

Quickscribe Reporter

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QUICKSCRIBE NEWS:

What's Happening in the House?

After a slow start, the government has introduced a significant number of Bills in April. A summary of some of these bills can be found in this Reporter. Parliament will resume on Monday, May 7th. The following government Bills were introduced in April:

- [Bill 9](#), Workers Compensation Amendment Act, 2018 – *3rd Reading*
- [Bill 10](#), Family Maintenance Enforcement Amendment Act, 2018 – *3rd Reading*
- [Bill 11](#), International Commercial Arbitration Amendment Act, 2018 – *3rd Reading*
- [Bill 12](#), Tenancy Statutes Amendment Act, 2018 – *3rd Reading*
- [Bill 13](#), Public Service Amendment Act, 2018 – *3rd Reading*
- [Bill 14](#), Taxation Statutes Amendment Act, 2018 – *3rd Reading*
- [Bill 15](#), Energy, Mines and Petroleum Resources Statutes Amendment Act, 2018 – *3rd Reading*
- [Bill 16](#), Securities Amendment Act, 2018 – *3rd Reading*
- [Bill 17](#), Motor Vehicle Amendment Act, 2018 – *1st Reading*
- [Bill 18](#), Local Government Statutes (Housing Needs Reports) Amendment Act, 2018 – *1st Reading*
- [Bill 20](#), Insurance (Vehicle) Amendment Act, 2018 – *1st Reading*
- [Bill 21](#), Class Proceedings Amendment Act, 2018 – *3rd Reading*
- [Bill 22](#), Civil Resolution Tribunal Amendment Act, 2018 – *2nd Reading*
- [Bill 23](#), Local Government Statutes (Residential Rental Tenure Zoning) Amendment Act, 2018 – *1st Reading*
- [Bill 24](#), Miscellaneous Statutes Amendment Act (No. 2), 2018 – *3rd Reading*
- [Bill 25](#), Real Estate Development Marketing Amendment Act, 2018 – *1st Reading*
- [Bill 26](#), Child, Family and Community Service Amendment Act, 2018 – *1st Reading*
- [Bill 27](#), Pill Press and Related Equipment Control Act – *1st Reading*
- [Bill 28](#), Public Interest Disclosure Act – *1st Reading*
- [Bill 29](#), Voluntary Blood Donations Act – *1st Reading*
- [Bill 30](#), Cannabis Control and Licensing Act – *1st Reading*
- [Bill 31](#), Cannabis Distribution Act – *1st Reading*

A handful of non-government Bills were also introduced in April:

- [M212](#), Environmental Management Amendment Act, 2018
- [M213](#), Local Election Campaign Financing Amendment Act, 2018
- [M214](#), Election Amendment Act, 2018

A reminder that if you would like to track the progress of new bills this session, or to track proposed changes to laws that matter most to you, please feel free to make use of our [BC Legislative Digest](#) tracking tool.

Public Guardian And Trustee to Annotate on QS

Quickscribe is thrilled to announce that [The Public Guardian and Trustee](#) (PGT) of BC will soon begin contributing annotations on Quickscribe. The PGT is a corporation solely established under the [Public Guardian and Trustee Act](#), with a unique statutory role to protect the interests of British Columbians who lack the legal capacity to protect their own interests. The mandate of the PGT is to protect the legal and financial interests of children under the age of 19 years, protect the legal, financial, personal and health care interests of adults who require assistance in decision-making, and administer the estates of deceased and missing persons. The PGT is both an independent organization and an Officer of the Supreme Court, with a fiduciary role exercised solely in the interests of the persons served. The PGT's authority to provide services is found in numerous statutes, including the [Child, Family and Community](#)

[Service Act](#), the [Infants Act](#), the [Adult Guardianship Act](#), the [Adoption Act](#), the [Patients Property Act](#), the [Wills, Estates and Succession Act](#), and many others. Philippa Estall, Quickscribe's expert annotator for the PGT, has been in-house counsel at the PGT since 2011, first as a solicitor in the Child and Youth Services division, and since 2015 as solicitor in the Executive Office. She provides research and advice to the PGT on a wide variety of legal matters.

Latest Annotations

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

- [Anita Mathur](#), BC Oil & Gas Commission – [Oil and Gas Activities Act](#)
- [Laura Johnston](#), Community Legal Assistance Society – [Mental Health Act](#)
- [Katherine Hardie](#), British Columbia Human Rights Tribunal – [Human Rights Code](#)

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. To receive notification when these or any of our contributors publish new annotations, search for their name, open an annotation and select "follow" adjacent to their name.

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

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

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COMPANY & FINANCE

Company and Finance News:

Proposed Amendments to *Business Corporations Act*

[Amendments](#) to the [Business Corporations Act](#) will eliminate outdated legislation related to the Auditor Certification Board. In the past, the board was used to accredit certified management accountants to act as auditors. However, since the enactment of the [Chartered Professional Accountants Act](#) in 2015, all accounting professionals hold a single designation (chartered professional accountant), and the board is no longer necessary. Read the government [news release](#).

New BC Legislation Proposes Multi-Jurisdictional Opt-Out Class Actions

Recently, the Government of British Columbia introduced [Bill 21](#), *Class Proceedings Amendment Act, 2018*, to amend the [Class Proceedings Act](#), R.S.B.C. 1996 (amended CPA). The bill received third reading on April 26, 2018. The amended CPA will permit national opt-out classes to be certified by the BC courts, which is a significant change from the current requirement that non-resident class members opt-in to a class action certified in BC. The amended CPA would also include new provisions directed at some of the challenges faced by parties and courts in multi-jurisdictional class action proceedings. The proposed amendments are based on the Uniform Law Conference of Canada's *Uniform Class Proceedings Amendment Act* (ULCC Uniform Act), which Alberta and Saskatchewan have both previously adopted.

