



iCompass Reporter

Vol: XV – Issue: XII – December 2016

NEWS:

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COMPANY & FINANCE	LOCAL GOVERNMENT
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Company and Finance News:

Bitcoin Hits All-time High as Currency Controls by Countries Drive Fear and Investors Increase Adoption

Bitcoin hit an all-time high Wednesday [January 4th], according to Bloomberg data, thanks to continued adoption in China and other parts of the world where traditional currencies are tightly controlled. The digital currency, which just turned eight years old, reached US\$1,140.64, which was higher than the US\$1,137 it hit in November of 2013. In December, bitcoin also surpassed its previous all-time high in total market capitalization, which now exceeds US\$16.1 billion. The latest increase was driven by capital or currency restrictions in countries ranging from China to India and Venezuela, where people purchased bitcoin to protect their savings, as well as increased adoption by investors. The digital currency beat every other currency, stock index and commodity contract as an investment last year. Read the [article](#) published in the *Financial Post*.

New, Lower Maximum Charges for Payday Loans Now in Effect

New, lower charges for high-cost, short-term cash loans – payday loans – came into effect Jan. 1, 2017. The maximum allowable charge - including all fees - for a payday loan in British Columbia is \$17 for every \$100 borrowed, making it the second-lowest rate in Canada. Lowering the total allowable charge to \$17 from \$23 builds on regulations the Province implemented in 2009. Before then, borrowers paid whatever the lender charged – as much as \$30 per \$100 borrowed, and had limited protections and recourse against harmful lending practices. Read the government [news release](#).

FICOM News

The Financial Institutions Commission of BC published the following announcements and bulletins in December:

- **Consent Order**
Mortgage Brokers Act
[more...](#)

- **Credit Unions**

Letter: 2016 Updates to the Capital Adequacy Return & Completion Guide for BC Credit Unions [more...](#)

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

BC Securities – Policies & Instruments

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

- [96-504](#) – Notice of adoption of BC Instrument 96-504
BC Instrument 96-504 – Exemption from derivatives reporting requirements in Multilateral Instrument 96-101 – *Trade Repositories and Derivatives Data Reporting* for certain financially settled electricity-based derivatives
- [11-333](#) – CSA Staff Notice 11-333 *Withdrawal of Notices*
- [13-315](#) – CSA Staff Notice 13-315 (Revised)– Securities Regulatory Authority Closed Dates 2017
- [81-102](#) – CSA Mutual Fund Risk Classification Methodology for Use in Fund Facts and ETF Facts – CSA Notice of Amendments to National Instrument 81-102 *Investment Funds* and Related Consequential Amendments
- [41-101](#) – Mandating a Summary Disclosure Document for Exchange-Traded Mutual Funds and its Delivery – CSA Notice of Amendments to National Instrument 41-101 *General Prospectus Requirements* and to Companion Policy 41-101CP to National Instrument 41-101 *General Prospectus Requirements* and Related Consequential Amendments
- [21-319](#) – CSA Staff Notice 21-319 – Data Fees Methodology
- [33-318](#) – CSA Staff Notice 33-318 *Review of Practices Firms Use to Compensate and Provide Incentives to their Representatives*

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

Act or Regulation Affected	Effective Date	Amendment Information
Agri-Food Choice and Quality Act	REPEALED Jan. 1/17	by 2016 Bill 11, c. 1, section 54 (b) only (in force by Reg 304/2016), Food and Agricultural Products Classification Act
Agricultural Produce Grading Act	REPEALED Jan. 1/17	by 2016 Bill 11, c. 1, section 54 (a) only (in force by Reg 304/2016), Food and Agricultural Products Classification Act
Beef Grading Regulation (98/78)	Jan. 1/17	by Reg 306/2016
Bonding Regulations (11/68)	Jan. 1/17	by Reg 99/2015
Business Practices and Consumer Protection Act	Jan. 1/17	by 2015 Bill 21, c. 14, section 69 only (in force by Reg 261/2016), Fish and Seafood Act
Designated Accommodation Area Tax Regulation (93/2013)	Jan. 1/17	by Regs 275/2016 and 220/2016
Egg Grading and Standards Regulation (306/2016)	NEW Jan. 1/17	see Reg 306/2016
Egg Product Regulation (99/78)	REPEALED Jan. 1/17	by Reg 306/2016

Enforcement Regulation (305/2016)	NEW Jan. 1/17	see Reg 305/2016
Food and Agricultural Products Classification Act	NEW Jan. 1/17	c. 1 [2016], Bill 11 , whole Act in force by Reg 304/2016
Fruit and Vegetable Regulation (100/78)	REPEALED Jan. 1/17	by Reg 306/2016
Hatchery Regulation (101/78)	REPEALED Jan. 1/17	by Reg 303/2016
Hog Grading Regulation (102/78)	REPEALED Jan. 1/17	by Reg 306/2016
Honey Regulation (103/78)	REPEALED Jan. 1/17	by Reg 306/2016
Income Tax Act	Jan. 1/17	by 2016 Bill 10, c. 3, section 34 only (in force by Royal Assent), Budget Measures Implementation Act, 2016
Live, Dressed and Eviscerated Poultry Regulation (104/78)	REPEALED Jan. 1/17	by Reg 303/2016
Natural Gas Tax Credit Regulation (100/2015)	NEW Jan. 1/17	see Reg 100/2015
Organic Agricultural Products Certification Regulation (200/93)	REPEALED Jan. 1/17	by Reg 304/2016
Organic Certification Regulation (304/2016)	NEW Jan. 1/17	see Reg 304/2016
Payday Loans Regulation (57/2009)	Jan. 1/17	by Reg 231/2016
Pension Benefits Standards Regulation (71/2015)	Dec. 7/16	by Reg 297/2016
	Dec. 31/16	
Shell Egg Grading Regulation (105/78)	REPEALED Jan. 1/17	by Reg 306/2016
Veal Grading Regulation (323/84)	REPEALED Jan. 1/17	by Reg 306/2016
Wines of Marked Quality Regulation (79/2005)	Jan. 1/17	by Reg 307 /2016

