

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Parliamentary Session Completed

The 5th Session, 40th Parliament wrapped up on May 19th. There were a total of 25 government bills, 37 members' bills and one private bill. While many of the government bills achieved Royal Assent on the 19th, a significant portion of the legislation within these bills will come into force by regulation at a future date. Two government bills were introduced in May. These include:

- [Bill 25](#), Miscellaneous Statutes (General) Amendment Act, 2016
- [Bill 26](#), Supply Act, 2016-2017

With the exception of the private bill, Pr 401, *Millar College of the Bible Act*, no other non-government bills proceeded past 1st reading. A reminder that if you would like to track the progress of these bills, or to track changes to any laws that bills amend, we suggest signing up to the BC Legislative Digest alert via the My Alerts tab. We will then monitor and alert you to changes for laws of your choosing.

Quickscribe in 5 Minutes!

It is not unusual for our clients to ask us for assistance when introducing our service to colleagues. To assist you, we have published this short, [five-minute video](#) to YouTube that highlights the key features of Quickscribe Online 2.0. The intent of the video is not to provide in-depth training (there are other videos for that), but rather to introduce your colleagues to QS in a more general way and to give them the opportunity to assess for themselves if this service might be of value to them. So, if you've been considering introducing Quickscribe to a colleague, but have hesitated because of the time and effort it takes to do so, this video is for you.

Latest Annotations


New annotations have recently been added to the Quickscribe site. These annotations include contributions from:

- [OnPoint Legal Research Corporation](#) – *Health Professions Act* and *Human Rights Code*
- [Michael Bain](#), HHBG Employment Lawyers – *Foreign Money Claims Act* and *Legal Services Society Act*
- [John Doolan](#), McCarthy Tétrault LLP – *Land Title Act*
- [Richard Bereti](#), Harper Grey LLP – *Environmental Management Act*
- [Deborah Cumberland](#) – *Business Corporations Act*

Watch this 20-minute [YouTube video](#) to learn more about annotations and how to receive alerts when new annotations are published to the laws that matter most to you.

Tip: Log in to Quickscribe Online prior to clicking Reporter links....

View [PDF](#) of this Reporter.

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

[\[Previous Reporters \]](#)

CATEGORIES

COMPANY & FINANCE	LOCAL GOVERNMENT
ENERGY & MINES	MISCELLANEOUS
FAMILY & CHILDREN	MOTOR VEHICLE & TRAFFIC
FOREST & ENVIRONMENT	PROPERTY & REAL ESTATE
HEALTH	WILLS & ESTATES
LABOUR & EMPLOYMENT	

Company and Finance News:

Court Declines to Intervene on Director's Suspension by Board when in Society's Best Interests – *Society Act*

The BC Supreme Court has clarified when a suspension of a society's director is not a removal, and provided an example of when director discipline may occur without the court's intervention under the provisions of the *Society Act*, R.S.B.C 1996, c. 433 (the "Act"). In *George v. The B.C. Wildlife Federation*, 2016 BCSC 718, a majority of the Board of Directors (the "Board") of the BC Wildlife Federation ("BCWF"), a society incorporated under the Act, voted to suspend its Vice President. The suspension removed the director's right to attend meetings of the Board and committees, and from his roles as both a director and Vice President. It did not remove him from office. The suspension arose due to inappropriate e-mails sent to BCWF employees over its office e-mail system, in violation of the BCWF director Code of Conduct and its human resources manual. The main issue was whether this was "removal", outside of a special resolution of the members under s. 61 of the Act, or whether this was akin to discipline of an employee, and acceptable. The suspended director had sent e-mails to both a male and female staff member, which had resulted in a request by the BCWF President to cease contact with the female staff member and not engage in further conduct. The director did not respect this condition. Two months later, BCWF's counsel requested he voluntarily step down, or the Board would consider disciplinary action. On receiving no resignation, a discipline package was provided to the Board for review. The suggested discipline was a suspension of approximately three months, to the end of the suspended director's elected term. Read the [full article](#) by [Steve Carey](#) with Alexander Holburn Beaudin + Lang LLP.

To All Provincially Regulated Financial Institutions Re: Anti-money Laundering/Anti-terrorist Financing

FICOM News Release:

Anti-money laundering/anti-terrorist financing (AML/ATF) is an integral part of the Financial Institutions Commission's (FICOM) supervisory framework, forming a significant component of FICOM's assessment of both regulatory compliance and operational risk. FICOM works closely with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), the federal government agency tasked with detecting, deterring and preventing money laundering and terrorist financing activities, to ensure compliance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). Read the [full letter](#) published on the FICOM website.

BC Securities – Policies & Instruments

The following policies and instruments were published on the BCSC website in the month of May:

- [BCN 2016/03](#) - Adoption of BC Instrument 72-505 - Exemption from prospectus requirement for crowdfunding distributions to purchasers outside British Columbia
Effective May 6, 2016, the Commission adopted this instrument which provides an exemption from the prospectus requirement to allow issuers located in British Columbia to distribute securities to purchasers outside British Columbia using Multilateral Instrument 45-108 *Crowdfunding*, subject to certain conditions.
- [62-104](#) Adoption of Amendments to Early Warning System – Amendments to Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* and National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues* and Changes to National Policy 62-203 *Take-Over Bids and Issuer Bids*
- [62-104](#) – Adoption of Amendments to Take-Over Bid Regime – Amendments to Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* and Changes to National Policy 62-203 *Take-Over Bids and Issuer Bids* and Consequential Amendments
- [24-314](#) CSA Staff Notice 24-314 *Preparing for the Implementation of T+2 Settlement: Letter to Registered Firms*

This notice advises that CSA jurisdictions recently sent registered firms correspondence about the implementation of T + 2 settlement on September 5, 2017 that encouraged registrants to prepare for the transition to a shorter standard settlement cycle and to raise any concerns.