Proposed Key Changes

Opt-Out Mechanism for Out-of-Province Class Members

The most notable feature of the amended CPA is that it will permit the certification of a national class on an opt-out basis. Following certification of a proceeding, a national class may still be divided into resident and non-resident subclasses, and separate representative plaintiffs may be appointed for each subclass if necessary, but non-residents will not need to opt-in to the certified class. Currently, BC is one of the only provinces in Canada that requires a separate non-resident sub-class to be certified, and for non-residents to take a positive step to opt-in to the class action (it is also one of the only "no cost" regimes for class actions in the country).

Read the [full article](#) by [James Sullivan](#), [Robin Reinertson](#) and [Rebecca Spigelman](#) of Blake, Cassels & Graydon LLP.

Canadian Government Launches Intellectual Property Strategy for Innovators & Small Businesses

[April 26th], the federal government launched a national Intellectual Property (IP) Strategy aimed at innovators and small businesses.

The government will invest \$85.3 million over five years to help Canadian businesses, creators, entrepreneurs and innovators understand, protect and access IP through its comprehensive strategy. Navdeep Bains, Canada's Minister of Innovation, Science and Economic Development, unveiled the details in Ottawa on April 26 – World IP Day.

The government's approach will enable Canada's innovators to compete on the world stage, the minister announced, noting that IP is a key component of an innovation economy. The new strategy is expressly intended to help Canadian entrepreneurs better understand and protect their IP, and gain greater access to shared IP. The announcement features changes in three key areas, with specific policy goals:

(1) Legislation

- Key IP laws will be amended in ways that are intended to remove barriers to innovation, particularly targeting perceived loopholes that are identified as allowing those seeking to use IP in bad faith to inhibit innovation.
- An independent body will be created to oversee patent and trademark agents. This is intended to reinforce professional and ethical standards in the provision of quality advice from IP professionals in Canada.

Read the [full article](#) by Brian G. Kingwell with Gowling WLG.

BC Passes Legislation to Modernize International Commercial Arbitration Act

The BC legislature has passed a bill that will modernize the [International Commercial Arbitration Act](#), RSBC 1996, c. 233 (the "*International Arbitration Act*").

The legislature passed the [International Commercial Arbitration Amendment Act](#) on April 12, 2018. The goal of the legislation is to update BC's *International Arbitration Act* to reflect current international best practices and to position BC as an arbitration destination for international commercial disputes.

The *International Arbitration Act* was a front-runner in arbitration legislation at the time it was enacted in 1986, but is now seen by some as outdated and in need of updating.

As Attorney General David Eby said before the Legislature, "the amendments will modernize British Columbia's arbitration regime, enhance British Columbia's standing as an arbitration-friendly jurisdiction, support international arbitration in language and concepts familiar to international business parties and counsel, and provide an opportunity to position British Columbia as an arbitration destination for international commercial disputes." Read the [full article](#) by Aidan Cameron and Gordon Lamb of McCarthy Tétrault.

Proposed Changes to Societies Act

[Amendments](#), if passed will incorporate voting provisions from the [Societies Act](#) interim regulations into the act itself, in order to maintain these provisions when the interim regulation expires in 2019. In addition, the amendments will simplify administrative processes for societies by clarifying what information must be recorded in the minutes, improving the process under which the registrar of companies facilitates access to a society's records and removing an unnecessary waiting period before a society can be restored. Read the [full news](#)

[release](#).

Amendments to Securities Act Introduced

The BC government introduced [legislation](#) that amends the [Securities Act](#) to allow the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association (MFDA) to enforce penalties as court orders against investment dealers who wrong investors. The IIROC and the MFDA would be able to file decisions directly with a court of law so they would be able to pursue outstanding fines, and order a person to comply with decisions, made by these national self-regulatory organizations.

BC Securities – Policies & Instruments

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

- [51-354](#) – Report on Climate change-related Disclosure Project
- [52-329](#) – Distribution Disclosures and Non-GAAP Financial Measures in the Real Estate Industry
- [61-303](#) – Soliciting Dealer Arrangements
- [93-102](#) – CSA Notice and Request for Comment Proposed National Instrument 93-102 Derivatives: Registration - Proposed Companion Policy 93-102 Derivatives: Registration

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	May 1/18	by Regs 5/2018 , 53/2018 and 91/2018
Farm Incomes Plans Regulation (123/2004)	Apr. 1/18	by Reg 47/2018
Film and Television Tax Credit Regulation (4/99)	RETROACTIVE to July 8/08	by Reg 77/2018
	RETROACTIVE to Apr. 1/10	
	RETROACTIVE to Feb. 25/13	
	Apr. 16/18	
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	Apr. 1/18	by Reg 54/2018

ENERGY & MINES

Energy and Mines News:

British Columbia Strengthens Oil and Gas Liability Management Regime

British Columbia has [introduced amendments](#) to the [Oil and Gas Activities Act](#) to address a growing number of orphan oil and gas sites due to increased operator insolvencies. The proposed changes will enable the Oil and Gas Commission (OGC) to adequately fund the Orphan Site Reclamation Fund (OSRF), develop new regulations that will require inactive wells to be abandoned and restored, and prevent oil and gas operators with a history of insolvency or non-compliance from operating in BC.

Increasing number of orphan sites

The OSRF is a fund administered by the OGC to pay for the costs of abandoning and restoring orphaned oil and gas sites. The number of designated orphan sites in BC recently leaped over one year from 45 to 307 due to operator insolvencies. The costs to abandon and restore these orphaned sites are estimated to be \$40 to \$60 million. However, as of March 31, 2017, the OSRF held only \$5.3 million in funds.