Energy and Mines News:

BC's LNG Minister Predicts Northern Coast LNG Decision by Mid-2017

British Columbia's minister of natural gas development is offering an optimistic prediction about the future of the proposed \$36-billion Pacific NorthWest LNG project on BC's northern coast. Rich Coleman says a decision on the development near Prince Rupert could come within the first six months of 2017. Coleman says he is very familiar with the development's design and tendering process and he anticipates several more meetings by mid-January with officials from Petronas, the project's majority owner. Low commodity prices have delayed an investment decision and Petronas said in October that it was reviewing the development and its conditions before moving forward. Read [The Vancouver Sun article](#).

Second Coal Mine to Reopen in Northeastern BC, Raising Hopes in Tumbler Ridge

A mining company in northeastern British Columbia has started hiring as it prepares to reopen the Wolverine Mine on Monday [January 1st]. Conuma Coal Resources Ltd. says the reopening of the mine 15 kilometres west of Tumbler Ridge is expected to create 220 jobs. That's in addition to 170 jobs that were created when Conuma Coal restarted the nearby Brule Mine in September, just months after purchasing both properties and a third coal mine in northwestern BC from Walter Canada. The Ministry of Energy and Mines says Conuma expects to have the Wolverine Mine operating at full production levels by April, exporting 1.5 million tonnes of metallurgical coal annually. Read [The Vancouver Sun article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Liquefied Natural Gas Income Tax Regulation (101/2015)	NEW Jan. 1/17	see Reg 101/2015

Family and Children News:

Obtaining Evidence in High Conflict Parenting Disputes, Part 3: Views of the Child Reports and Parenting Assessments

In [Part 1](#) of this series, [Sarah Dargatz](#) wrote about the use of children's lawyers in high conflict family law disputes in Alberta. Sarah said that hiring a lawyer to represent a child can be an effective way to get information about the child's views and preferences when the parents cannot agree. In [Part 2](#), Sarah described two special processes that are sometimes used in high conflict cases in Alberta: interventions under [Practice Note 7](#) that are designed to get information about a child or a parent to the court, or to help the parents work together more effectively; and, assessments under [Practice Note 8](#) about the parenting arrangements that are best for a child. Sarah pointed out that, although these processes are often very useful, neither interventions nor assessments are free and both can take many months to complete. In this part of the series, I will talk about how views of the child reports and parenting assessments are used in other parts of Canada. Read the [full article](#) by [John-Paul Boyd](#), published on *Law Now*.

Rights of the Child: Have We Really Come Such a Long Way?

Twenty-five years after ratifying the *United Nations Convention on the Rights of the Child* (CRC) Canada ranks [17th out of 29 affluent nations for children's overall wellbeing](#). Canada drops to 26th for inequality between the most affluent and least affluent children. Children of all backgrounds are affected by our poor performance, but high risk and marginalized youth are particularly vulnerable. So, what can lawyers do to improve the state of Canadian children? Since Canada ratified the CRC on December 13, 1991, it has become the most universally accepted human rights instrument with all but one country in the world having ratified it. The CRC contains a bundle of civil, political, economic, social and cultural rights to support children's optimal development and wellbeing. While the CRC is

not directly incorporated into domestic law through enabling legislation, it is referenced in Canadian law in limited instances, for example, the preamble to the [Youth Criminal Justice Act](#), and has been cited in [Supreme Court of Canada decisions](#). Read the full [CBA National article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Interjurisdictional Support Orders Regulation (15/2003)	Dec. 7/16	by Reg 290/2016

Forest and Environment News:

New Regulations Enact Historic Great Bear Rainforest Legislation

The *Great Bear Rainforest (Forest Management) Act* is set to take effect Jan. 1, 2017, following the enactment of regulations that bring the act into force and fulfill government's commitment to ecosystem-based management in the Great Bear Rainforest. The regulations:

- bring into force the *Great Bear Rainforest (Forest Management) Act* effective Jan. 1, 2017;
- create eight new special forest management areas totalling 263,612 hectares;
- replace and reconfigure timber supply areas to align with the Great Bear Rainforest's geographic boundaries;
- set the allowable annual cut for the entire Great Bear Rainforest to 2.5 million cubic metres per year for the next 10 years; and
- provide the new allowable annual cut for each of the forest licences affected by the legislation.

The Great Bear Rainforest Land Use Order was finalized in February 2016, and the *Great Bear Rainforest (Forest Management) Act* received Royal Assent in May 2016. The regulations announced today bring the act into effect and meet government's commitment to full implementation of ecosystem-based management in the area. Read government [news release](#).

