

# Quickscribe Reporter

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Vol: XVII – Issue: III – March 2018

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## QUICKSCRIBE NEWS:

### Mental Health Annotations from CLAS BC

Quickscribe is pleased to announce that Laura Johnston, a lawyer at the [Community Legal Assistance Society](#), will soon begin to contribute annotations to Mental Health Legislation. Laura works primarily in the areas of disability rights, mental health and human rights. Laura conducts systemic litigation and engages in research and law reform to improve access to justice, fairness and the rights set out in the [Charter](#) for marginalized populations. She also teaches Mental Health Law as an adjunct at the Peter A. Allard School of Law at UBC, and frequently provides education to legal and medical professionals on topics that impact adults with mental disabilities, such as the [Mental Health Act](#), the [Adult Guardianship Act](#), and the [Health Care \(Consent\) and Care Facility \(Admission\) Act](#).

### What's Happening in the House?

Parliament is not sitting at the moment but will resume on Monday, April 9th. The following government Bills were introduced in March:

- [Bill 4](#), British Columbia Innovation Council Amendment Act, 2018 – *in force by Royal Assent on March 15*
- [Bill 5](#), Community Care and Assisted Living Amendment Act, 2018 – *First Reading on March 6*
- [Bill 7](#), Miscellaneous Statutes Amendment Act, 2018 – *Second Reading on March 12*
- [Bill 8](#), Supply Act (No. 1), 2018 – *in force by Royal Assent on March 15*

A number of non-government Bills were introduced in March – none have proceeded beyond First Reading:

- [M203](#), Equal Pay Certification Act
- [M204](#), Name Amendment Act, 2018
- [M205](#), Election Amendment Act, 2018
- [M206](#), Reducing Waste Act, 2018
- [M207](#), Electoral Districts (Renaming) Amendment Act, 2018
- [M208](#), Freedom of Information and Protection of Privacy Amendment Act, 2018
- [M209](#), Personal Information Protection Amendment Act, 2018
- [M210](#), Family Day Amendment Act, 2018
- [M211](#), The Hunting and Fishing Heritage Amendment Act, 2018

A reminder that if you would like to track the progress of these bills, or to track changes to any laws that bills amend, please feel free to make use of our [BC Legislative Digest](#) tracking tool, and have us monitor and alert you to changes for laws of your choosing.

### Latest Annotations

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

- [Kimberly Jakeman](#), Haper Grey LLP – [Medicare Protection Act](#)
- [Melanie Harmer](#), McMillan LLP – [Legal Services Society Act](#), [Partnership Act](#)
- [Katherine Hardie](#), 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.


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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:

#### **Subjecting Transfers of Beneficial Ownership to Property Transfer Tax is not as Simple as It Might Seem**

The British Columbia [Property Transfer Tax Act](#) applies only to registered transfers of real property. In other words, it taxes transfers of legal ownership, but not transfers of beneficial ownership. For years, numerous British Columbia governments have considered expanding the scope of the act to include transfers of beneficial ownership – without substantive action.

However, significant real property-related tax changes are rumoured to be proposed in the upcoming provincial budget. Expansion of the *Property Transfer Tax Act* is not unthinkable, given that in 2016 British Columbia Premier John Horgan put forth [a bill](#) seeking to tax the disposition of a beneficial interest in land. Read the [full article](#) by Noah Sarna and Zheting Su with Thorsteinssons LLP.

#### **BCSC Seeks Feedback on Fintech Regulation**

The British Columbia Securities Commission (BCSC) published [BC Notice 2018/01 – Consulting on the Securities Law Framework for Fintech Regulation](#) on February 14, 2018. The Notice follows from a series of consultations (both in person and by survey) conducted by the BCSC on various elements of the financial technology (fintech) industry. The Notice sets out the results of the consultations, the general approach to date of the BCSC on certain of the matters and poses specific questions for comment on potential regulatory action to clarify or modernize securities laws in the space. Written submissions are due on April 3, 2018. The Notice discussed the following topics, among others:

- crowdfunding and online lending business models
- online adviser business model
- cryptocurrency funds
- initial coin offerings (ICOs) and cryptocurrencies.

Read the [full article](#) by [Tracy L. Hooey](#) of Fasken Martineau DuMoulin LLP.

#### **Decision Summary: Langley Collection Agency Fined for Violating BC's Consumer Protection Laws**

Consumer Protection BC has issued a compliance order and administrative penalties against Wiggins Adjustments Ltd., a licensed collection agency based in Langley BC, for:

- Failing to comply with an Undertaking, dated November 12, 2015, contrary to [section 189\(5\)\(c\)\(i\)](#) of the [Business Practices and Consumer Protection Act](#) (BPCPA), an administrative penalty of \$2,000.

A written Undertaking (a voluntary agreement) is a remedy available to Consumer Protection BC under its [progressive enforcement model](#) and contains the terms and conditions it determines are appropriate to address a potential violation of the law.

On November 12, 2015, Wiggins Adjustments entered into an Undertaking to ensure that the auto dialers and other automated calling devices used to contact debtors were in compliance with the law. This means that the devices must be programmed to limit the number of attempted daily calls to debtors and that the required quarterly inspections of the devices are documented.

In April 2017, Consumer Protection BC determined that the terms of the Undertaking were not being followed and has now imposed administrative monetary penalties of \$2,000. Additionally, the business has been ordered to reimburse Consumer Protection BC partial costs of the inspection in the amount of \$400. Read the [full article](#) published on the Consumer Protection BC website.

### **CSA Proposes Exempt Market Harmonization for Syndicated Mortgages**

The Canadian Securities Administrators have published proposed amendments to National Instrument 45-106 *Prospectus Exemptions* ([NI 45-106](#)) and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ([NI 31-103](#)) which would:

- Remove the prospectus and registration exemptions for the distribution of syndicated mortgages, where available;
- Introduce additional requirements to the offering memorandum exemption that apply when used to distribute syndicated mortgages; and
- Amend the private issuer exemption so that it is not available for the distribution of syndicated mortgages.

Read the [full blog post](#) in Canadian Securities Law by Stikeman Elliot.