Read the [full article](#) by [Alan Harvie](#), [Max Collett](#), [Matthew D. Keen](#) with Norton Rose Fulbright LLP.

BC's Case over Oil Flow through Province might be Damaged by NDP's Old Anti-Trans Mountain Expansion Stance

British Columbia's court case over the flow of heavy oil through the province could be damaged by the NDP government's previous positions against the expansion of the Trans Mountain pipeline, says a legal expert.

The provincial government [filed a reference case](#) Thursday [April 26th] in the B.C. Court of Appeal asking whether amendments it is proposing to the [Environmental Management Act](#) are valid and if they give the province the authority to control the shipment of heavy oils based on the impact spills could have on the environment, human health or communities. The province is also asking the court whether the amendments are over-ridden by federal law. Read the *National Post* [article](#).

Greenhouse Gas Reduction (Clean Energy) Regulation Updated

Effective April 20, 2018 amendments to the [Greenhouse Gas Reduction \(Clean Energy\) Regulation](#) adjusted the maximum expenditures allowed on compressed or liquefied natural gas fuelling stations by a public utility during the undertaking period.

Federal Ozone-depleting Regulations Amended

On April 16, 2018, the [Ozone-depleting Substances and Halocarbon Alternatives Regulations](#) were amended, aiming reduce the supply of hydrofluorocarbons (HFCs) entering into Canada as well as the demand for HFCs in manufactured products. This will reduce Canadian greenhouse gas emissions, in order to help limit increases in global average temperatures and contribute to Canada's international obligations to combat climate change. Additionally, the amendments aim to allow Canada to ratify the Kigali Amendment to the Montreal Protocol.

Act or Regulation Affected	Effective Date	Amendment Information
Greenhouse Gas Reduction (Clean Energy) Regulation (102/2012)	Apr. 20/18	by Reg 84/2018
Mines Fee Regulation (54/2015)	Apr. 13/18	by Reg 73/2018
	May 1/18	

FAMILY & CHILDREN

Family and Children News:

BC's New Child-protection Law Includes Indigenous Communities as Decision Makers

Indigenous communities have won the right to be consulted about child-protection cases in British Columbia under new [legislation introduced](#) [April 24].

The changes are designed to reduce the number of Indigenous children and youth in care, who are taken from their families at a rate far higher than the general population. Indigenous people make up less than one-tenth of the BC population but more than 63 per cent of children in government care, and many end up being fostered in homes outside of their communities.

"Children have the right to be connected to their communities, traditions and culture," Katrine Conroy, the Minister of Children and Family Development, said in an interview Tuesday [April 24].

The 19-page bill amends the province's existing child-protection law to allow an Indigenous community to be informed where safety concerns are raised involving a child who is a member of that community. Read *The Globe*

and Mail [article](#) by Justine Hunter.

International Custody Disputes Should Consider Children's Interests, According to New Supreme Court Guidelines

Canada's top court is issuing new guidelines on how international custody disputes should be judged, saying "all relevant circumstances" should be taken into account when deciding what country a child should live in.

The direction from the Supreme Court of Canada comes in a ruling on a custody battle involving parents who clashed on whether their children should live in Canada or Germany. Much of the case hinged on how much say children should have in such matters and what constitutes their "habitual residence."

"The issues raised are important, and the law on how cases such as this fall to be decided requires clarification," the court said in a written decision issued Friday [April 20th].

To date, judgements in Canada have been based mainly on what a parent's circumstances and "intentions" were when taking a child across borders in breach of a custody agreement, the top court said. Read the full *National Post* [article](#).

**Almost Forty Family Law Decisions Were Released by the Court of Appeal in 2017
The Following is a Review of Some Cases of Interest**

For the most part, appeals of decisions on parenting matters were dismissed, with the Court citing the high level of deference owed to the findings and discretion of the trial court. In the following two cases, however, the Court allowed the appeal. *Hellberg v. Netherclift*, [2017 BCCA 363](#) and [2017 BCCA 306](#). In this relocation case, both parties were from the UK and had moved to the Nelson area of BC as adults. They separated in 2014, when their son was approximately one year old. Following the separation, the parties shared approximately equal parenting time with the child. The mother, who was a teacher in the UK, had difficulty finding employment in the Nelson area other than on-call or limited teaching work with low income. Read the [full article](#) by [Magal Huberman Pietrow Law Group](#) and published in the Trial Lawyers Association of BC publication – *The Verdict*.

Changes to *Infants Act* and *Public Guardian and Trustee Act*

The [proposed amendments](#) to the *Infants Act* and the *Public Guardian and Trustee Act* will improve support to British Columbia's youth transitioning from provincial care by providing assistance with financial decision making. The changes, if passed, will allow the public guardian and trustee (PGT) to serve as property guardian for a youth when they reach the age of 19, and, if the youth agrees, allows the PGT to continue to hold and manage the youth's funds up till the time the youth turns 27 years of age. Read the full [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Child, Family & Community Service Regulation (527/95)	Apr. 1/18	by Reg 20/2018
Provincial Court (Family) Rules (417/98)	May 1/18	by Reg 68/2018

FOREST & ENVIRONMENT

Forest and Environment News:

Changes to *Riparian Areas Protection Act*

Riparian areas of the province are areas near streams and rivers. Since 2006, [regulations](#) have been in place to protect fish habitats and ensure environmental stewardship under increasing threats from urban development. The [proposed amendment](#) will enhance that protection by giving the minister the authority to publish criteria and methods through a manual for qualified environmental professionals (like registered biologists) to follow when they are carrying out habitat assessments in riparian areas. Read the [full new release](#).