China's Proposed National Carbon Market and Opportunities for Cooperation with Canada

While there is some uncertainty on how the U.S. climate strategy will evolve under a Trump presidency, a number of new carbon emissions regulations and control strategies continue to be developed throughout the world, notably in China and Canada. Both China and Canada ratified the Paris Agreement in September and October 2016 respectively, and it was entered into force on November 4, 2016. As one of its key greenhouse gas (GHG) emissions control initiatives, in 2017, China plans to establish a national carbon market (Chinese Carbon Market), according to China's President Xi Jinping. Once in place, the Chinese Carbon Market will be the largest carbon cap-and-trade scheme in the world, essentially involving all of China's local provincial governments (Local Governments) with oversight and guidance from the Central Government of China (Central Government). Read the [full article](#) by [Roger Song](#) and [Ky Kvisle](#) of Blake, Cassels & Graydon LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Aquaculture Regulation (78/2002)	REPEALED Jan. 1/17	by Reg 261/2016
British Columbia Housing Management Commission Regulation (490/79)	Dec. 19/16	by Reg 323/2016

Enforcement Regulation (262/2016)	NEW Jan. 1/17	see Reg 262/2016
Farm Practices Protection (Right to Farm) Act	Jan. 1/17	by 2015 Bill 21, c. 14, sections 70 to 72 only (in force by Reg 261/2016), Fish and Seafood Act
Fish and Seafood Act	NEW Jan. 1/17	c. 14 [SBC 2015], Bill 21 , whole Act in force by Reg 261/2016 , as amended by by 2016 Bill 11, c. 1, sections 57 and 58 only (in force by Reg 304/2016), Food and Agricultural Products Classification Act
Fish and Seafood Licensing Regulation (261/2016)	NEW Jan. 1/17	see Reg 261/2016
Fish Inspection Act	REPEALED Jan. 1/17	by 2015 Bill 21, c. 14, section 67 (a) only (in force by Reg 261/2016), Fish and Seafood Act
Fish Inspection Regulation (12/78)	REPEALED Jan. 1/17	by Reg 261/2016
Fisheries Act	Jan. 1/17	by 2015 Bill 21, c. 14, section 67 (b) only (in force by Reg 261/2016), Fish and Seafood Act
Fisheries Act Regulation (140/76)	REPEALED Jan. 1/17	by Reg 261/2016
Forestry Service Providers Compensation Fund Regulation (64/2012)	Dec. 7/16	by Reg 286/2016
Great Bear Rainforest (Forest Management) Act	NEW Dec. 31/16	c. 16 [SBC 2016], Bill 2 , sections 1 to 6 and 49 to 71 only (in force by Reg 324/2016)
	Jan. 1/17	2016 Bill 2, c. 16, sections 7 and 8 to 36 only (in force by Reg 326/2016) and sections 37 to 48 only (in force by Reg 328/2016), Great Bear Rainforest (Forest Management) Act
Great Bear Rainforest (Forest Management) Regulation (327/2016)	NEW Jan. 1/17	see Reg 327/2016
Interest Rate Under Various Statutes Regulation (386/92)	Jan. 1/17	by Reg 101/2015
Ministry of Lands, Parks and Housig Act	Dec. 19/16	by 2016 Bill 25, c. 21, section 20 and 21 only (in force by Reg 323/2016), Miscellaneous Statutes (General) Amendment Act, 2016
Motor Vehicle Prohibition Regulation (196/99)	Dec. 16/16	by Reg 313/2016

Recycling Regulation (449/2004)	Dec. 7/16	by Reg 284/2016
Renewable and Low Carbon Fuel Requirements Regulation (394/2008)	Dec. 8/16	by Reg 287/2016
	Jan. 1/17	
Sole Proponent Fees Regulation (224/2013)	Dec. 7/16	by Reg 292/2016
Specialty Farm Operations Regulation (53/99)	Jan. 1/17	by Reg 269/2016
Water Sustainability Regulation (36/2016)	Dec. 7/16	by Reg 301/2016
Health News:		
<p>Suing Your Doctor: Contentious Malpractice System in for Shakeup as Judge's Review Nears End</p> <p>It's the only way for patients to seek justice when they've been harmed by health-care error, but Canada's medical-malpractice system is itself rife with controversy. Patients complain of a scorched-earth defence approach by doctors, the number of lawsuits filed has been shrinking and the costs for governments that subsidize physicians' liability coverage have been rising sharply. A respected former judge, however, is about to shake up the system, putting the final touches on a largely unheralded, government-commissioned report with the potential to transform what happens when doctors get sued. While Stephen Goudge's closed-door review was requested by Eric Hoskins, the Ontario health minister, his recommendations to overhaul the contentious system could reverberate across the country. Goudge is best known for his inquiry into wrongdoing by forensic pathologist Dr. Charles Smith, which led to extensive changes in how Ontario investigates child deaths. Lawyers who represent patients in lawsuits against physicians say they hope he has a similar impact on their field. "In my mind, relatively simple changes could be transformative for our medical system," said Paul Harte, a Toronto malpractice lawyer. Read The Vancouver Sun article.</p>		
<p>BC Could become National Leader in Asbestos Control</p> <p>The deaths of BC workers have long prompted calls for a ban on asbestos and better regulation of its handling in the workplace. Those calls are finally being answered. On Dec. 15, Prime Minister Justin Trudeau's government announced a full asbestos ban and a creation of new rules and regulations under the <i>Canadian Environmental Protections Act</i> (CEPA) that they hope will be enacted by 2018. Among a variety of measures, the federal government hopes to change national building codes to keep asbestos from being used in any new construction or renovation projects, as well as banning the import of asbestos-containing products such as brake pads. "We are taking action that is long overdue, and we are doing it in the best possible way," Health Minister Jane Philpott said. "Our government is taking action to protect Canadians from substances such as asbestos that can be harmful to their health and safety." There has also been a strong push in BC to create a licensing and certification system for asbestos removal contractors and workers in order to reduce the amount of people who are exposed to asbestos, a deadly substance that kills over 2,000 people in Canada each year. Read The Vancouver Sun article.</p>		
Act or Regulation Affected	Effective Date	Amendment Information
Animal Health Act	Jan. 1/17	by 2016 Bill 11, c. 1, sections 55 and 56 only (in force by Reg 304/2016), Food and Agricultural