### **BC Securities – Policies & Instruments**

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

- [BC Notice 2018/03](#) – Notice and Request for Comment - Consultation on Disclosure Requirements in National Instrument 58-101 *Disclosure of Corporate Governance Practices* relating to Women on Boards and in Executive Officer Positions
- [45-106](#) – CSA Notice and Request for Comment - Proposed Amendments to National Instrument 45-106 *Prospectus Exemptions* and National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* relating to Syndicated Mortgages and Proposed Changes to Companion Policy 45-106CP *Prospectus Exemptions*
- [23-322](#) – CSA Staff Notice 23-322 *Trading Fee Rebate Pilot Study*
- [31-353](#) – CSA Staff Notice 31-353 *OBSI Joint Regulators Committee Annual Report for 2017*
- [BC Notice 2018/04](#) – Advance Notice of Adoption of Amendments to National Instrument 81-102 *Investment Funds* relating to T+2 Settlement Cycle for Conventional Mutual Funds
- [44-101](#) – CSA Notice of Amendments relating to Designated Rating Organizations – Amendments to National Instrument 44-101 *Short Form Prospectus Distributions*, National Instrument 44-102 *Shelf Distributions* and related amendments
- [45-102](#) – CSA Notice of Amendments to National Instrument 45-102 *Resale of Securities*, related companion policy changes and consequential amendments - new foreign trade exemption
- [51-353](#) – CSA Staff Notice 51-353 *Update on CSA Consultation Paper 51-404 Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers*

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

<b>Act or Regulation Affected</b>	<b>Effective Date</b>	<b>Amendment Information</b>
Capital Requirements Regulation (315/90)	Mar. 12/18	by <a href="#">Reg 40/2018</a>
Designated Accommodation Area Tax Regulation (93/2013)	Mar. 1/18	by <a href="#">Reg 5/2018</a>
Farm Incomes Plans Regulation (123/2004)	Apr. 1/18	by <a href="#">Reg 47/2018</a>

Financial Information Act	Mar. 15/18	by 2018 Bill 4, c. 2, sections 1 to 7 only (in force by Royal Assent), <a href="#">British Columbia Innovation Council Amendment Act, 2018</a>
Income Tax Act	<b>RETROACTIVE</b> to Jan. 1/17	by 2018 Bill 2, c. 4, sections 14 and 17 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
	<b>RETROACTIVE</b> to Jan. 1/18	by 2018 Bill 2, c. 4, sections 15, 16, 23 and 27 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, sections 30 and 32 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
	Mar. 15/18	by 2018 Bill 2, c. 4, sections 26, 28, 29, 31, 33 and 34 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Innovate BC Act (title changed from British Columbia Innovation Council Act)	Mar. 15/18	by 2018 Bill 4, c. 2, sections 1 to 7 only (in force by Royal Assent), <a href="#">British Columbia Innovation Council Amendment Act, 2018</a>
Provincial Sales Tax Act	<b>RETROACTIVE</b> to Apr. 1/13	by 2018 Bill 2, c. 4, section 70 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
	Mar. 15/18	by 2018 Bill 2, c. 4, sections 72 to 78 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Provincial Sales Tax (Delivery Charge) Remission Regulation (48/2018)	<b>NEW</b> Mar. 20/18	see <a href="#">Reg 48/2018</a>
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	Apr. 1/18	by <a href="#">Reg 54/2018</a>

## ENERGY & MINES

### Energy and Mines News:

#### **Mandatory Mine Supervisor's Certification Will Be Available Soon Online**

The Ministry of Energy, Mines and Petroleum Resources (EMPR) completed a review of the [Health, Safety and Reclamation Code for Mines in British Columbia](#) (the Code). As a result of the review, new provisions came into force in February 2017.

One of the provisions added to the Code was the reintroduction of a Supervisor's Certification for any supervisor on a mine site to ensure a common understanding of the Code, to encourage worker safety and to ensure supervisors on a mine site are aware of their responsibilities under the Code. This requirement comes into force on June 1, 2018.

The provision requires that anyone supervising six or fewer people on a mine site or in other areas of a mine, such as a mill, tailings storage facility, lab or maintenance area or shop, complete their Supervisor's Certification. Read the [full article](#) by Al Hoffman in *Mineral Exploration*.

### **Study Explores BC's Renewable Hydrogen Energy Potential**

A new study will enable United Kingdom-based ITM Power to examine the potential for large-scale production of renewable hydrogen in British Columbia.

The study, which begins this spring, will look at the feasibility of hydrogen production and export, for energy use in Japan, California and domestically in British Columbia. If the study results are positive, ITM Power will consider building a pilot plant in BC.

The Government of British Columbia is providing \$230,000 to support the study, with an additional \$60,000 of in-kind support from BC Hydro, to research potential plant locations, related transmission upgrade requirements and interconnection costs.

"This technology has the potential to make British Columbia a major player in the worldwide hydrogen economy," said Energy, Mines and Petroleum Resources Minister Michelle Mungall. "This project is a clear indicator that, as we move toward a strong, sustainable energy future, BC's renewable and innovative clean energy resources make us an attractive destination for global investment." Read the government [news release](#).

### **BC Government Unveils Plan to Conduct a Hydraulic Fracturing Review**

On March 15, 2018, Minister Michelle Mungall (Energy, Mines and Petroleum Resources) unveiled the provincial government's plan to conduct an independent, scientific review of hydraulic fracturing. The review, headed by a three-person panel, will focus on the environmental effects of hydraulic fracturing, including its relationship with seismic activity, impacts on water quality and quantity, and fugitive methane emissions.

The members of the panel were announced as: Diana M. Allen, P. Geo, a professor in the department of earth sciences at SFU; Erik Eberhardt, P. Eng, a professor of rock mechanics and rock engineering at UBC; and Amanda Bustin, PhD, a research associate at UBC. Nalaine Morin will advise the panel with respect to traditional Indigenous knowledge.

The panel will work toward a tight timeline to provide a report to the Minister by the end of 2018. The report will include a review of provincial regulations and recommendations. Read the [full article](#) by Ramsey Glass of Borden Ladner Gervais.

### **New Emergency Management Regulation**

A new [Emergency Management Regulation](#) came into force, which replaces the former regulation as of March 1, 2018. Key requirements of the new regulation include:

- adoption of CSA Z246.2, published by the Canadian Standards Association, Emergency Preparedness and Response for Petroleum and Natural Gas Industry Systems
- mandatory use of the Incident Command System by a permit holder as the emergency management system
- development of full-scale emergency exercises by permit holders to be conducted at least once every three years
- online availability of permit holder Core plans

### **British Columbia Utilities Commission Launches Inquiry to Review Regulation of Electric Vehicle Charging**

The British Columbia Utilities Commission (BCUC) [recently established](#) an inquiry to review the regulation of electric vehicle (EV) charging services in the province.