**Modern Treaty Rights Prevail Over Duty to Consult
First Nations Asserting Aboriginal Rights**

What happens when a First Nation asserts aboriginal rights or title that conflict with another First Nation's rights under a modern treaty? In its recent decision, [Gamlaxyeltxw v. British Columbia \(Minister of Forests, Lands &](#)

[Natural Resource Operations](#)), the British Columbia Supreme Court (Court) ruled that in these circumstances, the "treaty right must prevail over the duty to consult [the non-treaty First Nation]." To our knowledge, this is the first court decision to consider the government's duties in these circumstances.

Overview

The Gitanyow Nation and the Nisga'a Nation are located in northwestern British Columbia. The Nisga'a Nation, British Columbia and Canada entered the Nisga'a Final Agreement (Nisga'a Treaty) in 2000. The Gitanyow and the Nisga'a have a long-standing disagreement over territory along the Nass River. The Gitanyow have not entered a land claims agreement with the province or Canada, but have commenced claims for aboriginal title and rights, including over areas covered by the Nisga'a Treaty.

Under the Nisga'a Treaty, the Minister of Forest, Lands and Natural Resource Operations (Minister) – now the Minister of Forests, Lands, Natural Resource Operations and Rural Development – is responsible for setting a total annual harvest for moose hunting in the Nass Wildlife Area, which is defined in the Nisga'a Treaty.

Read the [full article](#) by [Roy Millen](#) and [Matthew Tse](#) with Blake, Cassels & Graydon LLP.

Gypsy Moth Treatment Areas Regulation

The [North American Gypsy Moth Eradication Regulation, 2018](#), became effective on April 15, 2018. The regulation sets out four zones which will undergo spray treatment for the eradication of the gypsy moth: Agassiz, Surrey, Courtenay and Campbell River. The project, which includes the search and removal of gypsy moths and eggs, will last from April 15 to November 30, 2018.

Environmental Appeal Board Decisions

There were three Environmental Appeal Board decisions in the month of March.

[Water Sustainability Act / Water Act](#)

- [Doug Halstead and Donna Halstead v. Water Manager, Thompson Okanagan Region](#) [Final Decision – Appeal Dismissed]
- [Bernard Wohlleben v. Assistant Water Manager](#) [Stay Decision – Denied]
- [Karen Nonis v. Assistant Regional Water Manager](#) [Final Decision – Appeal Dismissed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Angling and Scientific Collection Regulation (125/90)	Apr. 16/18	by Reg 79/2018
Asphalt Plant Regulation (217/97)	Apr. 1/18	by Reg 46/2018
Conservation Officer Service Authority Regulation (318/2004)	Apr. 27/18	by Reg 88/2018
Designation and Exemption Regulation (168/90)	Apr. 1/18	by Reg 52/2018
Hunting Regulation (190/84)	Apr. 1/18	by Reg 52/2018
	Apr. 11/18	by Reg 66/2018
Hunting Licensing Regulation	Apr. 1/18	by Regs 52/2018 and 57/2018

(8/99)	Apr. 16/18	by Reg 79/2018
Limited Entry Hunting Regulation (134/93)	Apr. 1/18	by Reg 57/2018
	Apr. 11/18	by Reg 66/2018
Municipal Wastewater Regulation (87/2012)	Apr. 1/18	by Reg 46/2018
Natural Resource Officer Authority Regulation (38/2012)	Apr. 16/18	by Reg 78/2018
North American Gypsy Moth Eradication Regulation, 2017 (86/2017)	REPEALED Apr. 15/18	by Reg 74/2018
North American Gypsy Moth Eradication Regulation, 2018 (74/2018)	NEW Apr. 15/18	see Reg 74/2018
Oil and Gas Waste Regulation (254/2005)	Apr. 1/18	by Reg 46/2018
Permit and Approval Fees and Charges Regulation (299/92) <i>(formerly Permit Fees Regulation)</i>	Apr. 1/18	by Reg 46/2018
Permit Regulation (253/2000)	Apr. 1/18	by Reg 52/2018
	Apr. 16/18	by Reg 79/2018
Pulp Mill and Pulp and Paper Mill Liquid Effluent Control Regulation (470/90)	Apr. 1/18	by Reg 46/2018
Waste Discharge Regulation (320/2004)	Apr. 1/18	by Reg 46/2018
Wildlife Act Commercial Activities Regulation (338/82)	Apr. 1/18	by Reg 52/2018
Wildlife Act General Regulation (340/82)	Apr. 1/18	by Regs 46/2018 and 55/2018
	Apr. 16/18	by Reg 79/2018

HEALTH

Health News:

Legislation Will Prohibit Payment for Blood and Plasma Collection

Health Minister Adrian Dix today introduced the [Voluntary Blood Donations Act](#), which will help preserve the integrity of Canada's public blood and plasma collection system by preventing payment for blood and plasma collection in British Columbia.

"Our voluntary blood donation system is an integral resource that helps saves lives thanks to people who graciously donate," said Dix. "We are taking action to prevent payment for blood and plasma collection, and to make sure that the donations people give benefit people in our province and Canada."

No paid plasma collection clinics are operating in British Columbia. This legislation is meant to prevent such operations from being established, by making it illegal to pay, offer to pay, or advertise that they will pay someone for blood or plasma. This is similar to legislation in Alberta, Ontario and Québec. Read the government [news article](#).

BC Takes on Pill Presses with a Bill to Battle Fentanyl

In a move against the illegal production of illicit opioids and to help keep them off the streets, the Province is toughening regulations on pill-press machines and other similar pharmaceutical equipment.

The new [Pill Press and Related Equipment Control Act](#) is comprehensive legislation that is part of a broader scheme of initiatives intended to help law enforcement address the fentanyl crisis in British Columbia. The bill aims at restricting ownership, possession and use of equipment that can be used to make illicit drugs, such as automated pill presses, gel cap machines and pharmaceutical mixers.