		Products Classification Act
Drug Schedules Regulation (9/98)	Dec. 5/16	by Reg 279/2016
Food Products Standards Act	REPEALED Jan. 1/17	by 2016 Bill 11, c. 1, section 54 (c) only (in force by Reg 304/2016), Food and Agricultural Products Classification Act
Food Safety Act	Jan. 1/17	by 2015 Bill 21, c. 14, sections 67 (c) and 73 only (in force by Reg 261/2016), Fish and Seafood Act
Livestock Licensing Regulation (6/2015)	Dec. 8/16	by Reg 303/2016
Medical and Health Care Services Regulation (426/97)	Jan. 1/17	by Reg 223/2016
Poultry Health and Buying Regulation (303/2016)	NEW Jan. 1/17	see Reg 303/2016
Veterinary Drug and Medicated Feed Regulation (47/82)	Jan. 1/17	by Reg 303/2016

Labour and Employment News:

Cumulative Cause.1

The workplace is a challenging setting to manage. One must be proficient at dealing with a range of people with all kinds of personalities, backgrounds and styles. The manager in small enterprises often also serves as the Human Resources and Legal Departments. One is expected to know employment and labour law and manage people in precise measure according to the law. Review of those management decisions may come in the form of a lawsuit years later where all the splendid details are intricately laid out with adversarial obsession before the whole world. Invariably, the small business manager will not have all the facts, perspectives and arguments – not to mention the legal principles, precedents and distinctions – that will be placed before the judge, who is also a latecomer and stranger to the scene that must be managed today. The well laid out ordering, after the fact, of what decisions should have been made are neither easy to predict nor do they readily reflect all workplace realities. A recent case from British Columbia considered whether the senior communications manager for a sporting organization went too far in muddling her professional and personal commentary on social media. Read the [full article](#) by [Peter Bowal](#), published on *Law Now*.

Rise in First-responder Suicides Leads to Calls for Better WorkSafe BC Coverage

On Christmas Eve, Lisa Jennings received word of another suicide. She waited until Boxing Day to update the grim tally she keeps on a website devoted to first responders struggling with post-traumatic stress disorder. Then, with a quick keystroke, 18 suicides in 2016 became 19. Jennings, a former paramedic, began tracking suicides by BC first responders last year after a fire chief called to tell her about one at his hall. Before that, the Victoria woman maintained her website, You Are Not Alone PTSD BC, to provide support and resources to first responders, as well as to draw attention to what she sees as inadequate workers' compensation laws that make it tough to get help. BC's suicide rate among first responders, which rose from 14 last year, is higher than any other province, according to the Tema Conter Memorial Trust. It strengthened Jennings' belief that it should be easier for such staff to make a mental illness claim with [WorkSafeBC](#). Jennings has been fighting to have her

own PTSD recognized as work related since 2014. The decision on her final appeal is due Jan. 17. Read *The Province* [article](#).

BC Human Rights Tribunal Rejects Complaint by Gay Lawyer

A British Columbia Human Rights Tribunal has dismissed a complaint filed by a Vancouver lawyer who alleges his former employer asked him not to bring his male partner to a firm social event, and that he remove references in his online firm bio to involvement in the Canadian Bar Association's Sexual Orientation and Gender Identity group. On July 6, 2016, Brian Yuen filed a complaint against Direction Legal LLP and one of its partners, Bonnie O.Y. Teng, alleging discrimination in employment on the basis of sexual orientation, marital status and race, contrary to [s. 13](#) of the *Human Rights Code*. The allegations were related to events Yuen said occurred in July 2014. The tribunal indicated to both Yuen and Direction Legal that the complaint was filed outside the six-month time limit in BC and requested submissions on its timeliness. The Code provides that a complaint must be filed within six months of the alleged contravention. Read the [full article](#) published [Jennifer Brown](#) and published on *Legal Feeds*.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Dec. 7/16	by Reg 283/2016
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Dec. 7/16	by Reg 283/2016
Personal Information Protection Act Regulation (473/2003)	Dec. 7/16	by Reg 298/2016
University Act	Dec. 19/16	by 2015 Bill 41, c. 42, sections 6 to 9 only (in force by Reg 321/2016), Miscellaneous Statutes Amendment Act (No. 3), 2015
University Student Society Fees Regulation (321/2016)	NEW Dec. 19/16	see Reg 321/2016

