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Annotated British Columbia Societies Act

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Publisher's Special Release Note 2020

The pages in this work were reissued in October 2020 and all the pages carry that date in the release line. Please note that we have not reviewed the content on every page of this work in this current release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred.

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What's New in this Update

This release features the following revisions and updates:

- **Societies Act — Part 2 — Fundamental Matters in Relation to Societies — Division 2 — Name and Governing Documents — Bylaws — Section 11:2 COMM—Bylaws**
Since *Ireland v. Victoria Real Estate Board* (1987), 13 B.C.L.R. (2d) 97, British Columbia courts have generally held that the relationship between a society and its members, as set out in the society's bylaws, is essentially contractual or quasi-contractual in nature: see most recently *Farrish v. Delta Hospice Society*, 2020 BCCA 312, at para. 46, leave to appeal refused, [2021] S.C.C.A. No. 39504; *Bains v. Khalsa Diwan Society of Abbotsford*, 2021 BCCA 159, at para. 112; and “Decisions Under Societies Act” and “Decisions under former Acts”, below. *Farrish* and *Bains* were decided after *Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v. Wall*, 2018 SCC 26, but before *Ethiopian Orthodox Tewahedo Church of Canada St. Mary Cathedral v. Aga*, 2021 SCC 22. Both decisions concerned expelled members who asked the courts to reverse their congregations' expulsion decisions. In *Wall*, the Supreme Court of Canada found that no contractual right existed between W and his congregation, among other reasons, because the congregation had no written constitution, bylaws or rules that would entitle members to enforce those “agreements”. In *Aga*, the court held that membership in a voluntary association, even one with a written constitution and bylaws, is not automatically contractual and that a contract exists between members and the association only if the conditions of contract formation are met. Of note, the court in *Aga* appeared to define “voluntary association” solely as unincorporated associations (see para. 30) and both congregations in *Wall* and *Aga* were unincorporated. Since the B.C. decisions were decided in respect of incorporated societies, it is not clear to what extent the Supreme Court of Canada's comments in *Aga* may apply to B.C. societies and the relationships with their members. The discussion in *Aga* at paras. 47 and 48, with respect to legal personality of associations conferred by legislatures (which is clearly the case for societies, see ss. 6 and 13-14 of the Act) might suggest that *Wall* and *Aga* have no application to societies and that the line of B.C. decisions since *Ireland* characterizing the relationship as contractual or quasi-contractual remains good law. On the other hand, in light of the broad range of statutory rights and remedies created by the Act, the need to rely on contractual theory of membership in order to provide members with a legal remedy might be substantially diminished.

- ***Societies Act — Part 2 — Fundamental Matters in Relation to Societies — Division 2—Name and Governing Documents — Bylaws — Section 11:3 — Bylaws — Decisions under the Societies Act*** —In *Delta Patriots Cricket Club v. West Coast Cricket Organization*, 2021 BCSC 854, W's bylaws granted each member club a number of votes equal to the number of cricket teams it represented, contrary to s. 84(2), which gives each voting member only one vote. Referring to s. 11(3), the court treated the non-compliant bylaw provision as an irregularity and made an order under s. 105 redacting it from the bylaws in its entirety: *Delta Patriots Cricket Club v. West Coast Cricket Organization*, 2021 CarswellBC 1423, 2021 BCSC 854.

ProView Developments

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