"Police have asked for more control and monitoring of who has use of pill presses," said Mike Farnworth, Minister of Public Safety and Solicitor General. "This bill is critical in bolstering police efforts to disrupt the supply chain and get counterfeit pills off of the streets and out of the hands of those who recklessly distribute death-dealing drugs."

The act will limit lawful ownership of pill presses, and other similar pharmaceutical equipment, to individuals or corporations authorized under the legislation. Read the government [news release](#).

BC First Responders Get Easier Access to Mental Health Support

BC is moving to give first responders [easier access](#) to [mental health support](#), meaning they will no longer have to prove a condition is work related.

Labour Minister Harry Bains announced [legislative amendments](#) on April 11 that will allow first responders, sheriffs and correctional officers who experience job-related trauma and are diagnosed with a mental disorder to get assistance without providing proof that the injury was related to their work. Read the [CBC article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Health Professions Act	Apr. 1/18	by 2016 Bill 6, c. 12, section 11 only (in force by Reg 234/2017), Pharmacy Operations and Drug Scheduling Amendment Act, 2016
Health Professions Designation and Amalgamation Regulation (270/2008) (retitled from Health Professions Designation Regulation)	Apr. 13/18	by Reg 69/2018
Medical and Health Care Services Regulation (426/97)	Apr. 13/18	by Reg 72/2018
Pharmacy Operations and	Apr. 1/18	by 2016 Bill 6, c. 12, sections 1 to 10 only (in force by Reg 234/2017), Pharmacy Operations and Drug Scheduling

Drug Scheduling Act		Amendment Act, 2016
Pharmacy Operations General Regulation (43/2018)	NEW Apr. 1/18	see Reg 43/2018
Prescribed Health Care Professions Regulation (129/2009)	REPEALED Apr. 1/18	by Reg 43/2018
Prescribed Number of Days (139/2009)	REPEALED Apr. 1/18	by Reg 43/2018

LABOUR & EMPLOYMENT

Labour and Employment News:

BC Government Introduces New Leave of Absence Protection under *Employment Standards Act*

Many BC employers are aware that the federal government changed the rules regarding pregnancy/maternity and parental leave employment insurance benefits last year. As of December 3, 2017, eligible employees have the ability to opt for [12 or 18 months](#) of combined pregnancy and parental leave benefits under federal legislation. However, unless a province has enacted legislation to protect employees' jobs under applicable employment standards legislation, only federally-regulated employees are able to take full advantage of 18 months of combined pregnancy/parental benefits.

The BC government [announced](#) [April 9th] that it was making changes to the [Employment Standards Act](#) [ESA] to, among other things, provide BC-regulated, eligible employees with job protection for an 18 month period of pregnancy/parental leave. The ESA currently only provides job protection for a total of 52 weeks of pregnancy/parental leave. The changes proposed by the BC government to the ESA also include:

- permitting a pregnant employee to start maternity leave up to 13 weeks ahead of the predicted due date (currently it is 11 weeks);
- a new, unpaid job-protected leave of up to 52 weeks for employees who experience a missing child due to crime;
- a new, unpaid job-protected leave of up to 104 weeks for employees who experience the death of a child under 19 years of age for any reason; and

Read the [full article](#) by [Christopher McHardy](#) with McCarthy Tétrault LLP.

Court Rules Sharing Confidential Information is Just Cause for Termination

When privacy and confidentiality are important in a job, a manager's breach of confidence may provide just cause for termination. This is particularly true when the employer's policy emphasizing the confidentiality obligations is known to the employee. The BC Supreme Court recently affirmed these principles in *Manak v. Workers' Compensation Board of British Columbia*, [2018 BCSC 182](#). The decision also highlights the significant value of a properly executed release if the employee later challenges an agreement made at time of termination.

The Facts

M was terminated from her manager position at WorkSafeBC after 36 years of service. WorkSafeBC dismissed her for breaching their confidentiality standards. She was a Client Services Manager who also had responsibility for claims made by employees of WorkSafeBC – a highly sensitive position. Additionally, M was an ethics advisor, which meant she was a resource for employees for all matters relating to ethical conduct and WorkSafeBC's Standards of Conduct.

Read the [full article](#) by [Matthew Larsen](#) with Fasken Martineau DuMoulin LLP.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

LOCAL GOVERNMENT

Local Government News:

Bill 23 – 2018: Local Government Statutes (Residential Rental Tenure Zoning) Amendment Act

In light of record low vacancy rates and escalating rents, the provincial government has sought [an amendment](#) to the [Local Government Act](#) to provide local municipalities with the ability to re-zone areas within their city to restrict any future development of those lands to multi-family residential rental buildings.

It is anticipated that this change to the legislation will put greater power in the hands of the municipalities and enable them to govern the placement and quantities of the rental stock within their cities.

If the municipalities exercise their option to rezone certain lands for rental use, the current and future owners of these lands will be restricted from developing their property in a manner that is inconsistent with the new rental changes. For example, undeveloped land that is zoned for rental purposes would need to be developed with rental projects. The amount of rental housing that needs to be developed on that land will be at the discretion of the local government. The amendments to the legislation will also provide local governments with the ability to ensure existing rental buildings cannot be redeveloped for another use. Read the [full article](#) by Don MacKinnon of Clark Wilson LLP.

Legislation for Cannabis Control & Licensing, Distribution

On April 26, 2018, the Province introduced cannabis legalization legislation, the [Cannabis Control and Licensing Act](#) and [Cannabis Distribution Act](#), as well as [key amendments](#) to the [Motor Vehicle Act](#). The Province expects to open the first government-operated retail store and introduce online sales by late summer 2018.

