? When it comes to implementing a mask mandate at a rental property, landlords should ensure they've got it covered. Read the [full article](#) by Lisa Mackie with Alexander Holburn Beaudin + Lang LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Home Owner Grant Regulation (100/2002)	RETROACTIVE to Jan. 1/21	by Reg 17/2021
Land Title Act	Feb. 1/21	by 2019 Bill 17, c. 19, sections 41 and 42 only (in force by Reg 161/2020), Environmental Management Amendment Act, 2019
Property Law Act	Feb. 1/21	by 2019 Bill 17, c. 19, section 47 only (in force by Reg 161/2020), Environmental Management Amendment Act, 2019

WILLS & ESTATES

Wills and Estates News:

BC Executor's Fees Not Allowed for Opposing Wills Variation Claim

When a disappointed beneficiary brings a claim to [vary a will](#), the executor should not pick sides between beneficiaries or use estate funds to finance litigation. Executors are expected to maintain an even hand as between the beneficiaries and take no position on the merits of the claim. An executor's failure to remain neutral is a factor to be considered in fixing remuneration. BC executors are not entitled to compensation for time spent opposing a wills variation claim.

The executor in *Hautakoski Estate (Re)*, [2009 BCSC 868](#) took a very active role in defending a wills variation claim brought by a son who was disinherited by his father, Veikko Hautakoski. The executor was also Veikko's solicitor. She had prepared Veikko's Will in accordance with his instructions, which were to leave the bulk of his estate to his granddaughter in trust until she was 65 years old. Read the [full article](#) by Janis Ko with the Onyx Law Group.

Case Comment: BC Court Dismisses Attempt by Estranged Spouse to Set Aside Property Transfer and Vary Will

I am often contacted by executors or beneficiaries of an estate when they have been served with what they consider to be a "nuisance claim". Unfortunately, the death of a loved one may present an opportunity for others

to bring unmeritorious claims. The estate may be large enough to attract claims that should never have been made, and the person who would have the best evidence to oppose the claims (the deceased person) is dead.

A typical example is someone surfacing and claiming to be the deceased's spouse for the purpose of bringing a wills variation claim or other claim. This person may be a former spouse of the deceased, a casual romantic partner, a roommate, or even a stranger. Read the [full article](#) by [James Zaitsoff](#) published on the *BC Estate Litigation Blog*.

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

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