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Practices and Consumer Protection Authority Act	May 10/16	by 2015 Bill 15, c. 27, section 27 only (in force by Reg 109/2016), Information Management Act
Electronic Transactions Act	May 10/16	by 2015 Bill 15, c. 27, section 36 only (in force by Reg 109/2016), Information Management Act
Farmers' Food Donation Tax Credit Regulation (113/2016)	NEW RETRO to Feb. 17/16	see Reg 113/2016
Income Tax Act	RETRO to Jan. 1/01	by 2016 Bill 14, c. 10, section 18 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
	RETRO to Dec. 21/02	by 2016 Bill 14, c. 10, sections 16, 22 and 23 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
	RETRO to Feb. 28/04	by 2016 Bill 14, c. 10, section 17 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
	RETRO to July 1/06	by 2016 Bill 14, c. 10, section 19 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
	RETRO to Mar. 29/12	by 2016 Bill 14, c. 10, section 24 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
	RETRO to June 26/13	by 2016 Bill 14, c. 10, section 21 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
	May 19/16	by 2016 Bill 14, c. 10, section 26 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016

		by 2016 Bill 25, c. 21, sections 11 to 15 only (in force by Royal Assent), Miscellaneous Statutes (General) Amendment Act, 2016
Insurance Act	May 19/16	by 2016 Bill 25, c. 21, section 16 only (in force by Royal Assent), Miscellaneous Statutes (General) Amendment Act, 2016
Insurance Premium Tax Act	RETRO to Jan. 1/16	by 2016 Bill 14, c. 10, section 29 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
	May 19/16	by 2016 Bill 14, c. 10, section 28 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
Multilateral Instrument 11-102 <i>Passport System</i> (58/2008)	May 9/16	by Reg 106/2016
Multilateral Instrument 13-102 <i>System Fees for SEDAR and NRD</i> (210/2013)	May 9/16	by Reg 106/2016
Multilateral Instrument 51-105 <i>Issuers Quoted in the U.S. Over-the-Counter Markets</i> (235/2012)	May 9/16	by Reg 106/2016
National Instrument 43-101 <i>Standards of Disclosure for Mineral Projects</i> (86/2011)	May 9/16	by Reg 106/2016
National Instrument 62-103 <i>The Early Warning System and Related Take-Over Bid and Insider Reporting Issues</i> (83/2000)	May 9/16	by Reg 106/2016
National Instrument 62-104 <i>Take-Over Bids and Issuer Bids</i> (21/2008) (formerly <i>Multilateral Instrument 62-104 Take-Over Bids and Issuer Bids</i>)	May 9/16	by Reg 106/2016
National Instrument 81-101 <i>Mutual Fund Prospectus Disclosure</i> (1/2000)	May 30/16	by Reg 34/2015
Pension Benefits Standards Act	May 4/16	by 2014 Bill 9, c. 17, section 24 only (in force by Reg 101/2016), Pooled Registered Pension Plans Act
Pooled Registered Pension Plans Act	NEW May 3/16	c. 17 [SBC 2014], Bill 9, sections 1 and 3 (part) only (in force by Reg 101/2016), Pooled Registered Pension Plans Act
	May 4/16	by 2014 Bill 9, c. 17, sections 2, 3 (part) and 4 to 11 only (in force by Reg 101/2016), Pooled Registered Pension Plans Act

Pooled Registered Pension Plans Regulation (101/2016)	NEW May 4/16	see Reg 101/2016
Provincial Sales Tax Act	RETRO to Apr. 1/13	by 2016 Bill 14, c. 10, sections 60 to 64 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
	May 19/16	by 2016 Bill 14, c. 10, sections 65, 66, 68 to 70 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
Securities Rules (194/97)	May 9/16	by Reg 106/2016
Small Business Venture Capital Regulation (390/98)	May 13/16	by Reg 116/2016
Tobacco Tax Act	May 19/16	by 2016 Bill 14, c. 10, section 71 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016

Energy and Mines News:

An Update on Canada's LNG Industry

Canada, which ranks fifth in the world in terms of estimated shale gas reserves, is competing within the highly competitive global market for liquefied natural gas (LNG) with a number of other countries to build the infrastructure necessary to export LNG to key Asia Pacific markets. Finding new markets for Canadian shale gas reserves is of critical importance to Canada given the anticipated economic benefits that will flow to Canadians from the development of an LNG industry. This need has become more pressing in light of the US – our traditional natural gas export market – being awash with natural gas as a result of its own highly prolific shale gas reserves. Not only has this resulted in lower Canadian exports of natural gas to the US, it has also resulted in a number of US-based LNG development projects working towards final approval or, in the case of Cheniere Energy's Sabine Pass Facility, delivering first cargoes. Most of the LNG projects currently under development in Canada are located near the Prince Rupert and Kitimat areas in the northwest corner of British Columbia (BC). These areas benefit from both proximity to the major shale plays, as well as relatively short transit times to Asia Pacific markets. There are currently 21 LNG projects proposed along Canada's west coast representing aggregate LNG capacity of more than 250 metric tonnes per annum (mtpa) (based on publicly available initial and expansion plans). Of these proposed projects, one project (LNG Canada) has received a 40 year export licence from the National Energy Board to export LNG from Canada, while 16 other projects have received 25 year export licences. Read the [full article](#) by Alicia K. Quesnel and Evan W. Dixon of Burnet, Duckworth & Palmer LLP and published on *Financier Worldwide*.