The proposed [Cannabis Control and Licensing Act](#) provides clarity to [previously announced](#) regulations that addressed retail sales; distribution; minimum age to purchase and consume; personal possession; public consumption; personal cultivation; and, drug-impaired driving. In addition to these regulations, the Act creates new cannabis offences, as well as the enforcement authority to issue fines ranging from \$2,000 – \$100,000 and recommend imprisonment of 3-12 months. A new provincial community safety unit is being created to address enforcement against illegal dispensaries and others operating outside the legalized framework.

The proposed [Cannabis Distribution Act](#) places the Province in charge of non-medical cannabis wholesale distribution, and establishes government-run retail outlets and online sales. Read the UBCM [article](#).

Giving Local Governments the Information and Tools to Address Rental Housing Shortages

On April 24, 2018, BC's provincial government introduced two Bills intended to address the issues of housing affordability and lack of rental housing. [Bill 18](#) will require local governments to regularly prepare "housing needs reports", while [Bill 23](#) will give local governments the power to zone for "residential rental tenures". Each of these bills amends both the [Local Government Act](#) and the [Vancouver Charter](#).

Housing needs reports are intended to inform the application of resources and investments by ensuring that governments are making decisions based on the most up-to-date housing information. All local governments in BC, unless exempted by regulation, will be required to prepare and regularly update a housing needs report. The initial reports must be completed within 3 years of the proposed amendments coming into effect, with updates to be prepared at least every 5 years going forward. Nothing in the legislation would prevent a local government from preparing or updating these reports more frequently.

In order to prepare the reports, local governments will be required to collect prescribed information including current and projected population figures, household income, housing units that are currently available and that are anticipated to become available. Relying on this information, housing needs reports must identify the number of housing units of each type required to meet both current housing demand and anticipated demand for at least the next 5 years.

Going forward, housing needs reports will have to be considered when developing or amending official community plans or regional growth strategies. Read the [full article](#) by Sabrina Spencer of Young and Anderson.

BC Government Making Amendment to

Keep Big Money Out of Local Elections

A change has been made to the [Local Election Campaign Financing Act regulations](#) to ensure that union and corporate donations cannot be used to fund any expenses of elector organizations during the year of a general local election.

"This change will ensure that we have a level playing field for candidates by keeping big money out of local elections," said Selina Robinson, Minister of Municipal Affairs and Housing. "The amendment we brought into effect today recognizes that operational expenses and election expenses are hard to distinguish during an election year. This is a targeted change, to ensure elector organizations understand operational expenses will now be treated as election expenses in an election year."

The regulation increases the scope of what are defined as election expenses for "continuing" elector organizations. Under the previous rules, some operational expenses of elector organizations were not considered election expenses, leading to concerns about the influence of donors with deep pockets. This change will ensure that corporate and union donations cannot be used to influence elections. Read the full government [news release](#).

Cannabis Legalization Guide Released

– from UBCM

The Federation of Canadian Municipalities (FCM), in partnership with UBCM, legal experts, and other local governments and local government organizations across Canada, has developed a [Municipal Guide to Cannabis Legalization](#). The Guide offers tools to help local governments meet challenges associated with the legalization of cannabis, including case studies, policy options and sample bylaw language. The Guide covers key issues consistent across jurisdictions, as well as regional variations, identified by FCM's advisory group of experts from across Canada. This document aims to support work on key areas of local government involvement, including land use management, business regulation, public consumption, workplace safety and enforcement. Read the UBCM [article](#).

Changes to Ministry of Municipal Affairs and Housing Legislation

[Amendments](#) to Ministry of Municipal Affairs and Housing legislation are intended to ensure that legislation is accurate, up-to date, and without unnecessary impediments to local governance. The amendments seek to address issues brought forward by a variety of local government bodies, including the Islands Trust, and the City of Vancouver, and issues identified by the Ministry of Education, and the Ministry of Municipal Affairs and Housing. Read the [full news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Forms Regulation (166/2015)	REPEALED Apr. 24/18	by Reg 87/2018
Forms Regulation (87/2018)	NEW Apr. 24/18	see Reg 87/2018
Local Elections Campaign Financing Expense Limit Regulation (309/2016)	Apr. 27/18	by Reg 89/2018
Private Training Regulation (153/2016)	Apr. 12/18	by Reg 67/2018
Transportation Investment Act	Apr. 1/18	by 2017 Bill 2, c. 12, section 2 to 6 only (in force by Reg 45/2018), Budget Measures Implementation Act, 2017

MISCELLANEOUS

Miscellaneous News:

Province of BC Expands Civil Resolution Tribunal's Jurisdiction

The Civil Resolution Tribunal (CRT) currently hears strata property (condominium) disputes of any amount and small claims disputes \$5,000 and under. The CRT is Canada's first online tribunal, and encourages collaborative dispute resolution and makes binding decisions when people can't agree.

On April 23, 2018, the Government of British Columbia [introduced changes](#) to the [Civil Resolution Tribunal Act](#). If adopted, these changes will expand the CRT's jurisdiction to include certain motor vehicle accident claims, as well as disputes involving non-profit societies and co-operative associations.

The following changes involve motor vehicle accident claims:

- Expand the CRT's scope to include making decisions on the following matters, where there is disagreement between the customer and ICBC:
 - The classification of an injury as minor injury;
 - The entitlement to receive accident benefits claimed; and
 - Liability and quantum decisions for motor vehicle injury claims below a threshold that will not exceed \$50,000.
- Allow lawyers to represent parties in motor vehicle claims, as ICBC will be represented by experienced adjusters.
- Limit recovery of fees and expenses to what a person would be entitled to in the CRT, if a case valued below \$50,000 is adjudicated in the B.C. Supreme Court.
- Give CRT regulation- and rule-making power to limit experts and the power to require a single joint expert.