Local Government News:

Animal Law Lawyers say Dangerous Dog Legislation Should Address Responsible Ownership

Despite an injunction to stop Montreal's controversial pit bull ban being dismissed, opponents to breed-specific legislation aren't giving up the fight. Rebeka Breder, animal law lawyer at Breder Law Co. in Vancouver, says the [bylaw](#) — parts of which came into effect on Oct. 3 — is problematic on many fronts and she is hopeful the final decision in the broader legal challenge by the Montreal SPCA is "a more balanced approach that will consider the true facts, true science and the research that's been presented so far," she says. Camille Labchuk, animal rights lawyer and executive director of Animal Justice in Toronto, says the reality of the latest decision means pit bulls — and really all dogs in Montreal — are at risk from this "vague, discriminatory and ineffective bylaw." "What we know about keeping the public safe is strongly related to education and dog licensing," she says. "This is a draconian measure that's not going to work and is going to be expensive." Read the [full article](#) by [Mallory Hendry](#) and published on *Legal Feeds*.

Marijuana Legalization Could Mean Closure for

Many BC Pot Shops, Province Says *Minister says pot shops will have to meet the province's distribution requirements*

With marijuana legalization about to become a reality across Canada, the provincial government says it is not sure what taxes and distribution will look like in BC but warns many of the current pot shops in the province may not meet their requirements. A federal task force appointed by the federal government to study how marijuana could be legalized and regulated in Canada released a report [December 13] with more than 80 recommendations. Read the [CBC article](#).

RCMP Contract Management Committee Update

On November 3, 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 Auxiliary Constable Program Options

In October 2016, the Province informed UBCM that National Crime Prevention Services had prepared an options paper for consideration by provincial and territorial partners (PTs), among others. This paper was a result of a national working group, which developed recommendations that informed a subsequent consultation process, leading to three options for consideration by relevant stakeholders. Options included: 1) maintaining the status quo, without the participation of Auxiliary Constables in general duty patrols or the provision of firearms familiarization; 2) implementing a Community Corps type program, where Auxiliary Constables would only participate in community policing services; and, 3) providing a three-tier program where ACs would conduct different levels of policing determined by their level of training and experience. UBCM conducted a survey of its membership, with 90% of respondents [favouring option 3](#) (three-tiered program).

Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Canadian Pacific Railway (Stone and Timber) Settlement Act	Dec. 22/16	section 11 repealed by section 11 (3)
Electrical Power Corporations Valuation Regulation (217/86)	Dec. 19/16	by Reg 314/2016
Eligible Port Property Designation Regulation (309/2010)	Dec. 5/16	by Reg 281/2016
Farm Practices Protection (Right to Farm) Act	Jan. 1/17	by 2015 Bill 21, c. 14, sections 70 to 72 only (in force by Reg 261/2016), Fish and Seafood Act
Federal Port Development Act	Dec. 7/16	c. 3 [SBC 2015], Bill 12 , whole Act in force by Reg 285/2016
Francophone Education Authorities Regulation (212/99)	Dec. 8/16	by Reg 310/2016
Interest on Prepaid Tax Regulation (394/89)	REPEALED Jan. 1/17	by Reg 199/2016
Local Elections Campaign Financing Prior to 2018 General		

Local Election Regulation (106/2014) <i>(formerly titled Local Elections Campaign Financing Regulation)</i>	Dec. 8/16	by Reg 309/2016
Local Elections Campaign Financing Expense Limit Regulation (106/2014)	Dec. 8/16	by Reg 309/2016
Local Government Act	Jan. 1/17	by 2015 Bill 21, c. 14, section 74 only (in force by Reg 261/2016), Fish and Seafood Act
Managed Forest Land and Cut Timber Values Regulation (90/2000)	Dec. 19/16	by Reg 318/2016
Organized Crime Agency of BC Complaints and Operations Regulation (229/2002)	Dec. 7/16	by Reg 299/2016
Port Land Valuation Regulation (304/2010)	Dec. 5/16	by Reg 280/2016
Prepayment of Taxes Regulation (199/2016)	NEW Jan. 1/17	see Reg 199/2016
Railway and Pipeline Corporations Valuation Regulation (203/86)	Dec. 19/16	by Reg 316/2016
Railway, Pipeline, Electric Power and Telecommunications Corporation Rights of Way Valuation Regulation (218/86)	Dec. 19/16	by Reg 317/2016
School Act	Dec. /16	by 2016 Bill 5, c. 4, sections 2 to 4 only (in force by Reg 310/2016), Miscellaneous Statutes (Signed Statements) Amendment Act
Specialty Farm Operations Regulation (53/99)	Jan. 1/17	by Reg 269/2016
Subdividable Property Designation (Loggers Lane) Regulation (277/2016)	NEW Dec. 2/16	see Reg 277/2016
Telecommunications Corporations Valuation Regulation (226/86)	Dec. 19/16	by Reg 315/2016
Miscellaneous News:		
Video Surveillance and Individual Privacy Rights: BC Privacy Commissioner		

Issues First Ever Audit and Compliance Report

On December 8, 2016, the Office of the Information and Privacy Commissioner for British Columbia (the "OIPC") issued its first ever Audit and Compliance Report following an audit of a private sector business. In Audit and Compliance Report P16-01–*Over-collected and Overexposed: Surveillance and Privacy Compliance in a Medical Clinic* (the "Report"), the Commissioner determined that a medical clinic's use of video and audio surveillance was unauthorized and excessive. Concurrent with its release of the Report, the OIPC issued guidelines for implementing overt video surveillance (the "Guidelines"). Taken together, the Report and the Guidelines indicate that the OIPC takes a restrictive approach to video surveillance. Read the [full article](#) by [David Gibbons](#) and [Nicole Skuggedal](#) of Lawson Lundell LLP.