Pipeline Firms to Reveal Emergency Plans

Pipeline safety and emergency response procedures are about to get a whole lot more transparent in Canada. The federal Liberal government, through the National Energy Board, announced it will be issuing orders to oil and gas pipeline companies that fall under its jurisdiction to publish emergency procedure manuals on their publicly available websites by April 29. This is a strong step forward to greater transparency, corporate social responsibility and public confidence in pipeline safety in Canada. Pipeline safety has been under political, public and occupational safety scrutiny for a number of years. Pipeline expansion has been virtually paralyzed and politicized as recently as the last federal election. However, economic development and transportation of western and northern Canadian resources are dependent on getting resources, such as oil and gas, to deepwater ports for export and sale to world markets. The new Liberal government has been unclear on its position on several major pipeline projects that have been on hold due to First Nations land claims, regulatory review and general public concern about viability and safety. Read the [full article](#) by [Norm Keith](#) and published on the *Canadian Occupational Safety* website.

BC Increases Potential Fines, Adds Administrative

Penalties for Mining Law Violations

Since the 2014 Mount Polley tailings dam breach, the British Columbia government has made numerous changes to its mining regulatory regime. The most recent amendments, some of which came into force late last week, significantly increased the penalties that may be imposed for violation of the [Mines Act](#) (Act). The changes heighten the potential exposure of mining companies and their directors, officers and agents in cases of unpermitted environmental impacts, as well as non-compliance with the administrative aspects of the legislation and permits issued under it. Mine owners and operators throughout British Columbia have faced increased scrutiny over the past two years, a trend which is likely to continue. The government's most recent actions have stemmed largely from the reports and recommendations of the Independent Expert Engineering Investigation and Review Panel and the Chief Inspector of Mines, delivered in January and December 2015 respectively. The government has stated that it is committed to ensuring all of the recommendations are implemented over the next 12 to 18 months. Read the [full article](#) by [Roy Millen](#) and [Janice H. Walton](#) of Blake Cassels & Graydon LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Fee, Levy and Security Regulation (8/2014)	May 3/16	by Reg 105/2016
Mandatory Reliability Standards Regulation (32/2009)	May 18/16	by Reg 119/2016
Mines Act	May 19/16	by 2016 Bill 8, c. 7, section 2 only (in force by Royal Assent), Mines Amendment Act, 2016
Oil and Gas Activities Act	May 10/16	by 2015 Bill 5, c. 27, section 52 only (in force by Reg 109/2016), Information Management Act

Family and Children News:

Unbundled Family Law Services Project: Help MediateBC with an Important Initiative

[MediateBC](#) is in the middle of its [Family Unbundled Legal Services Project](#), an initiative aimed at encouraging more family law lawyers to offer short legal services to support families involved in mediation. Among other things, the project is looking to find out more about how lawyers provide short legal services and how those services are used. MediateBC is looking for more information from British Columbia family law lawyers as well as from people who have been involved in a family law dispute anywhere in Canada, and invites you to complete a survey that you can find on their [website](#). One survey is provided for family law lawyers, another for families. Please help MediateBC gather the data they need for this important initiative and take the time to complete their survey. [Posted](#) by John-Paul Boyd on JP Boyd on *Family Law – the Blog*.

Act or Regulation Affected	Effective Date	Amendment Information
Family Law Act	May 4/16	by by 2014 Bill 9, c. 17, sections 13 (a), (c), (d) and 14 to 16 only (in force by Reg 101/2016), Pooled Registered Pension Plans Act
Child, Family & Community Service Act	May 10/16	by 2015 Bill 5, c. 27, section 28 only (in force by Reg 109/2016), Information Management Act

Family Maintenance Enforcement Act	May 4/16	by 2014 Bill 9, c. 17, sections 17 to 21 only (in force by Reg 101/2016), Pooled Registered Pension Plans Act
Small Claims Rules (261/93)	May 1/16	by Reg 244/2015
Youth Justice Act	May 10/16	by 2015 Bill 5, c. 27, section 59 only (in force by Reg 109/2016), Information Management Act

Forest and Environment News:

Environmental Group Ramps Up Protection Effort for Western Toads Threatened by West Kootenay Logging

The Wilderness Committee is seeking immediate protection for 700 hectares of forest land in the West Kootenay following a [new video](#) showing countless western toads – a species of concern – crawling around logging equipment in the Summit Lake area near Nakusp. "The toads are everywhere," campaigner Gwen Barlee said in [a recent] interview. "They're in the cutblocks, on the road ... under the tires of logging equipment. There's no way in a million years that you can log in this habitat without killing toads left, right and centre." The BC government spent almost \$200,000 to build a toad tunnel underneath Highway 6. More than a million toadlets migrate at once, moving en masse from the lake across the highway to forested habitat where they live for four or five years before returning to the lake to breed. Read *The Vancouver Sun* [article](#).

Environmental Management Act

[Bill 25](#), the *Miscellaneous Statutes (General) Amendment Act, 2016*, proposes a number of amendments to the [Environmental Management Act](#). The intent of these changes is to provide the minister with flexibility to update area-based management plans (ABMP) and improve permitting certainty within ABMPs. These amendments will provide more certainty for those looking to invest in BC, while continuing to protect the environment and preserve the independence of statutory decision makers. ABMPs are already based on science, with technical input from experts, including statutory decision makers.