The inquiry evolved out of an application by [FortisBC Inc.](#) for approval of a \$9.00 per half hour EV charging rate for service at FortisBC-owned charging stations. FortisBC stated that the proposed rate would recover the incremental costs of services associated with the charging stations over 10 years. FortisBC is installing the stations as part of the [Accelerate Kootenays](#) project, a community-driven initiative to reduce greenhouse gas emissions through the adoption of EVs in the region. The [BCUC approved the requested rate](#) on an interim basis in January 2018. In its decision, the BCUC noted that the rate design and rates for EV charging are in an early development stage in BC, and that other entities may emerge to provide EV charging services. The Commission adjourned the FortisBC application in favour of conducting the general inquiry. Read the [full post](#) on *energy insider* by [Zoë Thoms](#) of Aird and Berlis LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Emergency Management Regulation (217/2017)	<b>NEW</b> Mar. 1/18	see <a href="#">Reg 217/2017</a>
Emergency Management Regulation (204/2013)	<b>REPEALED</b> Mar. 1/18	by <a href="#">Reg 217/2017</a>
Energy Efficiency Standards Regulation(14/2015)	Mar. 6/18	by <a href="#">Reg 29/2018</a>
Fee, Levy and Security Regulation (8/2014)	Mar. 5/18	by <a href="#">Reg 27/2018</a>
Oil and Gas Activities Act	Mar. 20/18	by 2015 Bill 40, c. 40, sections 1, 3 to 9, 11 to 19, 21 and 23 only (in force by <a href="#">Reg 51/2018</a> ), <a href="#">Natural Gas Development Statutes Amendment Act, 2015</a>
Oil and Gas Activities Act General Regulation (374/2010)	Mar. 20/18	by <a href="#">Reg 51/2018</a>
Petroleum and Natural Gas Act	Mar. 15/18	by 2018 Bill 2, c. 4, sections 51 to 55 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>

## FAMILY & CHILDREN

### Family and Children News:

#### **BC Project Offers Children Independent Representation in Court**

A new project is aimed at giving children a greater voice in court proceedings – and the program's leaders and BC's children's representative say the province has lagged behind other jurisdictions in this area.

The Society for Children and Youth of BC has launched a project that provides independent legal assistance for young people who are involved in family-law and child-protection cases.

"In our opinion, BC was and is well behind the rest of the country when it comes to children and youth having that access to legal representation," Stephanie Howell, the society's executive director, said in an interview. Read the *Globe and Mail* [article](#).

#### **An Evaluation of the Cost of Family Law Disputes: Measuring the Cost Implication of Various Dispute Resolution Methods**

This study describes the results of a survey of family law lawyers and their views of the use of collaborative processes, mediation, arbitration and litigation in family law disputes. The study provides valuable insights into the costs of these processes, how long cases take to resolve, and lawyers' perceptions of their efficacy. It suggests that most lawyers are using, and prefer to use, dispute resolution processes other than litigation to resolve family law disputes. Four-fifths of respondents use mediation, almost two-thirds use collaboration, and almost one-third use arbitration. Moreover, almost all lawyers surveyed agree that people should attempt to resolve their dispute through another process before litigating, and almost three-quarters agree that, except in urgent circumstances, people should be required to attempt to resolve their dispute through another process before litigating. Three-quarters of lawyers also agreed that litigation should only be used as a last resort, when other dispute resolution processes have failed. In light of today's straitened budgetary resources, the findings from this study provide information that is useful for policymakers and program developers in identifying best practices in cost-effective dispute resolution methods. Read the [full study](#) by J. J. Paetsch, L.D Bertrand, and [J.P. Boyd](#) on the Canadian Research Institute for Law and the Family website.



Act or Regulation Affected	Effective Date	Amendment Information
Child, Family & Community Service Regulation (527/95)	Apr. 1/18	by <a href="#">Reg 20/2018</a>

## FOREST & ENVIRONMENT

### Forest and Environment News:

#### Domestic Water: A Common Source of Complaints

One of the most common public concerns heard by the Forest Practices Board (FPB) relates to how forest practices affect domestic water. Many people in BC obtain their drinking water from surface water streams and they can become very concerned when sediment enters their water supply, damages their water systems, or when they see flow levels changing – either increasing or decreasing. These impacts are often attributed to forestry activities and the FPB has investigated numerous complaints about water over the years. Managing the quality of water is a shared responsibility. Water licensees are responsible for ensuring their system provides safe, clean drinking water and for recognizing the risks involved in surface water sources. Forest licensees, and the professionals they employ, have a responsibility to ensure they minimize the impacts of their activities on the water licensee's water quality or quantity. When the FPB looks at a water-related complaint, a number of aspects must be considered. These include legal obligations under the [Forest and Range Practices Act](#) (FRPA), government and professional expectations, natural events, topography and soils, and other contributing factors (non-status roads, weather events, natural slides, drainage diversion, etc.) Legal obligations related to domestic water exist in the [Forest Planning and Practices Regulation](#) under FRPA, forest stewardship plans, and higher level plan orders. Read the [full article](#) in this month's issue of *BC Forest Professional Magazine*.

#### BC Government Sets the Stage for "Revitalizing" the Provincial Environmental Assessment Process

Changes are on the horizon for the BC Environmental Assessment (EA) process. On March 7, 2018, Minister of Environment and Climate Change Strategy George Heyman [announced](#) that the provincial government will "revitalize" the provincial EA process with a view to enhancing public confidence, advancing reconciliation with First Nations, and protecting the environment while supporting sustainable economic growth. Minister Heyman emphasized the province's goal of ensuring that First Nations, local governments, and the general public can participate in an EA process that is "transparent, science-based, timely and provides early indications of the likelihood of success."

##### Background

The notion of "revitalizing" the provincial EA process first emerged in the May 2017 [Confidence and Supply Agreement](#) between the BC Greens and the BC NDP, which paved the way for the NDP's ascension to power on July 18, 2017.

Read the [full article](#) by Selina Lee-Andersen and Connor Bildfell of McCarthy Tetrault.

#### Wildlife Regulations Amended

Several regulations under the [Wildlife Act](#) were amended on April 1, 2018 to enforce the ban on grizzly bear hunting. The changes increase the amount of meat a hunter retrieves from big game species and requires hunter to carry all their species licenses during a hunting trip. In addition, taxidermists and tanners will be required to report information about any grizzly bears or grizzly bear parts brought to them. Regulations affected by these amendments are the [Designation and Exemption Regulation](#), [Hunting Regulation](#), [Hunting Licensing Regulation](#), [Permit Regulation](#), [Wildlife Act Commercial Activities Regulation](#) and [Wildlife Act General Regulation](#).