H&C Update Following the SCC Kanthasamy Decision

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

In this paper from *Immigration Issues in Depth 2016*, Judith Boer provides an overview of the influence of the Supreme Court of Canada's decision of [Kanthasamy v. Canada](#) on humanitarian and compassionate applications for permanent residence. Click [here](#) to view a pdf version of the paper.

Regulations Support Student Societies in British Columbia

New regulations, [University Student Society Fees Regulation](#), B.C. Reg. 321/2016 and [College and Institute Student Society Fees Regulation](#), B.C. Reg. 320/2016, ensure that student society fees can continue to be collected from all students at public post-secondary institutions, including those who resign their membership in a student society. The regulations are in response to the explicit authority to resign membership in a society under the new [Societies Act](#). The regulations bring into force amendments to the [University Act](#) and the [College and Institute Act](#) allowing for the collection of fees from students who resign their membership, and define the types of fees that will be collected. Read government [news release](#).

BCCA Affirms Solicitor-Client Privilege as "Nearly Absolute"

In the recent decision in [Soprema Inc. v. Wolrige Mahon LLP](#), 2016 BCCA 471, the British Columbia Court of Appeal confirmed the status of solicitor-client privilege as "nearly absolute" and clarified the test for determining whether a party has impliedly waived of solicitor-client privilege by making its state of mind a material issue in an action. Soprema commenced an action against Wolrige Mahon LLP ("Wolrige") claiming that Wolrige had made false representations about the accuracy of financial statements Soprema had relied on in deciding whether to exercise an option to purchase shares. Wolrige brought an interlocutory application seeking production of some of Soprema's privileged documents, claiming Soprema had waived privilege over these by putting its state of mind at issue in the action. The chambers judge found that a waiver of privilege will be implied where a party has put its state of mind in issue in a manner that makes the privileged communications highly relevant to that state of mind, and where fairness and consistency require disclosure. He concluded that Soprema's pleadings put its state of mind in issue because to succeed in its negligent representation claim it must have relied reasonably on the alleged misrepresentations and therefore Soprema's understanding of its legal position was relevant to the issue of whether its reliance was reasonable. Read the [full article](#) by [Amy Nathanson](#) of Lawson Lundell LLP.

Acting on the Indian Act

If the government enacts Bill S-3 – or some version of it – on or before the Feb. 3, 2017 deadline set by the Quebec Superior Court, as many as 28,000 to 35,000 people could become eligible to be registered as Status Indians under it. And the proposed legislation's lack of provision for that eventuality is just one of the concerns the CBA's Aboriginal Law Section talked about in its [submission](#) when it appeared before the Senate Committee on Aboriginal Peoples on Nov. 29 and before the House Committee on Indigenous and Northern Affairs on Dec. 5. The submission traces the long history of steps toward Bill S-3, including the 1985 [Indian Act](#) amendments that fell short of their intention to eliminate discrimination against women in the Indian Status registration system, as it retained a gender-based inequity in generations to come. Descendants of Status women married to non-Status men lost their status after the second generation, while descendants of Status men married to non-Status women retained status to the third generation. The 2009 British Columbia Court of Appeal decision in [McIvor v Canada \(Registrar, Indian and Northern Affairs\)](#) said certain sections of the [Indian Act](#) violated the [Charter](#). Read the CBA [National article](#).

Act or Regulation Affected	Effective	Amendment Information
December 2016	12	

	Date	
Canadian Pacific Railway (Stone and Timber) Settlement Act	Dec. 22/16	section 11 (3) repeals section 11 of the Act
College and Institute Student Society Fees Regulation (320/2016)	NEW Dec. 19/16	see Reg 302/2016
College and Institute Act	Dec. 19/16	by 2015 Bill 41, c. 42, sections 1 and 3 to 5 only (in force by Reg 320/2016), Miscellaneous Statutes Amendment Act (No. 3), 2015
Motion Picture Act	Jan. 1/17	by 2015 Bill 33, c. 32, sections 15 (a) and 18 only (in force by Reg 293/2016), Motion Picture Amendment Act, 2015
Motion Picture Act Regulations (260/86)	Jan. 1/17	by Reg 293/2016
Organized Crime Agency of British Columbia Complaints and Operations Regulation (229/2002)	Dec. /16	by Reg /2016
South Coast British Columbia Transportation Authority Police Service Complaints and Operations Regulation (484/2004) <i>(formerly titled South Coast British Columbia Transportation Authority Police Service Operations Regulation)</i>	Dec. 7/16	by Reg 299/2016
Stl'atl'imx Tribal Police Service Complaints and Operations Regulation (385/99) <i>(formerly titled Stl'atl'imx Tribal Police Service Operations Regulation)</i>	Dec. 7/16	by Reg 299/2016