Environmental Appeal Board Decisions

There were four Environmental Appeal Board decisions released in the month of May:

[Environmental Management Act](#)

- [StewardChoice Enterprises Inc. v. Director, Environmental Management Act](#) [Preliminary Issue of Jurisdiction – Appeal Dismissed]
- [Nickomekl Enhancement Society; Semiahmoo Fish and Game Club; Little Campbell Hatchery; Little Campbell Watershed Society; Frank Mueggenburg; IronGait Ventures Inc.; Randy Ryzak; Pritpal Sandhu; Gabriel Farms Ltd.; Carl and Inge Thielemann; Sonja Kroecker; East Kensington Elementary P.A.C.; Loblaws Ltd.; Patricia Rush v. District Director, Environmental Management Act](#) [Stay Decisions – Granted with Directions]

[Water Act](#)

- [Bridge Creek Estate Ltd. v. Assistant Regional Water Manager](#) [Order – Extension confirmed]
- [Bridge Creek Estate Ltd. v. Assistant Regional Water Manager](#) [Order – Extension confirmed]
- [Bridge Creek Estate Ltd. v. Assistant Regional Water Manager](#) [Order – Extension confirmed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Tax Act	May 19/16	by 2016 Bill 14, c. 10, sections 2, 7 to 15 only (in force by Royal Assent), Finance Statutes

		Amendment Act, 2016
Cutting Permit Postponement Regulation (112/2016)	May 13/16	by Reg 112/2016
Greenhouse Gas Industrial Reporting and Control Act	May 19/16	by 2016 Bill 19, c. 15, section 14 only (in force by Royal Assent), Greenhouse Gas Industrial Reporting and Control Amendment Act, 2016
Environmental Management Act	May 19/16	by 2016 Bill 25, c. 21, sections 6 to 9 only (in force by Royal Assent), Miscellaneous Statutes (General) Amendment Act, 2016
Exemption Regulation (120/2016)	NEW May 19/16	see Reg 120/2016
Logging Tax Act	RETRO to Jan. 1/16	by 2016 Bill 14, c. 10, sections 31 and 32 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
	May 19/16	by 2016 Bill 14, c. 10, section 33 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
Protected Areas of British Columbia Amendment Act, 2016	May 19/16	by 2016 Bill 15, c. 14, section 1, 3 and 4 only (in force by Royal Assent), Protected Areas of British Columbia Amendment Act, 2016
Wildfire Act	May 19/16	by 2016 Bill 12, c. 11, sections 27 to 30 only (in force by Royal Assent), Forests, Lands and Natural Resource Operations Statutes Amendment Act, 2016
Wildlife Act	May 19/16	by 2016 Bill 12, c. 11, sections 31, 25, 39 to 41 and 44 only (in force by Royal Assent), Forests, Lands and Natural Resource Operations Statutes Amendment Act, 2016

Health News:

Another BC Resident Has Been Granted a Court Exemption Allowing a Physician-assisted Death

The woman, who can be identified only by the initials H.H. due to a publication ban imposed in the case, has a serious medical condition that has resulted in her suffering a number of symptoms leading to two strokes and requiring surgery. In a petition filed in BC Supreme Court, she claimed that she fears experiencing another stroke, and believes that her condition is incurable and that her physical and psychological suffering is intolerable. In approving the exemption, Chief Justice Christopher Hinkson found that H.H. was a competent adult who had carefully and thoughtfully come to her decision to seek a physician-assisted death. "The evidence establishes that the petitioner's condition is grievous and I find that it is irremediable," Hinkson said in a written ruling released online [June 1st]. "It greatly interferes with the quality of her life. It is life threatening in at least the long term and could be so in the short term." A lawyer for the attorney-general of BC pointed out to the court that there were tensions between affidavits from several doctors saying H.H. had exhausted her treatment options and an affidavit from an endocrinologist specialist. Read [The Vancouver Sun article](#).

Surgical Safety in Canada: A 10-year Review

A 10-year analysis of approximately 3,000 malpractice complaints and settlements involving surgical "incidents" in Canada has just been released by the Canadian Medical Protective Association. It is entitled *Surgical Safety in Canada: A 10-year review of CMPA and HIROC medico-legal data*. The report provides a rare glimpse into potentially avoidable – and sometimes catastrophic – harm occurring in the nation's operating rooms. The report lists communication breakdowns, "absent, sparse or illegible" documentation and failures to follow system safety checks among the factors contributing to surgeries gone wrong. The analysis involved 1,583 cases from the Canadian Medical Protective Association (CMPA) – the Ottawa-based body that defends doctors accused of malpractice – between 2004 and 2013, and 1,391 cases handled by the largest liability insurer for Canadian hospitals and their employees. Read the [full article](#) by [Paul Mitchell](#), Q.C of Pushor Mitchell LLP.

BC Court of Appeal Overturns Class Certification in Patents Case, Finding Patent Regime to be Complete Code in respect of Remedies

In *Low v. Pfizer Canada Inc.*, a unanimous division of the Court of Appeal for British Columbia restricted the ability of consumers to make claims based on alleged unlawful acts under the *Patent Act*, R.S.C. 1985, c. P-4, and associated regulations. In so doing, the Court of Appeal reversed the certification of the *Low* class proceeding by the trial court and dismissed the action. This result continues the development of a line of authority that will be important to inventors and manufacturers using the patent system, as any remedies in respect of invalid patents will be limited to those set out in the statutes and regulations. No rights at common law are available to consumers in respect of breach of the *Patent Act*. Read the [full article](#) by [Steve Warnett](#) and [Michelle T. Maniago](#) of Borden Ladner Gervais LLP.

Intersections between Professional Regulation and Aboriginal Interests

from [CLEBC website](#) – *Practice Points*

In this paper from the Aboriginal Administrative Law Conference, Lisa C. Fong invites the reader to consider the role of Western professional regulation models in regulating traditional Aboriginal healing practices. [Click](#) to view a pdf version of the paper.