#### Environmental Appeal Board Decisions

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

##### [Wildlife Act](#)

- [Stan Doll v. Deputy Regional Manager](#) [Final Decision – Appeal Dismissed]
- [Gary Blackwell v. Deputy Regional Manager, Skeena Region, Resource Stewardship Division](#) [Final Decision – Appeal Dismissed in Part; Sent Back for Direction]

##### [Environmental Management Act](#)

- [Ayreborn Audio Video; Marilyn Henderson; Brookwood Fernridge Community Association; Frank Mueggenburg; IronGait Ventures Inc. v. District Director, Environmental Management Act](#) [Stay Applications – Denied]

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

Act or Regulation Affected	Effective Date	Amendment Information
Asphalt Plant Regulation (217/97)	Apr. 1/18	by <a href="#">Reg 46/2018</a>
Carbon Tax Act	<b>RETROACTIVE</b> to Feb. 18/14	by 2018 Bill 2, c. 4, sections 3 and 4 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
	<b>RETROACTIVE</b> to May 19/16	by 2018 Bill 2, c. 4, section 5 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Cut Control Regulation (578/2004)	Mar. 7/18	by <a href="#">Reg 33/2018</a>
Designation and Exemption Regulation (168/90)	Apr. 1/18	by <a href="#">Reg 52/2018</a>
Designation of Officers Regulation (305/2002)	Mar. 7/18	by <a href="#">Reg 38/2018</a>
Government Actions Regulation (582/2004)	Mar. 7/18	by <a href="#">Reg 34/2018</a>
Hunting Regulation (190/84)	Apr. 1/18	by <a href="#">Reg 52/2018</a>
Hunting Licensing Regulation (8/99)	Apr. 1/18	by <a href="#">Regs 52/2018</a> and <a href="#">57/2018</a>
Limited Entry Hunting Regulation (134/93)	Apr. 1/18	by <a href="#">Reg 57/2018</a>
Logging Tax Act	Mar. 15/18	by 2018 Bill 2, c. 4, section 41 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Municipal Wastewater Regulation (87/2012)	Apr. 1/18	by <a href="#">Reg 46/2018</a>
Oil and Gas Waste Regulation (254/2005)	Apr. 1/18	by <a href="#">Reg 46/2018</a>
Permit and Approval Fees and Charges Regulation (299/92) (formerly <i>Permit Fees Regulation</i> )	Apr. 1/18	by <a href="#">Reg 46/2018</a>
Permit Regulation (253/2000)	Apr. 1/18	by <a href="#">Reg 52/2018</a>



Pulp Mill and Pulp and Paper Mill Liquid Effluent Control Regulation (470/90)	Apr. 1/18	by <a href="#">Reg 46/2018</a>
Waste Discharge Regulation (320/2004)	Apr. 1/18	by <a href="#">Reg 46/2018</a>
Wildfire Regulation (38/2005)	Mar. 22/18	by <a href="#">Regs 58/2018</a> and <a href="#">60/2018</a>
Wildlife Act Commercial Activities Regulation (338/82)	Apr. 1/18	by <a href="#">Reg 52/2018</a>
Wildlife Act General Regulation (340/82)	Apr. 1/18	by <a href="#">Regs 46/2018</a> and <a href="#">55/2018</a>

## HEALTH

### Health News:

#### BC Targets Private Health Care with New Penalties for Extra Billing

The British Columbia government is enacting a law that aims to ban extra billing by doctors, in its first major swipe in the province's long-running battle with the expansion of private medical care. An investigation by *The Globe and Mail* last June found significant, unlawful extra billing by Canadian doctors through private clinics – especially in BC – where patients pay out of pocket for access to everything from medical appointments to surgery. Those findings were recently confirmed in a series of audits conducted jointly by the federal and BC governments that led to the first significant fine against the province in March – \$15.9-million – for violations of the [Canada Health Act](#). That amount was for just three clinics audited in the fiscal year of 2015-16. There are 56 private surgical facilities and 17 private MRI facilities currently operating in the province. "This is the end of "don't ask, don't tell," Health Minister Adrian Dix said Wednesday [April 3rd]. He said the goal is not to shut down the province's private medical clinics, but his government will not tacitly ignore the well-known practice of unlawful extra billing. Read *The Globe and Mail* [article](#) by [Justine Hunter](#).

#### Remote Shut-off Devices Prevent Chlorine Gas Emergencies

Exposure to high levels of chlorine gas can result in serious injuries and even death, but exposure is preventable. The team at Saanich Commonwealth Place is going to great lengths to ensure it's prepared in the event of an emergency leak. When supervisor Dave Hamer found out that WorkSafeBC would be completing a routine risk assessment inspection at the Saanich Commonwealth Place aquatic facility, he wasn't concerned. He understood the pool to be fully compliant, with all employee training up to date. Read the [full article](#) in the recent *WorkSafeBC Magazine*.

#### Changes to Pharmacy Operations and Drug Scheduling Act

The [Pharmacy Operations and Drug Scheduling Act](#) was amended on April 1, 2018, which will strengthen the ability of the College of Pharmacists of B.C. to protect patients from unsuitable pharmacy owners. The amendments will allow the College to require information from a pharmacy about all owners and other people involved in running a pharmacy. The College may also refuse to issue, renew or reinstate a pharmacy license to pharmacy owners, directors or officers under certain guidelines. A new regulation was also enacted under the Act, the [Pharmacy Operations General Regulation](#).

Act or Regulation Affected	Effective Date	Amendment Information
Community Living Authority Regulation (231/2005)	Mar. 31/18	by <a href="#">Reg 61/2018</a>
Health Care Employers Regulation		

(427/94)	Mar. 12/18	by <a href="#">Reg 41/2018</a>
Health Professions Act	Apr. 1/18	by 2016 Bill 6, c. 12, section 11 only (in force by Reg 234/2017), <a href="#">Pharmacy Operations and Drug Scheduling Amendment Act, 2016</a>
Hospital District Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, sections 3 and 4 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Pharmacy Operations and Drug Scheduling Act	Apr. 1/18	by 2016 Bill 6, c. 12, sections 1 to 10 only (in force by Reg 234/2017), <a href="#">Pharmacy Operations and Drug Scheduling Amendment Act, 2016</a>
Pharmacy Operations General Regulation (43/2018)	<b>NEW</b> Apr. 1/18	see <a href="#">Reg 43/2018</a>
Poultry Health and Buying Regulation (303/2016)	Mar. 31/18	by Reg 303/2016
Prescribed Health Care Professions Regulation (129/2009)	<b>REPEALED</b> Apr. 1/18	by <a href="#">Reg 43/2018</a>
Prescribed Number of Days (139/2009)	<b>REPEALED</b> Apr. 1/18	by <a href="#">Reg 43/2018</a>

## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### **Basic "Work for Pay" Bargain at the Core of the Employment Relationship**

*Corporation of the Township of Langley -and- Canadian Union of Public Employees, Local 403*, BCLRB No. B117/2017 (leave for reconsideration denied in No. B151/2017) is part of a series of decisions addressing alleged discrimination against a number of employees who were dismissed from employment due to non-culpable absenteeism. The case wended its way from arbitration proceedings, to the B.C. Court of Appeal, and ultimately to the B.C. Labour Relations Board (the "Board") between 2015 and 2017. The Board remitted the matter to the initial arbitrator in late 2017 so the saga continues but, as outlined below, the most recent Board decision provides significant guidance to the arbitrator.

The grieving former employees were all in receipt of long-term disability (LTD) benefits and considered permanently disabled with no prospect of returning to work at the time of dismissal. The employees had all been permanently disabled for longer than any other such employees although their total time away from work varied. The employer decided to terminate their employment in order to save the ongoing costs of non-disability related benefits they continued to receive. The terminations of employment did not impact the former employees' continued receipt of LTD benefits.

The matter commenced with a February 2015 decision of Arbitrator David McPhillips that the terminations were discriminatory. The arbitrator concluded in particular that the employer's decision to dismiss these employees was arbitrary or taken in bad faith because the decision was not based on any pre-existing policy or standard. Read the [full article](#) by [Delayne Sartison Q.C.](#) of Roper Greyell.

#### **New "Employer Health Tax" in British Columbia**

British Columbia's government recently announced that the revenues from Medical Services Plan (MSP) premiums, which are to be eliminated effective January 1, 2020, will largely be replaced with an "employer health tax." The employer health tax will be effective January 1, 2019. The proposed rate structure for the new

tax is as follows:

Size of Annual BC Payroll	Annual Tax (\$)	Tax Rate as % of Payroll
Under \$500,000 or less	\$0	0%
\$750,000	\$7,313	0.98%
\$1,000,000	\$14,625	1.46%
\$1,250,000	\$21,938	1.76%
\$1,500,000	\$29,250	1.95%
Over \$1,500,000	\$29,250 + 1.95% of payroll over \$1.5 million	1.95%

Read the [full article](#) by [Laura DeVries](#) of McCarthy Tétrault LLP.

### **Cannabis in the Workplace: What to Expect and What Not to Expect from WorkSafeBC**

The impact of drug and alcohol impairment on workplace safety is obvious and frequently tragic. With the wave of legislative change governing non-medical cannabis use taking place this year, can employers in BC also expect occupational health and safety (OHS) laws to change?

WorkSafeBC has indicated that, despite cannabis legalization taking place this year, it does not see a need to amend existing laws governing workplace impairment. The reason makes sense: any risk to worker safety caused by impairment on the job has long been prohibited, and there is nothing unique about cannabis which requires a change to this basic rule.

In BC, the [Occupational Health and Safety Regulation](#) outlines three main prohibitions regarding workplace impairment. Read the [full article](#) by [Eric Ito](#) with Miller Thomson.

### **Rejected Job Applicants Obtain Disclosure of Application Records Under Privacy Law**

The British Columbia Information and Privacy Commissioner (the "Commissioner") recently ordered Compass Group Canada Ltd., a food, cleaning and maintenance service company ("Compass"), to disclose all records related to the job applications of a group of rejected applicants.

This decision provides insight into the disclosure obligations of private organizations. Organizations cannot refuse to disclose records containing personal information on the basis that they contain confidential or personal information protected by the [Personal Information Protection Act](#) ("PIPA") if the offending portions of the documents can be redacted.

#### **Background**

PIPA governs how private organizations handle personal information and creates rules regarding its collection, use, and disclosure. [Section 23\(1\)\(a\)](#) of PIPA gives individuals the right to access their personal information that is under the control of an organization. *Compass Group Canada Ltd., 2018 BCIPC 06*, is a decision of the Commissioner dealing with a request for disclosure under this section.

Read the [full article](#) by [Laura Devries](#) of McCarthy Tétrault.

Act or Regulation Affected	Effective Date	Amendment Information
Employment Standards Regulation (396/95)	Mar. 7/18	by <a href="#">Reg 32/2018</a>
Workers Compensation Act	Mar. 1/18	by <a href="#">Reg 212/2017</a>
Workers Compensation Act Appeal Regulation (321/2002)	Mar. 7/18	by <a href="#">Reg 37/2018</a>

## **LOCAL GOVERNMENT**

**Local Government News:**

**Anchors Aweigh: Local Government's Jurisdiction over Permanent Moorage of Vessels**

In *The Corporation of the City of Victoria v. Zimmerman*, [2018 BCSC 321](#), the City of Victoria obtained a statutory injunction to restrain the permanent moorage of boats in the Gorge Waterway, on the grounds that permanent moorage of boats contravened the City's zoning bylaw.

The respondents challenged the validity of the zoning bylaw, arguing that restricting moorage encroached upon the federal jurisdiction over navigation and shipping under the [Constitution Act](#). In other words, they argued that the City's zoning bylaw was venturing in unnavigable waters, jurisdictionally.

In its reasons for judgment, the Court first addresses the issue of whether the Gorge is within the territorial jurisdiction of the Province. Read the [full article](#) by Andie Britton-Foster of Stewart McDannold Stuart.

**New Resource Available for Local Governments on Hosting Gambling Facilities**

Local governments hosting, or looking to host, a gambling facility in their community now have access to a comprehensive and easy-to-use information guide from the Province that provides valuable information about the public-health risks of gambling.

The guide, *Hosting a Gambling Facility: A Local Government Information Package on the Public Health Risks of Gambling*, will help local governments make informed decisions about whether to host or expand a gambling facility, as well as promote public safety in communities with existing facilities.

The package focuses on four key themes around the public-health risk of gambling, including problem-gambling prevalence, revenue generated from problem gamblers, high-risk games, and the availability of alcohol and the impact of alcohol on gambling. The guide highlights existing programs and strategies that minimize harm, as well as other steps that can mitigate health risks in communities. Read the full government [news release](#).