Motor Vehicle and Traffic News:

Three BC Cities Make Top 10 Drunk Driving List

Recently-released statistics show BC cities have some of the highest rates of police-reported impaired driving incidents in Canada. But the data can be interpreted in different ways: Do these cities really have higher rates of drunk driving, or just really good enforcement? Statistics Canada ranked 33 census metropolitan areas across Canada and found St. John's, Newfoundland had the highest number of police-reported incidents at 411 out of every 100,000 people. Kelowna, B.C was in second place at 323. In total, there were three BC cities in the top 10: Kelowna, Victoria, and Abbotsford-Mission. BC was the only province to have as many as three cities in the top 10. Read the [Global News article](#).

CVSE Bulletins & Notices

The following bulletins and notices have been posted by CVSE in December:

- [CVSE1014](#) LCV Operating Conditions & Routes

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

Act or Regulation Affected	Effective Date	Amendment Information
Insurance (Vehicle) Regulation (447/83)	Dec. 7/16	by Reg 289/2016
Motor Fuel Tax Regulation (414/85)	Dec. 7/16	by Reg 294/2016
Special Direction IC2 to the British Columbia Utilities Commission (307/2004)	Dec. 7/16	by Reg 288/2016
	Dec. 19/16	by Reg 319/2016
Violation Ticket Administration and Fines Regulation (89/97)	Jan. 1/17	by Regs 263/2016 and 308/2016

Property and Real Estate News:

Strata-Property Law: 2016 in Review

This past year has seen several milestones in strata-property law, both here in British Columbia and elsewhere. The year has featured important court and tribunal decisions, new legislation coming into force, and new law-reform initiatives. Here are some of the significant developments in 2016, as noted in the [BCLI blog](#).

- **January:** The BC Supreme Court issued a ruling in [a smoking dispute](#). Second-hand smoke would end up playing a role in no fewer than six BC court and tribunal decisions this year. By October, the BC Human Rights Tribunal was offering its own [advice for strata councils and strata-lot owners in dealing with the issue](#).
- **February:** The BC Supreme Court [ordered a strata corporation to be wound up](#). In July, [legislation lowering the voting threshold for voluntarily terminating a strata came into force](#). By December, there was a [report](#) of the first strata property initiating the new procedure by obtaining a resolution passed by an 80-percent vote.

Read the full article published on the [BCLI website](#).

Better Late than Never: Court Finds that Landlord Still Entitled to Payment of Additional Rent after Forgetting to Invoice Tenant for 3 Years

The recent decision of [Bulley v. Weatherford Canada Partnership](#) is a good reminder for commercial landlords and tenants alike that, absent a clear intention by the parties to amend, the written lease terms will likely prevail, even where an entitlement owing to one party (in this case, additional rent) is not initially claimed by the benefiting party.

Background Facts

An oil and gas company (the "**Tenant**") entered into a lease agreement with a commercial landlord (the "**Landlord**") for a term of seven years (the "**Lease**"). Under the terms of the Lease, the Tenant was obligated to pay basic monthly rent as well as additional rent which was based upon the Landlord's operating costs and expenses in relation to the premises (the "**Additional Rent**"). For the first three years of the Lease, the Landlord

invoiced the Tenant for basic rent, but forgot to seek payment for the Additional Rent. The Landlord eventually realized its mistake and issued invoices to the Tenant seeking payment for the three years worth of Additional Rent charges. The Tenant refused to pay and claimed that the Landlord had waived its right to collect the outstanding amounts.

Read the [full article](#) by [Jamieson D. Virgin](#), Dharampreet Dhillon, Articled Student of McMillan LLP.

Real Estate Council Restricts Licences of Two Fast-growing Vancouver Brokerages

Two fast-growing Vancouver area brokerages have had restrictions placed on their licences by the Real Estate Council. The council will not say when it placed the restrictions, and details about possible misconduct and consumer risk have only been publicly accessible since the regulator made changes to its website this month. "Conditions may be placed on a licence for a variety of reasons. We recommend that anyone with questions about the circumstances that led to conditions being placed on a licence or the length of time the conditions have been in place, should ask the licensee about those issues," the council said in an emailed statement. The council has ordered that [Metro Edge](#), which says it completed over 400 transactions in 2015, appoint a managing broker approved by the council who must sign-off on all listing information ahead of it being posted. The managing broker must also submit monthly reports with details about all transactions where the company represents both the buyer and seller and detail the use of any unlicensed assistants and their exact duties. Authority for trust account signing, including for electronic transfers, must be approved in writing and ahead of time by the council. It must also alert the council of any listing that offers any form of "commission bonus". Read *The Vancouver Sun* [article](#).

Tribunal Decision Means High Drywall Costs Likely to Continue

Higher construction costs across Western Canada, including in fire-ravaged Fort McMurray, Alta., stand to continue under a ruling by the Canadian International Trade Tribunal released Wednesday [January 4th]. In its decision, the tribunal found that American-made drywall dumped at less than normal prices into Western Canada over the past few years have injured the Canadian industry. The ruling means that preliminary duties of up to 276 per cent imposed by the Canada Border Services Agency on imports from the U.S. last September will end, but will be replaced by permanent variable duties on any imports that fall below a floor price established last month. Read the full Canadian Press [article](#) published by *Maclean's*.