Act or Regulation Affected	Effective Date	Amendment Information
Community Living Authority Act	May 10/16	by 2015 Bill 5, c. 27, sections 30 and 31 only (in force by Reg 109/2016), Information Management Act
Emergency Health Services Act	May 10/16	by 2015 Bill 5, c. 27, section 37 only (in force by Reg 109/2016), Information Management Act
Information Management Regulation (74/2015)	May 13/16	by Reg 115/2016
	June 1/16	by Reg 74/2015

Labour and Employment News:

BC Human Rights Tribunal to Hear case on Maternity EI and Disability Clawbacks
Rule that claws back EI maternity benefits if partner is on disability is discriminatory, family alleges

The BC Human Rights Tribunal has [agreed to hear](#) a complaint brought by a Vancouver Island family against the BC government, alleging the province's policy of deducting disability payments from EI maternity leave benefits discriminates against low-income women who have children. The complainants are Jess and Tony Alford, who live in Sooke. When their third child was born in 2014, they were getting by on Tony's disability assistance and a few hundred dollars Jess earned each month at a bookstore. When Jess went on maternity leave, she qualified

for Employment Insurance maternity and parental leave benefits of about \$500 a month. Read the CBC [article](#).

BC Enters New Agreement on Multi-jurisdictional Pension Plans

FICOM News Release:

British Columbia has entered into a new 2016 Agreement Respecting Multi-Jurisdictional Pension Plans that will continue to protect member entitlements and streamline regulation of pension plans. The agreement between British Columbia, Nova Scotia, Ontario, Quebec and Saskatchewan is intended to take effect July 1, 2016. A previous agreement remains in place for those jurisdictions that have not signed the 2016 agreement. Multi-jurisdictional pension plans are employment-based pension plans with members in more than one Canadian jurisdiction, whether provincial or federal. These plans are often sponsored by larger employers and unions that operate in several jurisdictions. Read the [full release](#), available on the FICOM website.

BC Supreme Court Decides Workers' Compensation Bullying Claim

On May 25, 2016, the Supreme Court of British Columbia rendered a decision in a workers' compensation case that is getting media attention in the Vancouver area. The Court sent the case back to the Workers' Compensation Appeal Tribunal ("WCAT") requiring that entity to reconsider the case. The case involves a claim made to WorkSafeBC for compensation arising out of bullying and harassment at work under [s. 5.1](#) of the British Columbia [Workers Compensation Act](#) (the "Act"). A sales employee developed a progressive speech disorder (eventually diagnosed as amyotrophic lateral sclerosis or ALS) that caused slurred speech, but did not impact his cognitive function or ability to perform his job. His employer allowed him to continue to work using email and text to communicate. The worker alleges that his immediate supervisor made derogatory comments about the employee's intelligence, spoke to him condescendingly, called him a liar and sent him a racially offensive cartoon. Read the [full article](#) by [Preston Parsons](#) of [Overholt of Overholt Law](#).

BC Government Enables Smaller Employers to Give Employees Pension Plans

Pension plans can be a very helpful retention mechanism for good employees (and, it must be noted, bad ones too), and many larger employers offer them to their employees as part of their overall compensation package. However, the cost and complexity of pension plans have also meant that they may not be considered by most smaller employers. Recent legislative enactments have attempted to address this. In 2012, the federal government enacted the [Pooled Registered Pension Plans Act](#), creating Pooled Registered Pension Plans (PRPPs) at the federal level, in an effort to make large-scale defined contributions pension plans available to employees of small companies and to self-employed individuals. PRPPs are designed to be easy for small-scale employers to join, with the bulk of administration being handled by professional third-party financial institutions, while also providing participants with all of the investment savings and opportunities of large pooled funds. On May 2, 2016, the government of British Columbia brought sections of [Bill 9 into force](#), allowing provincially-regulated BC employers to offer their employees the ability to participate in PRPPs. Read the [full article](#) by [Donovan Plomp](#) of [McCarthy Tetrault LLP](#).

Act or Regulation Affected	Effective Date	Amendment Information
Industry Training Authority Act	May 19/16	by 2016 Bill 7, c. 18, sections 1 to 3 only (in force by Royal Assent), Industry Training Authority Amendment Act, 2016

Local Government News:

The Paramountcy Doctrine: Can Cities Really Say No to Pipelines?

For all the political noise coming from municipalities and provinces in opposition to various pipeline projects, in reality they may lack any legal leverage to stop the projects or insist on conditions. "The feds pretty well have exclusive jurisdiction over pipelines," says constitutional law professor Dwight Newman of the University of Saskatchewan. "The case law has long been clear that provinces cannot exercise their jurisdiction in ways that interfere with interprovincial transportation, including pipelines, so the final decision on projects like Energy East rests with Ottawa." Montreal mayor Dennis Coderre has been particularly vocal in his opposition to Energy East,

which would transport 1.1 million barrels of oil a day from Alberta and Saskatchewan through Quebec and New Brunswick for shipment overseas. Environmentalists are concerned about spills and about the impact of the pipeline on Canada's greenhouse gas emissions. Read the [full article](#) by [Julius Melnitzer](#) and published in the *Financial Post*.

Provincial Programs Help with Property Taxes

With municipal and rural property tax deadlines just around the corner, home owners can look into several provincial programs that may help with some of the financial pressures of home ownership. Municipalities set the deadline for payment of municipal property taxes. Rural property taxes are due July 4, 2016. After July 4, a 5% penalty is applied to unpaid rural property taxes, including any unclaimed home owner grant.

Home owner grant:

If you're a home owner, remember to apply for your home owner grant when you pay your property tax. This grant helps keep residential property taxes affordable for British Columbians by returning almost \$800 million to families every year. British Columbians who own homes valued up to \$1.2 million may be eligible to receive a full home owner grant this year. For properties assessed above this threshold, the grant is reduced by \$5 for every \$1,000 of assessed value in excess of the threshold. Read government [news release](#).

RCMP Contract Management Committee Update

On March 29, 2016, the Local Government Contract Management Committee (LGCMC) met with provincial and RCMP representatives to discuss issues related to the RCMP contract and policing in British Columbia. The following summary highlights key issues discussed at the meeting.