Read the [full article](#) as published by the Civil Resolution Tribunal.

Government Introduces Public Interest Disclosure Legislation for Public Service

The Government of British Columbia has introduced legislation that will create a framework to allow public service employees to disclose serious wrongdoing, and will provide protections to those who do so.

The [Public Interest Disclosure Act \(2018\)](#) will enable concerned public servants to report incidents to their supervisor, an internal designated officer or the ombudsperson. The act makes it an offence to commit or direct a reprisal against such employee, which could take the form of a demotion, termination or disciplinary measure. Protection from reprisal is vital to employees feeling safe to report wrongdoing without fear that they may suffer consequences for doing so. Read the full government [news release](#).

Whistleblowers to be Protected under New BC Government Legislation

The BC government has introduced [new whistleblower legislation](#) that will protect civil servants from reprisal if they take concerns directly to the independent ombudsperson. But the proposed law offers few safeguards for those who might want to go public with their information instead.

Attorney General David Eby said legislation he tabled Wednesday [April 25th] will make it illegal for the provincial government to demote, fire or discipline an employee who takes a matter of suspected wrongdoing to Ombudsperson Jay Chalke's office. The civil servant could even go so far as to give the ombudsperson privileged cabinet documents, said Eby.

"It's a balance between an entity that is independent of government, and the fact that public servants have access to incredibly sensitive documents," Eby said. "We want people to be able to provide those sensitive documents to someone who is independent, but to release them publicly might bring legal liability or it might be defamatory. So we've tried to find the balance based on best practice from other jurisdictions, model legislation, and allowing public servants to even disclose cabinet-sensitive documents for review."

However, the legislation offers very limited protection if the whistleblower goes fully public with that same information through the media or opposition MLAs. Read *The Vancouver Sun* [article](#) by Rob Shaw.

Legal Profession Act Amended

Effective April 12, 2018, amendments to the [Legal Profession Act](#), made by the [Legal Profession Amendment Act, 2012](#), came into force. The changes further strengthen the powers of the Law Society of British Columbia to regulate the legal profession in the best interest of the public.

Act or Regulation Affected	Effective Date	Amendment Information
Family Day Regulation (149/2012)	Apr. 16/18	by Reg 75/2018
Legal Profession Act	Apr. 2/18	by 2012 Bill 40, c. 16, sections 1 (b), 15 (a), 23, 24 (a), 25, 27 (a), (b), (d), (i), (j), 30, 31 (a), (d), 36 (b), 38 (b), 39, 40 and 45 (c), (d) (part) only (in force by Reg 230/2017), Legal Profession Amendment Act, 2012
Lobbyists Registration Act	May 1/18	by 2017 Bill 8, c. 19, sections 1 to 9 only (in force by Reg 71/2018), Lobbyists Registration Amendment Act, 2017
Lobbyists Registration Regulation (284/2002)	May 1/18	by Reg 71/2018

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

"ICBC Dumpster Fire" Draws Heat from CBA, Trial Lawyers of BC

British Columbia Attorney General Eby's proposal last week to amend two provincial statutes [[Insurance \(Vehicle\) Act](#) and [Civil Resolution Tribunal Act](#)] in a bid to douse the Insurance Corporation of BC's financial "dumpster fire" has drawn heat from the Canadian Bar Association BC Branch and the Trial Lawyers Association of BC.

Under the proposed amendments [[Insurance \(Vehicle\) Amendment Act, 2018](#) and [Civil Resolution Tribunal Amendment Act, 2018](#)], ICBC claims of less than \$50,000 could be dealt with under the jurisdiction of the province's new Civil Resolutions Tribunal and also limit payouts for minor pain and suffering.

The CBABC has voiced concerns regarding the tribunal's experience in dealing with such claims, its independence from government and the ability of insured persons to go to court to get a "fair and adequate" settlement for injuries.

"The CRT is a relatively new organization with very little experience in personal injury matters. Its adjudicators have short tenures and thus limited independence from government, and the tribunal is responsible to the same minister as ICBC," said Bill Veenstra, CBABC president. Read the [full article](#) by Jean Sorensen with *Canadian Lawyer Magazine*.

Quickscribe has published red-text early consolidations of the [Insurance \(Vehicle\) Act](#) and [Civil Resolution Tribunal Act](#) as they will read when the amendments come into force. Both documents can be found via the [Special Early Consolidations](#) link on the left navigation or by using the Title Search feature.

BC Legislation Would Allow ICBC to Cancel Driver's Licence for Unpaid Child Support

The BC government has [introduced new legislation](#) that would allow ICBC to cancel the driver's licence of someone who owes more than \$3,000 in child support payments. Currently, the Family Maintenance Enforcement Program (FMEP) can ask ICBC to refuse to issue or renew a driver's licence of someone with substantial arrears. Read the *Global News* [article](#).

"Our 4/20 Gift": BC Lawyers Claim Victory in Fight over 24-hour Driving Prohibitions

A BC law firm is claiming victory in a battle over the power of police to hand out 24-hour driving prohibitions to impaired drivers. A decision rendered in B.C. Supreme Court "essentially limits the authority of police to issue them to only at the roadside," Acumen Law lawyer Kyla Lee, who argued the case, told CKNW's The Lynda Steele Show. BC's [Motor Vehicle Act](#) empowers police to hand out the 24-hour roadside suspensions to drug- or alcohol-impaired drivers. However, Lee argued that police have been frequently handing them out, illegally, elsewhere – either at the police department, in a hospital or at another location. Read the [full news article](#) by [Simon Little](#).