**UBCM Principles for Cannabis Taxation**

The UBCM Executive, at its February 23, 2018 meeting, endorsed a principled approach to cannabis excise tax revenue sharing. In the absence of fulsome data, UBCM's four principles seek to ensure that BC's share of cannabis excise tax revenue addresses all local government costs associated with legalization, with remaining funds shared between the Province and BC local governments.

Derived primarily from the work of the [Joint Provincial-Local Government Committee on Cannabis Regulation](#) and established UBCM policy (i.e. endorsed resolutions), UBCM has established the following four principles:

1. Cannabis legalization should not result in additional local government funding by property taxpayers.
2. Local governments should be reimbursed for costs associated with the implementation of legalized cannabis.

Read the full UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Assessment Authority Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, section 1 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Audit Council Regulation (94/2012)	Mar. 20/18	by <a href="#">Reg 44/2018</a>
British Columbia Transit Regulation (30/91)	Mar. 28/18	by <a href="#">Reg 63/2018</a>
Cariboo Regional District Approval Exemption Regulation (139/2013)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Central Kootenay Regional District		

Approval Exemption Regulation (45/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
City of Coquitlam Regulation (187/2009)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 31/2018</a>
Community Charter Interim Regulation (429/2003)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 31/2018</a>
Cowichan Valley Regional District Approval Exemption Regulation (38/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
District of Mackenzie Tax Relief Regulation (170/2010)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 31/2018</a>
Fraser Valley Regional District Approval Exemption Regulation (40/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Gaming Control Regulation (208/2002)	Mar. 7/18	by <a href="#">Reg 35/2018</a>
Greater Vancouver Regional District Exemption Regulation (195/96)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Home Owner Grant Act	Mar. 15/18	by 2018 Bill 2, c. 4, section 11 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Islands Trust Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, section 37 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Kootenay Boundary Regional District Approval Exemption Regulation (41/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Local Government Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, section 39 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Local Services Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, section 40 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Peace River Regional District Approval Exemption Regulation (43/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Regional District Bylaw Approval Exemption Regulation (279/2003)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>

Regional District of Central Okanagan Approval Exemption Regulation (37/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Regional District of East Kootenay Approval Exemption Regulation (39/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Regional District of North Okanagan Approval Exemption Regulation (42/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
School Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, sections 89 to 101 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
South Coast British Columbia Transportation Authority Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, section 102 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
	Mar. 22/18	by <a href="#">Reg 59/2018</a>
Squamish-Lillooet Regional District Approval Exemption Regulation (46/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Sunshine Coast Regional District Approval Exemption Regulation (44/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Thompson-Nicola Regional District Approval Exemption Regulation (36/2011)	<b>REPEALED</b> Mar. 7/18	by <a href="#">Reg 30/2018</a>
Transportation Investment Act	Apr. 1/18	by 2017 Bill 2, c. 12, section 2 to 6 only (in force by <a href="#">Reg 45/2018</a> ), <a href="#">Budget Measures Implementation Act, 2017</a>
Vancouver Charter	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, sections 104 and 105 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>

## MISCELLANEOUS

### Miscellaneous News:

#### **BC Court of Appeal Rules Absolute Privilege Precludes Claim for Breach of Privacy**

In British Columbia, alleged breaches of privacy are actionable in court only under the [Privacy Act](#), R.S.B.C. 1996, c. 373. In a departure from the law of Ontario, there is no common law tort of invasion or breach of privacy available to plaintiffs in British Columbia. It is in this context that the British Columbia Court of Appeal recently ruled that British Columbia's statutory cause of action for breach of privacy does not apply to the disclosure of private information during judicial proceedings.

#### **Background**



The British Columbia Court of Appeal's decision in *Duncan v. Lessing and Lessing Brandon Company LLP*, [2018 BCCA 9](#) involved two claims against a lawyer for breach of privacy under British Columbia's *Privacy Act*. In the first alleged breach, the Appellant, Mr. Duncan, claimed that his former wife's lawyer had improperly served sensitive information about his finances in a family law proceeding on multiple non-party companies.

Read the [full article](#) by [Melanie J. Harmer](#) with McMillan LLP.

***Iggillis Holdings Inc v Canada (National Revenue): What Secrets Can Corporate Lawyers and Their Clients Keep?***

When corporate lawyers choose to exchange information with opposing counsel, they do so with a view towards a smooth and confidential closing of their client's transaction. In particular, the promise of confidentiality is granted by the doctrine of "common interest privilege."

Privilege protects all communications between a professional legal adviser and their clients from being disclosed without the permission of the client. When parties willingly share otherwise privileged communication with a third party however, they are said to be waiving their right to privilege to the "whole world". Common interest privilege acts as an exception to this rule. The idea is that parties who have a common interest in a legal matter (as when two opposing lawyers act on a beneficial deal for their clients) should nonetheless be afforded the protection of privilege so that they can continue to share information between them, but not with other parties.

Recently, the decision *Iggillis Holdings Inc. v Canada (National Revenue)*, 2016 FC 1352 [*Iggillis FC*] raised considerable alarm amongst the corporate law bar when it held that common interest privilege is valid only in litigation settings – not transactional ones. Such a ruling would have forced counsel to revisit the collaborative nature of their deal-work, adding potential costs and delays to the process. The fate of common interest privilege was left to the closely watched appeal in *Iggillis Holdings Inc. v Canada (National Revenue)*, 2018 FCA 51 [*Iggillis FCA*]. Read the [full article](#) by Scott Lin on *theCourt.ca*.

Act or Regulation Affected	Effective Date	Amendment Information
Acting Information and Privacy Commissioner Continuation Act	<b>REPEALED</b> Mar. 31/18	by 2017 Bill 4, c. 9, section 2 only (in force by Royal Assent), <a href="#">Acting Information and Privacy Commissioner Continuation Act</a>
Freedom of Information and Protection of Privacy Act	Mar. 15/18	by 2018 Bill 4, c. 2, section 10 only (in force by Royal Assent), <a href="#">British Columbia Innovation Council Amendment Act, 2018</a>
Indian Self Government Enabling Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, sections 35 and 36 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Regulations Act	Mar. 13/18	by <a href="#">Reg 42/2018</a>
Salary Range Regulation (152/2017)	Mar. 1/18	by <a href="#">Reg 26/2018</a>
Tla'amin Final Agreement Act	Mar. 15/18	by 2018 Bill 3, c. 1, section 1 only (in force by Royal Assent), <a href="#">Tla'amin Final Agreement Amendment Act, 2018</a>

**MOTOR VEHICLE & TRAFFIC**

**Motor Vehicle and Traffic News:**

**At-fault Distracted Drivers on the Hook for More Costs in Proposed ICBC Change**

The province has asked the Insurance Corporation of B.C. to investigate the possibility of making distracted

drivers responsible for several significant costs if they're found to be at fault in a crash, CBC News has learned.