1) Working Group Discussion Items

RCMP Five-Year Review

Committee members discussed the issues brought forward by local governments as part of the Five-Year RCMP Contract Review. The Province has committed to ensuring all local government issues are addressed, even if they are not specific to the RCMP Contract. Provincial staff went through the review process thus far, including the list of issues (broken down into categories) that will be brought forward. It was noted that many of the issues brought forward by BC local governments pertained to the need for increased consultation with provincial and federal governments.

Read the [full article](#) published by UBCM.

Act or Regulation Affected	Effective Date	Amendment Information
Agricultural Land Commission Act	May 19/16	by 2016 Bill 25, c. 21, sections 1 and 2 only (in force by Royal Assent), Miscellaneous Statutes (General) Amendment Act, 2016
Assessment Act	May 19/16	by 2016 Bill 25, c. 21, section 4 only (in force by Royal Assent), Miscellaneous Statutes (General) Amendment Act, 2016
Authority Designation Regulation (102/2016)	May 3/16	by Reg 102/2016
Coastal Ferry Act	May 10/16	by 2015 Bill 5, c. 27, section 29 only (in force by Reg 109/2016), Information Management Act
Community Services Interim Authority Act	May 10/16	by 2015 Bill 5, c. 27, section 32 only (in force by Reg 109/2016), Information Management Act
Destination BC Corp. Act	May 10/16	by 2015 Bill 5, c. 27, sections 33 and 34 only (in force by Reg 109/2016), Information

		Management Act
Document Disposal Act	REPEALED May 10/16	by 2015 Bill 5, c. 27, section 26 only (in force by Reg 109/2016), Information Management Act
Heritage Conservation Act	May 10/16	by 2015 Bill 5, c. 27, section 44 only (in force by Reg 109/2016), Information Management Act
Information Management Act	NEW May 10/16	c. 27 [SBC 2015], Bill 5 , sections 1 to 8, 10 to 18, 19 (1) to (3), (4) (b), (c), 20 to 22, 24 and 25 only (in force by Reg 109/2016)
Information Management Regulation (109/2016)	NEW May 10/16	see Reg 109/2016
Local Elections Campaign Financing Act	May 10/16	by 2015 Bill 5, c. 27, section 46 only (in force by Reg 109/2016), Information Management Act
	May 19/16	by 2016 Bill 17, c. 9, sections 1 to 40 only (in force by Royal Assent), Local Elections Campaign Financing (Election Expenses) Amendment Act, 2016
Local Government Act	RETRO to Jan. 1/16	by 2016 Bill 25, c. 21, section 5 only (in force by Royal Assent), Miscellaneous Statutes (General) Amendment Act, 2016
	May 19/16	by 2016 Bill 17, c. 9, sections 41 to 44 only (in force by Royal Assent), Local Elections Campaign Financing (Election Expenses) Amendment Act, 2016
Safety Authority Act	May 10/16	by 2015 Bill 5, c. 27, section 54 only (in force by Reg 109/2016), Information Management Act
School Act	May 19/16	by 2016 Bill 17, c. 9, sections 45 to 47 only (in force by Royal Assent), Local Elections Campaign Financing (Election Expenses) Amendment Act, 2016
South Coast British Columbia Transportation Authority Act	May 10/16	by 2015 Bill 5, c. 27, section 55 only (in force by Reg 109/2016), Information Management Act
Taxation (Rural Area) Act Regulation (387/82)	May 3/16	by Reg 103/2016
Transportation Investment Act	May 10/16	by 2015 Bill 5, c. 27, section 56 only (in force by Reg 109/2016), Information Management Act

Vancouver Charter	May 19/16	by 2016 Bill 17, c. 9, sections 48 to 50 only (in force by Royal Assent), Local Elections Campaign Financing (Election Expenses) Amendment Act, 2016
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Miscellaneous News:

Trial Management Conferences

Amendments to Rule 12-2 of the [Supreme Court Civil Rules](#), Trial Management Conferences, come into effect on July 1, 2016. These amendments establish several new timelines. Failure to meet the timelines may result in trials being removed from the trial list. This [Notice](#) describes the new timelines and provides an example of how the timelines are calculated. Source: [Supreme Court of British Columbia](#)

Appeal Court Reverses Ruling Declaring Dangerous Offender Law Unconstitutional

The BC Court of Appeal has reversed a ruling that struck down as unconstitutional a provision of the dangerous offender law. The province's highest court has also upheld a decision by the judge in the case not to make an exception of a BC man, declaring him a dangerous offender and jailing him indefinitely. In June 2015, BC Supreme Court Justice Peter Voith found that the law, amended by the Conservative government in 2008, was unconstitutional because it was too broad and potentially captured offenders who were not dangerous. The judge suspended the declaration of invalidity of the law for a year to give Parliament a chance to redraft the legislation to make it constitutional. Read *The Vancouver Sun* [article](#).

Identity of Tax Clients Solicitor-Client Privileged: SCC

Lawyers and notaries scored a big victory for solicitor-client privilege today, as the Supreme Court of Canada ruled that legal professionals cannot be compelled by a provision in tax law to divulge their clients' identities or any other privileged information. The court's twin rulings, both unanimous, in [Canada v. Thompson](#) and [Canada v. Chambre des notaires](#), finds that facts about clients, including their identities, fall under solicitor-client privilege; that the clients of notaries are also afforded this privilege; and that the privilege can only be abrogated if no other way can be found to carry out the broader legislative purpose. Both cases centred on s. 232 of the [Income Tax Act](#), which specifically excludes a lawyer's accounting records from solicitor-client privilege. In the case of lawyer Duncan Thompson, the Canada Revenue Agency had sent an order for various documents, including his accounts receivable. Thompson complied with parts of the order but refused to divulge the identity of his clients, arguing that to do so would be to violate their privilege. Read the [full article](#) by [David Dias](#) and published on the *Canadian Lawyer Magazine* blog *Legal Feeds*.