Small Claims: Coming Soon to the CRT

– from *CRT Website*

It's been almost 5 months since the Civil Resolution Tribunal (CRT) began accepting strata property disputes. We wanted to pause for a moment to give you an update on how things are going, and where we're planning to go from here. Since we opened our doors, well over 3500 people have used the Solution Explorer to find help for their strata disputes. Based on public feedback and our data analytics, we believe most people who use the Solution Explorer find useful information and tools to resolve their dispute themselves. About 185 parties have made online applications for strata dispute resolution with the CRT. About half of filed disputes are currently in the facilitation phase, where we've started to see parties reach agreements, with the help of our expert facilitators. The CRT has also published [its first tribunal decision](#), with more to come. So far, the technology is working very well and is easily able to accommodate the CRT's case volume. The team meets weekly to review possible improvements to all aspects of the CRT's technology and processes. The CRT is being implemented in stages. This lets us learn from the public and refine our dispute resolution processes as we take on different kinds of disputes. Now we are looking ahead to the CRT's next stage of development: resolving low-value small claims disputes. Read the [full article](#) published on the CRT website.

Act or Regulation Affected	Effective Date	Amendment Information
Manufactured Home Park Tenancy Regulation (481/2003)	Dec. 2/16	by Reg 278/2016
		by 2015 Bill 40, c. 40, sections 30 to 36 only (in

Residential Tenancy Act	Dec. 2/16	force by Reg 278/2016), Natural Gas Development Statutes Amendment Act, 2015
Residential Tenancy Regulation (477/2003)	Dec. 2/16	by Reg 278/2016

Wills and Estates News:

Supreme Court of Canada Decision Takes a Narrow Approach to Rectification

The majority of the Supreme Court of Canada has construed the equitable power of the court to rectify a contract or other document relatively narrowly in a recent decision, [Canada \(Attorney General\) v. FairmontHotels Inc.](#), 2016 SCC 56. Fairmont Hotels Inc. and two subsidiaries sought to rectify a directors' resolution in which the directors had redeemed certain shares, triggering a tax liability. The redemption was part of a number of transactions by the companies to finance the acquisition of two hotels. Both the Ontario Superior Court of Justice and the Ontario Court of Appeal had allowed rectification, finding that the parties had from the outset a continuing intention to structure the transactions in a tax neutral way. Those two Ontario Courts had applied a previous leading authority from the Ontario Court of Appeal, [Juliar v. Canada \(Attorney General\)](#), 46 O.R. (3d) 104, aff'd (2000), 50 O.R. (3d) 728. In [Juliar](#) the Ontario Court of Appeal held that a transfer of shares for a promissory note that triggered a tax liability could be rectified so that the transaction would be an exchange of shares for shares, with the effect of deferring tax, on the bases that the parties had a common continuing intention to avoid an immediate tax liability. Read the [full article](#) by [Stan Rule](#) of Sabey Rule LLP and published on his blog [Rule of Law](#).

Court Rejects Disinheritance of Children Based on "Invalid" Reasons

"Testamentary freedom" is the notion that a will-maker (or "testator") is entitled to divide her property upon death however, and to whoever, he or she sees fit. In certain circumstances, however, statutes and courts in British Columbia and other jurisdictions have limited this freedom, by requiring the will-maker to provide for certain beneficiaries in the will. In the case of the will-maker's spouse and children, the will must make "adequate provision for the proper maintenance and support of the will-maker's spouse or child" , or, if requested to do so after the will-maker's death, the court can "vary" that will, if it considers it just and equitable to do so. Such claims are now brought under [section 60](#) of the British Columbia [Wills, Estates and Succession Act](#), and, in the case of children, can be initiated by a child of any age, as the courts have determined that a parent may still have a legal or moral obligation to provide for their adult independent child. However, these obligations of the will-maker are not absolute. Even if a court finds that a will-maker had an apparent "moral duty" to provide for their spouse or child, and did not do so, that obligation can be negated if the will-maker is found to have had sufficiently "valid and rational" reasons to disinherit or reduce that beneficiary's gift in the will, as this [blog](#) has [covered](#) in the [past](#). Read the [full article](#) by [Mark Weintraub](#) with Clark Wilson LLP.

Suspicious Circumstances

Araju v Neto 2001 BCSC 935 is an undue influence/lack of capacity case that discusses suspicious circumstances.

The court found that due to suspicious circumstances the will maker was not allowed to rely upon the presumption that he was mentally capable when the will was executed. Ordinarily where the propounder of a will shows that it was duly executed with the requisite formalities and after having been read over to a testator who appeared to understand it, it is presumed that the testator knew and approved of the contents and had the necessary testamentary capacity or disposing mind and memory.

[122] However, I do not think that the plaintiff is entitled to that presumption. Because of the evidence of suspicious circumstances, the plaintiff has the burden of establishing on the evidence that Mr. De Araujo knew and approved of the contents and had testamentary capacity with respect to both of the 1995 and 1996 wills.

Read the [full article](#) by Trevor Todd – *disinherited: Estate Disputes and Contested Wills*.

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

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