

Publisher's Note

An Update has Arrived in Your Library for:

| |
|---|
| Please circulate this notice to anyone in your office who may be interested in this publication. <i>Distribution List</i> |
| <input type="checkbox"/> |
| <input type="checkbox"/> |
| <input type="checkbox"/> |
| <input type="checkbox"/> |

| |
|--|
| BRITISH COLUMBIA CORPORATION MANUAL SECOND EDITION Borden Ladner Gervais LLP Release 2, February 2025 |
|--|

THOMSON REUTERS®

Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

E-mail CustomerSupport.LegalTaxCanada@TR.com

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

This resource provides expert analysis of all recent changes in B.C. corporate legislation, as well as section-by-section commentary and comparisons between equivalent provisions of both the old and new Acts. It also features an extensive analysis of the latest court decisions, an up-to-date table of concordance linking both the new and old B.C. Acts to their equivalents in Canada, Ontario and Alberta, and related statutes and Regulations contained in the *Cooperative Associations Act*, *Securities Act*, *Small Business Venture Capital Act*, *Credit Union Incorporation Act*, *Financial Institutions Act* and *Society Act*.

What's New in this Update

This release features updates to Appendix B. Business Corporations Act XI. Summaries of Major Corporate Events under British Columbia's Business Corporations Act including updates to the following summaries: Incorporation, Meetings of Directors, Dissolution and Liquidation, Court Proceedings, and Company Alterations.

Highlights:

- **Summaries of Major Corporate Events under British Columbia's Business Corporations Act — Court Proceedings — Derivative Actions** — EPL argued that the Union Goal Transaction had put it in a position to potentially restart underground mining at the Mine. However, the judge concluded that this was largely speculative. The judge did acknowledge that it was difficult to engage in a more complete comparison of EPL's actual financial position under the base case versus the Union Goal Transaction. That would require expert evidence based on an analysis of financial records not limited to the company's public reporting. Nonetheless, the judge again concluded that Ren had articulated a "legally plausible theory of damages suffered by the company that finds some support in the evidence before the court". Justice Skolrood explained that it was apparent that the judge was of the view that there was an arguable case to be made, based upon the available evidence, that the Union Goal Transaction placed EPL in a materially worse financial position than if it had proceeded with the base case. The judge then weighed the potential benefits of the claims against the cost and inconvenience of EPL pursuing the action. The weighing exercise was necessarily fact-based and involved the exercise of the judge's discretion. Justice Skolrood observed that EPL was effectively asking the Court of Appeal to reweigh the factors considered by the judge and explained that was not the role of the Court of Appeal. Justice Skolrood concluded that EPL had not established that the judge made a palpable and overriding error in assessing the relative benefits and costs of the proposed proceeding: *Eastern Platinum Limited v. Ren*, 2024 CarswellBC 759, 2024 BCCA 109 (B.C.C.A.).
- **Summaries of Major Corporate Events under British Columbia's Business Corporations Act — Company Alterations — Amalgamation — Case Law** — On appeal RC contended that the Act imposes a tax when three prerequisites are met: there is a taxable transaction, as defined by the Act; the transaction is registered in a Land Title Office (; and there is a transferee liable to pay the tax. It submitted that the judge erred in concluding that RC's filing of the Form 17, and the issu-

ance of a new indefeasible title, amounted to RC receiving a “transfer of land” within the meaning of the definition of “transferee” in s. 1(1). It noted there was no definition of a “transfer” in the Act, and suggested that the word could not reasonably bear the meaning that must be ascribed to it in order for tax to be payable on a s. 191 application subsequent to an amalgamation. RC submitted that the meaning of the word required that an existing property must pass from one person to a different person. Not only was there no transfer of land, the title did not move to a new person because the corporation continuing from a statutory amalgamation of two predecessor corporations is not a new corporation, but is the same corporation as and a continuation of the predecessors. In Justice McKenzie’s opinion, it was not an error for the judge to determine whether the appellant was a “transferee” subject to paying the Foreign Buyer’s Tax by reading the words of the Act in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of the Legislature. He was required to do so: *RC Limited Partner Inc. v. British Columbia*, 2024 CarswellBC 576, 2024 BCCA 86 (B.C.C.A.).