Act or Regulation Affected	Effective Date	Amendment Information
Election Act	May 10/16	by 2015 Bill 5, c. 27, section 35 only (in force by Reg 109/2016), Information Management Act
Freedom of Information and Protection of Privacy Act	May 10/16	by 2015 Bill 5, c. 27, sections 38 to 43 only (in force by Reg 109/2016), Information Management Act
Knowledge Network Corporation Act	May 10/16	by 2015 Bill 5, c. 27, section 45 only (in force by Reg 109/2016), Information Management Act
Museum Act	May 10/16	by 2015 Bill 15, c. 27, sections 48 to 51 only (in force by Reg 109/2016), Information Management Act

Mutual Fire Insurance Companies Act	May 19/16	by 2016 Bill 25, c. 21, sections 17 to 19 only (in force by Royal Assent), Miscellaneous Statutes (General) Amendment Act, 2016
Profits of Criminal Notoriety Act	May 19/16	c. 24 [SBC 2016], Bill 24 , whole Act in force by Royal Assent
Recall and Initiative Act	May 10/16	by 2015 Bill 5, c. 27, section 53 only (in force by Reg 109/2016), Information Management Act

Motor Vehicle and Traffic News:

Starting on June 1, a First-time Distracted Driving Ticket in BC Will Cost You \$543.

On [May 30th], the B.C. Government announced these new penalties, which will be a \$368 dollar fine and four demerit points of \$175, meaning a total of \$543. If you collect more than three points on your driving record in 12 months, ICBC charges you a Driver Penalty Point (DPP) premium. A second distracted driving ticket within 12 months will pay \$368, totalling \$888 dollars. A third offence would cost a driver more than \$3,000. Read the [Global News article](#).

Legislation Calls for Tougher Party Bus Rules in BC *Provincial government says BC's party bus rules are enough as is*

A BC MLA has put forward a bill calling for stricter rules around the province's party bus industry. Drinking is illegal on party buses in BC, but NDP MLA George Heyman, who represents Vancouver-Fairview, says that doesn't go far enough. "BC has witnessed more party bus-related incidents and fatalities," Heyman said. "It's time to admit that relying on minimal regulation has failed repeatedly with tragic results." Heyman is calling for three main changes to the *Safeguarding Young Peoples' Future Act*, which was first tabled in 2014.

1. Banning advertising of drinking on party buses and fining companies that do so.
2. Requiring party bus companies to staff their vehicles with a chaperone so drivers aren't expected to monitor passengers as well as operate the vehicle.
3. Requiring drivers to take safety training.

Read the CBC [article](#).

Notice to Vehicle Services and Parts Providers Multijurisdictional Vehicles

This notice clarifies the information necessary to provide PST exemptions for services and parts for multijurisdictional vehicles (MJVs) and trailers used solely with MJVs.

PST Exemption:

If you provide services or parts for your customer's MJV or trailer used solely with a multijurisdictional vehicle (MJV), you must receive and record your customer's **prorate account number** on the bill, invoice or receipt to provide them with a PST exemption. The prorate account number can be found on the cab card issued to your customer. In BC, the cab card is issued by the Insurance Corporation of British Columbia (ICBC).

Read the Ministry of Finance notice [here](#).

BC Court of Appeal – ICBC Disability Benefits Can Be Revived Beyond 104 Week Mark

In late 2014 the BC Supreme Court ruled that ICBC wage loss benefits can be "revived" if a collision related injury which was initially disabling re-triggers disability beyond the 104 week mark. ICBC appealed but in reasons for judgement released [recently] the BC Court of Appeal upheld the trial court's reasoning. In [this] case ([Symons v. ICBC](#)) the Plaintiff was involved in a serious collision in 2008. She was rendered initially disabled and ICBC paid her TTD benefits until her "creditably stoic and determined" return to work later that

year. The Plaintiff's return was short lived as progressive symptoms eventually led to a series of surgeries and her symptoms continued to disable her at the time of trial. The Plaintiff applied for disability benefits under [s. 86](#) of the [Insurance \(Vehicle\) Regulation](#) but ICBC denied these arguing that unless TTD's were being actively paid at the 104 week mark (a period when this plaintiff was back at work) that the legislation does not allow the ongoing payment of disability benefits. At trial Mr. Justice Baird ordered ICBC to reinstate the benefits. ICBC appealed but the trial judgment was upheld. In finding ICBC wage loss benefits can be revived the BC Court of Appeal provided the following reasons: Read the [full article](#) by [Erik Magraken](#) and published on his blog *BC Injury Law*.

Act or Regulation Affected	Effective Date	Amendment Information
Motor Dealer Act	May 19/16	by 2016 Bill 9, c. 6, sections 2, 4, 6, 7, 9 to 13, 15 to 22, 25 to 28 and 30 only (in force by Royal Assent), Motor Dealer Amendment Act, 2016
Motor Fuel Tax Act	May 19/16	by 2016 Bill 14, c. 10, sections 51 to 59 only (in force by Royal Assent), Finance Statutes Amendment Act, 2016
Motor Vehicle Act	May 10/16	by 2015 Bill 5, c. 27, section 47 only (in force by Reg 109/2016), Information Management Act
Motor Vehicle Act Regulations (26/58)	June 1/16	by Reg 107/2016
Violation Ticket Administration and Fines Regulation (89/97)	May 16/16	by Reg 118/2016
	June 1/16	by Reg 108/2016

Property and Real Estate News:

New Restrictions on Assignments of Contracts of Purchase and Sale – *Real Estate Services Act* Amendments

The Province has announced new regulations pursuant to the [Real Estate Services Act](#) ("RESA") that impose new duties on licensed BC real estate agents effective May 16, 2016, that will restrict the assignment of contracts of purchase and sale of real estate. The Regulations are intended to cool the overheated real estate market and reduce the number of contracts being assigned or flipped. The Regulations require that real estate agents include a term in any contract of purchase and sale, unless otherwise instructed by their client, that provides that:

- a. the contract of purchase and sale may not be assigned without the written consent of the vendor; and
- b. that the vendor is entitled to any profit resulting from an assignment of the contract by the purchaser or any subsequent assignee (the "Assignment Restriction").

