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BY IAN AIKENHEAD QC
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BACKGROUND

The Fall Session of the 41st Parliament of British Columbia commenced in October 2018. This column is being written in January 2019 and will consider bills which were introduced late in that Fall Session which may be of interest to members of the TLABC. That session adjourned on November 27, 2018.

The **Agricultural Land Commission Amendment Act, 2018 (Bill 52)** makes substantial changes to this act based on a recent report to the government. These changes include defining the distinction between agricultural land and the agricultural land reserve, changing the zoning rights and principles concerning these lands, restricting exclusions from the land reserve, and restricting the uses to be made of agricultural lands.

The **Environmental Assessment Act (Bill 51)** repeals the *Environmental Assessment Act*, and makes significant changes to the law in this area based on a Discussion Paper distributed earlier. These changes included appointment of dispute resolution facilitators, alters the assessment process, require consent of an indigenous nation for some reviewable projects, requires various notifications, governs early engagement by many parties including indigenous nations, requires the assessment office to seek consensus with participating indigenous nations, and makes wholesale changes to many aspects of this legislation. If any of your clients are affected by environment assessment, a close reading of this statute is essential.

The **Health Sector Statutes Repeal Act (Bill 47)** deals with a 2007 Supreme Court of Canada ruling on how contracting out, layoffs and bumping provisions in the prior law were unconstitutional, and the government of the day passed a 2008 bill which changed the legislation. This new bill repeals the original legislation.

The **Human Rights Amendment Act, 2018 (Bill 50)** fulfills an election promise of the current government to bring back an independent Human Rights Commissioner. It makes substantial changes to other aspects of human rights in BC, including dealing with complaints, creating an Advisory Council, limiting the liability of the Commissioner, and creating powers of the Commissioner.

The **Lobbyists Registration Amendment Act, 2018 (Bill 54)** changes the title of the legislation to *Lobbyists Transparency*

Act, and adds definitions to expand who must register, prohibits certain former cabinet ministers from lobbying, prohibits gift-giving by lobbyists, requires more detailed filing by lobbyists, and strengthens the powers of the Registrar.

The **Recall and Initiative Amendment Act, 2018 (Bill 53)** amends definitions concerning recalls and most importantly provides that the fundraising rules that apply to elections under the *Elections Act* generally apply to recalls and initiatives. There are also changes with respect to advertising and sponsorship of advertising, again to make those provisions similar or identical to those under the *Election Act*.

The **Passenger Transportation Amendment Act, 2018 (Bill 55)** was introduced to deal with the public demand for private transportation services from such companies as Uber. It makes substantial changes to what will be allowed and what will not be allowed by way or private transportation provision in British Columbia. A great deal of public discussion has taken place about whether this new legislation will (when made effective) will be too restrictive on new private operators, or whether it will destroy the current taxi industry. It is difficult to tell which way the eventual regulations will take this legislation and what effect it will have on the current industry.

The **Attorney General Statutes Amendment Act, 2018 (Bill 57)** amends a large number of statutes. The *Civil Resolution Tribunal Act* is amended such that when any party applies in a court proceeding that an injury is “minor” the action is stayed until such time as the tribunal makes a determination on that issue. As a transition matter, the tribunal has jurisdiction pursuant to the *Small Claims Act* for claims arising from accidents before April 1, 2019.

The *Negligence Act* is amended so that an “action” includes proceedings brought to the Civil Resolution Tribunal. The same applies to the *Parental Liability Act*, and the *Workers Compensation Act*.

The *Class Proceedings Act* is amended to provide at least 50% of any undistributed amount pursuant to a settlement is paid to the Law Foundation of British Columbia.

The *Gaming Control Act* is amended to strengthen the right of gaming facilities to refuse entry to “undesirable” patrons.

The *Legal Professions Act* is amended to add definitions concerning licensed paralegals, and the possible duties of such persons. The benchers may make rules establishing their scope of practice. This bill also allows a “society indemnification program” to be operated by the benchers and makes regulations concerning such a program.

There have been regulations introduced by the government concerning Bill 20 and 22, relating to the new procedures and rules governing damages for injury claims after April 1, 2019. Those regulations have been discussed in detail in an excellent article by Nick Peterson in the Winter Issue #159 of *the Verdict*.

I recommend it to you as a clear statement of what we anticipate the law will be after April 1, 2019 (or for subrogated claims on or after May 17, 2018). There will likely be further regulatory changes as the year progresses.

CONCLUSION

As you can see, there has been significant new legislation introduced in the Fall session, and likely more to come in the Spring session which will commence in February 2019.

I would like to thank Stuart Rennie of the Canadian Bar Association for his help in providing some of the information contained in this column. Any errors in interpreting this new legislation are entirely mine.

If you have concerns about these bills, or upcoming legislative matters, please contact one of the members of the TLABC Executive, who will be pleased to discuss matters with you. ✓

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