The change would void parts of distracted drivers' insurance coverage in a collision, meaning they would have to pay for their own auto repairs, medical expenses, and the settlements from any resulting lawsuits – all of which ICBC currently pays for.

B.C. Attorney General David Eby has directed ICBC to look into the change, and says it's part of both a crackdown on distracted driving and a financial restructuring of the auto insurer. Eby says statistics he's received show distracted driving is as bad a problem as drunk driving – and in some cases it's worse – so they should be treated the same when it comes to insurance.

The potential savings would be a boon to ICBC, which Eby described in early 2018 as a "financial dumpster fire," with losses forecast at \$1.3 billion dollars in the fiscal year 2017. A report issued by ICBC in late 2017 called distracted driving "a major reason for the increase in claims costs," though the insurer said in a statement that its claim database does not track causes. Read the [full article](#) on CBC News.

### Electronic Ticketing Introduced

On March 1, 2018, the [Public Safety Statutes Amendment Act, 2017](#) brought changes to the [Offence Act](#) to improve road safety and introduce electronic ticketing (eTicketing) for traffic offences within BC. For added convenience, eTicket recipients now have the option to pay their eTickets through an online payment service in addition to existing payment methods. The [Offence Act Forms Regulation](#) was also amended by adding three new forms that display the required format for the new eTicket.

### New Motor Dealer Regulations

Effective April 1, 2018, the [Broker Licensing Regulation](#), [Salesperson Licensing Regulation](#) and [Wholesaler Licensing Regulation](#) came into force. The regulations fully enact recent amendments to the [Motor Dealer Act](#) and increase protections for motor vehicle buyers. The new amendments enhance consumer protection by

- regulating and licensing broker agents and wholesalers
- prohibiting broker agents from benefiting from dual agency – they can no longer receive money from both the buyer and seller of a vehicle
- ensuring used vehicle wholesalers disclose vehicle histories when selling to dealers
- adding flexible, proportionate and responsive approaches to breaches of the *Motor Dealer Act* by licensed dealers and salespeople

### CVSE Bulletins & Notices

The following notices have been posed in March by CVSE:

- [NSC Bulletin 01-18](#) – Off-Duty Time and the Motion Picture Industry
- [VI Notice 01-18](#) – 2016 Vehicle Inspection Manual (VIM) Amendments – [Consolidated List of Amendments](#)

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

Act or Regulation Affected	Effective Date	Amendment Information
British Columbia Transit Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, section 2 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Broker Licensing Regulation (201/2017)	<b>NEW</b> Apr. 1/18	see <a href="#">Reg 201/2017</a>
Lien on Impounded Motor Vehicles Regulation (25/2015)	Mar. 1/18	by <a href="#">Reg 14/2018</a>
Motor Assisted Cycle Regulation (151/2002)	Mar. 22/18	by <a href="#">Reg 56/2018</a>
Motor Dealer Act	Apr. 1/18	by 2016 Bill 9, c. 6, section 3 only (in force by Reg 200/2017), <a href="#">Motor Dealer Amendment Act, 2016</a>

Motor Dealer Act Regulation (447/78)	Apr. 1/18	by <a href="#">Reg 200/2017</a>
Motor Dealer Delegation Regulation (129/2004)	Apr. 1/18	by <a href="#">Reg 200/2017</a>
Motor Fuel Tax Act	<b>RETROACTIVE</b> to Feb. 18/14	by 2018 Bill 2, c. 4, sections 43 and 45 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
	<b>RETROACTIVE</b> to July 1/15	by 2018 Bill 2, c. 4, section 44 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Motor Fuel Tax Regulation (414/85)	Apr. 1/18	by <a href="#">Regs 49/2018</a> and <a href="#">50/2018</a>
Offence Act	Mar. 1/18	by 2017 Bill 12, c. 17, sections 2 to 12 only (in force by <a href="#">Reg 18/2018</a> ), <a href="#">Public Safety Statutes Amendment Act, 2017</a>
Offence Act Forms Regulation (422/90)	Mar. 1/18	by <a href="#">Reg 18/2018</a>
Salesperson Licensing Regulation (202/2017)	<b>NEW</b> Apr. 1/18	see <a href="#">Reg 202/2017</a>
Salesperson Licensing Regulation (241/2004)	<b>REPEALED</b> Apr. 1/18	by <a href="#">Reg 202/2017</a>
Special Direction IC2 to the BC Utilities Commission (25/2018)	Mar. 1/18	by <a href="#">Reg 25/2018</a>
Vehicle Inspection Regulation (256/2010)	Mar. 1/18	by <a href="#">Reg 24/2018</a>
Violation Ticket Administration and Fines Regulation (89/97)	Mar. 1/18	by <a href="#">Reg 18/2018</a>
	Mar. 22/18	by <a href="#">Reg 58/2018</a>
	Apr. 1/18	by <a href="#">Reg 52/2018</a>
Wholesaler Licensing Regulation (203/2017)	<b>NEW</b> Apr. 1/18	see <a href="#">Reg 203/2017</a>

## PROPERTY & REAL ESTATE

### Property and Real Estate News:

#### Spotlight on Strata Governance: Should Section 8 of the Standard Bylaws be Relocated to the [Strata Property] Act?

- from BCLI

### **The content of the bylaw**

Section 8 of the [Schedule of Standard Bylaws](#) [SPA] is a lengthy and important provision dealing with repair and maintenance of property by a strata corporation.

### **The committee's tentative recommendations for reform**

The committee viewed this provision as being a key provision of the standard bylaws. It gave extensive consideration to whether it should become part of the legislation.

The committee noted that there are a number of challenges to tackling this provision. Section 8 has proved to be very difficult to understand and apply in practice. Some strata corporations have amended the provision, a development which has often only added to the confusion. That said, a one-size-fits-all approach to repairs and maintenance raises its own concerns.

The committee felt that section 8 had to be discussed alongside [section 72](#) of the act, which covers similar territory. Section 8 appears to set out the minimum standards for repairs and maintenance. So section 8 could be relocated to the act and a strata corporation that was so inclined could, possibly in reliance on section 72 of the act, take on additional obligations by adopting bylaws setting those obligations out. This approach might help to allay concerns that some strata corporations could have about relocating a provision in the standard bylaws to the act.

Read the [full article](#) by Kevin Zakreski.