If a contract is presented that does not contain the Assignment Restriction, the purchaser's real estate agent must provide a written notice (the "Notice") advising the vendor that the contract does not contain the Assignment Restriction. The form of the Notice must be approved by the Real Estate Council of BC. The Real Estate Council of BC has prepared a form of Notice and it will be providing the Notice to real estate agents over the next few days. Read the [article](#) by [Edward Wilson](#) of Lawson Lundell LLP.

Disclosure Obligations in Residential Real Estate Transactions

The residential real estate market in the Lower Mainland is incredibly active. Prices continue to rise by significant amounts in a matter of weeks, sometimes days. Stories abound of bidding wars and sales without

subject clauses. Out of anxiety or excitement, purchasers sometimes forgo viewing the property or having an inspection done. What happens when the home you bought turns out to be not quite what you expected? Perhaps the roof leaks or there is a rodent infestation. Maybe the plumbing is faulty or the construction defective. What recourse does a purchaser have against the vendor? The critical question is what disclosure obligations the vendor has when selling their property. As is often the case in legal matters, there are competing principles at play in determining who bears the loss for such defects. Read the [full article](#) by [Peter Roberts](#) of Lawson Lundell LLP.

**Penalty/Relief – Two Sides of the Same Mortgage Interest Coin
When it Comes to Offending S. 8 of the *Interest Act*?**

The Supreme Court of Canada issued its reasons today in [Krayzel Corp. v. Equitable Trust Co.](#), 2016 SCC 18, adding some clarification to a mortgage lender's right to protect itself from the increased commercial risk associated with a defaulting mortgagor through the use of interest rates, given s. 8 of the *Interest Act* which reads as follows:

No fine, etc., allowed on payments in arrears

8 (1) No fine, penalty or rate of interest shall be stipulated for, taken, reserved or exacted on any arrears of principal or interest secured by mortgage on real property or hypothec on immovables that has the effect of increasing the charge on the arrears beyond the rate of interest payable on principal money not in arrears. At issue before the Supreme Court of Canada was the various terms of renewal of a mortgage granted in favour of Equitable Trust.

Read the [full article](#) by [Kimberley Robertson](#) and [Brenda Lightbody](#) of Lawson Lundell LLP.

**Civil Resolution Tribunal Planning Early
Intake for Strata-Property Disputes**

BCLI is engaged in a [project to reform aspects of strata-property law](#). But it isn't the only organization in British Columbia that is working on reforms in this area. Another significant initiative involves the resolution of strata-property disputes. On this front, the planned [Civil Resolution Tribunal](#) is taking steps toward launching its online dispute-resolution service. The tribunal has just [announced](#) that it is gearing up for early intake of strata-property disputes, starting in summer 2016. As the tribunal's announcement explains:

This means you'll be able to start a strata claim using our internet-based early intake process. We'll use this time to test and improve our online intake processes for strata. We'll hold on to these applications and then move them into facilitation as soon as we're ready. After that, they can be resolved by a decision and an enforceable order if they need it.

Read the [full article](#) published BC Law Institute.

Act or Regulation Affected	Effective Date	Amendment Information
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No amendments this month.

Wills and Estates News:

What Happens to Funds Inherited by a Spouse on the Breakdown of the Marriage?

Some of my estate-planning clients have asked me what would happen to the money they intend to leave to their children if one of their children's marriages breaks down. In some cases, there may be concern that a marriage breakdown is imminent, while in others it's a more general, "what if?" question. When family law was reformed a few years ago in British Columbia, I thought that my answers would be a little more straightforward than they had been in the past. The [Family Law Act](#), which came into effect in March 2013, overhauled the law governing divisions of property in a marriage breakdown. The basic rule is that family property and family debt is shared equally. The parties may agree on a different division, or if an equal division would be "significantly unfair" the court may order a different division, but the basic rule is a 50/50 split. One key aspect of the new property-division regime is that some property is excluded from the divisible family property. The "excluded property" includes inheritances or gifts received by one of the spouses. At first glance, the answer to the

question what happens to my child's inheritance if her marriage breaks down appears simple: "don't worry; it is excluded from the property that she would have to divide equally with her former spouse." Read the [full article](#) by [Stan Rule](#), of Sabey Rule LLP.

Contested Committeeship: 11 Considerations Applied by the BC Supreme Court

When an individual has not planned for mental incapacity by preparing an enduring power of attorney instrument, representation agreement and/or advance directive, a committee application is typically required. A committee is a person or institution appointed by the court to make personal, medical, legal and/or financial decisions for an adult person who is mentally incapable and cannot make those decisions. There are two types of committees: (1) a **committee of the estate** is able to make financial and legal decisions on behalf of the person, and (2) a **committee of the person** is able to make personal and medical decisions for the person. The [Patients Property Act](#), RSBC 1996, c 439, is the governing statute for committeeships. It provides that, on evidence from two medical practitioners that a person is incapable of managing his or her affairs or person, the court has the power to declare that person incapable and appoint a committee to act on his or her behalf. Read the [full article](#) by [Aubrie Girou](#) with Alexander Holburn Beaudin + Lang LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Wills, Estates and Succession Act	May 4/16	by by 2014 Bill 9, c. 17, section 28 only (in force by Reg 101/2016), Pooled Registered Pension Plans Act

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