CVSE Bulletins & Notices

The following notices have been posted in April by CVSE:

- [Important Notice from Metro Vancouver](#) – Front Street Sewer Upgrade Information
This work will involve the construction of three large sewer pipes and two underground chambers. As a result, a small section of Front Street will be closed to all traffic for the duration of construction. All truck traffic with three or more axles will be required to use detour routes (see notice for map).

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

Act or Regulation Affected	Effective Date	Amendment Information
Broker Licensing Regulation (201/2017)	NEW Apr. 1/18	see Reg 201/2017
Motor Dealer Act	Apr. 1/18	by 2016 Bill 9, c. 6, section 3 only (in force by Reg 200/2017), Motor Dealer Amendment Act, 2016
Motor Dealer Act Regulation (447/78)	Apr. 1/18	by Reg 200/2017
Motor Dealer Delegation Regulation (129/2004)	Apr. 1/18	by Reg 200/2017
Motor Fuel Tax Regulation (414/85)	Apr. 1/18	by Regs 49/2018 and 50/2018
Salesperson Licensing Regulation (202/2017)	NEW Apr. 1/18	see Reg 202/2017
Salesperson Licensing Regulation (241/2004)	REPEALED Apr. 1/18	by Reg 202/2017
Special Direction IC2 to the BC Utilities Commission (307/2004)	Apr. 13/18	by Reg 70/2018
Violation Ticket Administration and Fines Regulation (89/97)	Apr. 1/18	by Reg 52/2018
Wholesaler Licensing Regulation (203/2017)	NEW Apr. 1/18	see Reg 203/2017

PROPERTY & REAL ESTATE

Property and Real Estate News:

New Rules re: Assignments of Pre-Sale Condominium Contracts of Purchase and Sale

The Province of British Columbia is taking steps to ensure that the applicable taxes are paid on assignments of pre-sale condominiums with the introduction of [Bill 25, Real Estate Development Marketing Amendment Act, 2018](#). The goal of the legislation is to collect the applicable tax on such assignments and to generally discourage the assignment of such contracts and reduce what the government perceives to be speculation in the pre-sale

condominium market.

The assignment of a pre-sale condominium may, depending on the factual background, be subject to Goods and Services Tax ("GST"). To date there has not been an efficient way for government to learn of any assignment and determine if GST is payable, and then collect the GST payable.

If approved by the legislature, the proposed changes to the [Real Estate Development Marketing Act](#) ("REDMA") on such transactions will require real estate developers to collect and report information on the assignment of pre-sale condominiums. This will allow the federal government to more effectively determine if GST is payable and ensure people are paying the applicable GST when these contracts are assigned. Read the [full article](#) by [Edward L. Wilson](#) of Lawson Lundell.

BC Supreme Court Confirms Richmond Strata's Winding-Up Resolution

Re Strata Plan NWS837, 2018 BCSC 564, is the latest in a [stream](#) of [cases](#) on terminating a strata property under the [Strata Property Act's new winding-up provisions](#).

The case involved a strata "known informally as 'Ascott Wynde,' " consisting of "102 strata lots and associated common property, which are contained primarily in two free-standing buildings located . . . in Richmond, British Columbia." The strata's two buildings "were built in or around 1977" and "are now in need of significant maintenance and repair work." Faced with substantial special levies to fund that work, the strata's owners decided to meet to consider a winding-up resolution:

The meeting took place on January 30, 2018. 100 of the 102 units were present in person or by proxy. 86 votes were cast in favour of the Resolution, 13 were cast against it and there was one abstention. The two non-voting units were treated as votes against the Resolution. Having exceeded the requisite 80% approval threshold set out in s. [277\(1\) of the SPA](#), the Resolution was approved.

The "strata corporation, the registered owners of seven of its 102 strata lots and the proposed liquidator" then applied to the supreme court, by way of petition, "seeking an order confirming a winding-up resolution that was passed by the owners of a strata corporation at a special general meeting convened for that purpose under s. 277 of the *Strata Property Act* . . . and other related relief." The petition was "opposed by six of the other owners." Read the [full article](#) by Kevin Zakreski of British Columbia Law Institute.

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

WILLS & ESTATES

Wills and Estates News:

Can You Prove Mental Incapacity For a Will?

Nykoryak v Anderson, 2017 BCSC 1800, is a decision that in many respects is indicative of how difficult it is to succeed in having a will set aside on the basis of lack of mental capacity. The court found that the testator who is aged 93, when he executed his last will had sufficient mental capacity to do so, despite some underlying cognitive issues. The evidence of his doctor and the lawyer who drafted the will was accepted by the court in proving that he had testamentary capacity. The court held that the law is clear that the issue to be decided is not whether the deceased suffered from cognitive impairment when the will was executed, but rather, whether, despite the cognitive impairment, the deceased was able to:

1. Understand the nature and effect of a will;
2. understand the extent of what was being bequeathed under the will;
3. remember the persons who might be expected to benefit under the will;
4. understand the nature of the claims that may be made by a person who is excluded by the will; and
5. understand the extent of what was being bequeathed under the will.

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

Trust Reporting: New Requirements Coming Soon!

Under the current rules, a trust only needs to file an annual tax return but generally does not need to file the

return if it does not earn an income or make any distributions in the year. (Notwithstanding that the Canada Revenue Agency has increased its demand for "nil returns" to be filed under certain circumstances). Further, there is currently no requirement for the trust to report the specific identity of all of its beneficiaries. The recent Federal Budget refers to this current situation as an information gap that can apparently be exploited by taxpayers engaging in aggressive tax avoidance and/or criminal activities of the "white collar" variety. Read the [full article](#) by Steven Frye with CW Group.

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

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