### **British Columbia Provides Additional Information on Speculation Tax**

The British Columbia government has released further details about the Speculation Tax on residential property announced in the 2018 Provincial Budget (the highlights of which are discussed in our [previous blog post](#)). These details clarify the geographic areas the Speculation Tax will apply to, along with rates, exemptions, and credits that may be available to offset the Speculation Tax.

#### **Geographic Areas**

The Speculation Tax will focus on urban centres with low vacancy rates and in which home prices drastically exceed local incomes. Accordingly, the list of regions subject to the Speculation Tax has been refined. It will apply to the Metro Vancouver Regional District, the Capital Regional District, Kelowna-West, Kelowna, Nanaimo-Lantzville, Abbotsford, Chilliwack and Mission. The Speculation Tax will not apply to Bowen Island, the Gulf Islands, Juan de Fuca, Protection Island and Electoral Area A (except the part of Electoral Area A comprised of UBC and University Endowment Lands).

#### **Tax Rates**

The 2018 rate for the Speculation Tax will be 0.5% of the 2018 assessed value of the property. In 2019 and thereafter, the rate will increase to 1% for property owned by Canadian citizens and permanent residents but who are not British Columbia residents, and 2% for property owned by foreign investors and "satellite families" (i.e. households with high worldwide income that pay little or no income tax in BC).

Read the [full article](#) by [Brendan J. Craig](#) with Lawson Lundell LLP.

### **Strata Property Regulation**

The [Strata Property Regulation](#), 43/2000, was amended by B.C. Reg. 36/2018 to allow a strata corporation to impose reasonable fees to recover expenses for common property use, particularly water and electricity usage. These changes are meant to reduce regulatory barriers of strata bylaws and promote the use of electrically charged vehicles.

### **Landlords Collect too much Information: BC Acting Information and Privacy Commissioner**

Drew McArthur has found that landlords in British Columbia generally collect too much personal information from prospective tenants. The findings were published March 22 in "[Investigation Report P18-01: Always, Sometimes, or Never? Personal Information and Tenant Screening](#)".

The investigation examined the personal information collected by 13 landlords from prospective tenants during the tenancy application process. Landlords and not-for-profit organizations in BC are subject to the [Personal Information Protection Act](#) (PIPA), which regulates how organizations collect, use and disclose personal information, an Office of the Information and Privacy Commissioner (OIPC) for British Columbia press release noted.

"Rentals make up 30% of housing in BC. Near-zero vacancy rates throughout the province have created a competitive market where landlords can ask prospective tenants for sensitive personal information as justification for seeking the "best" tenant," said McArthur. "Unfortunately, many applicants feel they have no choice but to provide this information to avoid missing out on a place to live." Read the [full article](#) on *e-know.ca*.

Act or Regulation Affected	Effective Date	Amendment Information
Land Tax Deferment Act	Mar. 15/18	by 2018 Bill 2, c. 4, section 38 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Property Transfer Tax Act	<b>RETROACTIVE</b> to Feb. 21/18	by 2018 Bill 2, c. 4, sections 57, 58, 61, 62, 67 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
	Mar. 15/18	by 2018 Bill 2, c. 4, sections 56, 59, 60, 63 to 66 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2018</a>
Strata Property Regulation (43/2000)	Mar. 7/18	by <a href="#">Reg 36/2018</a>

## WILLS & ESTATES

### Wills and Estates News:

#### Quinn Estate

Estate planning for people with assets and connections to both the United States and British Columbia is fraught with potential legal and tax pitfalls. It is important to get tax and legal advice with respect to the implications on both sides of the border. This is illustrated by the recent decision concerning the former NHL coach Pat Quinn in *Quinn Estate*, [2018 BCSC 365](#).

Mr. Quinn and his wife Sandra Quinn settled a trust in the United States which dealt with assets in the United States. Mr. Quinn was an American citizen, and Mrs. Quinn had U.S. Green Card, but they lived in British Columbia. Their U.S. lawyer also drafted a will for Mr. Quinn dealing with his assets in Canada. The will provided that the residue of his Canadian Estate would "pour over" into a U.S. trust, referred to as the Quinn Family Trust.

The issue in this case was whether the distributive provision of the Canadian will is valid under British Columbia law. The will was signed by Mr. Quinn in the presence of two witnesses in accordance with the requirements of [section 37](#) of the *Wills, Estates and Succession Act*. The will itself was formally valid. Read the [full article](#) by [Stan Rule](#) of Sabey Rule LLP

#### Second Wife of 34 Years Awarded 30% of Husband's Estate

The wife of the deceased sought variation of his will under the [WVA](#) asserting it did not make adequate, just and equitable provision for her. The will had been drafted September 24, 2003 and the testator died September 7, 2013 (pre-[WESA](#)). The plaintiff was the second wife of the deceased, but their relationship had lasted approximately 34 years. The plaintiff had two children from her first marriage. The deceased had four children from his first marriage.

The will provided the residue of the estate was to be divided equally among the four children of the deceased and there were two specific financial bequests of \$20,000 each to his two daughters. The will specifically detailed that he had not provided for his wife because during his lifetime he caused to be transferred to her 50% of the title to the family property (Maple Ridge) without any contribution from her to the acquisition of the property. The plaintiff took the position that variation was warranted due to their 34 year relationship and the promise made by him to take care of her. The defendants opposed the application saying the will provided adequate provision to the plaintiff and that any variation would be unfair given the value of the plaintiff's assets and the value of the estate. The main asset of the estate was 50% of the net sale proceeds of the matrimonial home and various chattels located in the home. The plaintiff sought a specific bequest to her of \$375,000.00. HELD: The

will should be varied in favour of the plaintiff. Read the [full article](#) by the Wills Variation Group of MacIsaac & Company.

**Wills Variation: Second Long Marriage**

*Unger v Unger*, [2017 BCSC 1946](#), involves a wills variation claim brought by an 80-year-old surviving spouse against the estate of her 82-year-old deceased husband, after a second marriage that lasted 34 years. The husband's will left the residue of his estate to his four children equally.

The will had a clause stating that he was not providing for the plaintiff widow as during his lifetime he caused to be transferred to his wife title to 50% of the matrimonial property without any contribution from her to the acquisition or preservation of that property. The main asset of his estate was 50% of the net sale proceeds from the matrimonial home. His estate was valued at approximately \$600,000. Read the [full article](#) by [Trevor Todd](#) on his blog *disinherited – Estate Disputes and Contested Wills*.

**Act or Regulation Affected**

**Effective Date**

**Amendment Information**

*There were no amendments this month.*

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